

**AGENDA**  
**VALLEY CITY COUNCIL**  
Tuesday, January 14, 2025  
City Hall  
203 North Spruce  
Valley, NE 68064  
7:00 PM

1. **Call to Order**
2. **Roll Call**
3. **Pledge of Allegiance**
4. **Proof of Publication**
5. **Visitors/Correspondence**

Anyone desiring to speak on any item or issue not on the agenda or any item on the agenda that does not include a public hearing may do so; but shall be limited to three (3) minutes. Persons should identify themselves by name and address. Persons speaking should not expect the Council to engage in back-and-forth dialogue regarding their comments. Unless an agenda item includes a public hearing, no person may speak during the business portion of the meeting; provided, however, persons speaking during a public hearing are limited to between five (5) and twenty (20) minutes. The public is advised that a copy of the Open Meetings Act is located on the north wall of the Council Chamber, and one copy of all reproducible written material to be discussed at this meeting is available for examination or copying.

6. **Approval of Agenda**
7. **Consent Agenda**

All agenda items on the consent agenda and will be acted on in a single motion. Consent agenda items are being forwarded to the Council Members. Any individual item may be removed by a council member for special discussion and consideration.

7.A. Approve Minutes of December 10, 2024 City Council meeting

7.B. Approve Treasurer's Report

7.C. Approve invoices and additional invoices presented for payment

7.D. Approve December Payroll \$51,928.45 and IRA \$3,240.21

The City Council reserves the right to enter into an executive session at any time during the meeting, in accordance with the Nebraska Open Meetings Act, even though the closed session may not be indicated on the agenda.

It is the intention of the City Council to take up the items on the agenda in sequential order. However, the City Council reserves the right to take up matters in a different order to accommodate the schedules of the City Council members, persons having items on the agenda, and the public.

7.E. Accept December Keno Receipts \$6,640.68

7.F. Accept PeopleService Inc., Report

7.G. Accept minutes and/or statistics of the following boards and/or committees:

- November Library minutes
- December Library statistics
- December 10, 2024 CDA Minutes
- November 19, 2024 Planning Commission Minutes

8. **Jaime Kobs 28015 Heron Circle request No Parking signs along the curve around Valley Shores in front of the apartment complex between the stop sign and the entrance to the apartment complex**

9. **Approval of Appointments**

- **City Administrator - Cameron Gales**
- **City Clerk - Christie Donnermeyer**
- **City Treasurer - Lori Sorensen**
- **Police Chief - Bobby Martinez**
- **Public Works Superintendent - Doug Eggen**
- **City Attorney(s) - Farnham & Griffin, PC, LLO**
- **City Street Superintendent - Gregory E. Perry, P.E.**
- **City Engineer - Eagle Engineering Group, LLC**

10. **K9 Officer Sonic Update discussion and action regarding Valley Police Department K9 program**

11. **Cardinal Consulting, LLC consideration and action to enter into a Professional Services Agreement to provide economic development consulting and legal services as determined to be needed by the City**

12. **Big Red Keno Application for Sales Outlet consideration and approval of application from Cherny/Powers, Inc. d/b/a Outer Limits Sports Bar & Grill**

13. **Ordinance No. 826 consideration and approval to annex and extend the corporate limits of the City of Valley to include certain real estate as described therein - Still Water Lake, LLC - FINAL READING**

14. **Ordinance No. 830 consideration and approval of water rates**

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15. **Ordinance No. 831 consideration and approval to enact a municipal code for the City of Valley, Nebraska, revising, amending, restating, codifying, and compiling certain existing general ordinances of the City of Valley dealing with subjects embraced in such municipal code and declaring an emergency**
16. **Resolution No. 2025-01 Amendment No. 2 to the Loan Agreement between the Nebraska Department of Environment and Energy and the City of Valley, Nebraska for the Public Water System**
17. **Outdoor Storage of Enclosed Trailers consideration and approval to amend existing sections of the City of Valley Zoning Regulations relating to outdoor storage and enclosed trailers**
  - **Review**
  - **Open Public Hearing**
  - **Close Public Hearing**
  - **Ordinance No. 832**
18. **Conditional Use Permit Jerry Smith accessory building or accessory structure exception 25050 Hwy 275**
  - **Review**
  - **Open Public Hearing**
  - **Close Public Hearing**
  - **Resolution No. 2025-02**
19. **Conditional Use Permit Beefcake Jerky/Dux Bux warehouse and distribution at 26099 Fort St.**
  - **Review**
  - **Open Public Hearing**
  - **Close Public Hearing**
  - **Resolution No. 2025-03**
20. **Miscellaneous Expenditure Policy consideration and approval of miscellaneous expenditure policy**
  - **Review**
  - **Open Public Hearing**
  - **Close Public Hearing**

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- **Ordinance No. 833**
- 21. **Mileage Reimbursement consideration and action to set mileage reimbursement rate at .70 cents per mile as set by the Internal Revenue Service.**
- 22. **Resolution No. 2025-04 consideration and approval to authorize submission of a joint application with Elkhorn Athletic Association to the State of Nebraska for assistance under the Sports Arena Facility Financing Assistance Act**
- 23. **City Administrator**
  - **Valley City Pool update**
- 24. **PeopleService - update**
- 25. **City Engineer**
  - 25.A. Valley Landing - Sanitary Sewer, Water Main, Storm Sewer and Street Paving Improvements - approval to advertise for bids
  - 25.B. Other/Miscellaneous Projects:
    - Val-haven (Southwest No. 2) and Ginger Woods No. 2 Lift Station Improvements
    - Water Treatment Plant Expansion
    - Valley Lakes Business Park
    - FY2025 Street Projects
- 26. **City Attorney**
- 27. **Mayor's Report**
- 28. **Upcoming Items**
  - Valley Days Planning Meeting: January 21, 2025, 6:00 p.m.
  - Planning Commission: No January meeting
  - 2025 Midwinter Conference Feb. 24-25, 2025
- 29. **Adjourn**

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**NOTICE OF MEETING**

**CITY OF VALLEY**

**Tuesday, January 14, 2025, at 7:00 P.M.**  
**Valley City Hall**  
**203 N. Spruce Street, Valley, NE**

Notice is hereby given that a meeting of the City Council of the City of Valley, Nebraska will be held on **Tuesday, January 14, 2025, at 7:00 p.m.** at **Valley City Hall**.

Public Hearings will be held for the purpose of hearing testimony on the following:

1. Application for Conditional Use Permit- Beefcake Jerky/Dux Bux, 26099 Fort Cir. warehouse distribution
2. Application for Conditional Use Permit - Jerry Smith, 25050 US Hwy 275 accessory structure exemption from commercial design standards
3. Ordinance amendment to add enclosed trailer storage in residential
4. Ordinance to create Miscellaneous Expenditure Policy per Neb. Rev. Stat. § 13-2203

An agenda kept continuously current shall be available for public inspection at Valley City Hall (203 N. Spruce Street).

Christie Donnermeyer, City Clerk

1/3 ZNEZ

  
*The* **Daily Record**

**Proof of Publication**

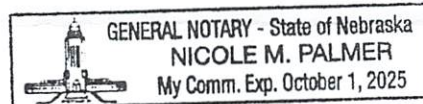
**JASON W. HUFF, Publisher**

UNITED STATES OF AMERICA,  
The State of Nebraska,  
District of Nebraska,  
County of Douglas,  
City of Omaha } ss.

JASON W. HUFF, being duly sworn, deposes and say that they are the PUBLISHER and/or MANAGING EDITOR of THE DAILY RECORD, of Omaha, a legal newspaper, printed and published daily in the English language, having a bona fide paid circulation in Douglas County in excess of 300 copies, and a general circulation in Sarpy, Lancaster, Cass and Dodge Counties, printed in Omaha, in said County of Douglas, Nebraska for more than fifty-two weeks last past; that the printed notice here-to attached was published in THE DAILY RECORD, of Omaha, for 1 consecutive weeks on:

1/3/25

That said Newspaper during that time was regularly published and in general circulation in the County of Douglas, and State of Nebraska.

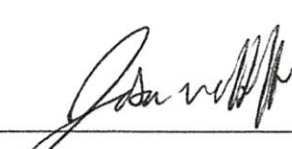


Publisher's Fee \$33.33

Additional Copies \$

Filing Fee \$

Total \$33.33

  
Subscribed in my presence and sworn to before me this JANUARY 03 2025

  
Notary Public in and for  
Douglas County, State of Nebraska

brocklyton

RECEIVED

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JAN 20 1964  
FBI NEW YORK  
COMMUNICATIONS SECTION

TO DIRECTOR, FBI (100-388610) FROM NEW YORK (100-100000) 1P  
RE NEW YORK TELETYPE TO BUREAU JANUARY 19, 1964.  
ADVISE THAT THE FOLLOWING INFORMATION WAS OBTAINED FROM THE  
NEW YORK OFFICE OF THE NEW YORK STATE POLICE ON JANUARY 19, 1964:  
ON JANUARY 18, 1964, THE NEW YORK STATE POLICE RECEIVED  
A TELEPHONE CALL FROM AN INDIVIDUAL WHO STATED THAT HE  
WAS IN POSSESSION OF A CERTAIN TYPE OF DOCUMENT AND  
WAS WILLING TO SELL IT FOR A CERTAIN AMOUNT OF MONEY.  
THE INDIVIDUAL STATED THAT HE WAS CURRENTLY IN NEW YORK  
CITY AND WAS WILLING TO MEET WITH ANYONE WHO WAS  
INTERESTED IN PURCHASING THE DOCUMENT. THE NEW YORK  
STATE POLICE OFFICE AT THAT TIME WAS NOT ABLE TO  
LOCATE THE INDIVIDUAL WHO MADE THE CALL. THE NEW YORK  
STATE POLICE OFFICE IS CURRENTLY ATTEMPTING TO LOCATE  
THE INDIVIDUAL WHO MADE THE CALL AND IS WILLING TO  
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**MINUTES  
REGULAR MEETING  
December 10, 2024**

**1 and 2. Roll Call and Call to Order** Mayor Grove called the meeting to order at 7:00 p.m. Present were Mayor Grove; Council Members, Batchner, Lewis, TenEyck, and Ueckert. Also present: City Attorneys Jeff Farnham and Andrea Griffin, City Administrator Cameron Gales, Clerk Christie Donnermeyer, Building Inspector Rune van den Boogaart, Treasurer Lori Sorensen, and Utility Clerk Kindra Smith.

Mayor Grove noted the location of the open meetings act, and stated one copy of all reproducible written material to be discussed at this meeting is available for examination or copying.

**3. Pledge of Allegiance** the Pledge of Allegiance was recited.

**4. Proof of Publication** the Proof of Publication was on the council desk.

**5. Visitors/Correspondence.** Desiree Katsampes 3904 N. 265<sup>th</sup> Court inquired about the status of K9 Sonic. City Attorney Jeff Farnham addressed the council with a prepared statement regarding K9 Sonic.

**6. Approval of Agenda** Council member Batchner moved to approve the agenda. TenEyck seconded. YES: Batchner, Lewis, TenEyck and Ueckert. NO: no one. Motion carried.

**7. Consent Agenda** Council member Batchner moved to approve the consent agenda. TenEyck seconded. YES: Batchner, TenEyck, Lewis, and Ueckert. NO: no one. Motion carried. Items on the consent agenda were Nov. 12, 2024, Nov. 21, 2024 and Dec. 2, 2024 City Council minutes; Treasurer's Report, Nov. Payroll \$100643.96 & IRA \$3322.65; Keno Receipts \$7177.72; PeopleService Report, Minutes and/or statistics of the following boards and/or committees: Nov. 12, 2024 Community Development Committee; Nov. Library statistics; Oct. 15, 2024 and Nov. 7, 2024 Planning Commission Minutes; Appointment of Haley Cortez to the Library Board; Valley Days Foundation 2024 and Valley Veterans 2024 Fireworks reports; and the following bills: Services/Utilities/Insurance/Memberships: Accufund 2565.00; AFLAC 487.17; Am Legal 4861.78; Arps 4700.00; Bacon Vinton Attorneys 8644.00; Bamboo 353.93; Black Hills 792.33; Bishop Business 897.00; BCBS 14747.46; Carl Jarl Locksmiths 329.00; Century Link 40.61; Cintas 271.81; CK Parking Lot Maintenance 15000.00; Code 2 Canine 1125.00; Cornhusker State Ind 936.65; Coventry Vet 519.34; Cox 525.24; Creative Planning 5000.00; DataShield 95.00; Dougals County Environmental 3394.00; Farnham & Griffin 9852.50; FiveNines 4879.10; FP Finance 152.95; Fremont Dept Utilities 57496.57; Great Plains Comm 918.17; Host Coffee 29.96; JEO 4150.00; LARM 4500.15; League of Ne Municipalities 1112.00; Lien Pest Control 92.00; Meco-Henne 209430.00; Michael Matzen 825.00; Morgan White 1229.34; Ne Sweeping 3914.39; Olmsted & Perry 8753.70; OPPD 17044.44; PeopleService 34824.00; The Daily Record 482.08; Trekk Design 3608.75; Verizon 423.29; Vrba Const 11158.75; Waste Connections 133.40; Waste Management 895.36; Xpress 599.32; YMCA 60.00; Supplies/Equipment: AAA Garage Door 1812.50; Amazon

Business 378.36; Axon Enterprises 7223.16; Baker & Taylor 945.02; Bound to Stay Bound 420.21; Cappel Auto 140.87; Core & Main 25636.60; DC Reg of Deeds 28.00; Eakes 346.26; First Ne Bank 2688.15; Jensen Tire 1736.96; John Deere Finan 358.19; JP Cooke 68.90; Love's 1115.07; Lowe's 28.20; Menards – Elkhorn 14.20; Menards – Fremont 139.80; Midwest Tape 170.94; NMC – Omaha HQ 309.16; Odeys 6744.80; Playaway Products 400.93; Rob's Oil 2687.37; Valley Ace 674.99; Bond/TIF Payments: FNB/Bond 5962.50; FNB/Bond 5962.50; Mallard TIF 19996.20; NDEE 71209.75; Reimburse/Refund: Dream Green Lawn 1000.00; Four Corners 500.00; Hansko Ent 500.00; KSI Const 1000.00; Lifetime Structures 1000.00; Majestic Homes 1000.00; Martinez B 297.46; Updike Const 500.00; Vermaas D 500.00;

**8. Presentation of Election Results** City Clerk Christie Donnermeyer read the Election Commission's official results of the November 5, 2024 Statewide Presidential General Election. Mayor: Cindy Grove 1044; Jim Thiessen Jr. 902; Write-Ins 21, Council: Wendy Deane 594; Chris TenEyck 714; Jake Lewis 933; Melanie Hayden 1048; Write-Ins 22. Council member Lewis moved to accept the election results. Ueckert seconded. YES: Batchner, Lewis, TenEyck, and Ueckert. NO: no one. Motion carried.

**9. Remarks from Mayor Grove** Mayor Grove presented a plaque to outgoing Council Member Bryon Ueckert for his years of service as council member. Mayor Grove presented a plaque to outgoing Council Member Chris TenEyck for his years of service as council member.

**10. Adjourn** Council Member Lewis moved to adjourn *sine die*. TenEyck seconded. YES: Batchner, TenEyck Lewis, and Ueckert. NO: no one, motion carried.

**1. Open Meetings Act** Mayor Grove noted the location of the open meetings act, and stated one copy of all reproducible written material to be discussed at this meeting is available for examination or copying.

**2. Roll Call** Mayor Grove called for roll call. Present Mayor Grove; Council Members: Batchner, L. Lewis, J. Lewis, and Hayden. Also present: City Attorneys Jeff Farnham and Andrea Griffin, City Administrator Cameron Gales, Clerk Christie Donnermeyer, Building Inspector Rune van den Boogaart, Treasurer Lori Sorensen, and Utility Clerk Kinda Smith.

**3. Oath of Office Mayor Grove** Jeff Farnham administered the oath of office to re-elected Mayor Grove.

**4. Oath of Office Jake Lewis** Bonnie Bevington administered the oath of office to newly elected council member Jake Lewis.

**5. Oath of Office Melanie Hayden** Georgene Gottsch administered the oath of office to newly election council member Melanie Hayden.

**6. Call to Order and Proof of Publication** the Proof of Publication was on the council desk.

**7. Approval of Agenda** Council member Batcher moved to approve the agenda. J. Lewis seconded. YES: Batcher, L. Lewis, J. Lewis, and Hayden. NO: no one. Motion carried.

**8. Election of Council President** Mayor Grove called for nominations for council president. Council member J. Lewis nominated Linda Lewis. Linda Lewis accepted the nomination. Council Member Hayden nominated John Batcher. John Batcher accepted the nomination. On vote for the nomination of Linda Lewis: YES: J. Lewis and L. Lewis. NO: Batcher and Hayden. Tie vote. On vote for John Batcher: YES: Batcher and Hayden. NO: J. Lewis and L. Lewis. Tie vote. To break the tie vote, Mayor Grove voted, and John Batcher was elected to serve as president of the council.

**9. Approval of Appointments** Council member L. Lewis stated concerns with approving the appointment of Police Chief Bobby Martinez. After discussion and research done by City Attorney Farnham, L. Lewis moved to approve the appointments as listed for one month. J. Lewis seconded. YES: L. Lewis, J. Lewis, and Hayden. NO: Batcher. Motion carried. City Administrator Cameron Gales; City Clerk Christie Donnermeyer; City Treasurer Lori Sorensen; Police Chief Bobby Martinez; Public Works Superintendent Doug Eggen; City Attorney(s) Farnham & Griffin PC, LLO; City Street Superintendent Gregory E. Perry, PE; and City Engineer Eagle Engineering Group LLC.

**10. Ordinance No. 826** Still Water Lake, LLC request to be annexed into the corporation limits of the City of Valley. Council member Batcher introduced and completed the second reading of **Ordinance No. 826** an ORDINANCE OF THE CITY OF VALLEY, NEBRASKA, ANNEXING AND EXTENDING THE CORPORATE LIMITS OF THE CITY OF VALLEY TO INCLUDE CERTAIN REAL ESTATE GENERALLY DESCRIBED ON EXHIBIT "A" ATTACHED HERETO AND INCORPORATED HEREIN BY THIS REFERENCE.; AND TO PROVIDE AN EFFECTIVE DATE HEREOF. This Ordinance will become effective following the third reading.

**11. D C West Athletic Complex** City Engineer Perry explained to Council the reason for the alternate method for the determination of the capital facility fees for water and wastewater for the D C West Athletic Complex. City Attorney Farnham explained that if the use changes, and becomes more intense, we can go back and charge the fees for normal development. L. Lewis moved to approve the alternate method for the determination of the capital facility fees for water and wastewater for the D C West Athletic Complex. Batcher seconded. YES: Batcher, L. Lewis, J. Lewis, and Hayden. NO: no one. Motion carried.

**12. Resolution No. 2024-58** Council member Batcher moved for passage of Resolution No. 2025-58 Emergency Contractor List. J. Lewis seconded. YES: Batcher, L. Lewis, J. Lewis, and Hayden. NO: no one. Motion Carried. A true, correct, and complete copy of said Resolution is on file at City Hall.

**13. Resolution No. 2024-59** City Attorney Farnham addressed Council regarding the need to establish a TIF Committee. Council member Batcher moved for passage of Resolution No. 2025-59 establishing a TIF Committee. L. Lewis seconded. YES: Batcher, L. Lewis, J. Lewis, and Hayden. NO: no one. Motion Carried. A true, correct, and complete copy of said Resolution is on file at City Hall.

**14. Ordinance No. 827** amending the Valley Municipal Code relating to rezoning from I-3 General Industrial to C-3 Highway Business. Building Inspector Rune addressed council regarding the rezoning. Zack Fergus spoke on behalf of the school district. Mayor Grove opened the public hearing. No one spoke. Mayor Grove closed the public hearing. **Ordinance No. 827** AN ORDINANCE AMENDING THE ZONING REGULATIONS OF VALLEY, DOUGLAS COUNTY, NEBRASKA, FINDING THE PROPOSED AMENDMENT WAS DULY SUBMITTED TO THE PLANNING BOARD OF VALLEY, DOUGLAS COUNTY, NEBRASKA, FOR ITS RECOMMENDATION AND THAT IT RECOMMENDED THE ADOPTION OF THE AMENDMENT; FINDING THAT NOTICE OF HEARING ON SUCH AMENDMENT WAS DULY GIVEN PRIOR TO THE HEARING AS PROVIDED BY LAW AND THAT SUCH PUBLIC HEARING WAS HAD THEREON; FINDING THAT THE ZONING MAP OF VALLEY, DOUGLAS COUNTY, NEBRASKA, BE AMENDED AS FOLLOWS: The parcel of real estate legally described on Exhibit "A" attached hereto and incorporated herein by this reference (the "DC West Parcel") shall be rezoned from General Industrial (I-3) to Highway Commercial (C-3). Council Member L. Lewis moved to introduce Ordinance No. 827 on the first reading. Hayden seconded. YES: L. Lewis, J. Lewis, and Hayden: NO: Batcher. To break the tie vote, Mayor Grove voted in favor. Motion carried. Said Ordinance was then read by title and thereafter Council member L. Lewis moved that the statutory rule requiring reading on three different days be suspended. J. Lewis seconded the motion to suspend the rule and the following council members voted YES: L. Lewis and J. Lewis. NO: Batcher and Hayden. To break the tie vote, Mayor Grove voted in favor. The motion to suspend the rule was adopted and the statutory rule was declared suspended for the consideration of said Ordinance. The Mayor then declared the Ordinance adopted. A true, correct, and complete copy of said Ordinance is on file at City Hall.

**15. Resolution No. 2024-60** Conditional Use Permit for a private kennel. Building Inspector van den Boogaart addressed the Council with the conditions added to the Conditional Use Permit. Jeanne Mauseh, 602 S. West St. answered questions from council. Mayor Grove opened the public hearing. No one spoke. Mayor Grove closed the public hearing. Hayden moved for passage of Resolution No. 2025-60 issuing a conditional use permit for a private kennel at 602 S. West St. with the additional conditions. Batcher seconded. YES: Batcher, L. Lewis, J. Lewis, and Hayden. NO: no one. Motion Carried. A true, correct, and complete copy of said Resolution is on file at City Hall.

**16. Ordinance No. 828** Water and wastewater rates. Mayor Grove addressed the council regarding the reasoning behind raising rates and the study which was conducted in support of the rate hike. **Ordinance No. 828** AN ORDINANCE REPEALING SECTION 6-208 OF THE VALLEY MUNICIPAL CODE. AN ORDINANCE ADOPTING REVISED SECTION 6-208, INCLUDING SETTING NEW WATER USAGE RATES SERVICES FOR CUSTOMERS OF THE CITY WATER DEPARTMENT BOTH INSIDE AND OUTSIDE THE CITY LIMITS; AN ORDINANCE REPEALING SECTION 6-312 OF THE VALLEY MUNICIPAL CODE; AN ORDINANCE ADOPTING REVISED SECTION 6-312, INCLUDING SETTING NEW RATES FOR THE USE OF SEWER SERVICES FOR CUSTOMERS OF THE MUNICIPAL SEWER DEPARTMENT BOTH INSIDE AND OUTSIDE THE CITY LIMITS; PROVIDING FOR AN EFFECTIVE DATE OF THIS ORDINANCE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT HEREWITH. Council Member Batcher moved to

introduce Ordinance No. 828 on the first reading. L. Lewis seconded. YES: Batchner, L. Lewis, J. Lewis, and Hayden: NO: No one. Motion carried. Said Ordinance was then read by title and thereafter Council member Batchner moved that the statutory rule requiring reading on three different days be suspended. L. Lewis seconded the motion to suspend the rule and the following council members voted YES: Batchner, L. Lewis, J. Lewis, and Hayden. NO: No one. The motion to suspend the rule was adopted and the statutory rule was declared suspended for the consideration of said Ordinance. The Mayor then declared the Ordinance adopted. A true, correct, and complete copy of said Ordinance is on file at City Hall.

17. **Ordinance No. 829** salaries of the employees of the City of Valley. City Administrator Gales addressed Council with information in support of the requested ranges for the salaries of the various departments. **Ordinance No. 829.** AN ORDINANCE OF THE CITY OF VALLEY, NEBRASKA, TO AMEND ORDINANCE NO. 799 RELATING TO THE SALARIES OF THE EMPLOYEES OF THE CITY OF VALLEY, NEBRASKA; PROVIDING FOR AN EFFECTIVE DATE OF THIS ORDINANCE; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT HEREWITH. Council Member Batchner moved to introduce Ordinance No. 829 on the first reading. J. Lewis seconded. YES: Batchner, L. Lewis, J. Lewis, and Hayden: NO: No one. Motion carried. Said Ordinance was then read by title and thereafter Council member Batchner moved that the statutory rule requiring reading on three different days be suspended. J. Lewis seconded the motion to suspend the rule and the following council members voted YES: Batchner, L. Lewis, J. Lewis, and Hayden. NO: No one. The motion to suspend the rule was adopted and the statutory rule was declared suspended for the consideration of said Ordinance. The Mayor then declared the Ordinance adopted. A true, correct, and complete copy of said Ordinance is on file at City Hall.

18. **PeopleService** update. Mike Adair gave an update on working on meters and cleaning of lift stations in anticipation of the winter season. He also provided a further update on the manual reading of meters not reading and working on fixing or changing out meters not reading. He also stated that meters have a lifespan of approximately 10 to 15 years.

#### 19. **City Engineer**

Council member Batchner moved to approve advertising for bids for the Ginger Cove Bridge repainting projection. L. Lewis seconded. YES: Batchner, L. Lewis, J. Lewis, and Hayden. NO: no one. Motion Carried.

Status and updates were given on the following projects: Val-haven (Southwest No. 2) and Ginger Woods No. 2 Lift Station improvements; Water Treatment Plant expansion; Valley Lakes Business Park; and FY2025 street projects.

20. **City Attorney** Jeff Farnham gave updates on the following: Catalina project; working on the resolution for January agenda on the LB1197 election; Valley Lakes Business Park; personnel matters; preparing for meetings with new council members to bring them up to speed on current projects.

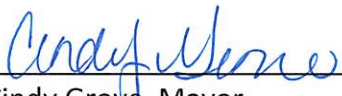


21. **Employee wages** City Administrator Gales addressed council regarding the wage increases for all employees of 3%; also anticipating revising the personnel manual; all salaries are within the ranges provided in the Ordinance. Council member Lewis moved to approve the wage increase. Batcher seconded. YES: Batcher, L. Lewis, J. Lewis, and Hayden. NO: no one. Motion Carried.

22. **Mayor's Report** Mayor Grove had nothing to report as the items in her report had been discussed during the meeting.

23. **Upcoming Items** Valley City offices closed: Noon on Dec 24 and all-day Dec. 25 and Jan. 1, 2025. Planning Commission: Dec. 17, 2024; Christmas Tree recycling Dec. 26 – Jan. 17, 2025 at the southwest corner of the dog park parking lot because of the par renovation.

30. **Adjourn** Council Member L. Lewis moved to adjourn. Batcher seconded. YES: Batcher, L. Lewis, J. Lewis, and Hayden. NO: no one, motion carried.

  
Cindy Grove, Mayor

  
Christie Donnermeyer, City Clerk



|                                                             |             |                        |                       |                  |                        |                    |               |
|-------------------------------------------------------------|-------------|------------------------|-----------------------|------------------|------------------------|--------------------|---------------|
| <b>Treasurer's Report<br/>December 2024</b>                 |             |                        |                       |                  |                        |                    |               |
|                                                             |             | Cash                   |                       |                  |                        |                    |               |
|                                                             |             | Balance                | Net Income            | Interfund        | Balance                | Investments        | Outstanding   |
|                                                             | <u>Dept</u> | <u>11/30/2024</u>      | <u>or (Loss)</u>      | <u>Transfers</u> | <u>12/31/2024</u>      | <u>12/31/2024</u>  | <u>Checks</u> |
|                                                             |             |                        |                       |                  |                        | \$14,532.47        | (\$25,616.72) |
| <b>General - Fund 1</b>                                     |             | \$481,973.38           | -\$333,502.04         | \$377,564.71     | \$526,036.05           |                    |               |
| General MM                                                  |             | \$1,566,856.43         | \$706.71              |                  | \$1,567,563.14         |                    |               |
| Pines Assessments                                           |             | \$318,359.02           | \$758.89              | (\$19,158.42)    | \$299,959.49           |                    |               |
|                                                             |             |                        |                       |                  |                        |                    |               |
| <b>Bond - Fund 2</b>                                        | 021         | \$473,541.89           | (\$233,836.14)        | (\$3,621.61)     | \$236,084.14           |                    |               |
| C D A                                                       | 001         | \$1,000.00             | \$0.00                |                  | \$1,000.00             |                    |               |
|                                                             |             | \$2,841,730.72         | (\$565,872.58)        | \$354,784.68     | \$2,630,642.82         |                    |               |
|                                                             |             |                        |                       |                  |                        |                    |               |
| <b>City of Valley<br/>Pooled Cash<br/>Proprietary Funds</b> |             |                        |                       |                  |                        |                    |               |
|                                                             |             | Cash                   |                       |                  | Cash                   | Investments        |               |
|                                                             |             | Balance                | Net Income            | Interfund        | Balance                | <u>12/31/2024</u>  |               |
|                                                             |             | <u>11/30/2024</u>      | <u>or (Loss)</u>      | <u>Transfers</u> | <u>12/31/2024</u>      | \$9,777.35         |               |
| <b>Funds</b>                                                |             |                        |                       |                  |                        |                    |               |
| Water/Waste - Fund                                          | 024         | \$2,661,028.57         | (\$97,138.17)         | (\$333,872.90)   | \$2,230,017.50         |                    |               |
| Cap. Facility Chg.                                          | 024         | \$2,061,910.29         | \$4,989.99            | \$9,600.00       | \$2,076,500.28         |                    |               |
|                                                             |             | \$4,722,938.86         | (\$92,148.18)         | (\$324,272.90)   | \$4,306,517.78         |                    |               |
|                                                             |             |                        |                       |                  |                        |                    |               |
|                                                             |             | Cash                   |                       |                  | Cash                   |                    |               |
|                                                             |             | Balance                | Net Income            | Interfund        | Balance                |                    |               |
|                                                             | <u>Dept</u> | <u>11/30/2024</u>      | <u>or (Loss)</u>      | <u>Transfers</u> | <u>12/31/2024</u>      |                    |               |
| <b>Fund 4</b>                                               |             |                        |                       |                  |                        |                    |               |
| Nursing Home                                                | 050         | \$1,008,713.23         | \$25,811.62           | (\$23,850.00)    | \$1,010,674.85         |                    |               |
| <b>Fund 8</b>                                               |             |                        |                       |                  |                        |                    |               |
| Keno                                                        | 056         | \$353,232.03           | \$7,007.00            |                  | \$360,239.03           |                    |               |
| <b>Fund 10</b>                                              |             |                        |                       |                  |                        |                    |               |
| Sales Tax                                                   | 058         | \$5,676,958.32         | \$203,988.30          |                  | \$5,880,946.62         |                    |               |
|                                                             |             |                        |                       |                  |                        |                    |               |
| <b>ARPA</b>                                                 |             | \$185,649.63           | \$401.70              | (\$6,661.78)     | \$179,389.55           |                    |               |
|                                                             |             | \$7,224,553.21         | \$237,208.62          | (\$30,511.78)    | \$7,431,250.05         |                    |               |
|                                                             |             |                        |                       |                  |                        |                    |               |
| <b>Total All Funds</b>                                      |             | <b>\$14,789,222.79</b> | <b>(\$420,812.14)</b> | <b>\$0.00</b>    | <b>\$14,368,410.65</b> | <b>\$24,309.82</b> |               |

**City of Valley  
Bills**

| <b><u>Due Date</u></b> | <b><u>Vendor</u></b>      | <b><u>Description</u></b>                             | <b><u>Amount</u></b> |
|------------------------|---------------------------|-------------------------------------------------------|----------------------|
| 1/15/2025              | Ace Outdoor Parts         | 2023 RED TRIMMER BCZ260TS                             | 389.99               |
| 1/15/2025              | Ace Outdoor Parts         | RMAX=JRED AIR FILTER                                  | 59.79                |
|                        |                           | SPARK PLUGS                                           |                      |
|                        |                           | RMAX FRED ELEMENT                                     |                      |
| 1/15/2025              | ADVANCED HEATING & A/C    | FIRE STATOIN (OLD)                                    | 1,218.00             |
|                        |                           | COMPLETE HEATING SYSTEM CHECK                         |                      |
| 1/15/2025              | ADVANCED HEATING & A/C    | FULL HEAT SYSTEM CHECK, INSTALLATION OF HUMIDIFER PAD | 309.87               |
| 1/15/2025              | AFLAC                     | BILLING PERIOD DECEMBER 2024                          | 324.78               |
| 1/15/2025              | AKRS EQUIPMENT            | JOHN DEERE FRONT MOWER STK436049 1575 \$35,750.00     | 21,775.00            |
|                        |                           | JOHN DEERE 72" DECK STK436050 1572 \$5,275.00         |                      |
|                        |                           | Traded in John Deere 1575 (-\$19,250.00)              |                      |
| 1/15/2025              | Amazon Business           | 12BX TISSUES                                          | 39.98                |
|                        |                           | 36 PLASTIC TWEEZERS                                   |                      |
| 1/15/2025              | Amazon Business           | BOOK                                                  | 12.99                |
| 1/15/2025              | Amazon Business           | JLAB NEON FOLDING ON EAR HEADPHONES X4                | 55.96                |
| 1/15/2025              | AMERICAN LEGAL PUBLISHING | 2024 S-1001 SUPPLEMENTAL PAGES                        | 1,079.90             |
| 1/15/2025              | AMERICAN LEGAL PUBLISHING | ANNUAL WEB HOSTING/CODE OF ORDINANCES                 | 495.00               |
| 1/15/2025              | ARPS                      | I10-3500 AE, WINTER SERVICE CHARGE, FUEL SURCHARGE    | 3,757.25             |
| 1/15/2025              | ART OF A CRAFTSMAN        | BUILDING DEPOSIT REFUND                               | 1,000.00             |
|                        |                           | 28505 JESSIE CIR                                      |                      |
| 1/15/2025              | ART OF A CRAFTSMAN        | BUILDING DEPOSIT REFUND                               | 1,000.00             |
|                        |                           | 28632 JESSIE CIR                                      |                      |
| 1/15/2025              | ASSABET INTERACTIVE, LLC  | MUSEUM PASS MODUAL ANNUAL SUBSCRIPTION                | 1,150.00             |
|                        |                           | ONE TIME SET UP FEE                                   |                      |
| 1/15/2025              | Baker & Taylor            | BOOKS X9                                              | 102.89               |
| 1/15/2025              | Baker & Taylor            | BOOKS X33                                             | 584.58               |
| 1/15/2025              | Baker & Taylor            | BOOKS X8                                              | 158.19               |
| 1/15/2025              | Baker & Taylor            | BOOKS X9                                              | 176.79               |
| 1/15/2025              | Baker & Taylor            | BOOKS X6                                              | 125.69               |
| 1/15/2025              | Black Hills Energy        | NATURAL GAS ALL DEPARTMENTS                           | 2,897.35             |
|                        |                           | PERIOD: 11/22/2024 - 12/26/2024                       |                      |
| 1/15/2025              | BOUND TO STAY BOUND       | BOOKS X9                                              | 174.54               |
| 1/15/2025              | BOUND TO STAY BOUND       | BOOK                                                  | 15.94                |
| 1/15/2025              | BOUND TO STAY BOUND       | BOOK X3                                               | 57.20                |
| 1/15/2025              | CAPPEL AUTO SUPPLY        | HOWES DSL F/ADDITIVE, DIESEL FUEL ADDITIVE            | 137.86               |
| 1/15/2025              | CAPPEL AUTO SUPPLY        | KUBOTA L4701 GOLD OIL FILTER                          | 13.99                |

|                                       |                                                                                            |          |
|---------------------------------------|--------------------------------------------------------------------------------------------|----------|
| 1/15/2025 CAPPEL AUTO SUPPLY          | ANTIGEL DIESEL TREAT, HDFLEET10W30                                                         | 54.96    |
| 1/15/2025 CAPPEL AUTO SUPPLY          | GENIE LIFT OIL FILTER                                                                      | 21.99    |
| 1/15/2025 CAPPEL AUTO SUPPLY          | GUNK BRAKE CLEANER SHOP                                                                    | 9.58     |
| 1/15/2025 CAPPEL AUTO SUPPLY          | -20Â° WINDSHIELD WASH                                                                      | 59.88    |
| 1/15/2025 CENTURYLINK                 | POOL PHONE - VACATION MODE                                                                 | 40.61    |
|                                       | SERVICE- 12/24/24 - 01/23/2025                                                             |          |
| 1/15/2025 CINTAS CORP                 | SHOP/POLICE/OFFICE FIRST AID CABINET                                                       | 64.62    |
| 1/15/2025 CINTAS CORP                 | 3X5 BLACK MAT                                                                              | 52.18    |
|                                       | 4X6 LOGO MAT                                                                               |          |
|                                       | 4X6 LOGO MAT                                                                               |          |
|                                       | E0684 CITY OF VALLEY 4X6                                                                   |          |
|                                       | 4X6 BLACK MAT                                                                              |          |
| 1/15/2025 CINTAS CORP                 | 3X5 BLACK MAT                                                                              | 98.73    |
|                                       | 4X6 LOGO MAT                                                                               |          |
|                                       | 4X6 LOGO MAT                                                                               |          |
|                                       | 4X6 BLACK MAT                                                                              |          |
|                                       | SSIG DUAL TP RFL                                                                           |          |
|                                       | SIG AIR SVC                                                                                |          |
|                                       | HRDWND WHT PAPER                                                                           |          |
|                                       | SIG AB SOAP SVC                                                                            |          |
| 1/15/2025 CINTAS CORP                 | 3X5 BLACK MAT                                                                              | 18.33    |
|                                       | 4X6 BLACK MAT                                                                              |          |
| 1/15/2025 CINTAS CORP                 | 3X5 BLACK MAT                                                                              | 102.57   |
|                                       | 4X6 BLACK MAT                                                                              |          |
|                                       | SIG DUAL TP RFL                                                                            |          |
|                                       | SIG AIR SVC                                                                                |          |
|                                       | HRDWND WHT PAPER, SIG AS SOP SVC                                                           |          |
| 1/15/2025 CORE & MAIN                 | W070492 METRS AND S                                                                        | 1,965.57 |
| 1/15/2025 COVENTRY VETERINARY CLINIC  | PARASITE PANAL, RE-EXAM, PRO PECTALIN, BLOOD PANEL, FOOD PACKET, METRONIDAZOLE             | 679.13   |
| 1/15/2025 COX BUSINESS                | COX 01/01/2025 - 01/31/2025                                                                | 531.03   |
|                                       | INTERNET & TV                                                                              |          |
|                                       | CITY HALL/LIBRARY/POLICE/STREETS/WATER                                                     |          |
| 1/15/2025 CREATIVE PLANNING           | WORK WITH TREASURER FY24                                                                   | 6,067.00 |
|                                       | DECEMBER PROGRESS BILL                                                                     |          |
| 1/15/2025 Dan Quismondo               | BUILDING DEPOSIT REFUND - GARAGE                                                           | 500.00   |
|                                       | 9205 N 276 ST                                                                              |          |
| 1/15/2025 DATASHIELD CORPORATION      | ROUTINE CERTIFIED DESTRUCTION                                                              | 50.00    |
| 1/15/2025 DATASHIELD CORPORATION      | CITY HALL ONSITE CERTIFIED DESTRUCTION                                                     | 45.00    |
| 1/15/2025 DC WEST SCHOOL DISTRICT #15 | AUDITORIUM PAC CENTER                                                                      | 75.00    |
| 1/15/2025 DEMCO                       | CLEAR GLOSSY LABELS, UTILITY GLASS TAPE, OLYFIT CENTER CUT BOOK JACKET, SINGLE BARCODE, PS | 498.63   |
|                                       | BACK DATE STRIP, COLOR CRAZE BOOKMARK                                                      |          |

|                                           |                                                                                      |           |
|-------------------------------------------|--------------------------------------------------------------------------------------|-----------|
| 1/15/2025 DOUGLAS COUNTY ENVIRONMENTAL    | ELECTRICAL INSPECTION X37                                                            | 2,746.00  |
| 1/15/2025 Eagle Engineering Group LLC     | ELECTRICAL PLAN REVIEW X3                                                            |           |
| 1/15/2025 Eagle Engineering Group LLC     | VALLEY NE LANDING STREET PAVING IMPROVEMENTS                                         | 46,592.00 |
| 1/15/2025 Eagle Engineering Group LLC     | PRELIMINARY DESIGN                                                                   |           |
| 1/15/2025 Eagle Engineering Group LLC     | VALLEY NE GENERAL ENGINEERING SERVICES VALLEY LAKES BUSINESS PARK                    | 393.75    |
| 1/15/2025 Eagle Engineering Group LLC     | PROJECT MANAGER                                                                      |           |
| 1/15/2025 Eagle Engineering Group LLC     | VALLEY NE CATALINA EAA DEVELOPMENT                                                   | 2,963.75  |
| 1/15/2025 Eagle Engineering Group LLC     | DESIGN ENGINEER/PROJECT MANAGER                                                      |           |
| 1/15/2025 Eagle Engineering Group LLC     | VALLEY LAKES BUSINESS PARK SANITARY SEWER IMPROVEMENTS                               | 5,350.30  |
| 1/15/2025 Eagle Engineering Group LLC     | DESIGN ENGINEERING FINAL/PROJECT BUILDING                                            |           |
| 1/15/2025 Eagle Engineering Group LLC     | WATER TREATMENT PLANT WTP EXPANSION                                                  | 25,970.64 |
| 1/15/2025 Eagle Engineering Group LLC     | DESIGN ENGINEERING FINAL/PROJECT BIDDING/CONSTRUCTION ENGINEERING CONTRACT           |           |
| 1/15/2025 Eagle Engineering Group LLC     | ADMINISTRATION                                                                       |           |
| 1/15/2025 Eagle Engineering Group LLC     | STREET SUPERINTENDENT SERVICES                                                       | 912.25    |
| 1/15/2025 Eagle Engineering Group LLC     | DESIGN ENGINEER II/PROJECT MANAGER                                                   |           |
| 1/15/2025 Eagle Engineering Group LLC     | GENERAL ENGINEERING SERVICES VALLEY LANDING PESEK                                    | 437.50    |
| 1/15/2025 Eagle Engineering Group LLC     | PROJECT MANAGER                                                                      |           |
| 1/15/2025 Eagle Engineering Group LLC     | GENERAL ENGINEERING SERVICES                                                         | 10,496.73 |
| 1/15/2025 Eagle Engineering Group LLC     | STREETS/BUILDING/ZONING/STAFF MEETING/PLANNING COMMISSION/CITY MAPS                  |           |
| 1/15/2025 Eagle Engineering Group LLC     | GINGER COVE BRIDGE STEEL GIRDER REPAINTING                                           | 7,265.00  |
| 1/15/2025 Eagle Engineering Group LLC     | VALLEY LANDING SANITARY SEWER, STORM SEWER, WAATER MAIN IMPROVEMENTS                 | 38,566.79 |
| 1/15/2025 Eckerman, Cheryl                | GARAGE DEPOSIT REFUND                                                                | 500.00    |
| 1/15/2025 EVERETT'S AUTO REPAIR           | 5859 N 252 ST                                                                        |           |
| 1/15/2025 EVERETT'S AUTO REPAIR           | 2017 DODGE CHARGER, M34D BATTERY/INSTALL                                             | 395.95    |
| 1/15/2025 FARNHAM & GRIFFIN, P.C., L.L.O. | 2016 FORD EXPLORER TIRE REPAIR                                                       | 45.00     |
| 1/15/2025 FARNHAM & GRIFFIN, P.C., L.L.O. | LEGAL REVISION CITY PARK                                                             | 210.00    |
| 1/15/2025 FARNHAM & GRIFFIN, P.C., L.L.O. | ELKHORN ATHLETIC ASSOCIATION                                                         | 122.50    |
| 1/15/2025 FARNHAM & GRIFFIN, P.C., L.L.O. | VARIOUS CALLS/EMAILS RESOLUTION FOR LB 1197 APPLICATION                              |           |
| 1/15/2025 FARNHAM & GRIFFIN, P.C., L.L.O. | GENERAL PREP/ATTEND MEETINGS, REVIEW/DRAFT RESOLUTION/ORDIANCE, VARIOUS CALLS/EMAILS | 5,792.50  |
| 1/15/2025 FARNHAM & GRIFFIN, P.C., L.L.O. | FOR SONIC, NEW COUNCIL MEMEBER ORIENTATION, OPEN MEETINGS ACT                        |           |
| 1/15/2025 FARNHAM & GRIFFIN, P.C., L.L.O. | OFFICER HEMPEL CITY COUNCIL MEETING/REVIEW CODE/DRAFT PROPOSAL FOR TERMINATION       | 402.50    |
| 1/15/2025 FARNHAM & GRIFFIN, P.C., L.L.O. | STILL WATER LAKE ANNEXATION ORDINANCE                                                | 52.50     |
| 1/15/2025 FARNHAM & GRIFFIN, P.C., L.L.O. | TIF GENERAL UPDATE BLUEWATER/MALLARD TIF SPREADSHEETS                                | 525.00    |
| 1/15/2025 FARNHAM & GRIFFIN, P.C., L.L.O. | VALLEY LAKES BUSINESS PARK                                                           | 525.00    |
| 1/15/2025 FARNHAM & GRIFFIN, P.C., L.L.O. | EMAILS/CONFERENCES/TELEPHONE CALLS FOR HIGHWAY OVERLAY DISTRICT                      |           |
| 1/15/2025 FARNHAM & GRIFFIN, P.C., L.L.O. | REDEVELOPMENT PLAN CDA RESOLUTION                                                    |           |
| 1/15/2025 FARNHAM & GRIFFIN, P.C., L.L.O. | VALLEY LANDING TIF                                                                   | 262.50    |
| 1/15/2025 FARNHAM & GRIFFIN, P.C., L.L.O. | FINALIZE COST CERT/TIF BOND, EMAILS                                                  |           |
| 1/15/2025 FELD HACKER, SCOTT              | CASSEM/TIERNEY/ADAMS/GOTCH/DOUGLAS                                                   | 3,533.50  |
| 1/15/2025 FELD HACKER, SCOTT              | BUILDING DEPOSIT REFUND                                                              | 1,000.00  |
| 1/15/2025 FELD HACKER, SCOTT              | 29113 MARY ST                                                                        |           |

|                                             |                                                                                                                                                             |           |
|---------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------|
| 1/15/2025 First Nebraska Bank (Brainard)    | NURSING HOME BOND PAYMENT #126<br>JAN. 2025<br>INTEREST \$2602.29<br>PRINCIPAL \$3360.21                                                                    | 5,962.50  |
| 1/15/2025 FIRST NEBRASKA BANK (CREDIT CARD) | BHM WORLD HERALD NEWSPAPER ONLINE                                                                                                                           | 34.99     |
| 1/15/2025 FIRST NEBRASKA BANK (CREDIT CARD) | MAILCHIMP MONTHLY NEWS LETTER 500 CONTACTS                                                                                                                  | 20.00     |
| 1/15/2025 FIRST NEBRASKA BANK (CREDIT CARD) | HENDERSEN PRODUCTS MSI<br>FENDER 2024 INTERNATIONAL TRUCK                                                                                                   | 1,307.96  |
| 1/15/2025 FIRST NEBRASKA BANK (CREDIT CARD) | UNIV OF NE EVENT REG. TRAINING/EDUCATION                                                                                                                    | 95.00     |
| 1/15/2025 FIRST NEBRASKA BANK (CREDIT CARD) | LIBRARY - MICHAELS - CARDSTOCK PAPER, PEGBOARD, BEADS MULTI-MIX JAR<br>*SPECIAL PROGRAM EXPENSES                                                            | 45.55     |
| 1/15/2025 FIRST NEBRASKA BANK (CREDIT CARD) | LIBRARY - WALMART - BLACK & DECKER STEAM IRON, GRANOLA BARS, LATEX BALLOONS, PAPER CUPS,<br>PAPER TOWELS, COFFEE, CREAMER, TEA<br>*SPECIAL PROGRAM EXPENSES | 107.99    |
| 1/15/2025 FIRST NEBRASKA BANK (CREDIT CARD) | POLICE DEPT. - TWILIO SENDGRID - COMPUTER SOFTWARE                                                                                                          | 19.95     |
| 1/15/2025 FIRST NEBRASKA BANK (CREDIT CARD) | THOMSON REUTERS - ONLINE SUBSCRIPTION - WESTLAW                                                                                                             | 199.26    |
| 1/15/2025 FIRST NEBRASKA BANK (CREDIT CARD) | ACE HARDWARE - KEYPAD DEADBOLT, ARMR ALL DISINFECT WIPES, CLEANING WIPES AMOR ALL                                                                           | 188.28    |
| 1/15/2025 FIRST NEBRASKA BANK (CREDIT CARD) | NEBRASKA COMMISSION ON LAW ENFORCEMENT<br>CLARK, CALEB<br>SCHEER, GREGORY                                                                                   | 155.00    |
| 1/15/2025 FIRST NEBRASKA BANK (CREDIT CARD) | PETSMART - K-9 SONIC SUPPLIES                                                                                                                               | 130.50    |
| 1/15/2025 FIRST STATE NEBRASKA BANK         | NURSING HOME BOND PAYMENT #126<br>JAN. 2025<br>INTEREST \$2602.29<br>PRINCIPAL \$3360.21                                                                    | 5,962.50  |
| 1/15/2025 FIVE NINES TECHNOLOGY GROUP INC   | AGREEMENT FIVE NINES MANAGED SERVICE AGREEMENT                                                                                                              | 4,979.10  |
| 1/15/2025 FIVE NINES TECHNOLOGY GROUP INC   | FORTINET UTM BUNDLE                                                                                                                                         | 546.00    |
| 1/15/2025 FP FINANCE PROGRAM                | STANDARD PAYMENT                                                                                                                                            | 152.95    |
| 1/15/2025 Fremont Department of Utilities   | MONTHLY SEWER CHARGE<br>12/13/2024 TEST DATE - 116 BOD & 184 SOLIDS<br>12/30/2024 - 100,600,287<br>12/02/2024 89,076,536<br>CONSUMPTION 11,583,751 GALLONS  | 48,213.22 |
| 1/15/2025 Galls                             | POLICE SHLD                                                                                                                                                 | 423.99    |
| 1/15/2025 Golden Construction LLC           | SHUMS CODA APPROVAL/ RUNE'S APPROVAL, \$43.20 REFUND TO GOLDEN CONSTRUCTION.<br>RECEIPT # BU24-00042 10%                                                    | 43.20     |
| 1/15/2025 GREAT PLAINS COMMUNICATIONS       | TELEPHONE/INTERNET<br>CITY HALL, POLICE, STREETS, WATER<br>01/01/2025 - 01/31/2025                                                                          | 686.93    |

|                                                   |                                                                                                         |          |
|---------------------------------------------------|---------------------------------------------------------------------------------------------------------|----------|
| 1/15/2025 GREAT PLAINS COMMUNICATIONS             | TELEPHONE/INTERNET                                                                                      | 231.14   |
|                                                   | LIBRARY                                                                                                 |          |
|                                                   | 01/01/2025 - 01/31/2025                                                                                 |          |
| 1/15/2025 GREAT PLAINS UNIFORMS                   | 2 MIDNIGHT NAVY PERFORMANCE SHIRT                                                                       | 133.98   |
| 1/15/2025 HAMSA, MIKE                             | POOL DEPOSIT REFUND                                                                                     | 1,000.00 |
|                                                   | 122 S MAYNE ST                                                                                          |          |
| 1/15/2025 Host Coffee Service                     | WATER COOLER                                                                                            | 29.96    |
| 1/15/2025 Host Coffee Service                     | CREAMER CANISTER/DECAF                                                                                  | 50.88    |
| 1/15/2025 JD'S CAR WASH & DETAILING LLC           | DECEMBER CAR WASH                                                                                       | 110.50   |
| 1/15/2025 JD'S CAR WASH & DETAILING LLC           | NOVEMBER CAR WASH                                                                                       | 62.90    |
| 1/15/2025 Jensen Tire & Auto                      | 2016 FORD EXPLORER                                                                                      | 375.56   |
|                                                   | P245/55R18 103V EAG ENFORCER A/W                                                                        |          |
| 1/15/2025 JEO CONSULTING                          | VALLEY PARK PHASE 1                                                                                     | 1,800.00 |
|                                                   | TOPOGRAPHIC SURVEY, DESIGN SERVICES, SWPPP/PERMITTING, BIDDING/NEGOTIATION, CONSTRUCTION ADMINISTRATION |          |
| 1/15/2025 JEO CONSULTING                          | VALLEY MUNICIPAL BLDG/PUBLIC EDUCATION & AWARENESS                                                      | 1,975.00 |
| 1/15/2025 JOHN DEERE FINANCIAL                    | OIL DIPSTICK REPAIR                                                                                     | 226.72   |
| 1/15/2025 JOHN DEERE FINANCIAL                    | HANDLE, BUSHING CAT 1-2 TOP LINK, 6110M                                                                 | 24.77    |
| 1/15/2025 JOHN DEERE FINANCIAL                    | 5 GAL HYGARD, OIL FILTER, FILTER ELEMENT, JD1575                                                        | 187.43   |
| 1/15/2025 JOHN DEERE FINANCIAL                    | BOLT, LOCK NUT, TRANSMISSION OIL FILTER, OIL FILTER, FILTER ELE, LEFT/RIGHT BLADE, OIL FILTER           | 627.57   |
| 1/15/2025 JOHN DEERE FINANCIAL                    | FILTER X2, HYD OIL FILTER                                                                               | 99.66    |
| 1/15/2025 JOHN DEERE FINANCIAL                    | BUSHING                                                                                                 | 20.68    |
| 1/15/2025 LARM                                    | PROPERTY DAMAGE 2017 JOHN DEERE MOUNT MOWER                                                             | 104.41   |
| 1/15/2025 LEAK INVESTIGATORS LLC                  | LEAK DETECTION, PRESSURE TEST, CAMERA DETECTION, DIVING SERVICES, TRIP CHARGE                           | 675.00   |
| 1/15/2025 LIM CONSTRUCTION DBA EVOLVED STRUCTURES | BUILDING DEPOSIT REFUND                                                                                 | 1,000.00 |
|                                                   | 28472 LAUREL CR                                                                                         |          |
| 1/15/2025 LIM CONSTRUCTION DBA EVOLVED STRUCTURES | BUILDING DEPOSIT REFUND                                                                                 | 1,000.00 |
|                                                   | 28483 LAUREL CR                                                                                         |          |
| 1/15/2025 LOVE'S TRAVEL STOPS & COUNTRY STORE     | LOVE'S ACCT.# 3548803. POLICE/PUBLIC WORKS/BUILDING INSPECTOR                                           | 1,013.19 |
|                                                   | INVOICES: 6012423297, 6012496924, 6012564326, 6012631746, 6012678124, 6012730737                        |          |
|                                                   | 11/25/2024 - 01/05/2025                                                                                 |          |
| 1/15/2025 LOVE'S TRAVEL STOPS & COUNTRY STORE     | LOVE'S ACCT.# 3573399. POLICE                                                                           | 962.11   |
|                                                   | INVOICES: 6012496177, 6012560831, 6012629592, 6012677183, 6012731345                                    |          |
|                                                   | 11/25/2024 - 01/05/2025                                                                                 |          |
| 1/15/2025 MENARDS - ELKHORN                       | 48" T12 40W 4100K                                                                                       | 83.80    |
| 1/15/2025 MENARDS - ELKHORN                       | 2 1/2 QT LEAKTITE                                                                                       | 17.74    |
|                                                   | SWIFFER WJ FEBREZE CLEANER                                                                              |          |
|                                                   | GLACIERMIST SPRING WATER                                                                                |          |
|                                                   | SPLASH 35 ULTIMATE PURPLE                                                                               |          |
| 1/15/2025 MENARDS - ELKHORN                       | GD INT PAINT SATN MIDTONE                                                                               | 45.98    |
| 1/15/2025 MENARDS - ELKHORN                       | SN SMARTCODE 917 LEVER                                                                                  | 111.49   |

|                                                                                            |                                                                                                                                                                 |           |
|--------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------|
| 1/15/2025 Menards- Fremont                                                                 | NEW PUBLIC WORKS BUILDING                                                                                                                                       | 82.32     |
| 1/15/2025 Menards- Fremont                                                                 | DOOR JAMB KIT, DOOR SWEEP, ALUM BRUSH SWEEP                                                                                                                     |           |
| 1/15/2025 Menards- Fremont                                                                 | BATH MAT, BAR MOP, BATH TOWEL, WASH PACK, GAIN DRYER SHEETS, RAZOR BLADE SCRAPER, 10 SINGLE EDGE RAZORS, DAWN DISH SOAP, AXE GEL PHOENIX, GAIN LIQUID           | 93.19     |
| 1/15/2025 Menards- Fremont                                                                 | FIREHALL:                                                                                                                                                       | 186.01    |
|                                                                                            | PAPER TOWELS, WET JET & REFILL, BLUE TOWELS, DAWN, FEBREEZE, IRON OUT, CLOROX BATHROOM SPRAY, SHOWER FOAM, BATTERIES, SCRUB BRUSH, TRASH BAGS, UNIVERSAL REMOTE |           |
| 1/15/2025 Michael Matzen                                                                   | CITY HALL/LIBRARY CLEANING                                                                                                                                      | 825.00    |
| 1/15/2025 Murphy Tractor & Equipment                                                       | 12/2024                                                                                                                                                         |           |
| 1/15/2025 MUTUAL OF OMAHA PAYMENT PROCESSING CENTER                                        | MOWER STOPPS MOVING COMPLAINT/SERVICE REPAIR                                                                                                                    | 346.73    |
|                                                                                            | EMPLOYEE INSURANCE                                                                                                                                              | 1,874.54  |
|                                                                                            | JANUARY 2025                                                                                                                                                    |           |
| 1/15/2025 NEBRASKA DEPT OF AGRICULTURE - CAT & DOG LICENSE FEES-<br>CENTRAL FEE COLLECTION | DOG/CAT LICENSING/ADMINISTRATION FEES                                                                                                                           | 242.78    |
| 1/15/2025 NEBRASKA SECRETARY OF STATE                                                      | 10/21/2023 - 12/31/2024                                                                                                                                         |           |
|                                                                                            | LEASING CORPORATION                                                                                                                                             | 30.00     |
|                                                                                            | BIENNIAL REPORT FEE                                                                                                                                             |           |
| 1/15/2025 Nebraska Sweeping Inc                                                            | STREET SWEEPING 11/20/2024, 11/21/2024, 11/25/2024, 12/04/2024 - 12/06/2024                                                                                     | 3,914.39  |
|                                                                                            | Residential \$3057.28                                                                                                                                           |           |
|                                                                                            | Wide St. \$437.71                                                                                                                                               |           |
| 1/15/2025 Olmsted & Perry Consulting Engineers Inc.                                        | WATER FUNDING ADMIN. SERVICES                                                                                                                                   | 1,852.50  |
|                                                                                            | 09/30/2024 - 11/30/2024                                                                                                                                         |           |
| 1/15/2025 OPPD                                                                             | ALL DEPARTMENTS                                                                                                                                                 | 15,909.74 |
|                                                                                            | BILLING PERIOD 11/07/2024 - 12/09/2024                                                                                                                          |           |
| 1/15/2025 PEOPLESERVICE INC                                                                | WATER/WASTEWATER MONTHLY SERVICE                                                                                                                                | 34,824.00 |
|                                                                                            | JANUARY                                                                                                                                                         |           |
| 1/15/2025 PRAIRIE HOMES                                                                    | BUILDING DEPOSIT REFUND                                                                                                                                         | 1,000.00  |
|                                                                                            | 6712 N 289 ST                                                                                                                                                   |           |
| 1/15/2025 Rasmussen Welding                                                                | '99 SNOWPLOW REPAIR                                                                                                                                             | 300.00    |
| 1/15/2025 Regal Awards                                                                     | 4X6 JADE CYRSTAL ON WALNUT, REVERSE LASER/ETCH                                                                                                                  | 99.00     |
| 1/15/2025 Regal Awards                                                                     | 2018 PG16 A 9 1/2" CC-G1307 HIGH BLACK ACCENT CURVBED CLEAR CRYSTAL AWARD                                                                                       | 110.40    |
| 1/15/2025 RETIREMENT PLAN CONSULTANTS LLC                                                  | WM FIDUCIARY INVESTMENT MANAGEMENT SERVICE                                                                                                                      | 425.69    |
|                                                                                            | RECORD KEEPING/CUSTODIAL                                                                                                                                        |           |
|                                                                                            | RPC PER PARTICIPANT CHARGE                                                                                                                                      |           |
| 1/15/2025 SPARQ DATA SOLUTIONS                                                             | SPARQ MEETING SUBSCRIPTION                                                                                                                                      | 4,100.00  |
|                                                                                            | 04/01/2025 - 03/31/2026                                                                                                                                         |           |
| 1/15/2025 THE DAILY RECORD                                                                 | NOTICE OF MTG MIN 12/10/2024                                                                                                                                    | 112.00    |
| 1/15/2025 THE DAILY RECORD                                                                 | NOTICE OF ORDINANCE 829                                                                                                                                         | 30.67     |
| 1/15/2025 THE DAILY RECORD                                                                 | NOTICE OF ORDINANCE 828                                                                                                                                         | 37.33     |
| 1/15/2025 THE DAILY RECORD                                                                 | NOTICE OF MTG CITY COUNCIL 01/14/2025                                                                                                                           | 33.33     |
| 1/15/2025 THE DAILY RECORD                                                                 | NOTICE OF INC CIT OF VALLEY LEASING CORP                                                                                                                        | 63.74     |
| 1/15/2025 THE DAILY RECORD                                                                 | NOTICE OF ORDINANCE #827                                                                                                                                        | 44.00     |

|                                             |                                                     |          |
|---------------------------------------------|-----------------------------------------------------|----------|
| 1/15/2025 THE DAILY RECORD                  | GINGER COVE BRIDGE STEEL GIRDER/BLASTING/REPAINTING | 184.95   |
| 1/15/2025 VALLEY ACE HARDWARE               | PAINT RMVR GOFF OFF 12OZ                            | 9.99     |
| 1/15/2025 VALLEY ACE HARDWARE               | SM SCRW HX #8X1/2" 280PK                            | 59.97    |
|                                             | WEATHER STRIP 84" JAMBUP                            |          |
| 1/15/2025 VALLEY ACE HARDWARE               | VERMEER CHIPPER ANGLE 1/8X1-1/2X4                   | 25.99    |
| 1/15/2025 VALLEY ACE HARDWARE               | PAINTERS TAP 0.94"X60YD                             | 15.98    |
| 1/15/2025 VALLEY ACE HARDWARE               | ORIG PNTR TPE .94"X60YD                             | 7.99     |
| 1/15/2025 VALLEY ACE HARDWARE               | TSP SUB CLEANER 32OZ                                | 6.99     |
| 1/15/2025 VALLEY ACE HARDWARE               | HTH POOL FILTR SAND 50LB                            | 7.59     |
| 1/15/2025 Verizon Wireless                  | MONTHLY GENERAL/POLICE CELL PHONES                  | 423.29   |
|                                             | 11/04/2024 - 12/04/2024                             |          |
| 1/15/2025 Verizon Wireless                  | MONTHLY GENERAL/POLICE CELL PHONES                  | 423.29   |
|                                             | 12/05/2024 - 01/04/2025                             |          |
| 1/15/2025 Vermeer High Plains               | TANK HYDRAULIC, HYDRAULIC GASKET, FLUID L GAUGE     | 830.17   |
| 1/15/2025 WALVOORD, JARED                   | BUILDING DEPOSIT REFUNDED                           | 813.45   |
|                                             | 6340 TWIN RIVERS CR                                 |          |
| 1/15/2025 Waste Connections of Nebraska Inc | MONTHLY TRASH 12/01/2024 - 01/31/2025               | 331.04   |
|                                             | LIBRARY/CITY HALL/PUBLIC WORKS                      |          |
| 1/15/2025 WEST-E-CON INC                    | GINGER WOODS LIFT STATION #1                        | 8,790.00 |
|                                             | DUAL A PHASE                                        |          |
|                                             | LABOR/MISCELLANEOUS                                 |          |
| 1/15/2025 WIESE PLUMBING & EXCAVATING INC   | 109 N PLATTE INSTALL CURB STOP                      | 3,646.00 |
| 1/15/2025 YMCA OF GREATER OMAHA             | EMPLOYEE MEMBERSHIP REIMBURSEMENT                   | 60.00    |
|                                             | SEPTEMBER 2024                                      |          |
| 1/15/2025 YMCA OF GREATER OMAHA             | EMPLOYEE MEMBERSHIP REIMBURSEMENT                   | 60.00    |
|                                             | JUNE 2024                                           |          |
| 1/15/2025 YMCA OF GREATER OMAHA             | YMCA MEMBERSHIP FEES                                | 50.00    |
|                                             | JANUARY 2025                                        |          |

|                   |
|-------------------|
| <b>366,639.39</b> |
|-------------------|



January additional bills for Council:

Cindy Grove - \$119.99 (Canva Subscription)

Pay Group: Payroll Period

City of Valley

|                                             |                         |                  |
|---------------------------------------------|-------------------------|------------------|
| <b>Gross Wages</b>                          |                         |                  |
| <b>Employee</b>                             |                         |                  |
| Hourly                                      |                         | \$33,727.56      |
| Salary                                      |                         | \$10,941.33      |
| Cell Phone Reimbursement                    |                         | \$147.76         |
| Other Taxable                               |                         | \$3,455.27       |
| Uniform                                     |                         | \$154.00         |
|                                             | <b>Total:</b>           | \$48,425.92      |
| <br>                                        |                         |                  |
| <b>Net Pay</b>                              | <b>Uncollected</b>      | <b>Collected</b> |
| Net Check                                   | \$0.00                  |                  |
| Direct Deposit                              |                         | \$34,793.95      |
| <br>                                        |                         |                  |
| <b>Deductions (included in gross wages)</b> | <b>Uncollected</b>      | <b>Collected</b> |
| 2025 IRA 457(b)                             | \$1,846.26              | \$0.00           |
| 2025 IRA 457(b) - Roth                      | \$961.27                | \$0.00           |
| AFLAC - Short Term Disability 2025          | \$35.64                 | \$0.00           |
| AFLAC Accidental 2025                       | \$68.71                 | \$0.00           |
| AFLAC Cancer 2025                           | \$90.27                 | \$0.00           |
| <br>                                        |                         |                  |
| Dental                                      | \$25.82                 | \$0.00           |
| <br>                                        |                         |                  |
| Medical                                     | \$403.21                | \$0.00           |
| Mutual of Omaha - LIGHT Critical Illness    | \$42.96                 | \$0.00           |
| Mutual of Omaha - LIGHT Life & AD&D         | \$0.00                  | \$0.00           |
| Mutual of Omaha - LIGHT LTD 2024            | \$0.00                  | \$0.00           |
| Mutual of Omaha - Vol Accident              | \$33.02                 | \$0.00           |
| Mutual of Omaha - Voluntary Life & AD&D     | \$116.82                | \$0.00           |
| Mutual of Omaha LIGHT - STD 2024            | \$0.00                  | \$0.00           |
| Vision                                      | \$3.53                  | \$0.00           |
| YMCA Membership (In-Network)                | \$0.00                  | \$0.00           |
|                                             | <b>Deduction Total:</b> | \$4,130.71       |

Pay Group: Payroll Period

City of Valley

| Employee Taxes (included in gross wages) | Uncollected | Collected  |
|------------------------------------------|-------------|------------|
| Federal                                  | \$0.00      | \$3,978.77 |
| Medicare                                 | \$0.00      | \$689.23   |
| Social Security                          | \$0.00      | \$2,947.01 |
| State (NE)                               | \$0.00      | \$1,886.25 |
| Employee Tax Total:                      | \$0.00      | \$9,501.26 |
| Employer Taxes                           | Uncollected | Collected  |
| Medicare                                 | \$0.00      | \$689.23   |
| NE-UI                                    | \$0.00      | \$8.32     |
| Social Security                          | \$0.00      | \$2,947.01 |
| Employer Tax Total:                      | \$0.00      | \$3,644.56 |

| Grand Totals     |            |                            |             |
|------------------|------------|----------------------------|-------------|
| Uncollected      |            | Collected                  |             |
| Checks To Print: | \$0.00     | Direct Deposits:           | \$34,793.95 |
| Employee Taxes:  | \$0.00     | Employee Taxes:            | \$9,501.26  |
| Employer Taxes:  | \$0.00     | Employer Taxes:            | \$3,644.56  |
| Deductions:      | \$4,130.71 | Deductions:                | \$0.00      |
|                  |            | Fees:                      | \$215.00    |
|                  |            | Other Collections:         | \$0.00      |
|                  |            | Bank Transfer to BambooHR: | \$48,154.77 |

| City of Valley           |       |                  |            |                 |                    |
|--------------------------|-------|------------------|------------|-----------------|--------------------|
| Employee                 | Hours | Deduction Amount | YTD Total  | Employer Amount | Employer YTD Total |
| 2025 IRA 457(b)          |       |                  |            |                 |                    |
| Cassell, Andrew          | 80.12 | \$0.00           | \$0.00     | \$72.35         | \$1,772.16         |
| Clark, Caleb             | 20.35 | \$549.88         | \$9,937.41 | \$35.73         | \$645.63           |
| Dohrmann, Kenneth        | 59.00 | \$202.43         | \$4,714.19 | \$202.43        | \$4,714.19         |
| Donnermeyer, Christie    | 84.52 | \$250.35         | \$6,411.76 | \$150.21        | \$3,847.05         |
| Eggen, Doug              | 80.00 | \$171.86         | \$3,952.78 | \$171.86        | \$4,280.88         |
| Emmi, Sarah              | 91.83 | \$64.75          | \$1,325.37 | \$64.75         | \$1,325.37         |
| Musson, James            | 82.28 | \$126.63         | \$3,377.77 | \$126.63        | \$3,377.77         |
| Sheets, Tim              | 82.78 | \$158.76         | \$4,139.97 | \$158.76        | \$4,139.97         |
| Sorensen, Lori           | 79.52 | \$0.00           | \$0.00     | \$126.43        | \$2,895.08         |
| Steckelberg, Andrew      | 80.43 | \$0.00           | \$0.00     | \$101.52        | \$713.66           |
| Stewart, Samantha        | 80.80 | \$0.00           | \$349.60   | \$122.96        | \$3,029.65         |
| Van Den Boogaart, Jeroen | 80.35 | \$195.92         | \$5,034.51 | \$195.92        | \$5,034.51         |
| Willmann, Geoffrey       | 66.53 | \$125.68         | \$2,918.57 | \$125.68        | \$2,918.57         |
| Grand Total              |       |                  |            |                 |                    |
| Total Count: 13          |       | Grand Total:     | 968.52     | \$1,846.26      | \$42,161.93        |
|                          |       |                  |            | \$1,655.23      | \$38,694.49        |

| City of Valley           |       |                     |            |                 |                    |
|--------------------------|-------|---------------------|------------|-----------------|--------------------|
| Employee                 | Hours | Deduction Amount    | YTD Total  | Employer Amount | Employer YTD Total |
| 2025 IRA 457(b) - Roth   |       |                     |            |                 |                    |
| Cassell, Andrew          | 80.12 | \$72.35             | \$1,772.16 | \$0.00          | \$0.00             |
| Eggen, Doug              | 80.00 | \$257.80            | \$6,421.56 | \$0.00          | \$0.00             |
| Sorensen, Lori           | 79.52 | \$210.72            | \$4,825.12 | \$0.00          | \$0.00             |
| Steckelberg, Andrew      | 80.43 | \$101.52            | \$713.66   | \$0.00          | \$0.00             |
| Stewart, Samantha        | 80.80 | \$122.96            | \$3,029.65 | \$0.00          | \$0.00             |
| Van Den Boogaart, Jeroen | 80.35 | \$195.92            | \$5,034.51 | \$0.00          | \$0.00             |
| Grand Total              |       |                     |            |                 |                    |
| Total Count: 6           |       | Grand Total: 481.22 | \$961.27   | \$21,796.66     | \$0.00             |
|                          |       |                     |            | \$0.00          | \$0.00             |

## City of Valley

| Employee                 | Hours | Deduction Amount | YTD Total   | Employer Amount | Employer YTD Total |
|--------------------------|-------|------------------|-------------|-----------------|--------------------|
| <b>2025 IRA 457(b)</b>   |       |                  |             |                 |                    |
| Cassell, Andrew          | 78.97 | \$0.00           | \$0.00      | \$71.07         | \$1,843.23         |
| Clark, Caleb             | 13.00 | \$351.29         | \$10,288.70 | \$22.82         | \$668.45           |
| Dohrmann, Kenneth        | 82.45 | \$184.10         | \$4,898.29  | \$184.10        | \$4,898.29         |
| Donnermeyer, Christie    | 87.23 | \$261.28         | \$6,673.04  | \$156.77        | \$4,003.82         |
| Eggen, Doug              | 80.00 | \$171.86         | \$4,124.64  | \$171.86        | \$4,452.74         |
| Emmi, Sarah              | 80.08 | \$55.51          | \$1,380.88  | \$55.51         | \$1,380.88         |
| Musson, James            | 86.63 | \$138.44         | \$3,516.21  | \$138.44        | \$3,516.21         |
| Sheets, Tim              | 82.70 | \$157.05         | \$4,297.02  | \$157.05        | \$4,297.02         |
| Sorensen, Lori           | 51.17 | \$0.00           | \$0.00      | \$81.36         | \$2,976.44         |
| Steckelberg, Andrew      | 82.25 | \$0.00           | \$0.00      | \$105.05        | \$818.71           |
| Stewart, Samantha        | 80.43 | \$0.00           | \$349.60    | \$121.80        | \$3,151.45         |
| Van Den Boogaart, Jeroen | 81.82 | \$202.37         | \$5,236.88  | \$202.37        | \$5,236.88         |
| Willmann, Geoffrey       | 82.95 | \$116.78         | \$3,035.35  | \$116.78        | \$3,035.35         |
| <b>Grand Total</b>       |       |                  |             |                 |                    |
| Total Count: 13          |       | Grand Total:     | 969.69      | \$1,638.68      | \$43,800.61        |
|                          |       |                  |             | \$1,584.98      | \$40,279.47        |

\* The YTD total does not include employees that did not have a deduction this payroll – please refer to the Payroll Register for a full employee YTD list.

## City of Valley

| Employee                      | Hours | Deduction Amount    | YTD Total  | Employer Amount | Employer YTD Total |
|-------------------------------|-------|---------------------|------------|-----------------|--------------------|
| <b>2025 IRA 457(b) - Roth</b> |       |                     |            |                 |                    |
| Cassell, Andrew               | 78.97 | \$71.07             | \$1,843.23 | \$0.00          | \$0.00             |
| Eggen, Doug                   | 80.00 | \$257.80            | \$6,679.36 | \$0.00          | \$0.00             |
| Sorensen, Lori                | 51.17 | \$135.59            | \$4,960.71 | \$0.00          | \$0.00             |
| Steckelberg, Andrew           | 82.25 | \$105.05            | \$818.71   | \$0.00          | \$0.00             |
| Stewart, Samantha             | 80.43 | \$121.80            | \$3,151.45 | \$0.00          | \$0.00             |
| Van Den Boogaart, Jeroen      | 81.82 | \$202.37            | \$5,236.88 | \$0.00          | \$0.00             |
| <b>Grand Total</b>            |       |                     |            |                 |                    |
| Total Count: 6                |       | Grand Total: 454.63 | \$893.68   | \$22,690.34     | \$0.00             |
|                               |       |                     |            | \$0.00          | \$0.00             |

\* The YTD total does not include employees that did not have a deduction this payroll – please refer to the Payroll Register for a full employee YTD list.

Pay Group: Payroll Period

## City of Valley

## Gross Wages

## Employee

|                          |                    |
|--------------------------|--------------------|
| Hourly                   | \$35,726.94        |
| Salary                   | \$10,941.33        |
| Cell Phone Reimbursement | \$147.76           |
| Other Taxable            | \$115.50           |
| Uniform                  | \$154.00           |
| <b>Total:</b>            | <b>\$47,085.53</b> |

## Net Pay

## Uncollected

## Collected

|                |        |             |
|----------------|--------|-------------|
| Net Check      | \$0.00 |             |
| Direct Deposit |        | \$34,053.58 |

## Deductions (included in gross wages)

## Uncollected

## Collected

|                                             |                   |               |
|---------------------------------------------|-------------------|---------------|
| 2025 IRA 457(b)                             | \$1,638.68        | \$0.00        |
| 2025 IRA 457(b) - Roth                      | \$893.68          | \$0.00        |
| AFLAC - Short Term Disability 2025          | \$23.76           | \$0.00        |
| AFLAC Accidental 2025                       | \$43.97           | \$0.00        |
| AFLAC Cancer 2025                           | \$60.17           | \$0.00        |
| Dental                                      | \$30.88           | \$0.00        |
| Medical                                     | \$478.43          | \$0.00        |
| Mutual of Omaha - LIGHT Critical<br>Illness | \$42.96           | \$0.00        |
| Mutual of Omaha - LIGHT Life & AD&D         | \$0.00            | \$0.00        |
| Mutual of Omaha - LIGHT LTD 2024            | \$0.00            | \$0.00        |
| Mutual of Omaha - Vol Accident              | \$33.02           | \$0.00        |
| Mutual of Omaha - Voluntary Life &<br>AD&D  | \$116.82          | \$0.00        |
| Mutual of Omaha LIGHT - STD 2024            | \$0.00            | \$0.00        |
| MWG - Gap Insurance 2023                    | \$0.00            | \$0.00        |
| Vision                                      | \$3.53            | \$0.00        |
| YMCA Membership (In-Network)                | \$0.00            | \$0.00        |
| <b>Deduction Total:</b>                     | <b>\$3,869.10</b> | <b>\$0.00</b> |



Pay Code: 7796-26870-1410549

Pay Date: 12/27/2024

12/08/2024 through 12/21/2024

Pay Group: Payroll Period

City of Valley

| Employee Taxes (included in gross wages) | Uncollected | Collected  |
|------------------------------------------|-------------|------------|
| Federal                                  | \$0.00      | \$3,800.30 |
| Medicare                                 | \$0.00      | \$669.42   |
| Social Security                          | \$0.00      | \$2,862.34 |
| State (NE)                               | \$0.00      | \$1,830.79 |
| Employee Tax Total:                      | \$0.00      | \$9,162.85 |
| Employer Taxes                           | Uncollected | Collected  |
| Medicare                                 | \$0.00      | \$669.42   |
| NE-UI                                    | \$0.00      | \$7.97     |
| Social Security                          | \$0.00      | \$2,862.34 |
| Employer Tax Total:                      | \$0.00      | \$3,539.73 |

Grand Totals

| Uncollected      |            | Collected                  |             |
|------------------|------------|----------------------------|-------------|
| Checks To Print: | \$0.00     | Direct Deposits:           | \$34,053.58 |
| Employee Taxes:  | \$0.00     | Employee Taxes:            | \$9,162.85  |
| Employer Taxes:  | \$0.00     | Employer Taxes:            | \$3,539.73  |
| Deductions:      | \$3,869.10 | Deductions:                | \$0.00      |
|                  |            | Fees:                      | \$0.00      |
|                  |            | Other Collections:         | \$0.00      |
|                  |            | Bank Transfer to BambooHR: | \$46,756.16 |



# Commission Summary

Date 12/18/2024

**Paid to**

City of Valley

**For Period**

12/1-12/15/2024

| Description | Amount   |
|-------------|----------|
|             | 2,507.12 |

**Amount** \$2,507.12



# Commission Summary

Date 1/6/2025

**Paid to**

City of Valley

**For Period**

12/16-12/31/2024

| Description | Amount   |
|-------------|----------|
|             | 4,133.56 |

**Amount** \$4,133.56



Date: January 10, 2025

To: City of Valley

Report by: Jeremy Beam, Lead Operator

O & M Report: December 2024

### **Water Operation & Maintenance:**

- For the month we had 380 locates.
- We worked with the city office to get the meter and mxu's straightened out. We have been going to houses with issues to determine what is wrong with the ones not reading. We have been finding that a majority of the meters have wire issues. If we can fix them without having to get into the house those are being fixed, the others we are going to have to setup appointments to fix them, we will know what is wrong with each one before we make the appointment to make it a fast change without taking up too much of the customers time.
- We had a water main break on Saturday the 21st on North Spruce St. due to a contractor hooking up to the fire hydrant. There are now locks on all fire hydrants on the north side of town that can be hooked up to by a vehicle from the street. There are a few on the dike that do not have them. The Fire Department has keys in all their trucks to take the locks off and they are aware that they have locks on them.
- We read meters manually on meters that don't read on the 23<sup>rd</sup> and 24<sup>th</sup>; normal reading was done on the 26<sup>th</sup>.
- Shutoff notices were handed out, but water was not shutoff due to the temperature.

### **Wastewater Operation & Maintenance:**

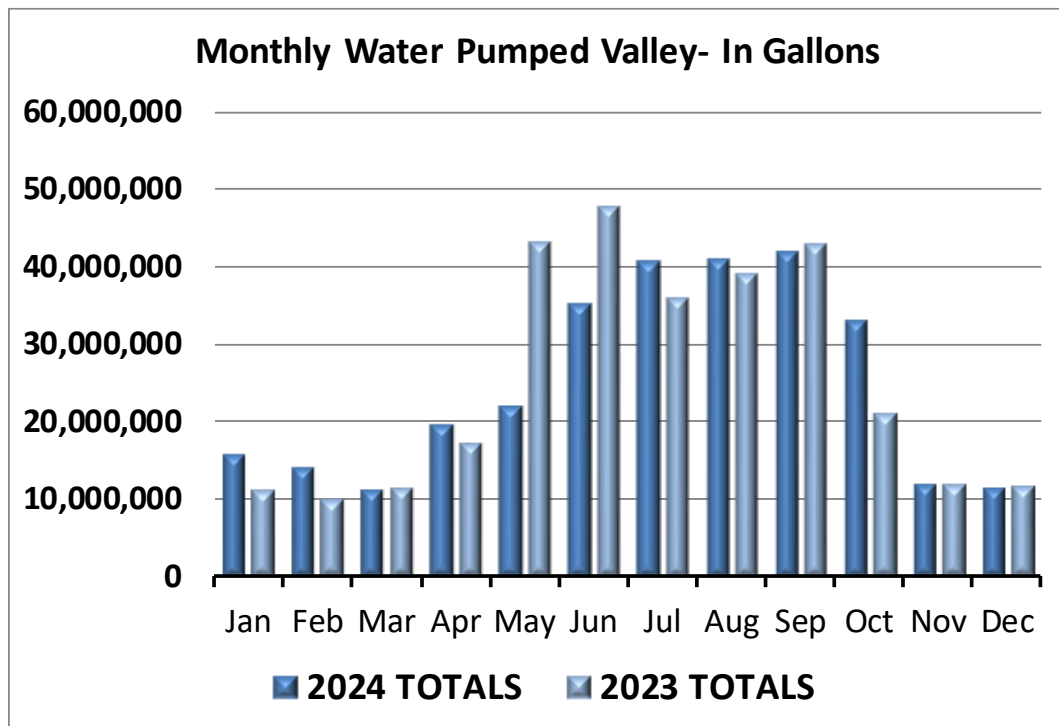
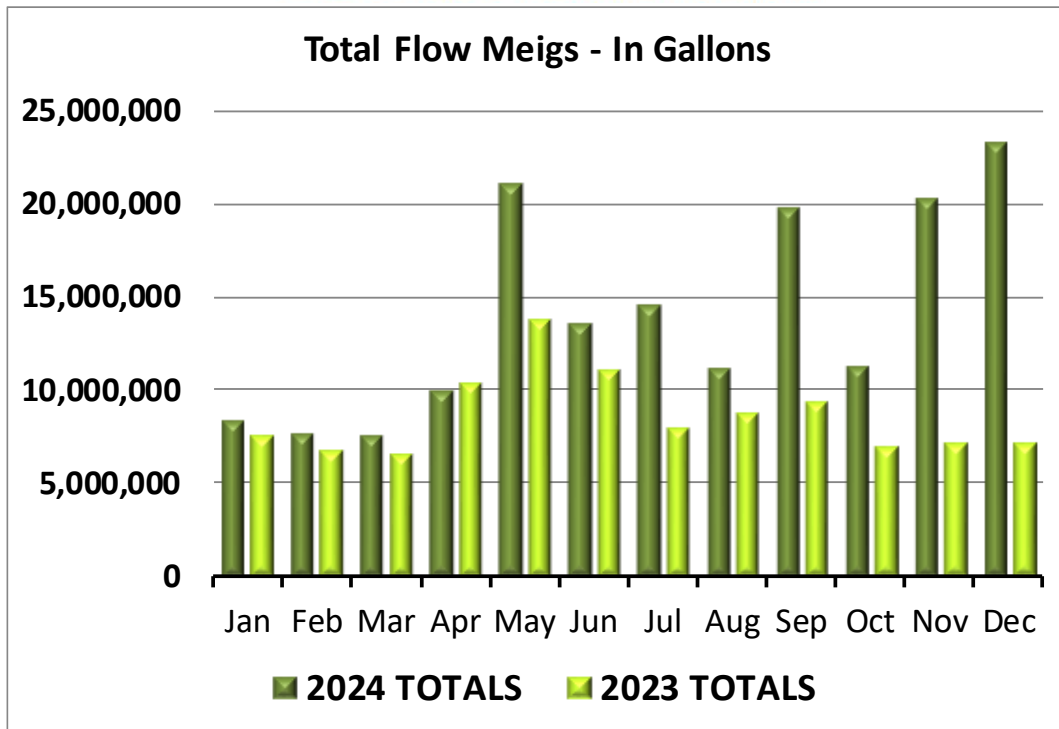
- Monthly workorders were completed and each week the lift stations were checked.
- The blades came off the drive shaft at Meigs Street lift station pump 1, Eclectic Pump is ordering parts and will repair it on site. We also had VFD faults on pump 2, we had West-E-Con check the VFD out and found that the pump is pulling 120 Amps which is double what it should pulling. Electric Pump is going to pull that pump when they come to work on pump 1, we think it is plugged up, but the pumps need a crane to pull them.
- The ozone has been running for over a month. The system was run with plastic pipe, but that pipe broke so it has to be replaced with stainless steel pipe due to the heat the ozone puts off.

- The plastic check valves broke at lift station number 7 in Bluewater, causing the valved pit to fill full of sewage and overflow. These check valves have been replaced with stainless steel check valves.

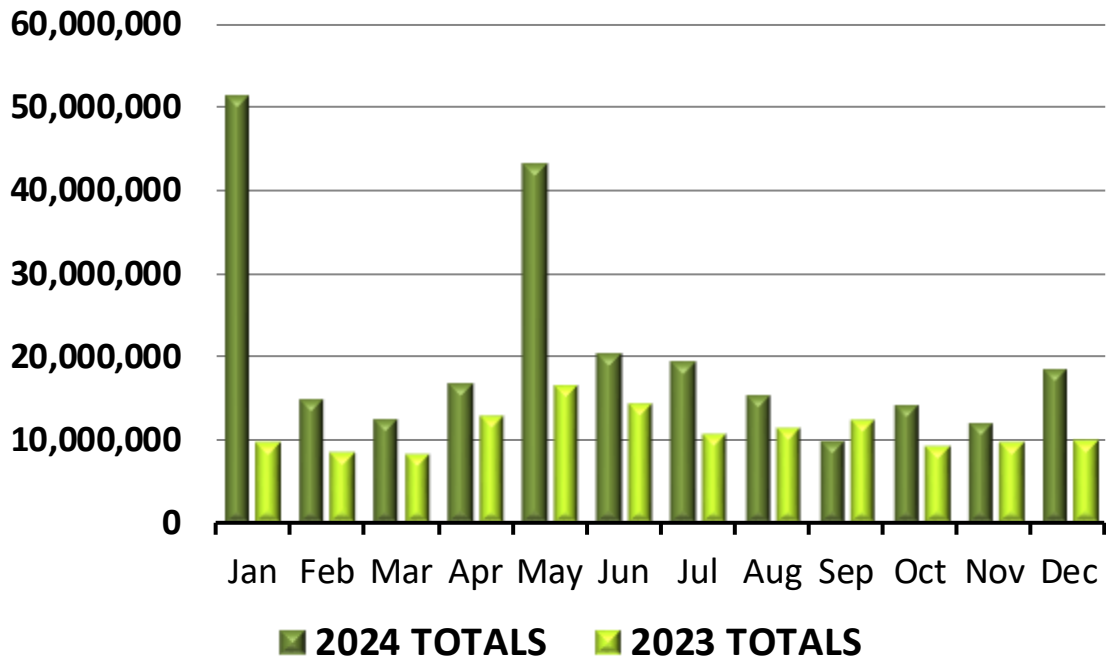
### **Recommendations:**

- The water main on North Spruce Street is in bad shape, where the water main break was on the 21st and has had 4 other breaks all in the same area in the last 7 years. There has been more there but was fixed by people before me. There was so much rust on the pipe we were scared taking it off would create another break.

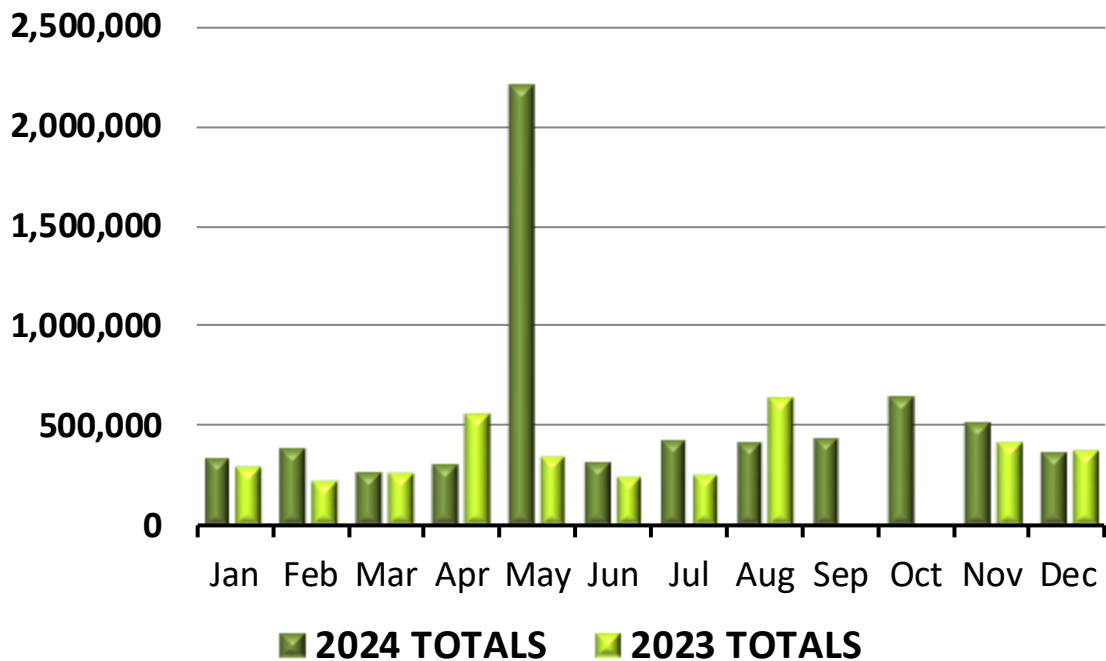
| Water                       | Units   | December-24 | November-24 | December-23 |
|-----------------------------|---------|-------------|-------------|-------------|
| Total Monthly Pumped Valley | gallons | 11,490,000  | 11,933,000  | 11,757,000  |
| Daily Average Pumped Valley | gallons | 377,366     | 390,000     | 250,000     |
| Average Fluoride Residual   | mg/L    | 0.00        | 0.00        | 0.00        |
| Fluoride used               | lbs     | 48.00       | 50.00       | 72.30       |
| Average Chlorine Residual   | mg/L    | 0.30        | 0.25        | 0.35        |
| Chlorine used               | lbs     | 1,397.00    | 1,200.00    | 94.60       |
| Potassium Permanganate      | lbs     | 338.70      | 311.00      | 486.00      |
| <b>Wastewater</b>           |         |             |             |             |
| <b>Effluent Flow</b>        |         |             |             |             |
| Total Flow Meigs Street     | gallons | 23,302,000  | 20,318,000  | 7,184,000   |
| Avg Daily Flow Meigs Street | gallons | 751,000     | 655,000     | 232,000     |
| Total Flow Byarsville       | gallons | 18,401,000  | 11,936,000  | 9,894,000   |
| Avg Daily Flow Byarsville   | gallons | 593,000     | 397,000     | 319,000     |
| Total Flow Valmont          | gallons | 366,000     | 523,000     | 428,780     |
| Avg Daily Flow Valmont      | gallons | 11,800      | 17,000      | 13,831      |



### Total Flow Byersville - In Gallons



### Total Flow Valmont - In Gallons





| Contract True-Ups - Current Contract Year |                 |              |             |           |
|-------------------------------------------|-----------------|--------------|-------------|-----------|
| Item                                      | Budgeted Amount | Amount Spent | % of Budget | % of Time |
| Maintenance Budget                        | \$32,162.00     | \$2,962.00   | 9%          | 25%       |
| Total                                     | \$32,162.00     | \$2,962.00   | 9%          | 100%      |

### December Work Orders Completed:

| Completed | Equipment                       | Location            | Task                |
|-----------|---------------------------------|---------------------|---------------------|
| 12/03/24  | AIR COMPRESSOR                  | 30029 WT Valley, NE | Inspection          |
| 12/03/24  | PORTABLE GAS MONITOR            | 30029 WT Valley, NE | Calibrate Equipment |
| 12/03/24  | FIRE EXTINGUISHERS              | 30029 WT Valley, NE | Inspection          |
| 12/04/24  | VALLEY SHORES LIFT STATION 3    | 30029 WW Valley, NE | LS Monthly PM       |
| 12/04/24  | HIGH SERVICE PUMP #1            | 30029 WT Valley, NE | Inspection          |
| 12/05/24  | GINGER COVE LIFT STATION #1     | 30029 WW Valley, NE | LS Monthly PM       |
| 12/05/24  | GINGER COVE LIFT STATION #2     | 30029 WW Valley, NE | LS Monthly PM       |
| 12/05/24  | GINGER WOODS LIFT STATION #1    | 30029 WW Valley, NE | LS Monthly PM       |
| 12/05/24  | GINGER WOODS LIFT STATION #2    | 30029 WW Valley, NE | LS Monthly PM       |
| 12/05/24  | GINGER WOODS LIFT STATION #3    | 30029 WW Valley, NE | LS Monthly PM       |
| 12/05/24  | LIFT STATION #1-VALLEY, NE SYST | 30029 WW Valley, NE | LS Monthly PM       |
| 12/05/24  | VALLEY SHORES LIFT STATION 1    | 30029 WW Valley, NE | LS Monthly PM       |
| 12/05/24  | VALLEY SHORES LIFT STATION 2    | 30029 WW Valley, NE | LS Monthly PM       |
| 12/06/24  | BLUEWATER LIFTSTATION 7         | 30029 WW Valley, NE | LS Monthly PM       |
| 12/09/24  | BLUEWATER LIFTSTATION 1         | 30029 WW Valley, NE | LS Monthly PM       |





| Completed | Equipment                         | Location                          | Task |
|-----------|-----------------------------------|-----------------------------------|------|
| 12/09/24  | BLUEWATER LIFTSTATION 2           | 30029 WW Valley, LS Monthly PM NE |      |
| 12/09/24  | BLUEWATER LIFTSTATION 3           | 30029 WW Valley, LS Monthly PM NE |      |
| 12/09/24  | BLUEWATER LIFTSTATION 4           | 30029 WW Valley, LS Monthly PM NE |      |
| 12/09/24  | BLUEWATER LIFTSTATION 5           | 30029 WW Valley, LS Monthly PM NE |      |
| 12/09/24  | BLUEWATER LIFTSTATION 6           | 30029 WW Valley, LS Monthly PM NE |      |
| 12/10/24  | MALLARD LANDING LIFT STATION 4    | 30029 WW Valley, LS Monthly PM NE |      |
| 12/10/24  | MEIGS LS EMERGENCY GENERATOR      | 30029 WW Valley, LS Monthly PM NE |      |
| 12/10/24  | VALHAVEN LIFTSTATION              | 30029 WW Valley, LS Monthly PM NE |      |
| 12/16/24  | BYERSVILLE LS EMERGENCY GENERATOR | 30029 WW Valley, LS Monthly PM NE |      |
| 12/16/24  | COUNTRY AIRE LIFTSTATION          | 30029 WW Valley, LS Monthly PM NE |      |
| 12/16/24  | DAIRY QUEEN LIFTSTATION           | 30029 WW Valley, LS Monthly PM NE |      |
| 12/16/24  | MALLARD LANDING LIFT STATION 1    | 30029 WW Valley, LS Monthly PM NE |      |
| 12/16/24  | MALLARD LANDING LIFT STATION 2    | 30029 WW Valley, LS Monthly PM NE |      |
| 12/16/24  | MALLARD LANDING LIFT STATION 3    | 30029 WW Valley, LS Monthly PM NE |      |
| 12/17/24  | REGIOINAL LS EMERGENCY GENERATOR  | 30029 WW Valley, LS Monthly PM NE |      |

**DAILY RECORDS****December 2024**

|                        |          | <b>This month</b> | <b>Last month</b> | <b>Last year</b> |
|------------------------|----------|-------------------|-------------------|------------------|
| <b>LIBRARY VISITS:</b> |          |                   |                   |                  |
|                        | Adults   | 457               | 349               | 496              |
|                        | Children | 368               | 634               | 342              |
| Computers              | Adults   | 58                | 44                | 42               |
|                        | Children | 66                | 60                | 64               |
| Fax/Copies             |          | 36                | 39                | 51               |

**REFERENCE TRANSACTIONS**

|                            |            |            |            |
|----------------------------|------------|------------|------------|
| Locating Library Materials | 42         | 49         | 49         |
| Readers' Advisory          | 18         | 13         | 27         |
| Account info and renewals  | 21         | 22         | 20         |
| Technology Assistance      | 79         | 74         | 92         |
| Local Info                 | 25         | 73         | 40         |
| General Info               | 289        | 356        | 147        |
| <b>Total</b>               | <b>474</b> | <b>587</b> | <b>375</b> |

**TOTAL NUMBER OF LIBRARY PROGRAMS:**

|              |           |           |           |
|--------------|-----------|-----------|-----------|
| Adults       | 4         | 4         | 4         |
| Teens        | 3         | 4         | 4         |
| Children     | 7         | 10        | 8         |
| Pre-K        | 1         | 1         | 2         |
| <b>Total</b> | <b>15</b> | <b>19</b> | <b>16</b> |

**TOTAL PROGRAM ATTENDANCE:**

|              |            |            |            |
|--------------|------------|------------|------------|
| Adults       | 89         | 22         | 104        |
| Teens        | 15         | 17         | 31         |
| Children     | 113        | 391        | 116        |
| Pre-K        | 6          | 6          | 33         |
| <b>Total</b> | <b>223</b> | <b>436</b> | <b>284</b> |

**NEW PATRONS**

|                    |          |          |           |
|--------------------|----------|----------|-----------|
| Valley             | 7        | 1        | 12        |
| Douglas County     | 2        | 1        | 0         |
| Non-Douglas County | 0        | 3        | 0         |
| <b>Total</b>       | <b>9</b> | <b>5</b> | <b>12</b> |

|                         |            |            |            |
|-------------------------|------------|------------|------------|
| <b>Volunteers/hours</b> | <b>0/0</b> | <b>0/0</b> | <b>0/0</b> |
|-------------------------|------------|------------|------------|

**MATERIALS CHECKED OUT:**

|           |     |      |     |
|-----------|-----|------|-----|
| Adult     | 560 | 627  | 588 |
| Children  | 910 | 1066 | 951 |
| Overdrive | 358 | 363  | 278 |

Minutes  
COMMUNITY DEVELOPMENT AGENCY  
December 10, 2024

1. and 2. **Call to Order and Roll Call** Chairperson Cindy Grove called the meeting to order at 7:00 p.m. Present were chair Cindy Grove, agency members, John Batchner, Chris TenEyck, Bryon Ueckert, Linda Lewis, and Secretary Christie Donnermeyer. Also present: City Attorneys Jeff Farnham and Andrea Griffin, City Administrator Cameron Gales, City Building Inspector Rune van den Boogaart, Treasurer Lori Sorensen, and Utility Clerk Kindra Smith.

3. **Pledge of Allegiance** the Pledge of Allegiance was recited.

Chairperson Grove noted the location of the open meetings act, and stated one copy of all reproducible written material to be discussed at this meeting is available for examination or copying.

4. **Proof of Publication** The proof of publication was on the desk.

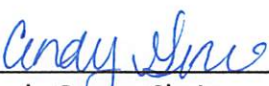
5. **Visitors/Correspondence** No one spoke.

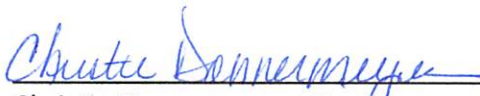
6. **Approval of agenda** Agency Member TenEyck moved to approve the agenda. Batchner seconded. YES: Batchner, Lewis, TenEyck and Ueckert. NO: no one, motion carried.

6. **Consent Agenda** Agency Member Batchner moved to approve the consent agenda. TenEyck seconded. YES: Batchner, Lewis, TenEyck and Ueckert. NO: no one, motion carried. Items on the consent agenda were Community Development meeting minutes November 12, 2024.

7. **Resolution No. CDA 2024-09** Valley Lakes Business Park Redevelopment Plan. City Attorney Griffin addressed the Agency and explained the Valley Lakes Business Park Redevelopment Plan and the need for the motion to refer the plan to the City Council. Agency member Batchner moved for approval of Resolution No. CDA 2024-09 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF VALLEY, NEBRASKA, SITTING AS THE COMMUNITY DEVELOPMENT AGENCY OF THE CITY, DIRECTING THAT THE REDEVELOPMENT PLAN PREPARED BY BAILY PROPERTY INVESTMENTS, LLC, A NEBRASKA LIMITED LIABILITY COMPANY (THE "REDEVELOPER") FOR A PORTION OF THE CITY PURSUANT TO THE NEBRASKA COMMUNITY DEVELOPMENT LAW BE REFERRED TO THE CITY COUNCIL FOR ITS REVIEW AND APPROVAL. Agency member Ueckert seconded the motion. Batchner, Ueckert, Lewis and TenEyck voted YES. NO: no one. Motion carried. A true, correct, and complete copy of said Resolution is on file at city hall. Chairperson Grove signed the Resolution, and the secretary attested her signature.

8. **Adjourn** Agency Member TenEyck moved to adjourn as the Community Development Agency and reconvene as City Council. Lewis seconded. Batchner, Ueckert, Lewis and TenEyck voted YES. NO: no one. Motion carried.

  
Cindy Grove, Chairperson

  
Christie Donnermeyer, Secretary

CITY OF VALLEY  
VALLEY PLANNING COMMISSION MINUTES  
November 19, 2024

**1 and 2. Roll Call and Call to Order:** Larry Bottger, Chairman, Scott Burke, Kyle Anderson, Mark Conrey, Brian Foutch, Greg Sunde, and Danielle Lowry. Absent: Jim Tomanek and Jeremy Mayer. Also present: Mayor Cindy Grove, Clerk Christie Donnermeyer, Building Inspector Rune van den Boogaart, City Engineer Greg Perry, and City Attorney Jeff Farnham.

Chairman Bottger noted the location of the open meetings act, and stated one copy of all reproducible written material to be discussed at this meeting is available for examination or copying.

**3. Pledge of Allegiance:** The Pledge of Allegiance was recited.

**4. Proof of Publication:** The Proof of Publication was on the desk.

**5. Visitors/Correspondence:** No one spoke.

**6. Approval of Agenda:** Chairman Bottger made a motion to move item number 10. Public Hearings to the next item after the Consent Agenda and approve the revised agenda. Foutch seconded. YES: Bottger, Anderson, Conery, Foutch, Sunde, and Lowry. NO: no one. ABSENT: Tomanek and Mayer. Motion carried.

**7. Consent Agenda** member Conrey moved to approve the consent agenda. Foutch seconded. YES: Bottger, Anderson, Conery, Foutch, Sunde, and Lowry. NO: no one. ABSENT: Tomanek and Mayer. Motion carried.

**8. Public Hearings:**

Request for a Conditional Use Permit for a Private Kennel at 602 S. West Street. Chairman Bottger opened the public hearing. Jeanne Mauseh, 602 S West Street answered questions from the Commission which included but not limited that the dogs were pets, there would be no selling of dogs, and that the entire property is fenced. Frank Borchardt 206 W Waring St stated his concerns regarding selling. Scott Helmick 209 W Warning stated his concerns with barking and maintenance of the property. City Attorney Farnham addressed the Commission regarding suggested conditions to add to the Conditional Use Permit; limiting the number of dogs to 7, that a dog grooming business is not allowed, requiring an annual inspection along with a fee, the property must be fenced and properly maintained. Chairman Bottger closed the public hearing. After much discussion, Conrey moved to recommend approval of the Conditional Use Permit to Council with the following conditions added to the Permit: Dogs limited to seven (7); no grooming allowed; an annual inspection and fee (\$150.00) is required; chronic verifiable complaints will void this Conditional Use Permit; the Conditional Use Permit is tied to the owner and the lot; no selling of dogs is allowed; a fence is required and shall be maintained; if exceeding 5 dogs, they are limited

to 25 pounds or less; the following rules from the NE Humane Society Pet Avocation Permit are enforced: all animals owned, kept, possessed or harbored under this permit must be vaccinated against rabies. Proof of individual rabies vaccinations on each pet must be provided at the time of inspection; each animal shall, at least every 24 hours, receive food suitable for the species, physical condition and safe – sufficient to maintain adequate level of nutrition; must have clean, fresh, potable water available at all times; indoor housing shall provide adequate ventilation, lighting temperature control and construction so as to provide for the safety and comfort of the animals; each animal shall receive care and medial treatment for debilitating injuries, parasites, and disease sufficient to maintain the animal in good health and to minimize suffering; animals shall be maintained predominately indoors. Bottger seconded. YES: Bottger, Anderson, Conery, Foutch, Sunde, and Lowry. NO: no one. ABSENT: Tomanek and Mayer. Motion carried.

The following items were discussed: adding storage of single axle enclosed trailers to the Ordinance. The Building Inspector addressed the Commission with his recommendations. This item will be on the next agenda for a decision. Beefcake/Dux Bux request for a conditional use permit for warehouse distribution in C-3 zoning. The Building Inspector addressed the Commission with his recommendations. This item will be on the next agenda for a decision.

Member Sunde moved to adjourn. Anderson seconded. YES: Bottger, Anderson, Conery, Foutch, Sunde, and Lowry. NO: no one. ABSENT: Tomanek and Mayer. Motion carried.

  
Christie Donnermeyer, City Clerk

## **November 7, 2024 Valley Public Library Board of Trustees Minutes**

**Call to Order:** President, Kyle Held, called the meeting to order at 6:32 p.m.

**Roll Call:** Trustees answering roll call: James Musson, Theresa Samson, Kyle Held and Moira Winters . Librarian, Sami Stewart was also in attendance.

**Proof of Posting/Open Meetings Act Poster:** The meeting was held in accordance with the Nebraska Open Meetings Law, with meeting notice posted in the library windows and on web site . Continuously updated copies of the agenda were maintained on the library's bulletin board and the library's website.

**Approval of Agenda:** Motion to approve by J. Musson seconded by M. Winters. Yeas: J. Musson, T. Samson, K. Held, & M. Winters Nays: None. Motion carried 4-0. There were no consent agenda items which required approval.

**Recognition of Visitors/Correspondence: None**

**Public Comment:** None.

**Approval of Prior Meetings Minutes:** Motion to approve the previous meetings' minutes was made by M. Winters and seconded by J. Musson. Yeas: K. Held ,T. Samson, J. Musson & M. Winters Nays: none. Motion carried 4-0.

### **Reports**

A. **Board President:** No official report.

B. **Library Director:** S. Stewart had emailed the Librarian's report; she then went over verbally and answered questions. Sami informed that the Young Adventurers Club is off the rotation due to low interest , the teen D&D continues to have good attendance. The new Wonderbooks are very popular so the collection will be added to, as budget allows. Sami continues to apply for grants that will add to the excellence of our library. The board was also reminded that it will be up for re-certification in August 2025 so we need to complete 20 hours of CE credit before then.

C. **Friends of the Library: None**

D. **Foundation: None**

### **Old Business**

None

### **New Business**

#### **A. Employee Performance Review**

The board completed the review as a group . J. Musson abstained

#### **B. Employee Wage Recommendation**

M. Winters made a motion to accept the recommendation, T. Samson seconded.

J. Musson abstained. Yeas: K. Held, T. Samson, M. Winters. motion carried, 3-0

**Closed Session** - The president may entertain a motion to enter into closed session in accordance with the Nebraska Open Meetings Act. ( ACTION) --- None

**Comments and Announcements by Board Members:** None

**Meeting Adjournment** was announced by President, K. Held at 7:35 p.m.

Next meeting will be January 9, 2025 at 6:30 p.m.

Respectfully submitted,

Theresa Samson, secretary

## **Christie Donnermeyer**

---

**From:** Valley City Office  
**Sent:** Wednesday, January 8, 2025 11:00 AM  
**To:** Cindy Grove; Christie Donnermeyer; Cameron Gales  
**Subject:** Council Agenda Request Jaime kobs

**Name:** Jaime kobs

**Phone:** 4023502501

**Email Address:** jaimekobs@hotmail.com

**Address:** 28015 heron circle Valley 68064

**Agenda Item Description:** No Parking Signs

**Requested Action:** The curve around Valley Shores in front of the apartment complex is constantly packed with cars. It is a safety risk due to the amount of people walking in the neighborhood, the way the sun comes up causing blinding brightness and during the winter where the snow is plowed and is single lane. It is not only a safety hazard for the drivers, but also for the walkers. We would like to see no parking signs along the curve between the stop sign and the entrance to the apartment complex.

**Does this require an expenditure of funds:** Unsure

[View in List](#)



## **PROFESSIONAL SERVICES AGREEMENT**

THIS AGREEMENT is hereby made and entered into this 14th day of January, by and between the City of Valley, a municipal corporation located at 203 N Spruce Street, Valley, NE 68064, in Douglas County, Nebraska ( hereinafter referred to as the " City"), and Cardinal Consulting, L.L.C., a Nebraska limited liability company, 1102 Magnolia Circle, Papillion, NE 68046 ( hereinafter referred to as the " Provider"), on the terms, conditions and provisions as set forth herein below.

The City and Provider agree as set forth below:

### **I. DESCRIPTION**

Provider agrees to provide economic development consulting and legal services as determined to be needed by the City; see Exhibit" A."

### **II. TERM**

This agreement shall be in full force and effect from February 1, 2025 through December 31, 2025. This contract may be terminated by either party pursuant to the terms of Article X below.

### **III. DUTIES OF PROVIDER**

- A. Provider agrees to perform professional services, as set out and more fully described in Exhibit " A" attached hereto, for the City. Such services shall be completed within the time period agreed to between the parties.
- B. Provider agrees to maintain records and accounts, including personnel, financial and property records, sufficient to identify and account for all costs pertaining to the services provided and certain other records as may be required by the City to assure a proper accounting for all project funds. These records shall be made available to the City for audit purposes and shall be retained for a period of five years after the expiration of this agreement.
- C. Provider agrees that, during the term of this agreement, it will not provide services of any type to any legal being or entity that involves the City or its extra territorial jurisdiction.

### **IV. DUTIES OF CITY**

City designates Cameron Gales, City Administrator, as its contact person for this project, who shall provide such written authorizations as are necessary to commence or proceed with services.

### **V. COMPENSATION AND PAYMENT**

- A. Time and materials shall be charged hourly at a rate of \$125.00 per hour and billed weekly for twenty-four (24) hours of services. Statements will be

submitted on a monthly basis. Fees paid to the provider for the term of this agreement may not exceed \$152,750.00 for the eleven months starting February 1, 2025 through December 31, 2025. The express written consent of the City shall be required in order to exceed said amount.

## **VI. OWNERSHIP**

All material provided pursuant to the terms of this agreement shall be and become the property of the City.

## **VII. ADDITIONAL SERVICES**

In the event additional services for the aforementioned project not covered under this agreement are required, Provider agrees to provide such services at a mutually agreed upon cost.

## **VIII. INSURANCE REQUIREMENTS**

Provider shall carry professional liability insurance.

## **IX. INDEMNIFICATION**

- A. To the fullest extent permitted by law, the Provider shall indemnify, defend, and hold harmless the City, its agents and employees, their successors and assigns, individually and collectively, from and against all claims, suits, damages, fines, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from the provision of services under this agreement, provided that such claim, suit, damage, fine, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property including loss of use resulting therefrom, but only to the extent caused in whole or in part by negligent acts or omissions of the Provider, anyone directly or indirectly employed by it, or anyone for whose acts it may be liable, regardless of whether or not such claim, suit, damage, fine, loss or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this paragraph.
- B. In claims against any person or entity indemnified under this paragraph by an employee of the Provider, anyone directly or indirectly employed by it, or anyone for whose acts it may be liable, the indemnification obligation under this paragraph shall not be limited by a limitation on amount or type of damages, compensation or benefits payable by or for the Provider under workers' or workmen's compensation acts, disability benefit acts or other employee benefit acts.

## **X. TERMINATION OF AGREEMENT**

This agreement may be terminated by the City or provider upon written notice to the other party of such termination and specifying the effective date at least sixty (60) days prior to the effective date of such termination. In the event of termination, the Provider shall be entitled to just and equitable payment for services rendered to the date of termination, and all finished or unfinished documents, models, or reports shall become, at the City's option, its property.

## **XI. GENERAL CONDITIONS**

- A. Nondiscrimination. Provider shall not, in the performance of this agreement, discriminate or permit discrimination in violation of federal or state laws or local ordinances because of race, color, sex, age, sexual orientation, gender identity, political or religious opinions, affiliations or national origin.
- B. Captions. Captions used in this agreement are for convenience and are not used in the construction of this agreement.
- C. Applicable law. Parties to this agreement shall conform with all existing and applicable city ordinances, resolutions, state laws, federal laws, and all existing and applicable rules and regulations. Nebraska law will govern the terms and the performance under this agreement.
- D. Interest of the City. Pursuant to Section 8.05 of the Home Rule Charter, no elected official or any officer or employee of the City shall have a financial interest, direct or indirect, in any City agreement. Any violation of this section with the knowledge of the person or corporation contracting with the City shall render the agreement voidable by the Mayor or Council.
- E. Interest of the Provider. The Provider covenants that she presently has no interest and shall not acquire any interest, direct or indirect, which would conflict with the performance of services required to be performed under this agreement; he further covenants that in the performance of this agreement, no person having any such interest shall be employed.
- F. Merger. This agreement shall not be merged into any other oral or written agreement, lease or deed of any type. This is the complete and full agreement of the parties.
- G. Modification. This agreement contains the entire agreement of the parties. No representations were made or relied upon by either party other than those that are expressly set forth herein. No agent, employee or other representative of either party is empowered to alter any of the terms hereof unless done in writing and signed by an authorized officer of the respective parties. The originally approved scope and primary features of the contract will not be significantly revised as a result of amendments not approved in advance by the city council.
- H. Assignment. The Provider may not assign its rights under this agreement.
- I. Strict compliance. All provisions of this agreement and each and every document that shall be attached shall be strictly complied with as written, and no substitution or change shall be made except upon written direction from authorized representative.

- J. Work eligibility. The Provider is required and hereby agrees to use a federal immigration verification system to determine the work eligibility status of new employees physically performing services within the State of Nebraska. A federal immigration verification system means the electronic verification of the work authorization program authorized by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S. C. 1324a, known as the E-Verify Program, or an equivalent federal program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of a newly hired employee. If the Provider is an individual or sole proprietorship, the following applies:
- a. The Provider must complete the United States Citizenship Attestation Form, available on the Department of Administrative Services website at [www.das.state.ne.us](http://www.das.state.ne.us).
  - b. If the Provider indicates on such attestation form that he or she is a qualified alien, the Provider agrees to provide the U.S. Citizenship and Immigration Services documentation required to verify the Provider's lawful presence in the United States using the Systematic Alien Verification for Entitlements (SAVE) Program.
  - c. The Provider understands and agrees that lawful presence in the United States is required and the Provider may be disqualified or the contract terminated if such lawful presence cannot be verified as required by Neb. Rev. Stat. § 4- 108.

EXECUTED this \_\_\_\_ day of \_\_\_\_\_ 2025.

Cardinal Consulting, LLC

\_\_\_\_\_  
Witness

By \_\_\_\_\_  
Jacquelyn Morrison, Manager

EXECUTED this \_\_\_\_ day of \_\_\_\_\_ 2025.

City of Valley, a Municipal Corporation

By \_\_\_\_\_  
Cameron Gales, City Administrator

EXHIBIT " A"  
Scope of Work

Assist and advise the City Administrator and Mayor in the economic development activities and legal matters of the City. Such tasks include, but are not limited to, creating economic development plans, advising on the community redevelopment law, researching grant opportunities, meeting with developers, preparing grant applications, monitoring legislation, advising on legislative implications and other duties as assigned by the City Administrator. Legal duties include preparing legal documents, reviewing contracts, researching ordinances, statutes, and other legal authority, preparing legal opinions, and any other duties as assigned by the City Council, City Administrator, or Mayor.



December 19, 2024

Christine Donnermeyer  
City Clerk City of Valley  
203 N Spruce St  
Valley, NE 68064

RE: Big Red Keno Application for Sales Outlet

Dear Christine,

I am pleased to inform you that EHPV Lottery Services LLC is presenting you with a new keno sales outlet (satellite) application for the following location:

**New Application**

Cherny/Powers Inc  
DBA: Outer Limits Sports Bar & Grill  
28564 W Reichmuth Rd  
Valley, NE 68064

**Owner:**

Nick Cherny  
Amber Cherny

**Percentage:**

50%  
50%

Enclosed:

- A copy of the new Satellite Lease and Operating Agreement
- 50G Schedule II

If you have any questions, please feel free to contact me at 402-677-3443. I will mail the original.

Thank you,

Melodi Szymczak  
Director of Sales and Marketing



**BIG RED KENO****OMAHA SATELLITE LEASE AND OPERATING AGREEMENT**

This Satellite Lease and Operating Agreement is between EHPV Lottery Services LLC dba Big Red Keno, 11248 John Galt Boulevard, Omaha, NE 68137 and the undersigned "Satellite". In this Agreement: (i) "we", "us" and "our" means and refers to EHPV Lottery Services LLC; (ii) "you" and "your" means and refers to the undersigned Satellite and any successor-in-interest to the business of the undersigned Satellite; (iii) "Premises" means the location specified below and any new location to which your business is moved or expanded; (iv) "Game" means the legal gambling activities contemplated by this Agreement; (v) "Equipment" means any computer(s), input terminal(s), display device(s), communication device(s), and other equipment that we place at the Premises; (vi) "Supplies" means ticket stock, bet slips and other items of personal property necessary to play the Game; (vii) "Handle" means the amount wagered on the Game at the Premises; (viii) "Game Rules" means rules as stated in the current paybook and rules we develop or implement from time to time for conduct of the Game, all of which are made a part of this Agreement; (ix) "Game Funds" means all proceeds of wagers, whether or not accepted in violation of this Agreement and any other funds we provide; (x) "Scheduled Expiration Date" means the last day that this Agreement may be effective, taking into account all possible Renewal Terms; (xi) "Community" means the City of Omaha and any political subdivisions with which it has an interlocal agreement under the Nebraska County and City Lottery Act as their interests may appear.

1. Lease. You hereby lease to us space within the Premises specified below. That space will be as mutually agreed and will in any event be sufficient to allow play of the Game and placement of the Equipment in a manner that is convenient for your customers. You agree that we may enter the Premises at any time during your normal business hours for purposes of inspecting or repairing the Equipment, viewing the manner in which the Game is offered, reviewing Game records, conducting Game audits, or exercising our rights under Section 7.

2. Compliance with Law. You agree to: (a) obtain and maintain in effect during the term of this Agreement all necessary and applicable licenses, permits, and approvals (including, but not limited to, a federal wagering stamp, a sales outlet location license, and any necessary licenses for your staff); and (b) comply with all "Regulatory Requirements" which include, but are not limited to, all applicable laws, regulations, ordinances, resolutions, rules and rulings promulgated by any federal, state or local government or any court, agency, instrumentality or official, and specifically including, but not limited to, the lottery operator agreement or similar agreement between us and the Community, and related rules, agreements, memoranda of understanding, resolutions and actions, and the Nebraska County and City Lottery Act and regulations promulgated pursuant thereto, all as now existing or hereafter amended, adopted or replaced, and whether applicable to conducting the Game at the Premises, the operation of your business or otherwise.

3. Rent. We will pay you rent on the following basis (initial one): \_\_\_\_\_ (a) 5% of Handle; or Ne (b) 5.25% of the first \$10,000 of Handle per week, 2.5% of any amount over \$10,000 of Handle per week. You may change your rental basis selection once during the term of this Agreement, on 15 days' prior written notice to us. We will pay rent at least twice each month on settlement dates we choose. If we pay rent based on a period shorter or longer than one week, we may prorate or multiply the \$10,000 threshold to fit that period. We may withhold or offset rent against any amounts you owe us or our affiliates under this Agreement or otherwise. If there is a change in Regulatory Requirements or other change in circumstances that we consider to be adverse, we may decrease the amount of rent due hereunder upon 45 days' prior written notice to you.

4. Staffing. You agree to supervise and be responsible for the staffing necessary at the Premises for customers to play the Game, and to require your staff to comply with all Game Rules and Regulatory Requirements. Staff members who have not been trained or approved by us or who have not been appropriately licensed are not permitted to have any duties with respect to the Game.

5. Your Obligations. You agree to comply with and perform all of your obligations under the Game Rules and this Agreement. You agree to: (a) maintain (or reimburse us for) electrical power and communications services designated by us; (b) operate your business and the Premises in a clean, safe, orderly, lawful and respectable manner and condition, with no adverse changes as compared to when you became a sales outlet location for the Game; (c) maintain current, complete and accurate records pertaining to your business and transactions related to the Game and give us and relevant government officials access thereto promptly on request; (d) maintain commercially reasonable public liability insurance naming us as an additional insured and provide us with certificates evidencing the same on request; (e) pay all applicable taxes pertaining to conduct of the Game at the Premises (including, but not limited to, federal, state and local excise and occupational taxes); (f) use your best efforts to detect and prevent cheating with respect to the Game and tampering with the Equipment and Supplies and immediately report the same or your reasonable suspicions related thereto to us; and (g) maintain the confidentiality of all materials and information that we provide to you and return the same to us upon termination of this Agreement. You represent and agree that you have and will maintain all third party approvals necessary for you to perform under this Agreement. You are to meet all of your obligations under this Agreement at your expense, except as expressly provided in this Agreement.

6. Our Obligations. So long as you comply with this Agreement, we agree that you may be a sales outlet location for the Game. We will, at our own expense: (a) maintain any necessary central computer for the Game; (b) provide you with Equipment and Supplies and the Premises such construction as we determine to be necessary for the installation of the Game at the Premises; (c) repair (and, if necessary, replace) defective Equipment and insure (or self-insure) the same; (d) train your staff in the operation of the Equipment; and (e) market the Game as we deem appropriate (e.g., through on-Premises signs). We do not guarantee that operation of the Game or the Equipment will be uninterrupted or error-free. We will not be considered in default if our performance is prevented due to a cause beyond our control, including, but not limited to, computer and communications failures.

7. Equipment. All Equipment remains our property, is not considered fixtures and must be returned to us immediately upon any termination or discontinuation pursuant to Sections 14 or 15. We may add to, remove, or alter all or any of the Equipment at any time. You agree to use due care to safeguard the Equipment and agree to notify us immediately if any of it is lost, stolen, damaged, or destroyed or appears to be malfunctioning. You agree to reimburse us for any losses sustained as a result of your failure to comply with the foregoing or the negligence or intentional misconduct of you or your staff or customers.

8. Marketing and Protection of Marks. You agree to prominently display the promotional and informational material we provide regarding the Game. You acknowledge that the name "Big Red Keno", the "Big Red" ball, and any other names, marks, slogans and similar materials that we may publish or distribute (the "Marks") are our property, whether or not registered, and you agree not to take any action to impair our ownership or the value thereof, or to bring the same into disrepute. You agree to obtain our prior written approval before you advertise or promote the Game or use the Marks.

9. Conduct of the Game. You agree to make the Game available to your customers during your normal business hours. You agree to use reasonable efforts to ensure that persons playing the Game on the Premises are limited to customers physically present on the Premises. Except in the case of tickets written for 21 or more consecutive games, you should require customers to redeem all winning tickets immediately after the last game to which they relate and before the calling of the next game. You should redeem all winning tickets in the presence of all customers having purchased tickets at the Premises for the games to which such tickets relate, and you should not permit customers to purchase tickets, leave the Premises and return later for redemption. In the case of tickets written for 21 or more consecutive games, you may permit delayed redemption in accordance with the Game Rules.

10. Game Funds. You will require all wagers on the Game to be paid in valid U.S. currency (or by any means allowed under law) at the time they are made. All Game Funds are our sole and exclusive property. If you cash checks for customers, you will do so separately and at your own risk and will not accept checks in our name. You agree to: (a) hold Game Funds in trust for us; (b) keep Game Funds separate from your funds while in your possession; and (c) prevent any of your creditors or other third parties from seizing or otherwise enforcing any lien, claim or other interest in Game Funds. All Game Funds, less prizes paid by you in accordance with the Game Rules, will be deposited no later than noon of the first banking day after receipt into a separate bank account that we have approved. If the bank account is other than our account, we may transfer the balance of that account to our account as often as daily and you agree to sign a funds transfer agreement to permit the same. We are entitled to immediate payment of any deposit of Game Funds not made when due or for any non-cash wager proceeds that you accept. Interest will accrue thereon at the lesser of 24% per annum or the highest lawful rate until paid.

11. Term. This Agreement is effective through the end of the current term of the lottery operator agreement between us and the Community and is thereafter automatically renewed for up to three additional consecutive renewal terms of five years each (each a "Renewal Term") unless we have given you written notice of non-renewal of this Agreement any time before the commencement of the next Renewal Term. Sections 5(c), 5(e), 5(g), 12, 13, and 16 will survive any termination of this Agreement.

SUBJECT TO TERMS ON REVERSE



12. **Expanded Gambling.** If additional gambling activities are legalized in the future and you wish to offer those activities at the Premises, we agree to use our best efforts to make those activities available to you on mutually agreed terms. If we are unable to do so for any reason within six months after your written request for such legal gambling activities, you may discontinue your obligation to staff the Game in accordance with Section 14. In return for the foregoing and our other obligations herein, and in view of our significant capital investment in reliance hereon, you agree not to permit anyone other than us to offer, supply or install gambling activities (other than paper pickle cards as allowed by the Nebraska Pickle Card Lottery Act on the date this Agreement is signed by us) at the Premises under any circumstances before the Scheduled Expiration Date of this Agreement.

13. **Indemnity.** You will indemnify, defend and hold us, the Community, and our and their respective employees, agents, and affiliates, harmless from and against any and all losses, costs, claims, expenses, (including reasonable attorneys' fees) and damages arising out of or related to, in whole or in part: (a) your breach of this Agreement; or (b) any actual or alleged acts or omissions by you, your staff, or your customers; or (c) any actual or alleged conduct of your business or condition of the Premises or any adjoining areas (including parking areas). We will not, however, be entitled to such indemnity if the proven sole proximate cause of damages was our own negligence or willful misconduct.

14. **Your Right to Terminate or Discontinue.** You may terminate this Agreement early if we materially default hereunder, and fail to cure our default within 30 days after receipt of written notice from you, specifying our default to be corrected. You may discontinue your responsibility to staff the Game: (a) if we propose a rent reduction pursuant to Section 3 and you give us written notice that you reject the same within 15 days after your receipt thereof; (b) if you determine, reasonably and in good faith, that continued staffing would be unprofitable; or (c) if we are unable to provide you, under Section 12, with additional gambling activities that you desire. Discontinuation of staffing does not terminate this Agreement. We may, but are not required to, staff the Game at the Premises if you discontinue staffing. In such event, we may deduct the cost thereof from the rent due. If you discontinue staffing, any recommencement thereof by you is subject to approval by us and applicable government authorities. Your right to terminate this Agreement or discontinue staffing under this Section is your exclusive remedy for our breach of this Agreement, and is in lieu of any other rights and remedies which you may have at law or equity.

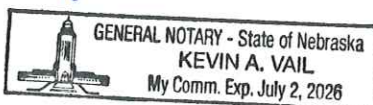
15. **Our Right to Terminate or Discontinue.** We may terminate this Agreement early or discontinue our responsibilities under Section 6 without causing a termination hereof if: (a) you or your staff fail to comply with Section 2 or Section 10 in any respect, or your license to act as a sales outlet location is denied or revoked; (b) you otherwise materially default hereunder, and fail to cure the same within 30 days after receipt of written notice from us; (c) you discontinue staffing for any reason; (d) a material adverse change occurs in your business, financial or other condition, in our good faith determination; (e) there is a change in ownership of your business or you transfer your interest in, or discontinue business at, the Premises; (f) you have less than \$700 in Handle per week on average during any calendar quarter; or (g) we determine in good faith that a change in Regulatory Requirements will make continuation of our responsibilities hereunder impractical, impossible, or unprofitable.

16. **Our Remedies.** If we terminate this Agreement early or exercise our right to discontinue our obligations in accordance with Section 15, we will be entitled to recover our damages, in addition to our other rights and remedies at law and in equity. Our damages are deemed to be no less than the product of: (i) the number of weeks remaining until the Scheduled Expiration Date; multiplied by (ii) eight percent (8%) of your average Handle per week (averaged for the period beginning 36 months and ending 12 months before the event giving rise to such termination or discontinuance; if the Game at the Premises continued for less than 15 months, we will use the average for the first half of such period). We are not, however, entitled to damages if our termination or discontinuance was based solely on: (A) Section 15(f); or (B) Section 15(c) or 15(e) provided that you otherwise continue to comply with the terms of this Agreement until the Scheduled Expiration Date (including, but not limited to, your obligation not to permit additional gambling activities under Section 12, even in circumstances where we are unable to provide you with the additional gambling activities that you desire). You further agree that we are entitled to specific performance and/or injunctive relief to enforce the terms hereof, including, but not limited to, injunctive relief against third parties with respect to violations pertaining to Section 12. As security for your performance of Section 12 and payment of our damages, you hereby grant us a security interest in and assign to us any rents or other payments due under any lease or other agreement and any other revenues to which you may be entitled with respect to other gambling activities on the Premises and you also hereby grant us a power of attorney to sign and file on your behalf any financing statement or other document related to such security interest.

17. **Miscellaneous.** This Agreement: (a) is a continuation of any prior existing lease we may have with regard to the Premises; (b) supersedes the terms of any and all such leases and is the exclusive statement of the agreement of the parties with respect to the subject matter hereof; (c) may not be amended except in writing executed by the parties; and (d) is interpreted and enforced in accordance with the laws of Nebraska. This Agreement binds the undersigned Satellite, the individual signing this Agreement, the Premises, any successor-in-interest to the business of the undersigned Satellite, and any new location to which your business is moved or expanded, through the Scheduled Expiration Date, unless terminated earlier as provided herein, and the provisions of this Agreement which survive termination continue to bind such persons and locations after termination. If any provision of this Agreement is unenforceable, the remaining provisions remain in effect. No waiver hereunder (whether by course of conduct or otherwise) is effective unless in writing and no waiver is considered a waiver of any other or further default. Our nonenforcement or waiver of any provision under any similar agreement(s) is not deemed a waiver of any provision under this Agreement. The parties intend their relationship under this Agreement to be that of independent contractors and not employees, agents, joint venturers, or partners; neither party has the power or authority to bind the other. Notices hereunder are given in writing by personal delivery or certified mail, addressed to the parties at the addresses set forth herein and are deemed given upon receipt.

|                                                                                                                                                                                                                                                                                                                              |  |                                                                                                                                                                                                                  |  |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|
| Satellite Name: <u>Cherry/Powers Inc</u><br><u>dba: Outer Limits Sports Bar</u><br><u>Red Valley NE 68064</u><br>Premises Address: <u>28564 W Reichardt</u><br>(Premises legal description will be attached as Attachment A)                                                                                                 |  | I have read and understand this Agreement (Front and Back) and am signing on behalf of myself and the Satellite named herein.<br>By: <u>[Signature]</u><br>Print Name: <u>Nick Cherry</u><br>Title: <u>Owner</u> |  |
| State of Nebraska, Co. of <u>Douglas</u> ss: This instrument was acknowledged before me on <u>12/18/24</u> by <u>Nick Cherry</u><br>the <u>owner</u><br>of <u>Cherry/Powers Inc dba: Outer Limits Sports Bar, Grill</u><br>a <u>Nebraska Corporation</u><br>on behalf of the <u>Corporation</u><br><u>[Signature]</u> Notary |  | Accepted: EHPV Lottery Services LLC<br>By: <u>[Signature]</u><br>Officer of EHPV Lottery Services LLC<br>Print Name: <u>Todd Ryan</u><br>Dated: <u>12/18/24</u>                                                  |  |

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SUBJECT TO TERMS ON REVERSE





# Nebraska Schedule II – County/City Lottery Sales Outlet Location Application

Form 50G  
Schedule II

- No license fee required.
- Incomplete schedules will be returned.

1 Nebraska ID Number of County, City, or Village

Please Do Not Write In This Space

2 County, City, or Village Name on Form 50G

Douglas / Valley / Omaha

## Sales Outlet Location Information (Attach additional sheet if necessary)

3 Nebraska ID Number

4 Federal ID or Social Security Number

5 Type of Application:

☒ New ☐ Renewal ☐ Report Changes ☐ Cancel

20-8315981

### Business Name and Location Address

Name Cherny / Powers Inc

Trade Name of Business (If Different Than Above)

Outer Limits Sports Bar & Grill

Street Address

28504 W Reichmuth Rd

City

State

Zip Code

County

Valley NE 68064 Douglas

### Business Name and Mailing Address

Business Name

Street or Other Mailing Address

City

State

Zip Code

Nebraska Liquor License Number

086889

6 Type of Ownership

☐ Sole Proprietorship ☒ Domestic Corporation ☐ Limited Liability Company ☐ Nonprofit Corporation or Organization  
☐ Partnership ☐ Foreign Corporation ☐ Domesticated Corporation ☐ Other

7 Location Type

☒ Keno Satellite  
☐ Keno Independent Game

Your Social Security number and date of birth are required under the [Nebraska County and City Lottery Act](#) and will be used to request criminal history information from law enforcement agencies to determine if the legal requirements for a lottery sales outlet location's license are met.

- 8 List the Social Security number, full name, home address, date of birth, type of involvement, and percentage of ownership for each of the following persons involved with the applicant.
- If a sole proprietorship, list the individual owner.
  - If a partnership, list each partner and spouse.
  - If a corporation, list each officer and spouse and each person holding 10% or more of the debt or equity of the applicant corporation. If any person holding 10% or more of the debt or equity of the applicant corporation is a partnership, limited liability company, or corporation, list each partner of such partnership, each member of such limited liability company, or each officer of such corporation and every person holding 10% or more of the debt or equity of any such partnership, limited liability company or corporation.
  - If a limited liability company, list each member and spouse.
  - If a nonprofit organization or nonprofit corporation, list each officer and the individual designated as manager.
- (Attach additional sheet if necessary)

| Social Security Number | Name, Address, City, State, Zip Code (See instructions) | Date of Birth | Type of Involvement and Percentage of Ownership |
|------------------------|---------------------------------------------------------|---------------|-------------------------------------------------|
| 505-90-1405            | Nick Cherny 1832 Bramblewood Ln Fremont NE 68025        | 3/1/64        | 50%                                             |
| 505-08-6916            | Amber Cherny 1832 Bramblewood Ln Fremont NE 68025       | 4/24/80       | 50%                                             |

9 Does any person other than those listed in line 8 above have any ownership interest in the license applicant? (See instructions)

☐ Yes ☒ No

If Yes, in the case of an individual, identify the Social Security number, full name, home address, date of birth, type of ownership interest of each such individual. In the case of a business, identify the federal employer ID number, business name, address, and type of ownership interest of each such business. (Attach additional sheet if necessary)

10a Has anyone listed in line 8 ever been convicted of, forfeited bond upon a charge of, or pled guilty or nolo contendere to any felony or misdemeanor at any time involving any gambling activity, fraud, theft, willful failure to make required payments or reports, or filing false reports with a governmental agency at any level? This includes shoplifting or issuing bad checks.

☐ Yes ☒ No If Yes, see instructions.

10b Has anyone listed in line 8 ever been convicted of, forfeited bond upon a charge of, or pled guilty or nolo contendere to any felony other than that described in line 10a within 10 years preceding the date of this application?

☐ Yes ☒ No If Yes, see instructions.

11 Has each of the individuals listed in line 8 above complied with the [Instructions for Completing Fingerprint Application](#), or when applicable, filed a signed [Affidavit by Spouse for Waiver](#) form?

☒ Yes ☐ No (See What Must Be Filed instructions)

12 Do any of the individuals listed in line 8 above have a financial interest, directly or indirectly, in any company licensed as a manufacturer or distributor pursuant to the [Nebraska Bingo Act](#) or the [Nebraska Pickle Card Lottery Act](#) or in any company licensed as a manufacturer-distributor pursuant to the [Nebraska County and City Lottery Act](#)?

☐ Yes ☒ No If Yes, attach a detailed explanation of such interests.

13 Does any member of the governing board or any governing official of the county, city, or village named in this application have any financial interest, directly or indirectly, in the business named in this application?

☐ Yes ☒ No If Yes, attach a detailed explanation of such interests.

14 Do any of the individuals listed in line 8 above currently hold or have they previously held any other licenses issued under the [Nebraska Bingo Act](#), the [Nebraska Pickle Card Lottery Act](#), the [Nebraska Lottery and Raffle Act](#), or the [Nebraska County and City Lottery Act](#)?

☒ Yes ☐ No If Yes, indicate the types of licenses, and their current status (active, suspended, cancelled, revoked, or expired).

Under penalties of law, I declare that I have examined this application, and to the best of my knowledge and belief, it is correct. I will comply with the provisions of the [Nebraska County and City Lottery Act](#) and the regulations adopted under such Act.

sign  
here

Signature of Sales Outlet Location Owner, Member, Partner, Officer, or Person Authorized by Attached Power of Attorney

Name of Person to Contact Regarding This Application:

Name Nick Cherny

Title Owner

Date 12/18/24 Daytime Phone Number 402-505-2201

Authorization—Signature of Governing Official

Attach documentation indicating approval of location by governing board of the county, city, or village and a copy of the site agreement.

I declare that I have examined this application, and authorize the applicant to conduct a lottery on behalf of the county, city, or village named in this application.

sign  
here

Authorized Signature

Title

Date

Daytime Phone Number

Retain a copy for your records.

## ORDINANCE NO. 826

ORDINANCE OF THE CITY OF VALLEY, NEBRASKA, ANNEXING AND EXTENDING THE CORPORATE LIMITS OF THE CITY OF VALLEY TO INCLUDE CERTAIN REAL ESTATE GENERALLY DESCRIBED ON EXHIBIT "A" ATTACHED HERETO AND INCORPORATED HEREIN BY THIS REFERENCE.; AND TO PROVIDE AN EFFECTIVE DATE HEREOF.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF VALLEY, DOUGLAS COUNTY, NEBRASKA.

WHEREAS, it appears desirable and for the public good and the best interests of the City of Valley, that an Ordinance be passed annexing and extending the corporate limits of the City of Valley to include the real estate hereinafter described; and

WHEREAS, said real estate is contiguous or adjacent to the corporate limits of the City of Valley, and is urban or suburban in character; and

WHEREAS, the majority owner of said real estate, Still Water Lake, LLC, a Nebraska limited liability company, has requested that the real estate be annexed to the City of Valley pursuant to the provisions of Neb. Rev. Stat. § 18-3301 via a written Request for Annexation, a copy of which is attached hereto as Exhibit "C" and incorporated herein by this reference.; and

WHEREAS, said real estate will receive material benefits and advantages from annexation into the corporate limits of the City of Valley.

*Section 1.* That the real estate hereinafter described be, and the same is hereby annexed and included within the corporate limits of the City of Valley, Nebraska, and said real estate and the persons thereon shall hereafter be subject to all of the rules, regulations, ordinances, taxes, and all other burdens and benefits of other persons and territory included within the corporate limits of the City of Valley, Nebraska.

*Section 2.* The real estate which is hereby annexed and included within the corporate limits of the City of Valley, Nebraska is legally described on Exhibit "A" attached hereto.

A map of the area is attached hereto and marked as Exhibit "B" and by this reference made a part of this Ordinance. The land to be annexed is marked thereon, but said map is for convenience and, in case of discrepancy, the description in this Ordinance shall be controlling.

*Section 3.* This Ordinance shall take effect and be in force after its passage and approval, as provided by law.

*Section 4.* If any section, clause, provision or part or portion of any section, clause or provision of this ordinance or the application thereof to any person or circumstance is held

unconstitutional, such invalidity or unconstitutionality shall not affect the validity or application of any other section, clause, provision or part or portion of this ordinance.

*Section 5.* All ordinances or parts thereof in conflict herewith are hereby repealed.

PASSED AND APPROVED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_.

INTRODUCED BY COUNCIL MEMBER:

\_\_\_\_\_

APPROVED BY

\_\_\_\_\_  
Cindy Grove, Mayor  
City of Valley, Nebraska

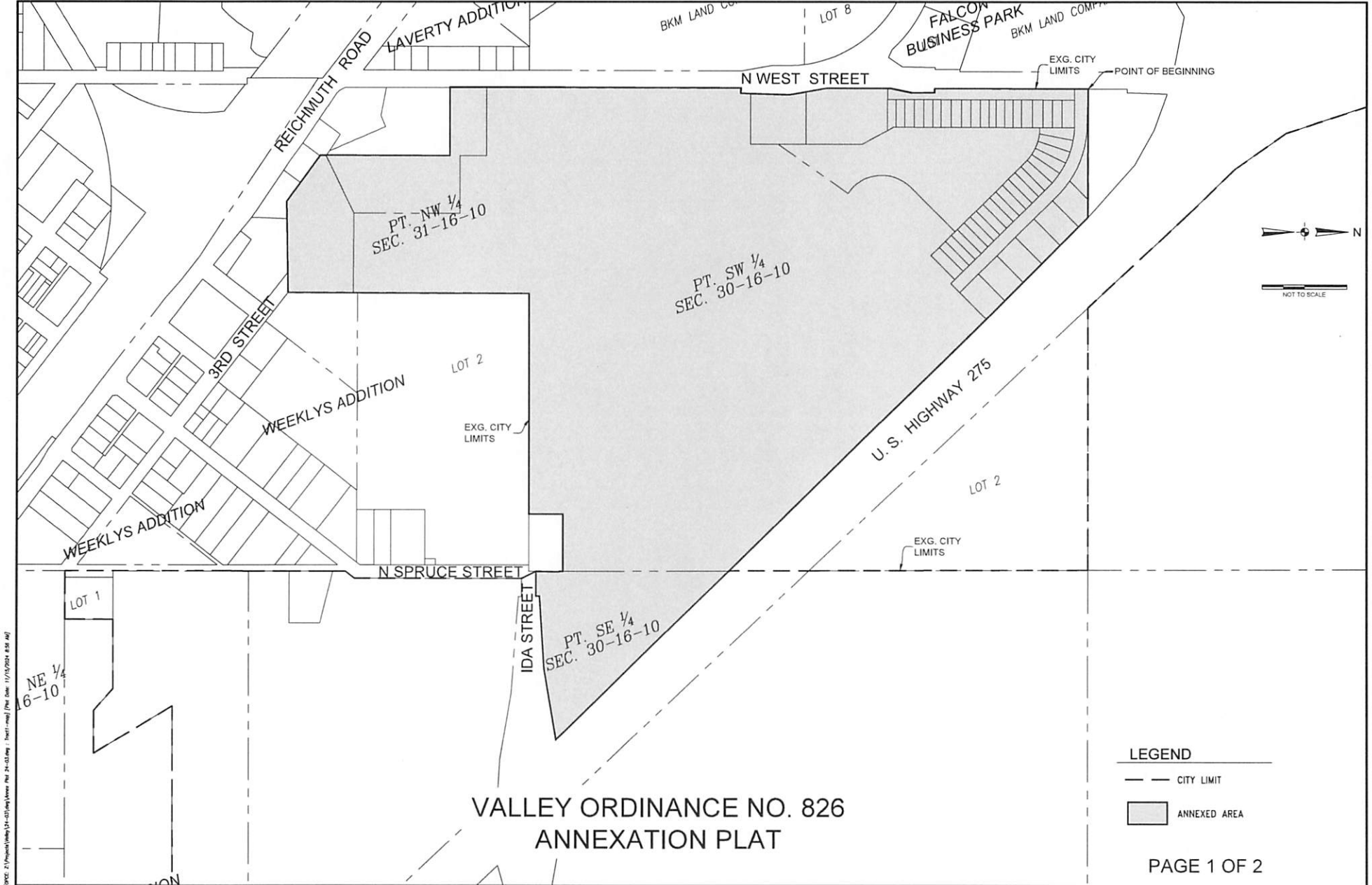
First Reading: November 12, 2024

Second Reading: December 10, 2024

PASSED: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Christie Donnermeyer, Clerk  
City of Valley, Nebraska







## REQUEST FOR VOLUNTARY ANNEXATION

TO: THE CITY COUNCIL OF THE CITY OF VALLEY, NEBRASKA

**COMES NOW**, the undersigned, Still Water Lake, LLC, a Nebraska limited liability company, being the owner of the majority of the real property legally described on Exhibit "A" attached hereto and incorporated herein by this reference (the "Real Estate"), hereby requests pursuant to Neb. Rev. Stat. § 18-3301 that such property be annexed into the corporate limits of the City of Valley in Douglas County, Nebraska.

A Map showing the Real Estate is attached hereto as Exhibit "B" and incorporated herein by this reference.

The Real Estate is within the extraterritorial jurisdiction of the City and is adjacent and contiguous to the present corporate limits of the City.

Dated this 12 day of November, 2024.

STILL WATER LAKE, LLC,  
a Nebraska limited liability company

By: Robert Hampton

Title: Manager

STATE OF NEBRASKA       )  
                                          )ss.  
COUNTY OF Douglas       )

The foregoing Request for Voluntary Annexation was acknowledged before me this 12 day of November, 2024 by Robert Hampton, Manager of Still Water Lake, LLC, a Nebraska limited liability company, for and on behalf of said Company.



Kindra Smith  
Notary Public

## **EXHIBIT "A"**

THE REAL ESTATE TO BE ANNEXED AND INCLUDED WITHIN THE CORPORATE LIMITS OF THE CITY OF VALLEY, NEBRASKA IS GENERALLY LOCATED IN SECTION 30, TOWNSHIP 16 NORTH, RANGE 10 EAST, OF THE 6TH P.M., AND SECTION 31, TOWNSHIP 16 NORTH, RANGE 10 EAST, OF THE 6TH P.M., DOUGLAS COUNTY, NEBRASKA, TOGETHER WITH THE ENTIRETY OF ALL PUBLIC STREETS, HIGHWAYS, AND PUBLIC RIGHT-OF-WAYS WITHIN AND/OR IMMEDIATELY ADJACENT TO SAID ANNEXED AREAS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

### **PARCEL 1:**

A TRACT OF LAND LOCATED IN A PART OF THE SOUTHWEST QUARTER OF SECTION 30, TOGETHER WITH THAT PART OF TAX LOT 2 IN THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 31, ALL IN TOWNSHIP 16 NORTH, RANGE

10, EAST OF THE 6TH P.M., DOUGLAS COUNTY, NEBRASKA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF THE SOUTHWEST QUARTER OF SAID SECTION 30 AND ASSUMING THE EAST LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 30 TO HAVE A BEARING OF S00°11'35"E; THENCE S89°52'46"W ON THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 30, A DISTANCE OF 18.00 FEET; THENCE N00°15'22"W PARALLEL WITH THE EAST LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 30, A DISTANCE OF 160.14 FEET; THENCE S89°52'46"W PARALLEL WITH THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 30, A DISTANCE OF 272.00 FEET; THENCE S00°15'22"E PARALLEL WITH THE EAST LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 30, A DISTANCE OF 160.14 FEET TO A POINT ON THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SECTION 30; THENCE S89°52'46"W ON THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 30, A DISTANCE OF 1032.78 FEET TO THE NORTHEAST CORNER OF TAX LOT 2 IN THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 31; THENCE S00°05'15"E ON THE EAST LINE OF TAX LOT 2 IN THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 31, A DISTANCE OF 1154.13 FEET; THENCE N87°40'33"W, A DISTANCE OF 354.73 FEET TO THE NORTHEAST CORNER OF HUBBELL PLACE, AS SURVEYED, PLATTED AND RECORDED IN THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 31; THENCE CONTINUING N87°40'33"W ON THE NORTHERLY LINE OF SAID HUBBELL PLACE, A DISTANCE OF 100.82 FEET; THENCE N53°39'18"W CONTINUING ON THE NORTHERLY LINE OF SAID HUBBELL PLACE, A DISTANCE OF 246.38 FEET TO THE NORTHWEST CORNER OF SAID HUBBELL PLACE; THENCE N00°00'40"E, A DISTANCE OF 615.15 FEET; THENCE S89°52'46"W PARALLEL WITH THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 30, A DISTANCE OF 326.01 FEET TO A POINT ON THE EAST RIGHT-OF-WAY LINE OF 276TH STREET; THENCE N00°01'35"E ON SAID RIGHT-OF-WAY LINE, PARALLEL

WITH AND 40.00 FEET DISTANCE FROM THE WEST LINE OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 31, A DISTANCE OF 373.11 FEET TO A POINT ON THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 30; THENCE N00°00'30"E CONTINUING ON THE EAST RIGHT-OF-WAY LINE OF SAID 276TH STREET, PARALLEL WITH AND 40.00 FEET DISTANCE FROM THE WEST LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 30, A DISTANCE OF 1003.81 FEET TO THE SOUTHWEST CORNER OF THE STATE OF NEBRASKA DEPARTMENT OF ROADS RIGHT-OF-WAY LINE AS PREVIOUSLY DESCRIBED AND RECORDED IN DEED BOOK 2089, PAGE 241; THENCE NORTHERLY ON SAID RIGHT-OF-WAY LINE, AS FOLLOWS: S89°55'05"E 25.32 FEET, N01°41'34"E 230.77 FEET, N10°12'52"W 180.84 FEET, N00°00'30"E PARALLEL WITH AND 40.00 FEET DISTANCE FROM THE WEST LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 30, 302.26 FEET, N11°55'48"E 102.10 FEET, N00°52'02"W 104.33 FEET, N88°55'27"W 19.52 FEET TO THE NORTHWEST CORNER OF SAID PREVIOUSLY DESCRIBED AND RECORDED RIGHT-OF-WAY LINE; THENCE N00°00'30"E CONTINUING ON THE EAST RIGHT-OF-WAY LINE OF 276TH STREET PARALLEL WITH AND 40.00 FEET DISTANCE FROM THE WEST LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 30, A DISTANCE OF 727.06 FEET TO A POINT ON THE NORTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 30; THENCE N89°55'09"E ON THE NORTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 30, A DISTANCE OF 610.92 FEET TO A POINT ON THE STATE OF NEBRASKA DEPARTMENT OF ROADS RIGHT-OF-WAY LINE; THENCE SOUTHEASTERLY ON SAID RIGHT-OF-WAY LINE AS FOLLOWS: S45°12'57"E 653.54 FEET, S44°42'54"E 1735.35 FEET TO A POINT ON THE EAST LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 30; THENCE S00°15'22"E ON THE EAST LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 30, A DISTANCE OF 948.79 FEET TO THE POINT OF BEGINNING.

**PARCEL 2:**

A TRACT OF LAND LOCATED IN A PART OF THE SOUTHEAST QUARTER OF SECTION 30, TOWNSHIP 16 NORTH, RANGE 10, EAST OF THE 6TH P.M., DOUGLAS COUNTY, NEBRASKA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID SOUTHEAST QUARTER AND ASSUMING THE EAST LINE OF SAID SOUTHEAST QUARTER TO HAVE A BEARING OF S00°11'35"E, THENCE N00°15'22"W ON THE WEST LINE OF SAID SOUTHEAST QUARTER, A DISTANCE OF 948.79 FEET TO A POINT ON THE STATE OF NEBRASKA DEPARTMENT OF ROADS RIGHT-OF-WAY LINE AS PREVIOUSLY DESCRIBED AND RECORDED IN DEED BOOK 2092, PAGES 502-505; THENCE SOUTHERLY AND WESTERLY ON SAID RIGHT-OF-WAY LINE AS FOLLOWS; S44°22'08"E 1151.76 FEET, S80°37'47"W 341.86 FEET, S86°42'49"W 345.05 FEET, S00°00'57"E 49.70 FEET TO A POINT ON THE SOUTH LINE OF SAID SOUTHEAST QUARTER; THENCE S89°51'17"W ON SAID SOUTH LINE, A DISTANCE OF 119.39 FEET TO THE POINT OF BEGINNING, SUBJECT TO COUNTY ROAD RIGHT OF WAY.





## ORDINANCE NO. 830

AN ORDINANCE REPEALING SECTION 6-208 OF THE VALLEY MUNICIPAL CODE. AN ORDINANCE ADOPTING REVISED SECTION 6-208, INCLUDING SETTING NEW WATER USAGE RATES SERVICES FOR CUSTOMERS OF THE CITY WATER DEPARTMENT BOTH INSIDE AND OUTSIDE THE CITY LIMITS; PROVIDING FOR AN EFFECTIVE DATE OF THIS ORDINANCE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT HEREWITH.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF VALLEY, DOUGLAS COUNTY, NEBRASKA, AS FOLLOWS:

***Section 1.*** Section 6-208 of the Valley Municipal Code is hereby repealed.

***Section 2.*** Section 6-208 of the Valley Municipal Code shall hereafter be as follows:

### **6-208 WATER USAGE RATES**

1. All water consumers shall be liable for the monthly base charge and the monthly usage charge set forth below unless and until the consumer shall, by written order, direct the City to shut off the water at the stop box, in which case the consumer shall not be liable thereafter for water service until the water service is re-established.

#### ***Residential Property Inside City Limits:***

|                                          |         |
|------------------------------------------|---------|
| Monthly Base Charge                      | \$22.50 |
| Monthly Usage Charge (per 1,000 gallons) | \$2.50  |

#### ***Residential Users Outside City Limits:***

|                                          |         |
|------------------------------------------|---------|
| Monthly Base Charge                      | \$29.50 |
| Monthly Usage Charge (per 1,000 gallons) | \$3.00  |

***Commercial and Industrial Users Inside or Outside of City Limits:***

|                                          |         |
|------------------------------------------|---------|
| Monthly Base Charge                      | \$33.75 |
| Monthly Usage Charge (per 1,000 gallons) | \$3.00  |

2. The rates fixed by this Section shall be reviewed periodically by the City Council and shall be adjusted for the purpose of providing for the payment of expenses of maintenance, operation, repair and replacement of the components of the water system.
3. Bills for water charges shall be rendered following each month's usage and shall become delinquent after the 15<sup>th</sup> of each month. A delinquency fee of Ten Dollars (\$10.00) shall be added to any delinquent bill to cover the additional expenses incurred by the City.
4. The mayor and City Council members hereby find and determine that the charges established by this section are just and equitable rates and charges to be paid to the City by each consumer using the system.

***Section 3.*** This ordinance shall be in full force and effect from and after its passage, approval and publication or posting as provided by law.

***Section 4.*** If any section, clause, provision or part or portion of any section, clause or provision of this ordinance or the application thereof to any person or circumstance is held unconstitutional, such invalidity or unconstitutionality shall not affect the validity or application of any other section, clause, provision or part or portion of this ordinance.

***Section 5.*** All ordinances or parts thereof in conflict herewith are hereby repealed.

PASSED AND APPROVED THIS 14<sup>TH</sup> DAY OF JANUARY, 2025.

CITY OF VALLEY, DOUGLAS COUNTY, NEBRASKA

---

Cindy Grove, Mayor

ATTEST:

---

Christie Donnermeyer, City Clerk

# ORDINANCE NO. 831

**AN ORDINANCE ENACTING A MUNICIPAL CODE FOR THE CITY OF VALLEY, NEBRASKA, REVISING, AMENDING, RESTATING, CODIFYING AND COMPILING CERTAIN EXISTING GENERAL ORDINANCES OF THE CITY OF VALLEY DEALING WITH SUBJECTS EMBRACED IN SUCH MUNICIPAL CODE, AND DECLARING AN EMERGENCY.**

WHEREAS, the present general and permanent ordinances of the City of Valley are inadequately arranged and classified and are insufficient in form and substance for the complete preservation of the public peace, health, safety and general welfare of the municipality and for the proper conduct of its affairs; and

WHEREAS, the Acts of the Legislature of the State of Nebraska empower and authorize the City of Valley to revise, amend, restate, codify and compile any existing ordinances and all new ordinances not heretofore adopted or published and to incorporate such ordinances into one ordinance in book form; and

WHEREAS, the City Council of the City of Valley has authorized a general compilation, revision and codification of the ordinances of the City of Valley of a general and permanent nature and publication of such ordinance in book form; and

WHEREAS, it is necessary to provide for the usual daily operation of the municipality and for the immediate preservation of the public peace, health, safety and general welfare of the City of Valley that this ordinance take effect at an early date.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VALLEY, NEBRASKA.

Section 1. The general ordinances of the City of Valley as revised, amended, restated, codified, and compiled in book form are hereby adopted as and shall constitute the "Municipal Code of the City of Valley, Nebraska."

Section 2. Such Municipal Code as adopted in Section 1 shall consist of the following Titles:

## **VALLEY, NEBRASKA TABLE OF CONTENTS**

Chapter

### **TITLE I: GENERAL PROVISIONS**

10. General Provisions

11. City Standards

### **TITLE III: ADMINISTRATION**

30. Mayor and City Council

31. City Officials

32. Organizations

33. Elections

34. Finance and Revenue

### **TITLE V: PUBLIC WORKS**

50. Utilities Generally

51. Solid Waste

52. Water

53. Sewer

**TITLE VII: TRAFFIC CODE**

70. General Provisions

71. Traffic Regulations

72. Parking Regulations

73. Recreational Vehicles

74. Traffic Schedules

**TITLE IX: GENERAL REGULATIONS**

90. Leisure and Recreation

91. Nuisances

92. Animals

93. Fire Prevention and Protection

**TITLE XI: BUSINESS REGULATIONS**

110. Business Licensing

111. Alcoholic Beverages

112. Salvage Yards

113. Self-Serve Motor Fuel Dispensing Stations

114. Amusements and Leisure

115. Mobile Food Vendors

116. Railroad Companies

**TITLE XIII: GENERAL OFFENSES**

130. General Offenses

131. Control of Minors

**TITLE XV: LAND USAGE**

150. Building Regulations

151. Factory-Built Housing

152. Trailer Courts

153. Public Ways and Property

154. Trees

155. Municipal Planning

**TABLE OF SPECIAL ORDINANCES**

Table

I. Street Vacations

II. Zoning Map Changes

III. Franchises

**PARALLEL REFERENCES**

References to Nebraska Revised Statutes

References to Prior Code

References to Ordinances

**INDEX**

Section 3. All prior ordinances pertaining to the subjects treated in such Municipal Code shall be deemed repealed from and after the effective date of this ordinance except as they are included and reordained in whole or in part in such Code; provided, such repeal shall not affect any offense committed or penalty incurred or any right established prior to the effective date of this ordinance, nor shall such repeal affect the provisions of ordinances levying taxes, appropriating money, annexing or detaching territory, establishing franchises, or granting special rights to certain persons, authorizing public improvements, authorizing the issuance of bonds or borrowing of money, authorizing the purchase or sale of real or personal property, granting or accepting easements, plat or dedication of land to public use, vacating or setting the boundaries of streets or other public places; nor shall such repeal affect any other ordinance of a temporary or special nature or pertaining to subjects not contained in or covered by the Code.

- Section 4. Such Code shall be deemed published as of the day of its adoption and approval by the City Council and the Clerk of the City of Valley is hereby authorized and ordered to file a copy of such Municipal Code in the Office of the Clerk.
- Section 5. Such Code shall be in full force and effect as provided in Section 6, and such Code shall be presumptive evidence in all courts and places of the ordinance and all provisions, sections, penalties and regulations therein contained and of the date of passage, and that the same is properly signed, attested, recorded, and approved and that any public hearings and notices thereof as required by law have been given.
- Section 6. This ordinance is declared to be an emergency measure necessary for the immediate preservation of the peace, health, safety and general welfare of the people of this municipality and shall take effect at the earliest date provided by law.

PASSED AND ADOPTED by the City Council of the City of Valley, Nebraska on this 14<sup>th</sup> day of January, 2025.

CITY OF VALLEY, DOUGLAS COUNTY, NEBRASKA

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Cindy Grove, Mayor

ATTEST:

---

Christie Donnermeyer, City Clerk

# **CITY OF VALLEY, NEBRASKA**

## **CODE OF ORDINANCES**

AMERICAN LEGAL PUBLISHING

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- III. Franchises

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References to Ordinances

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## **TITLE I: GENERAL PROVISIONS**

### **Chapter**

#### **10. GENERAL PROVISIONS**

#### **11. CITY STANDARDS**



## **CHAPTER 10: GENERAL PROVISIONS**

### **Section**

- 10.01 Title of code
- 10.02 Interpretation
- 10.03 Application to future ordinances
- 10.04 Captions
- 10.05 Definitions
- 10.06 Rules of interpretation
- 10.07 Severability
- 10.08 Reference to other sections
- 10.09 Reference to offices
- 10.10 Errors and omissions
- 10.11 Official time
- 10.12 Reasonable time
- 10.13 Ordinances repealed
- 10.14 Ordinances unaffected
- 10.15 Repeal or modification of ordinance
- 10.16 Section histories; statutory references
- 10.17 Local changes to this code of ordinances
  
- 10.99 General penalty

### **§ 10.01 TITLE OF CODE.**

This codification of ordinances shall be designated as the Valley Code of Ordinances and may be so cited.

### **§ 10.02 INTERPRETATION.**

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

**§ 10.03 APPLICATION TO FUTURE ORDINANCES.**

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

**§ 10.04 CAPTIONS.**

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

**§ 10.05 DEFINITIONS.**

(A) *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.

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

***CITY, MUNICIPAL CORPORATION or MUNICIPALITY.*** The City of Valley, Nebraska.

***CITY COUNCIL or GOVERNING BODY.*** The legislative body of the city.

***CODE, THIS CODE or THIS CODE OF ORDINANCES.*** This city code as modified by amendment, revision and adoption of new titles, chapters or sections.

***COUNTY.*** Douglas County, Nebraska.

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

***MONTH.*** A calendar month.

***OATH.*** Includes 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***.

***OFFICER, OFFICE, EMPLOYEE, COMMISSION or DEPARTMENT.*** An officer, office, employee, commission or department of this city unless the context clearly requires otherwise.

**PERSON.** Includes bodies politic and corporate, societies, communities, the public generally, individuals, partnerships, limited liability companies, joint-stock companies and associations. (Neb. Rev. Stat. § 49-801(16))

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

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

**SIGNATURE** or **SUBSCRIPTION.** Includes a mark when the person cannot write.

**STATE.** The State of Nebraska.

**SUBCHAPTER.** A division of a chapter, designated in this code by a heading in the chapter analysis and a capitalized heading in the body of the chapter, setting apart a group of sections related by the subject matter of the heading. Not all chapters have **SUBCHAPTERS**.

**WRITTEN.** Any representation of words, letters or figures, whether by printing or otherwise.

**YEAR.** A calendar year, unless otherwise expressed.

## § 10.06 RULES OF INTERPRETATION.

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

(A) **AND** or **OR.** Either conjunction shall include the other as if written “and/or,” if the sense requires it.

(B) *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, the requisition shall be satisfied by the performance of the act by an authorized agent or deputy.

(C) *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.

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

**§ 10.07 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.

**§ 10.08 REFERENCE TO OTHER SECTIONS.**

Whenever a section refers to another section hereof, that 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.

**§ 10.09 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.

**§ 10.10 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 the intent, the spelling shall be corrected and the 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 the error.

**§ 10.11 OFFICIAL TIME.**

The official time, as established by applicable state/federal laws, shall be the official time within this city for the transaction of all city business.

**§ 10.12 REASONABLE TIME.**

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



(B) 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.

#### **§ 10.13 ORDINANCES REPEALED.**

This code contains all of the provisions of a general nature pertaining to the subjects enumerated and embraced in this code. All prior ordinances pertaining to the subjects treated by this code are repealed, except that nothing shall affect any rights acquired under, actions involving or fines, penalties, forfeitures or liabilities incurred pursuant to those ordinances prior to repeal.

#### **§ 10.14 ORDINANCES UNAFFECTED.**

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

- (A) Vacating or setting the boundaries of streets, alleys or other public places;
- (B) Annexing or detaching territory;
- (C) Granting or accepting easements, plats or dedication of land to public use;
- (D) Providing for the acquisition or conveyance of real or personal property;
- (E) Authorizing or directing public improvements to be made;
- (F) Levying taxes or special assessments;
- (G) Appropriating money;
- (H) Granting franchises or special licenses; or
- (I) Providing for the issuance of bonds or other instruments of indebtedness.

#### **§ 10.15 REPEAL OR MODIFICATION OF ORDINANCE.**

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

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

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

***Statutory reference:***

*Requirements for amendments and revisions, see Neb. Rev. Stat. § 17-614*

**§ 10.16 SECTION HISTORIES; STATUTORY REFERENCES.**

(A) A statutory cite included in the history indicates that the text of the section reads substantially the same as the statute. Example: (Neb. Rev. Stat. § 18-132)

(B) 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:

**§ 39.01 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:***

*Inspection of public records, see Neb. Rev. Stat. § 84-712 et seq.*

**§ 10.17 LOCAL CHANGES TO THIS CODE OF ORDINANCES.**

Any provision of this code of ordinances may be repealed, modified or superseded by an ordinance passed by the City Council.

**§ 10.99 GENERAL PENALTY.**

(A) Any person who violates any of the provisions of this city code, unless otherwise specifically provided herein, shall be deemed guilty of an offense and upon conviction thereof shall be fined in any sum not exceeding \$500. A new violation shall be deemed to have been committed every 24 hours of failure to comply with the provisions of this code.

(B) (1) Whenever a nuisance exists as defined in Title IX of this code, the city may proceed by a suit in equity to enjoin and abate the same, in the manner provided by law.

(2) 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:***

*Authority to abate nuisances, see Neb. Rev. Stat. § 18-1722*

*Authority to impose fines, see Neb. Rev. Stat. § 17-505*



## **CHAPTER 11: CITY STANDARDS**

### **Section**

- 11.01 Corporate existence
- 11.02 Corporate seal

### **§ 11.01 CORPORATE EXISTENCE.**

The City of Valley, Nebraska, is hereby declared to be a city of the second class and shall be governed in all respects by the laws regulating cities of the second class.  
(Prior Code, § 1-101)

### **§ 11.02 CORPORATE SEAL.**

There shall be owned by the city, in the office of the City Clerk, a common seal of the corporation, having engraved thereon the words “City of Valley, Nebraska, Seal.” The City Clerk shall affix an impression of said seal on all papers or documents executed by him or her in his or her official capacity.  
(Prior Code, § 1-301)

#### ***Statutory reference:***

*Seal, other powers, see Neb. Rev. Stat. § 17-502*



### **TITLE III: ADMINISTRATION**

#### **Chapter**

- 30. MAYOR AND CITY COUNCIL**
- 31. CITY OFFICIALS**
- 32. ORGANIZATIONS**
- 33. ELECTIONS**
- 34. FINANCE AND REVENUE**





## **CHAPTER 30: MAYOR AND CITY COUNCIL**

### **Section**

#### ***Mayor***

- 30.01 Election; qualifications; term
- 30.02 Powers and duties
- 30.03 Vacancy

#### ***City Council***

- 30.15 Election; qualifications; terms
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- 30.35 Grant of power
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- 30.40 Passage; Mayor's veto
- 30.41 Publication or posting
- 30.42 Certificate of publication or posting
- 30.43 Effective date; emergency ordinances
- 30.44 Amendments and revisions

**MAYOR****§ 30.01 ELECTION; QUALIFICATIONS; TERM.**

(A) The Mayor shall be elected as provided in the Election Act, being Neb. Rev. Stat. §§ 32-101 et seq. The Mayor shall take office on the date of the first regular meeting of the City Council held in December following the statewide general election. The Mayor shall be a resident and registered voter of the city.

(Neb. Rev. Stat. § 17-107)

(B) The Mayor shall serve for a term of four years or until his or her successor is elected and qualified.

(Neb. Rev. Stat. § 32-533)

**§ 30.02 POWERS AND DUTIES.**

(A) The Mayor of the city may:

(1) Require any city official to exhibit his or her accounts at reasonable intervals and make reports to the Council on any subject pertaining to his or her office; and

(2) Remove an appointed police officer of the city at any time, subject to such officer's right of appeal as set forth herein.

(B) The Mayor shall:

(1) Have the general and immediate control over all property and officials of the city;

(2) Preside at all meetings of the City Council and may vote when his or her vote shall be decisive on any pending matter, legislation or transaction; and shall, for the purpose of such vote, be deemed to be a member of the Council;

(3) Sign the City Clerk's minutes of all meetings, all resolutions which have been passed and warrants for the payment of money when ordered by the City Council;

(4) Have power to veto or sign any ordinance passed by the City Council and to approve or veto any order, bylaw, resolution, award of or vote to enter into any contract, or the allowance of any claim, as provided in § 30.40;

(5) From time to time communicate to the Council such information and recommendations as, in his or her opinion, may improve the city; and

(6) Have such other duties as the City Council may by resolution confer upon him or her.

(C) The Mayor's territorial authority shall extend over all places within five miles of the corporate limits of the city for the enforcement of any health ordinance and one-half mile in all matters vested in him or her except taxation.

(D) Any candidate for Mayor must be a registered voter and resident of the city prior to filing for said office.

(Prior Code, § 1-104) (Ord. 672, passed 3-10-2015)

***Statutory reference:***

*Similar provisions, see Neb. Rev. Stat. §§ 17-107 and 17-110 through 17-117*

**§ 30.03 VACANCY.**

(A) The office of Mayor shall be vacant upon the happening of any of the events specified in Neb. Rev. Stat. § 32-560 except as provided in Neb. Rev. Stat. § 32-561.

(B) (1) In case of any vacancy in the office of Mayor, or in case of his or her disability or absence, the President of the City Council shall exercise the office of Mayor for the unexpired term, until such disability is removed or, in case of temporary absence, until the Mayor returns.

(Neb. Rev. Stat. § 32-568)

(2) If the President of the Council assumes the office of Mayor for the unexpired term, there shall be a vacancy on the Council.

(Neb. Rev. Stat. §§ 17-107 and 32-568)

***Statutory reference:***

*Additional and similar provisions, see Neb. Rev. Stat. §§ 32-560 through 32-572*

*Ineligibility of person subjected to recall, see Neb. Rev. Stat. § 32-1308*

***CITY COUNCIL***

**§ 30.15 ELECTION; QUALIFICATIONS; TERMS.**

(A) The City Council shall consist of not less than four nor more than 12 residents of the city who are registered voters.

(Neb. Rev. Stat. § 17-103)

(B) All Council members shall be nominated and elected on a nonpartisan ballot unless the city provides for a partisan ballot by ordinance.

(Neb. Rev. Stat. § 32-557)

(C) If members of the Council are not elected at large:

(1) Unless the city elects Council members at large as provided in Neb. Rev. Stat. § 32-554, the city shall be divided into not less than two nor more than six wards, as provided by ordinance of the City Council. Each ward shall contain, as nearly as practicable, an equal portion of the population;

(Neb. Rev. Stat. § 17-102)

(2) Unless the city elects Council members at large as provided in Neb. Rev. Stat. § 32-554, each ward of the city shall have at least two Council members elected in the manner provided in the Election Act. No person shall be eligible to the office of Council member who is not at the time of the election an actual resident of the ward for which he or she is elected and a registered voter; and

(Neb. Rev. Stat. § 17-104)

(3) Such wards shall be substantially equal in population as determined by the most recent federal decennial census.

(Neb. Rev. Stat. § 32-553)

(D) The term of office shall begin on the first regular meeting of the Council in December following the statewide general election.

(Neb. Rev. Stat. § 17-104)

(E) Members of the Council shall serve for terms of four years or until their successors are elected and qualified.

(Neb. Rev. Stat. § 32-533)

(F) If the city operates under a city manager plan, members of the City Council shall be residents and registered voters of the city and shall hold no other employment with the city. Any Council member who ceases to possess any of the qualifications required by this section or who has been convicted of a felony or of any public offense involving the violation of the oath of office of such member while in office shall forthwith forfeit such office.

(Neb. Rev. Stat. § 19-613)

***Statutory reference:***

*Ability to elect Council members at large or by ward, see Neb. Rev. Stat. § 32-554*

*Election Act, see Neb. Rev. Stat. § 32-101*

*Other requirements for wards, see Neb. Rev. Stat. §§ 32-552 and 32-553*

*Restrictions on holding other office or employment, see Neb. Rev. Stat. §§ 17-108.02, 32-109, 32-603 and 32-604*

**§ 30.16 PRESIDENT; ACTING PRESIDENT.**

(A) The City Council shall elect one of its own body who shall be styled the President of the Council and who shall preside at all meetings of the Council in the absence of the Mayor.

(B) In the absence of the President, the Council shall elect one of its own body to occupy his or her place temporarily, who shall be styled Acting President of the Council.

(C) The President, and Acting President, when occupying the place of the Mayor, shall have the same privileges as other members of the Council; and all acts of the President or Acting President, while so acting, shall be as binding upon the Council and upon the city as if done by the Mayor.  
(Neb. Rev. Stat. § 17-148)

**§ 30.17 SUCCESSION OF CONTROL.**

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

(A) If the Mayor is not present or is incapable of performing his or her duties in order to declare a disaster or emergency and/or act as principal executive officer in a disaster or emergency situation, the President of the City Council shall perform those functions and duties.

(B) Should the President of the Council not be present or be unable to perform said functions and duties, then the Council member who has continuously served in such capacity for the longest period of time shall perform those duties and functions.

(C) The line of succession for the remaining elected officials shall follow by seniority from the date originally elected or appointed. If more than one Council member has the same date of seniority, then the most senior in age shall assume control.  
(Prior Code, § 1-107)

**§ 30.18 VACANCY.**

(A) The office of member of the City Council shall be vacant upon the happening of any of the events specified in Neb. Rev. Stat. § 32-560 except as provided in Neb. Rev. Stat. § 32-561.

(B) Any vacancy on the City Council shall be filled as provided in division (C) below.  
(Neb. Rev. Stat. § 32-568)

(C) (1) (a) Except as otherwise provided in divisions (C)(2) or (C)(3) below or § 30.03, vacancies in city elective offices shall be filled by the Mayor and Council for the balance of the unexpired term. Notice of a vacancy, except a vacancy resulting from the death of the incumbent, shall be in writing and presented to the Council 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.

(b) 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 the nominee, and if a majority votes in favor of the 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 that meeting to submit the names of qualified registered voters in nomination and the Council shall continue to vote upon the nominations at such meeting until the vacancy is filled. The Mayor shall cast his or her vote for or against the nominee in case of a tie vote of the Council. All Council members present shall cast a ballot for or against the nominee. Any member of the Council who has been appointed to fill a vacancy on the Council shall have the same rights, including voting, as if that person were elected.

(2) The Mayor and Council may, in lieu of filling a vacancy in a city elected office as provided in division (C)(1) above, call a special city election to fill such vacancy.

(3) If vacancies exist in the offices of one-half or more of the members of the City Council, the Secretary of State shall conduct a special city election to fill such vacancies.

(Neb. Rev. Stat. § 32-569)

***Statutory reference:***

*Additional and similar provisions, see Neb. Rev. Stat. §§ 32-560 through 32-572*

*Ineligibility of person subjected to recall, see Neb. Rev. Stat. § 32-1308*

## **§ 30.19 RESIGNATIONS.**

All resignations of the Mayor and Council members shall be in writing and submitted to the City Council for acceptance. Resignations shall not be effective until accepted by formal action of the Council. No resignations shall be accepted unless a quorum for conducting business will remain after such acceptance.

(Prior Code, § 1-109)

**§ 30.20 POWERS.**

The Council shall have all powers granted under the laws of the state, including, but not limited to, the following:

- (A) To pass ordinances to prevent and remove nuisances;
- (B) To prevent, restrain and suppress gambling and disorderly houses;
- (C) To license and regulate amusements;
- (D) To establish and provide for police protection;
- (E) To prevent the spread of contagious diseases;
- (F) To regulate business;
- (G) To erect, repair, construct and regulate public ways and property;
- (H) To maintain good government, public welfare and domestic tranquility; and

(I) To enforce all ordinances by assessing penalties upon inhabitants or other persons for violation thereof, not exceeding the amount permitted by state law for each offense, recoverable with costs, together with enforcement by injunction where necessary.  
(Prior Code, § 1-110)

**§ 30.21 STANDING COMMITTEES.**

At the organizational meeting of the City Council, the Mayor shall appoint members of such standing committees as the Council may create by ordinance or resolution. The membership of such standing committees may be changed at any time by the Mayor. The Mayor shall be an ex officio member of each standing committee. The members of the standing committees shall serve a term of office of one year, unless reappointed.

***ORDINANCES, RESOLUTIONS AND MOTIONS***

**§ 30.35 GRANT OF POWER.**

In addition to its special powers specifically granted by law, the city shall have the power to make all ordinances, bylaws, rules, regulations and resolutions, not inconsistent with the laws of the state, as

may be expedient for maintaining the peace, good government and welfare of the city and its trade, commerce and manufactories, and to enforce all ordinances by inflicting fines or penalties for the breach thereof, not exceeding \$500 for any one offense, recoverable with costs.

(Neb. Rev. Stat. § 17-505)

***Statutory reference:***

*Adoption of standard codes, see Neb. Rev. Stat. §§ 18-132 and 19-922*

*Prosecution in county court, see Neb. Rev. Stat. § 25-2703*

**§ 30.36 INTRODUCTION OF ORDINANCES.**

Unless the City Council provides otherwise, ordinances shall be introduced by members of the City Council in one of the following ways.

(A) With the recognition of the Mayor, a member may, in the presence and hearing of a majority of the members elected to the City Council, read aloud the substance of the proposed ordinance and file a copy with the City Clerk for future consideration.

(B) With the recognition of the Mayor, a member may present the proposed ordinance to the Clerk, who, in the presence and hearing of a majority of the members elected to the City Council, shall read aloud the substance of the ordinance and file it for future consideration.

**§ 30.37 PROCEDURE FOR RESOLUTIONS AND MOTIONS.**

Unless the City Council provides otherwise, resolutions and motions shall be introduced in one of the methods prescribed in § 30.36 for the introduction of ordinances. The issue raised by the resolution or motion shall be disposed of in accordance with the usage of parliamentary law adopted for the guidance of the City Council. A majority vote shall be required to pass any resolution or motion. The vote on any resolution or motion shall be by roll call vote.

**§ 30.38 ORDINANCES; STYLE, TITLE.**

(A) *Style.* The style of all city ordinances shall be: “Be it ordained by the Mayor and Council of the City of Valley, Nebraska:....”

(Neb. Rev. Stat. § 17-613)

(B) *Title.* No ordinance shall contain a subject which is not clearly expressed in the title.

(Neb. Rev. Stat. § 17-614)



**§ 30.39 READING AND PASSAGE OF ORDINANCES, RESOLUTIONS, ORDERS, BYLAWS.**

(A) (1) All ordinances and resolutions or orders for the appropriation or payment of money shall require for their passage or adoption the concurrence of a majority of all elected members of the City Council. The Mayor may vote on any such matter if the Mayor's vote is required due to the City Council members being equally divided or a majority vote of all the elected members of the City Council cannot be reached due to absence, vacancy, or abstention of one or more City Council members. For purposes of such vote, the mayor is deemed to be a member of the City Council.

(2) Ordinances of a general or permanent nature shall be read by title on three different days unless three-fourths of the City Council vote to suspend this requirement. Such requirement shall not be suspended for any ordinance for the annexation of territory, or the redrawing of boundaries for City Council election districts or wards, or as otherwise provided by law.

(3) In case this requirement is suspended, the ordinance shall be read by title and then moved for final passage.

(4) Three-fourths of the City Council may require a reading of any such ordinance in full before enactment under either procedure set out in this section.  
(Neb. Rev. Stat. § 17-614)

(B) On the passage or adoption of every bylaw or ordinance, and every resolution or order to enter into a contract by the City Council, the yeas and nays shall be called and recorded. To pass or adopt any bylaw, ordinance or any such resolution or order, a concurrence of a majority of the whole number of members elected to the City Council shall be required. All appointments of the officers by the City Council shall be made viva voce, and the concurrence of a like majority shall be required, and the names of those, and for whom they voted, on the vote resulting in an appointment, shall be recorded. The requirements of a roll call or viva voce vote shall be satisfied by a city which utilizes an electronic voting device which allows the yeas and nays of each member of the City Council to be readily seen by the public.

(Neb. Rev. Stat. § 17-616)

***Statutory reference:***

*Adjustments to boundaries of election districts, see Neb. Rev. Stat. § 17-614*

**§ 30.40 PASSAGE; MAYOR'S VETO.**

(A) All ordinances and resolutions or orders for the appropriation or payment of money shall require for their passage or adoption the concurrence of a majority of the City Council. The Mayor may vote when his or her vote would provide the additional vote required to attain the number of votes equal to a majority of the number of members elected to the Council, and the Mayor shall, for the purpose of such vote, be deemed to be a member of the Council.

(B) The Mayor shall have power to veto or sign any ordinance passed by the City Council and to approve or veto any order, bylaw, resolution, award of or vote to enter into any contract, or the allowance of any claim. If the Mayor approves the ordinance, order, bylaw, resolution, contract or claim, he or she shall sign it and it shall become effective. If the Mayor vetoes the ordinance, order, bylaw, resolution, contract or any item or items of appropriations or claims, he or she shall return it to the City Council, stating that the measure is vetoed. The Mayor may issue the veto at the meeting at which the measure passed or within seven calendar days after the meeting. If the Mayor issues the veto after the meeting, he or she shall notify the City Clerk of the veto in writing. The Clerk shall notify the City Council in writing of the Mayor's veto.

(C) (1) Any ordinance, order, bylaw, resolution, award of or vote to enter into any contract, or the allowance of any claim vetoed by the Mayor may be passed over his or her veto by a vote of two-thirds of the members of the Council. If the Mayor neglects or refuses to sign any ordinance, order, bylaw, resolution, award of or vote to enter into any contract or the allowance of any claim but fails to veto the measure within the time required by this section, the measure shall become effective without his or her signature.

(2) The Mayor may veto any item or items of any appropriation bill or any claims bill and approve the remainder thereof, and the item or items vetoed may be passed by the Council over the veto as in other cases.

(Prior Code, § 1-407) (Ord. 672, passed 3-10-2015)

***Statutory reference:***

*Similar provisions, see Neb. Rev. Stat. §§ 17-111 and 17-614*

### **§ 30.41 PUBLICATION OR POSTING.**

All ordinances of a general nature shall, before they take effect, be published one time, within 15 days after they are passed:

(A) In newspaper in or of general circulation in the city; or

(B) In book, pamphlet or electronic form.

(Neb. Rev. Stat. § 17-613)

***Statutory reference:***

*Additional provisions, see Neb. Rev. Stat. § 18-131*

### **§ 30.42 CERTIFICATE OF PUBLICATION OR POSTING.**

The passage, approval and publication or posting of an ordinance shall be sufficiently proved by a certificate under the seal of the city from the City Clerk showing that the ordinance was passed and

approved, and when and in what paper the ordinance was published, or when and by whom and where the ordinance was posted.

(Neb. Rev. Stat. § 17-613)

***Statutory reference:***

*Passage; rules and regulations, see Neb. Rev. Stat. § 17-615*

**§ 30.43 EFFECTIVE DATE; EMERGENCY ORDINANCES.**

(A) Except as provided in § 30.41 and division (B) below, an ordinance for the government of the city which has been adopted by the City Council without submission to the voters of the city shall not go into effect until 15 days after the passage of the ordinance.

(Neb. Rev. Stat. § 19-3701)

(B) In the case of riot, infectious or contagious diseases or other impending danger, failure of a public utility or any other emergency requiring its immediate operation, an ordinance shall take effect upon the proclamation of the Mayor and the posting thereof in at least three of the most public places in the city. The emergency ordinance shall recite the emergency, be passed by a three-fourths vote of the City Council and be entered of record on the City Clerk's minutes.

(Neb. Rev. Stat. § 17-613)

**§ 30.44 AMENDMENTS AND REVISIONS.**

No ordinance or section thereof shall be revised or amended unless the new ordinance contains the entire ordinance or section as revised or amended and the ordinance or section so amended is repealed, except that an ordinance revising all the ordinances of the city and modifications to zoning or building districts may be adopted as otherwise provided by law.

(Neb. Rev. Stat. § 17-614)

***Statutory reference:***

*Modifications to zoning or building districts, see Neb. Rev. Stat. § 19-915*

*Ordinances revising all the ordinances of the city, see Neb. Rev. Stat. § 17-614*

*Requests to detach property from city or village, see Neb. Rev. Stat. § 17-614*



## **CHAPTER 31: CITY OFFICIALS**

### **Section**

#### ***General Provisions***

- 31.01 Bonds; requirements
- 31.02 Oath of office; city officials

#### ***Appointed Officials***

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- 31.16 Merger of offices
- 31.17 City Administrator
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*Compensation; Conflicts of Interest*

- 31.60 Compensation; how fixed; limitations
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**GENERAL PROVISIONS****§ 31.01 BONDS; REQUIREMENTS.**

(A) The city may enact ordinances or bylaws to require from all officers and servants, elected or appointed, bonds and security or evidence of equivalent insurance for the faithful performance of their duties. The city may pay the premium for such bonds or insurance coverage.

(Neb. Rev. Stat. § 17-604)

(B) (1) All official bonds of officers of the city shall be in form joint and several and made payable to the city in such penalty as the City Council may fix.

(2) In place of the individual bonds required to be furnished by municipal officers, a schedule, position, blanket bond or undertaking or evidence of equivalent insurance may be given by municipal officers, or a single corporate surety fidelity, schedule, position or blanket bond or undertaking, or evidence of insurance coverage covering all the officers, including officers required by law to furnish an individual bond or undertaking, may be furnished. The municipality may pay the premium for the bond or insurance coverage. The bond or insurance coverage shall be, at a minimum, an aggregate of the amounts fixed by law or by the City Council and with such terms and conditions as may be required. (Neb. Rev. Stat. § 11-104)

(3) 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.

(C) (1) Official bonds, with the oath endorsed thereon, shall be filed in the City Clerk's office within the following time:

(a) Of all officers elected at any general election, following receipt of their election certificate and not later than ten days before the first Thursday after the first Tuesday in January next succeeding the election;

(b) Of all appointed officers, within 30 days after their appointment; and

(c) Of officers elected at any special election and city officers, within 30 days after the canvass of the votes of the election at which they were chosen.

(2) The filing of the bond with the oath endorsed thereon does not authorize a person to take any official action prior to the beginning of his or her term of office pursuant to Article XVII, § 5, of the Constitution of the state.

(Neb. Rev. Stat. § 11-105)

(D) All official bonds of city officers shall be executed by the principal named in such bonds and by at least two sufficient sureties who shall be freeholders of the county in which such bonds are given, or any official bond of a city officer may be executed by the officer as principal and by a guaranty, surety, fidelity or bonding company as surety, or by two or more such companies. Only such companies as are legally authorized to transact business in this state shall be eligible to suretyship on the bond of a city officer.

(Neb. Rev. Stat. § 11-109)

(E) The City Clerk shall carefully record and preserve the bonds in his or her office and shall give certified copies thereof, when required, under the seal of his or her office and shall be entitled to receive for the same the usual fee allowed by law for certified copies of records in other cases.

(Neb. Rev. Stat. § 11-110)

(F) (1) The approval of each official bond shall be endorsed upon such bond by the officer approving the same, and no bond shall be filed and recorded until so approved.

(Neb. Rev. Stat. § 11-111)

(2) No bond shall be deemed to be given or complete until the approval of the City Council and all sureties are endorsed in writing on the instrument by the Mayor and City Clerk pursuant to the approval of the City Council.

(G) All official bonds shall obligate the principal and sureties for the faithful discharge of all duties required by law of such principal and shall inure to the benefit of any persons injured by a breach of the conditions of such bonds.

(Neb. Rev. Stat. § 11-112)

(H) No official bond shall be rendered void by reason of any informality of irregularity in its execution or approval.

(Neb. Rev. Stat. § 11-113)

(I) No city official shall be taken as security on the bond of any administrator, executor or other officer from whom by law bond is or may be required.

(Neb. Rev. Stat. § 11-114)

(J) If any person elected or appointed to any office neglects to have his or her official bond executed and approved as provided by law and filed for record within the time limited by this section, the City Clerk shall immediately issue an order to such person to show cause why he or she has failed to properly file such bond and why his or her office should not be declared vacant. If such person

properly files the official bond within ten days of the issuance of the show cause order for appointed officials or before the date for taking office for elected officials, such filing shall be deemed to be in compliance with this section. If such person does not file the bond within ten days of the issuance of such order for appointed officials or before the date for taking office for elected officials and sufficient cause is not shown within that time, his or her office shall thereupon ipso facto become vacant, and such vacancy shall thereupon immediately be filled by election or appointment as the law may direct in other cases of vacancy in the same office.

(Neb. Rev. Stat. § 11-115)

(K) Any person appointed to fill a vacancy, before entering upon the duties of the office, must give a bond corresponding in substance and form with the bond required of the officer originally elected or appointed, as herein provided.

(Neb. Rev. Stat. § 11-116)

(L) When the incumbent of an office is reelected or reappointed, he or she shall qualify by taking the oath and giving the bond as above directed, but when such officer has had public funds or property in his or her control, his or her bond shall not be approved until he or she has produced and fully accounted for such funds and property. When it is ascertained that the incumbent of an office holds over by reason of the nonelection or nonappointment of a successor or of the neglect or refusal of the successor to qualify, he or she shall qualify anew within ten days from the time at which his or her successor, if elected, should have qualified.

(Neb. Rev. Stat. § 11-117)

(M) No person shall be surety for the same officer for more than two successive terms of the same office, but this provision shall not apply to incorporated surety companies.

(Neb. Rev. Stat. § 11-118)

(N) If the sureties on the official bond of any appointed officer of the city, in the opinion of the City 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. If the officer fails, refuses or neglects to give a new bond or additional sureties to the satisfaction and approval of the Council, 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.

## **§ 31.02 OATH OF OFFICE; CITY OFFICIALS.**

(A) 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, \_\_\_\_\_, do solemnly swear that I will support the Constitution of the United States and the Constitution of the State of Nebraska, against all enemies foreign and



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

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

### ***APPOINTED OFFICIALS***

#### **§ 31.15 APPOINTMENT OF OFFICERS.**

The Mayor, at the first regular meeting of the City Council held after he or she takes office or as soon as he or she can reasonably do so, may appoint, with the advice and consent of the Council, a City Administrator, City Clerk, City Engineer, City Attorney, City Police Chief, Public Works Superintendent and Water Superintendent. The Mayor shall also appoint whatever other officials of the city he or she deems necessary, who shall serve at the pleasure of the City Council.  
(Prior Code, § 1-201) (Ord. 756, passed 8-10-2021)

***Statutory reference:***

*Similar provisions, see Neb. Rev. Stat. §§ 17-107 and 17-541*

#### **§ 31.16 MERGER OF OFFICES.**

(A) The City Council may at its discretion by ordinance combine and merge any elective or appointive office or employment or any combination of duties of any such 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 or any combination of duties of any such offices or employments may be held by the same officer or employee at the same time.

(B) The offices or employments so merged and combined shall always be construed to be separate, and the effect of the combination or merger shall be limited to a consolidation of official duties only.

(C) The salary or compensation of the officer or employee holding the merged and 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.

(D) For purposes of this section, volunteer firefighters and ambulance drivers shall not be considered officers.

(Neb. Rev. Stat. § 17-108.02)

### **§ 31.17 CITY ADMINISTRATOR.**

(A) There is hereby established the office of City Administrator, who shall be the chief administrative officer of the city. The City Administrator shall serve as administrative agent for the Mayor and the City Council in the supervision of the offices and good government of the city. All departments of the city, except the Police Department, shall be under the administrative supervision and direction of the City Administrator, and the Mayor and City Council shall deal with all departments of the city and employees through the City Administrator. Such office shall be filled by appointment of the Mayor by and with the consent of the City Council, and the person filling such office shall serve at the Mayor's pleasure.

(B) In the performance of the City Administrator's role as chief administrative officer of the city, he or she shall have the following duties and powers:

(1) Maintain all city, general, utility, payroll, revenue sharing and bond retirement financial records and reports;

(2) Supervise payroll, maintain permanent payroll records, collect payroll deductions and remit the same according to law;

(3) Administer city comprehensive, business, employee health, dental, self-insurance, workers' compensation, unemployment and other insurance programs and employee retirement programs;

(4) Serve as city personnel director;

(5) Assist and supervise all city department heads in general operation of their departments but not to include the making of operational decisions made by said department heads. In pursuance of this provision, the City Administrator shall meet periodically with department heads;

(6) Supervise personnel evaluation programs;

(7) Prepare and submit to the Mayor annual evaluations of all city personnel under his or her supervision;

(8) Supervise city office personnel;

- (9) Coordinate employment application procedures and interviews;
  - (10) Generally supervise the Zoning Administrator/Building Inspector and assistants;
  - (11) Serve as city purchasing agent for all departments;
  - (12) Assume general responsibility in conjunction with department heads for maintenance of perpetual inventories for each department;
  - (13) Assume general responsibility for accident, injury and damage reports and supervision over periodic department safety meetings;
  - (14) Attend City Council, board, commission or committee meetings when indicated; and
  - (15) Assume general responsibility for budget preparation and periodic budget reports to Mayor and City Council.
- (Prior Code, § 1-203) (Ord. 756, passed 8-10-2021)

**§ 31.18 CITY CLERK.**

(A) The duties of the City Clerk will be those set forth herein and as set forth specifically in the job description separately adopted by the Mayor and City Council.

(B) The City Clerk shall have custody of all laws and ordinances and shall:

- (1) Keep a current journal of the proceedings of the City Council;
- (2) Maintain a complete record of all outstanding bonds against the city, showing the number and amount of each, for and to whom said bonds were issued and all other pertinent information in regard to said bonds;
- (3) Take possession of all books, papers and all other official records of the city and maintain said records in a safe place;
- (4) Have custody of the seal of the city and all written official papers;
- (5) Attend the meetings of the City Council and keep a minute record of the proceedings thereof;
- (6) Maintain an account of all of the appropriations of the several funds of the city;

(7) Draw, sign and attest all warrants ordered for payment on a particular fund from which the same is payable, and at the end of each month make a report of the amount appropriated to each fund and the amount of warrants drawn thereon;

(8) Attest to the Mayor's signature when necessary and attach the city seal to all official documents;

(9) Whenever any claim presented by any person has been disallowed by the City Council, notify said claimant of said disallowance by the Council within five days after such disallowance;

(10) Account for all money received in the normal course of city business and keep a proper record of all moneys received, issuing a proper receipt to those parties making payment to the account of the city;

(11) Publish all notices required in the performance of his or her duties and keep a record of all published notices; keep a record of the publisher's affidavit of said publication if said notices are published in a legal newspaper;

(12) Maintain all books and public records of the city for public inspection by any resident during normal business hours;

(13) Make a notation on all correspondence received as to the date of receipt and convey said correspondence to the appropriate official of the city as soon as possible;

(14) Keep and maintain all other legal papers required to be maintained by city ordinances or by state law; and

(15) Maintain a minute book wherein shall be recorded all of the formal and informal actions of the Mayor and City Council and maintain a record of the various ordinances and resolutions passed by the Council. The minutes of any meeting of the Council shall be written and available for public inspection within ten working days of the meeting or prior to the next convened meeting, whichever occurs earliest, except that an additional ten days shall be allowed for writing and making available for inspection such minutes in the event of the Clerk's serious illness or an emergency which prevents him or her from writing such minutes and making them available to the general public within ten working days as set forth herein.

(Prior Code, § 1-204) (Ord. 756, passed 8-10-2021)

***Statutory reference:***

*Examination of public records, see Neb. Rev. Stat. § 84-712*

*Records Management Act, see Neb. Rev. Stat. §§ 84-1201 through 84-1220*

*Similar provisions, see Neb. Rev. Stat. §§ 17-605, 19-1102 and 19-1104*

**§ 31.19 CITY TREASURER.***(A) Duties and powers.*

(1) The duties of the City Treasurer will be those set forth herein and as set forth specifically in the job description separately adopted by the Mayor and City Council.

(2) The City Treasurer shall:

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

(b) Keep a separate account of each and every fund or appropriation and the debits and credits belonging to the city;

(c) Provide a receipt for anyone paying money into the City Treasury if such person requests a receipt, specifying the date of payment and on what account paid and also file copies of said receipts with his or her monthly reports made to the Mayor and City Council;

(d) At the end of each month and as often as may be required, render a report to the Mayor and City Council showing, under oath, the condition of the various accounts of the Treasury at the time of such reports and the balance in the Treasury; and accompany such accounts with a statement of all receipts and disbursements, together with all warrants paid which, with any and all vouchers held, shall be filed with his or her accounts in the City Clerk's office;

(e) Keep a record, in a book suitable for that purpose, of each and every warrant paid and from what fund paid; and

(f) Procure and keep a warrant register which shall show the number, date and amount of each warrant presented and registered as hereinafter provided, the particular fund upon which the same is drawn, the date of presentation, the name and address of the person in whose name the same is registered, the date of payment, the amount of interest and the total amount paid thereon, with the date when the notice to such person in whose name such warrant is registered is mailed as hereinafter provided. It shall be the duty of the City Treasurer, upon presentation of any warrant for payment, in the presence of such person to enter such warrant in the warrant register for payment in the order of its presentation and, upon every warrant as presented and registered, endorse "Registered for Payment" with the date of such registration and register number; and sign such endorsement, whereupon such

warrant shall draw interest at the legal rate from the date of registration until notice of payment shall be given to the holder as provided by law.

(Prior Code, § 1-205)

(B) *Treasurer's monthly report.* The City Treasurer shall, at the end of each month and as often as may be required, render a report to the Mayor and City Council showing, under oath, the condition of the various accounts of the Treasury at the time of such reports and the balance of money in the Treasury; such accounts shall be accompanied with a statement of all receipts and disbursements, together with all warrants paid which, with any and all vouchers held, shall be filed with his or her accounts in the City Clerk's office. The City Treasurer shall also produce depository evidence that all city money is in a solvent financial institution in the name of the city. If he or she neglects or fails, for a period of ten days from the end of each and every month, to render his or her account, the office shall be declared vacant, and the Mayor and City Council shall fill the vacancy by appointment until the next election of city officials.

(Prior Code, § 1-206)

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

(Prior Code, § 1-207)

(Ord. 756, passed 8-10-2021)

***Statutory reference:***

*Examination of public records, see Neb. Rev. Stat. § 84-712*

*Similar provisions, see Neb. Rev. Stat. §§ 17-606 through 609*

*Treasurer's annual report, see Neb. Rev. Stat. § 19-1101*

## **§ 31.20 CITY ATTORNEY.**

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

(Neb. Rev. Stat. § 17-610)

(B) The City Attorney shall also examine, when requested to do so by the City Council, the ordinance records and advise and assist the City Clerk as much as may be necessary to the end that each procedural step will be taken in the passage of each ordinance to ensure that it will be a valid and subsisting local law in so far as its passage and approval are concerned.

### **§ 31.21 CITY POLICE CHIEF.**

The duties of the City Police Chief will be those set forth herein and as set forth specifically in the job description separately adopted by the Mayor and City Council. The City Police Chief shall:

(A) Diligently inquire into any and all violations of city ordinances and state statutes; if he or she determines that a violation of city ordinances or state statutes has occurred, issue a written complaint and cause the arrest of such person;

(B) Make or cause to be made the necessary written complaint against any person under arrest for the violation of any city ordinances or state laws and bring any such prisoner before the county court whenever required to do so by rule or order of the county judge;

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

(D) Perform such other duties as may be required of him or her by resolution or by order of the Mayor and City Council.

(Prior Code, § 1-209) Penalty, see § 10.99

***Statutory reference:***

*Similar provisions, see Neb. Rev. Stat. §§ 17-107 and 17-121*

### **§ 31.22 PUBLIC WORKS SUPERINTENDENT.**

(A) (1) As soon as a system of waterworks or mains or portion or extension of any system of waterworks or water supply has been established by the city, the Mayor shall nominate and by and with the advice and consent of the City Council shall appoint any competent person who shall be known as the Water Superintendent of the city and whose term of office shall be for one fiscal year or until his or her successor is appointed and qualified. Annually at the first regular meeting of the City Council in December, the Water Superintendent shall be appointed as provided in this section.

(2) The Water Superintendent may at any time, for sufficient cause, be removed by a two-thirds vote of the City Council. Any vacancy occurring in the office of Water Superintendent by death,

resignation, removal from office or removal from the city may be filled in the manner provided in this section for the appointment of the Superintendent.

(3) The Water Superintendent, subject to the supervision of the Mayor and City Council, shall have the general management and control of the system of waterworks or mains or portion or extension of any system of waterworks or water supply in the city.

(4) In a city where no Board of Public Works exists, and the city has other public utilities than its waterworks system, the Mayor and Council shall by ordinance designate Water Superintendent as Public Works Superintendent with authority to manage not only the system of waterworks but also other public utilities, and all of the provisions of this division (A) applying to the Water Superintendent shall apply to the Public Works Superintendent.

(Neb. Rev. Stat. § 17-541)

(B) (1) The Water Superintendent shall collect all money received by the city on account of its system of waterworks and shall faithfully account for and pay over the same to the City Treasurer, taking his or her receipt therefor in duplicate, filing one of the same with the City Clerk.

(2) He or she shall make a detailed report to the City Council, at least once every six months, of the condition of the water system, of all mains, pipes, hydrants, reservoirs and machinery and such improvements, repairs and extension thereof as he or she may think proper. The report shall show the amount of receipts and expenditures on account thereof for the preceding six months. No money shall be expended for improvements, repairs or extension of the waterworks system except upon recommendation of the Water Superintendent.

(3) The Water Superintendent shall perform such other duties as may be prescribed by ordinance.

(4) The Water Superintendent shall be paid such salary as the Council may by ordinance provide, and upon his or her written recommendation, the Mayor and Council shall employ such laborers and clerks as may to them seem necessary.

(5) Neither the Mayor nor any member of the Council shall be eligible to the office of Water Superintendent during the term for which he or she was elected.

(6) If the city owns public utilities other than the waterworks system and the Water Superintendent has been designated by ordinance as the Public Works Superintendent under the authority of division (A) above, then all provisions of this division (B) in reference to a Water Superintendent shall apply to the Public Works Superintendent.

(Neb. Rev. Stat. § 17-543)

(C) In the event the city shall have created a Board of Public Works, the Water Superintendent shall, subject to confirmation by the Mayor and Council, be employed thereafter by the Board at such



reasonable compensation as may be agreed upon at the time of such employment and shall thereafter be under the jurisdiction of the Board, any of the provisions of Neb. Rev. Stat. §§ 17-501 through 17-560 to the contrary notwithstanding. Any Water Superintendent under the jurisdiction and control of the Board of Public Works may be removed by the Board, after an opportunity to be heard before the Mayor and Council if he or she shall so request, for malfeasance, misfeasance or neglect in office.  
(Neb. Rev. Stat. § 17-804)

### **§ 31.23 STREET SUPERINTENDENT.**

(A) The Street Superintendent shall, subject to the order of the Mayor and Council, have general charge, direction and control of all works on the streets, sidewalks, culverts and bridges of the city, and shall perform such other duties as the Council may require.  
(Neb. Rev. Stat. § 17-119)

(B) It shall be his or her responsibility to see that gutters and drains in the city function properly and that they are kept in good repair.

(C) He or she shall, at the request of the City Council make a detailed report to the Council on the condition of the streets, sidewalks, culverts, alleys and bridges of the city and shall direct their attention to such improvements, repairs and extension thereof as he or she may think proper.

(D) The Street Superintendent shall issue such permits and perform such other duties as may be prescribed by ordinance.

***Statutory reference:***

*Incentive payments to street superintendents, see Neb. Rev. Stat. § 39-2512*

### **§ 31.24 CITY ENGINEER; SPECIAL ENGINEER.**

(A) (1) The City Engineer shall, when requested by the Mayor or City Council, make estimates of the cost of labor and material which may be done or furnished by contract with the city and make all surveys, estimates and calculations necessary to be made for the establishment of grades, building of culverts, sewers, electric light system, waterworks, power plant, public heating system, bridges, curbing and gutters, the improvement of streets and the erection and repair of buildings and shall perform such other duties as the City Council may require.

(2) When the city has appointed a Board of Public Works and the Mayor and City Council have by ordinance so authorized, the Board may utilize its own engineering staff and may hire consulting engineers for the design and installation of extensions and improvements of the works under the jurisdiction of the Board.

(Neb. Rev. Stat. § 17-568.01)

(B) The Mayor and City Council may employ a special engineer to make, or assist in making, any estimate necessary or to perform any other duty provided for in Neb. Rev. Stat. § 17-568.01. Any work executed by such special engineer shall have the same validity and serve in all respects as though executed by the City Engineer.

(Neb. Rev. Stat. § 17-568)

(C) The City Engineer shall make a record of the minutes of his or her surveys and of all work done for the city and, when directed by the Mayor and City Council, shall accurately make such plats, sections, profiles and maps as may be necessary in the prosecution of any public work, which shall be public records and belong to the city and be turned over to his or her successor.

***Statutory reference:***

*Duties related to areas to be annexed, see Neb. Rev. Stat. § 18-3301*

*Duties related to sewerage systems, see Neb. Rev. Stat. §§ 17-150 and 17-919*

**§ 31.25 BUILDING INSPECTOR.**

(A) The Building Inspector shall report to the City Council as often as may be deemed necessary and shall have such other duties and issue such permits as may be directed. He or she may be removed at any time for good and sufficient cause by the City Council.

(B) The Building Inspector shall:

(1) Conduct surveys and make inspections in any area of the city to determine whether all buildings and structures are in compliance with the municipal ordinances;

(2) Investigate all complaints, whether verbal, written or in the form of a petition, alleging and charging that a violation of the municipal ordinances exists and that a building or structure is unfit or unsafe for human habitation;

(3) Upon properly identifying himself or herself, be authorized to enter, inspect, survey and investigate any building between the hours of 8:00 a.m. and 5:00 p.m., or at any time if an emergency exists, or if requested by the owner or occupant thereof;

(4) Keep records of all complaints received, inspection reports, orders and complaints issued. The records shall be available for public inspection, and he or she shall prepare an annual report including statistics based on the records kept; and

(5) Have no financial interest in the furnishing of labor, materials or appliances for the construction, alteration or maintenance of a building except where he or she is the owner of a building, and he or she shall not act as an agent for any said dealer, or as an agent for the sale, lease or rental of any real estate.

(Prior Code, § 1-213)

**§ 31.26 ZONING ADMINISTRATOR.**

The Building Inspector is hereby designated as Zoning Administrator.  
(Prior Code, § 1-216)

**§ 31.27 ELECTRICAL INSPECTOR.**

(A) The Building Inspector, acting as the Electrical Inspector, shall enforce all laws relating to the installation of electrical wiring, and connections thereto. When acting in good faith and without malice in the scope of his or her official duties, he or she shall not be held personally liable for any damage that may accrue to persons or property as the result of any act required by him or her or by reason of any act or omission in the discharge of his or her duties.

(B) Said 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 and shall perform such other duties and issue any permits that the City Council may direct.

(C) The Electrical Inspector may be removed at any time for good and sufficient cause by the City Council.  
(Prior Code, § 1-214)

**§ 31.28 PLUMBING INSPECTOR.**

(A) The Building Inspector, acting as the Plumbing Inspector, 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, he or she shall not be held personally liable for any damage that may accrue to persons or property as the result of any act required by him or her or by reason of any act or omission in the discharge of his or her duties.

(B) Said 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 and shall perform such other duties and issue any permits that the Mayor and City Council may direct.

(C) The Plumbing Inspector may be removed at any time for good and sufficient cause by the City Council.  
(Prior Code, § 1-215)

***MEETINGS*****§ 31.40 OPEN TO PUBLIC; NOTICE; AGENDA.**

(A) All public meetings, as defined by law, shall be held in a public building located within the city, which shall be open to attendance by the public. All meetings shall be held in the public building in which the City Council usually holds such meetings unless the publicized notice hereinafter required shall designate some other public building or other specified place. The advance publicized notice of all public, convened meetings shall be transmitted to all members of the City Council and to the public by a method designated by the Council. Such notice shall contain the time and specific place for each meeting, and either an enumeration of the agenda subjects known at the time of the notice or a statement that an agenda, kept continually current, shall be available for public inspection at the office of the City Clerk. Agenda items shall be sufficiently descriptive to give the public reasonable notice of the matters to be considered at the meeting. The city shall have the right to modify the agenda at the public meeting when convened. The minutes of the City Clerk shall include a record of the manner by which the advanced publicized notice was given, the time and specific place of each meeting and the names of each member of the Council present or absent at each convened meeting.

(B) In order to address any item on the agenda of any public meeting, no member of the public shall be required to be named on the agenda prior to such meeting, nor shall such members of the public be required to identify themselves by signing in prior to such meeting. However, prior to addressing the City Council on any agenda item, members of the public shall be required to identify themselves.

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

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

(E) This section does not apply to chance meetings or to attendance at or travel to conventions or workshops of the City Council at which there is no meeting of the Council then intentionally convened, if there is no vote or other action taken regarding any matter over which the Council has supervision, control, jurisdiction or advisory power.

(F) The City Council shall make available at least one current copy of the Open Meetings Act, being Neb. Rev. Stat. §§ 84-1407 et seq., to be posted in the meeting room at a location accessible to members of the public. At the beginning of each meeting, the public shall be informed about the location of the posted information.

(Prior Code, § 1-304) (Ord. 579, passed 2-10-2008)

**§ 31.41 NOTICE TO NEWS MEDIA.**

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

(Neb. Rev. Stat. § 84-1411)

**§ 31.42 COUNCIL MEETINGS; WHEN; QUORUM.**

(A) Regular meetings of the City Council shall be held at such times as the Council may provide by ordinance. A majority of all the members elected to the Council shall constitute a quorum for the transaction of any business, but a fewer number may adjourn from time to time and compel the attendance of absent members. When the City Council consists of four members as established by ordinance or home rule charter, the Mayor shall be deemed a member of the City Council for purposes of establishing a quorum when the Mayor's presence is necessary to establish the quorum. Unless a greater vote is required by law, an affirmative vote of at least one-half of the elected members shall be required for the transaction of any business.

(Neb. Rev. Stat. § 17-105)

(B) (1) The Mayor or any three Council members shall have power to call special meetings of the City Council, the object of which shall be submitted to the Council in writing; and the call and object, as well as the disposition thereof, shall be entered upon the journal by the City Clerk.

(Neb. Rev. Stat. § 17-106)

(2) On filing the call for a special meeting, the City Clerk shall notify the Mayor and Council members of the special meeting, stating the time and purpose.

(C) Unless otherwise provided by the Council, 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.

(D) At the hour appointed for a meeting, the City Clerk shall proceed to call the roll of members and announce whether a quorum is present. If a quorum is present, the Council shall be called to order by the Mayor, if present, or if absent, by the President of the Council.

**§ 31.43 CLOSED SESSIONS.**

(A) (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 that 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 that person has not requested a public meeting.

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

(B) The vote to hold a closed session shall be taken in open session. The 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 the purpose of this section, **FORMAL ACTION** means 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 division (A)(1)(a) above.

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

(D) Nothing in this section shall be construed to require that any meeting be closed to the public. (Neb. Rev. Stat. § 84-1410)

**§ 31.44 PUBLIC PARTICIPATION.**

(A) Subject to this subchapter and the Open Meetings Act, being Neb. Rev. Stat. §§ 84-1407 et seq., 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 § 31.43, may be videotaped, televised, photographed, broadcast or recorded by any person in attendance by means of a tape recorder, a camera, video equipment or any other means of pictorial or sonic reproduction or in writing.

(B) It shall not be a violation of division (A) above 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, including meetings held by virtual conferencing. A body may not be required to allow citizens to speak at each meeting, but it may not forbid public participation at all meetings.

(C) No public body shall require members of the public to identify themselves as a condition for admission to the meeting nor shall such body require that the name of any member of the public be placed on the agenda prior to such meeting in order to speak about items on the agenda. The body shall require any member of the public desiring to address the body to identify himself or herself, including an address and the name of any organization represented by such person unless the address requirement is waived to protect the security of the individual.

(D) No public body shall, for the purpose of circumventing this subchapter or the Open Meetings Act, being Neb. Rev. Stat. §§ 84-1407 et seq., hold a meeting in a place known by the body to be too small to accommodate the anticipated audience.

(E) 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.

(F) 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 member entity of the public body is located outside of this state and the other requirements of Neb. Rev. Stat. § 84-1412 are met.

(G) 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.

(H) Public bodies shall make available at the meeting, for examination and copying by members of the public, at least one copy of all reproducible written material to be discussed at an open meeting, either in paper or electronic form. Public bodies shall make available at least one current copy of the Open Meetings Act, being Neb. Rev. Stat. §§ 84-1407 et seq. 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.

(Neb. Rev. Stat. § 84-1412)

**§ 31.45 CITY COUNCIL; ORDER OF BUSINESS.**

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

**§ 31.46 CITY COUNCIL; PARLIAMENTARY PROCEDURE.**

Unless the City Council provides otherwise, the rules of parliamentary procedure specified in this section shall apply to meetings of the City Council. The Mayor shall preserve order during meetings of the City Council and shall decide all questions of order, subject to an appeal to the Council. When any person is called to order, he or she shall be seated until the point is decided. When the Mayor is putting the question, no person shall leave the meeting room. Every person present, previous to speaking, shall rise from his or her seat and address the presiding officer and while speaking shall confine his or her comments to the question. When two or more persons rise at once, the Mayor shall recognize the one who spoke first. All resolutions or motions shall be reduced to writing before being acted upon, if requested by the City Clerk or any member of the Council. Every member of the Council who is present when a question is voted upon shall cast his or her vote unless excused by a majority of the members of the Council present. No motion shall be put or debated unless seconded. When seconded, it shall be stated by the Mayor before being debatable. In all cases where a motion or resolution is entered on the minutes, the name of the member of the Council making the motion or resolution shall be entered also. After each vote, the "yeas" and "nays" shall be taken and entered in the minutes. Before the vote is actually taken, any resolution, motion or proposed ordinance may be withdrawn from consideration by the sponsor with the consent of the member of the Council seconding the resolution, motion or ordinance. When, in the consideration of an ordinance, different times or amounts are proposed, the question shall be put on the largest sum or the longest time. A question to reconsider shall be in order when made by a member voting with the majority, but the motion to reconsider must be made before the expiration of the third regular meeting after the initial consideration of the question. When any question is under debate, no motion shall be made, entertained or seconded except the previous question, a motion to table and to adjourn. Each of those motions shall be decided without debate. Any of the rules of the Council for meetings may be suspended by a two-thirds vote of the members present. In all cases in which provisions are not made by these rules, Robert's Rules of Order is the authority by which the Council shall decide all procedural disputes that may arise.

**§ 31.47 CHANGE IN OFFICE.**

(A) The Mayor and City Council shall meet at the time and place of the first regular meeting in December in each election year, and the outgoing officers and the outgoing members of the Council shall present their reports. Upon the outgoing Council having completed its business, the outgoing members



of the Council shall surrender their offices to the incoming members, and the outgoing officers shall thereupon each surrender to their successors in office all property, records, papers and moneys belonging to the same.

(B) The newly elected members of the Council and those continuing in office shall convene immediately after the prior Council adjourns and proceed to organize themselves for the ensuing year. The Mayor shall call the meeting to order. The Clerk shall report to the Council the names of all Council members-elect who have qualified for their respective offices. The Council shall examine the credentials of its members and any other elective officers of the city to see that each has been duly and properly elected and to see that such oaths and bonds as are required have been given. The Clerk's report shall be spread upon the minutes of the meeting preceding the roll call.

(C) After ascertaining that all Council members and officers are duly qualified and after the Clerk has called the roll, the Council shall elect a President of the Council. The Mayor shall nominate his or her candidates for appointive offices in which the terms of incumbents are expired and call for a vote on approval of the candidates. The Mayor shall then proceed with the regular order of business.

#### **§ 31.48 ORGANIZATIONAL MEETING.**

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

(B) It is hereby made the duty of each and every member of the Council or his or her successor in office, and of each officer elected to any office, to qualify prior to the first regular meeting in December following his or her election. All appointive officers shall qualify within two weeks following their appointments. Qualification for each officer who is not required to give bond shall consist in his or her subscribing and taking an oath to support the Constitution of the United States, the Constitution of the state and the laws of the city and to perform faithfully and impartially the duties of his or her office. Each officer who is required to give a bond shall file the required bond in the office of the City Clerk with sufficient sureties, conditioned on the faithful discharge of the duties of his or her office, with the oath endorsed thereon.

(Prior Code, § 1-309)

***COMPENSATION; CONFLICTS OF INTEREST*****§ 31.60 COMPENSATION; HOW FIXED; LIMITATIONS.**

(A) The officers and employees of the city shall receive such compensation as the Mayor and Council shall fix by ordinance.

(Neb. Rev. Stat. § 17-108)

(B) The city may enact ordinances or bylaws to regulate and prescribe the compensation of officers not provided for in state law.

(Neb. Rev. Stat. § 17-604)

(C) No officer shall receive any pay or perquisites from the city other than his or her salary. The City Council shall not pay or appropriate any money or other valuable thing to any person not an officer for the performance of any act, service or duty, the doing or performance of which shall come within the proper scope of the duties of any officer of the city.

(Neb. Rev. Stat. § 17-611)

(D) The salary of any elective officer shall not be increased or diminished during the term for which he or she shall have been elected, except when there has been a combination and merger of offices as provided in § 31.16, except that when there are officers elected to the Council, or any other 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 he or she was elected if during the same time the emoluments thereof were increased.

(Neb. Rev. Stat. § 17-612)

**§ 31.61 CONFLICT OF INTEREST INVOLVING CONTRACTS.**

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

***BUSINESS ASSOCIATION.***

(a) A business:

1. In which the individual is a partner, limited liability company member, director or officer; or

2. 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.

(b) 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.  
(Neb. Rev. Stat. § 49-1408)

***IMMEDIATE FAMILY.*** 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.  
(Neb. Rev. Stat. § 49-1425)

***OFFICER.***

(a) Includes:

1. A member of any board or commission of the city which spends and administers its own funds, who is dealing with a contract made by such board or commission; or

2. Any elected city official.

(b) ***OFFICER*** does not mean volunteer firefighters or ambulance drivers with respect to their duties as firefighters or ambulance drivers.

(B) (1) Except as provided in Neb. Rev. Stat. §§ 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 the 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.

(2) The prohibition in this division (B) shall apply only when the officer or his or her parent, spouse or child:

(a) Has a business association with the business involved in the contract; or

(b) Will receive a payment, fee or commission as a result of the contract.

(C) Division (B) above does not apply if the contract is an agenda item approved at a meeting of the governing body and the interested officer:

(1) 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;

(2) 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

(3) 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.

(D) 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.

(E) 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.

(F) Neb. Rev. Stat. § 49-14,102 does not apply to contracts covered by this section.  
(Neb. Rev. Stat. § 49-14,103.01)

(G) (1) The person charged with keeping records for the governing body shall maintain separately from other records a ledger containing the information listed in divisions (G)(1)(a) through (G)(1)(e) below 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 (C) above. This information shall be kept in the ledger for five years from the date of the officer's last day in office and shall include:

(a) The names of the contracting parties;

(b) The nature of the interest of the officer in question;

(c) The date that the contract was approved by the governing body;

(d) The amount of the contract; and

(e) The basic terms of the contract.

(2) 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 (G) shall be available for public inspection during the normal working hours of the office in which it is kept.  
(Neb. Rev. Stat. § 49-14,103.02)

(H) 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 (G) above shall be filed within ten days after the 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.

(Neb. Rev. Stat. § 49-14,103.03)

(I) Notwithstanding divisions (A) through (H) above, the governing body may prohibit contracts over a specific dollar amount in which an officer of the governing body may have an interest.

(Neb. Rev. Stat. § 49-14,103.05)

(J) The governing body may exempt from divisions (A) through (H) above, contracts involving \$100 or less in which an officer of that body may have an interest.

(Neb. Rev. Stat. § 49-14,103.06)

***Statutory reference:***

*Other provisions on conflicts of interest, see Neb. Rev. Stat. §§ 18-305 through 18-312 and 49-1499.03*

*through 49-14,103*

*Penalty for violation of restrictions on contracts, see Neb. Rev. Stat. § 49-14,103.04*



## CHAPTER 32: ORGANIZATIONS

### Section

#### *Boards and Commissions*

- 32.01 Planning Commission
- 32.02 Board of Adjustment
- 32.03 Board of Health
- 32.04 Cemetery Board
- 32.05 Community Redevelopment Agency
- 32.06 Fair Housing Board

#### *Police Department*

- 32.20 Duties
- 32.21 Arrest and enforcement jurisdiction
- 32.22 Officers; discipline or removal from duty
- 32.23 Officers; suspension, removal, demotion appeals

### **BOARDS AND COMMISSIONS**

#### **§ 32.01 PLANNING COMMISSION.**

(A) (1) If the City Council adopts zoning or other regulations pursuant to Neb. Rev. Stat. §§ 19-901 et seq., the Planning Commission shall consist of five, seven or nine regular members, as specified by the City Council by ordinance, 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 are 500 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 500 residents reside in the area subject to extraterritorial zoning or 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. A number of commissioners equal to a majority of the number of regular members appointed to the Commission shall constitute a quorum for the transaction of any business. All regular members of the Commission shall serve without compensation. The term of each regular member shall be three years, except that one-third or fewer of the regular members of the first commission to be so appointed shall serve for terms of one year, one-third or fewer for terms of two years, and the remaining members 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 Council, be removed by the Mayor with the consent of a majority vote of the members elected to the Council for inefficiency, neglect of duty or malfeasance in office or other good and sufficient cause. Vacancies occurring otherwise than through the expiration of term shall be filled for the unexpired portion of the term by the Mayor.

(2) The Mayor may, with the approval of a majority vote of the elected members of the Council, appoint one alternate member to the Planning Commission. The alternate member shall serve without compensation. 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 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.

(3) A regular or alternate member of the Planning Commission may hold any other municipal office except:

(a) Mayor;

(b) A member of the City Council;

(c) A member of any community redevelopment authority or limited community redevelopment authority created under Neb. Rev. Stat. § 18-2102.01; or

(d) A member of any citizen advisory review committee created under Neb. Rev. Stat. § 18-2715.  
(Neb. Rev. Stat. § 19-926)

(B) The Commission shall elect its Chairperson from its members and create and fill such other of its offices as it may determine. The term of the Chairperson shall be one year, and he or she shall be eligible for reelection. The Commission shall hold at least one regular meeting in each calendar quarter, except as provided in this section. 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. If no business is pending before the Commission, the Chairperson may cancel a quarterly meeting, but no more than three quarterly meetings may be cancelled per calendar year. The Commission shall adopt rules and regulations for the transaction of business and shall keep a record of its resolutions, transactions, findings and determinations, which shall be a public record.

(Neb. Rev. Stat. § 19-927)

(C) No member of the Commission shall serve in the capacity of both the Chairperson and Secretary of the Commission. The Secretary shall keep the full and correct minutes and records of all meetings and file them with the City Clerk where they shall be available for public inspection during office hours.

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

(Neb. Rev. Stat. § 19-928)

(E) (1) (a) Except as provided in Neb. Rev. Stat. §§ 19-930 through 19-933, the Planning Commission shall:

1. Make and adopt plans for the physical development of the city, including any areas outside its boundaries which in the Commission's judgment bear relation to the planning of such city and including a comprehensive development plan as defined by Neb. Rev. Stat. § 19-903;

2. Prepare and adopt such implemental means as a capital improvement program, subdivision regulations, building codes and a zoning ordinance in cooperation with other interested city departments; and

3. Consult with and advise public officials and agencies, public utilities, civic organizations, educational institutions and citizens with relation to the promulgation and implementation of the comprehensive development plan and its implemental programs. The Commission may delegate authority to any such group to conduct studies and make surveys for the commission, make preliminary reports on its findings and hold public hearings before submitting its final reports.

(b) The City Council shall not take final action on matters relating to the comprehensive development plan, capital improvements, building codes, subdivision development, the annexation of territory or zoning until it has received the recommendation of the Planning Commission; provided, that the Planning Commission shall make its recommendation so that it is received by the City Council within 60 days after the Commission begins consideration of a matter or within such other number of days as the City Council has set by ordinance.

(c) A recommendation from the Planning Commission shall not be required for subdivision of existing lots and blocks whenever all required public improvements have been installed, no new

dedication of public rights-of-way or easements is involved, and such subdivision complies with the ordinance requirements concerning minimum areas and dimensions of such lots and blocks, if the City Council has designated by ordinance an agent pursuant to Neb. Rev. Stat. § 19-916.

(2) (a) The Commission may, with the consent of the City Council, in its own name make and enter into contracts with public or private bodies, receive contributions, bequests, gifts or grant funds from public or private sources, expend the funds appropriated to it by the city, employ agents and employees and acquire, hold and dispose of property.

(b) The Commission may on its own authority make arrangements consistent with its program, conduct or sponsor special studies or planning work for any public body or appropriate agency, receive grants, remuneration or reimbursement for such studies or work, and at its public hearings, summon witnesses, administer oaths and compel the giving of testimony.

(3) (a) The Commission may grant conditional uses or special exceptions to property owners for the use of their property if the City Council has, through a zoning ordinance or special ordinance, generally authorized the Commission to exercise such powers and has approved the standards and procedures adopted by the Commission for equitably and judiciously granting such conditional uses or special exceptions. The granting of a conditional use permit or special exception shall only allow property owners to put their property to a special use if it is among those uses specifically identified in the zoning ordinance as classifications of uses which may require special conditions or requirements to be met by the owners before a use permit or building permit is authorized.

(b) The power to grant conditional uses or special exceptions shall be the exclusive authority of the Commission, except that the City Council may choose to retain for itself the power to grant conditional uses or special exceptions for those classifications of uses specified in the zoning ordinance. The Council may exercise such power if it has formally adopted standards and procedures for granting such conditional uses or special exceptions in a manner that is equitable and will promote the public interest.

(c) An appeal of a decision by the Commission or Council regarding a conditional use or special exception shall be made to the district court.  
(Neb. Rev. Stat. § 19-929)

***Statutory reference:***

*Other provisions on planning commissions, see Neb. Rev. Stat. §§ 19-925 through 19-933*

## **§ 32.02 BOARD OF ADJUSTMENT.**

(A) If the City Council adopts zoning or other regulations pursuant to Neb. Rev. Stat. §§ 19-901 et seq., except as provided in division (B) below, the Council shall provide for the appointment of a

Board of Adjustment. Any actions taken by the Board of Adjustment shall not exceed the powers granted by division (F) below.

(Neb. Rev. Stat. § 19-907)

(B) If the county has adopted a comprehensive development plan, as defined by Neb. Rev. Stat. § 23-114.02, and is enforcing zoning regulations based upon such a plan, the Zoning Board of Adjustment of the county shall, upon request of the City Council, serve as the Zoning Board of Adjustment for the city. If the city is located in more than one county, it shall be served by request or otherwise only by the County Zoning Board of Adjustment of the county in which the greatest area of the city is located, and the jurisdiction of such County Zoning Board of Adjustment shall include all portions of the city and its extraterritorial control, regardless of county lines.

(Neb. Rev. Stat. § 19-912.01)

(C) (1) The Board of Adjustment 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, each to be appointed for a term of three years and removable for cause by the appointing authority upon written charges and after public hearings. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant. One member only of the Board of Adjustment shall be appointed from the membership of the Planning Commission, and the loss of membership on the Planning Commission by such member shall also result in his or her immediate loss of membership on the Board of Adjustment and the appointment of another Planning Commissioner to the Board of Adjustment. The first vacancy occurring on the Board of Adjustment shall be filled by the appointment of a person who resides in the extraterritorial zoning jurisdiction of the city at such time as more than 200 persons reside within such area if the Board does not already include such a person. Thereafter, at all times, at least one member of the Board of Adjustment shall reside outside of the corporate boundaries of the city but within its extraterritorial zoning jurisdiction.

(2) The Board of Adjustment shall adopt rules in accordance with the provisions of any ordinance adopted pursuant to Neb. Rev. Stat. §§ 19-901 through 19-914. Meetings of the Board of Adjustment shall be held at the call of the Chairperson and at such other times as the Board may determine. Such Chairperson, or in his or her absence the Acting Chairperson, may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board and shall be a public record.

(Neb. Rev. Stat. § 19-908)

(D) A number of members equal to a majority of the number of regular members appointed to the Board of Adjustment shall constitute a quorum for the transaction of any business. All members of an appointed Board of Adjustment shall serve without compensation and shall hold no other city office except for the member of the Planning Commission appointed to serve on the Board of Adjustment. No

member of the Board of Adjustment shall serve in the capacity of both Chairperson and Secretary of the Board. The Secretary shall keep the full and correct minutes and records of all meetings and file them with the City Clerk where they shall be available for public inspection during office hours.

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

(Neb. Rev. Stat. § 19-909)

(F) (1) The Board of Adjustment shall, subject to such appropriate conditions and safeguards as may be established by the City Council, have only the following powers:

(a) To hear and decide appeals when it is alleged there is error in any order, requirement, decision or determination made by an administrative official or agency based on or made in the enforcement of any zoning regulation or any regulation relating to the location or soundness of structures, except that the authority to hear and decide appeals shall not apply to decisions made by the City Council or Planning Commission regarding a conditional use or special exception under Neb. Rev. Stat. § 19-929(3);

(b) To hear and decide, in accordance with the provisions of any zoning regulation, requests for interpretation of any map; and

(c) When by reason of exceptional narrowness, shallowness or shape of a specific piece of property at the time of the enactment of the zoning regulations, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property, the strict application of any enacted regulation under Neb. Rev. Stat. §§ 19-901 and 19-903 through 19-904.01 and this division (F) or division (C) above would result in peculiar and exceptional practical difficulties to or exceptional and undue hardships upon the owner of such property, to authorize, upon an appeal relating to the property, a variance from such strict application so as to relieve such difficulties or hardship, if such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of any ordinance or resolution.

(2) (a) No such variance shall be authorized by the Board unless it finds that:

1. The strict application of the zoning regulation would produce undue hardship;
2. Such hardship is not shared generally by other properties in the same zoning district and the same vicinity;
3. The authorization of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by the granting of the variance; and
4. The granting of such variance is based upon reason of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit or caprice.

(b) No variance shall be authorized unless the Board finds that the condition or situation of the property concerned or the intended use of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the zoning regulations.

(3) In exercising the powers granted in this division (F), the Board may, in conformity with Neb. Rev. Stat. §§ 19-901 through 19-915, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken. The concurring vote of four members of the Board shall be necessary to reverse any order, requirement, decision or determination of any such administrative official or to decide in favor of the applicant on any matter upon which it is required to pass under any such regulation or to effect any variation in such regulation.

(Neb. Rev. Stat. § 19-910)

(G) Any person or persons, jointly or severally, aggrieved by any decision of the Board of Adjustment, or any taxpayer, or any officer, department, board or bureau of the city, may present to the district court a petition duly verified, setting forth that such decision is illegal, in whole or in part, and specifying the grounds of such illegality. Such petition must be presented to the court within 15 days after the filing of the decision in the office of the Board. Upon the filing of such petition, a summons shall be issued and be served upon the Board of Adjustment, together with a copy of the petition. Return of service shall be made within four days after the issuance of the summons. Within ten days after the return day of such summons, the Board of Adjustment shall file an answer to the petition which shall admit or deny the substantial averments of the petition and shall state the contentions of the Board with reference to the matters in dispute as disclosed by the petition. The answer shall be verified in like manner as required for the petition. At the expiration of the time for filing answer, the court shall proceed to hear and determine the cause without delay and shall render judgment thereon according to the forms of law. If, upon the hearing, it appears to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a referee to take such evidence as it may direct

and report the same to the court with his or her findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the court shall be made. The court may reverse or affirm, wholly or partly, or may modify the decision brought up for review. The appeal to the district court shall not stay proceedings upon the decision appealed from, but the court may, on application, on notice to the Board and on due cause shown, grant a restraining order. Any appeal from such judgment of the district court shall be prosecuted in accordance with the general laws of the state regulating appeals in actions at law.

(Neb. Rev. Stat. § 19-912)

### **§ 32.03 BOARD OF HEALTH.**

(A) (1) The Board of Health shall consist of four members: the Mayor, who shall be Chairperson; the President of the City Council; and two other members. One member shall be a physician or healthcare provider, if one can be found who is willing to serve. Such physician or healthcare provider, if appointed, shall be the Board's medical advisor. If the Mayor has appointed a Chief of Police, the Chief of Police shall serve on the Board as secretary and quarantine officer.

(2) A majority of the Board of Health shall constitute a quorum and shall enact rules and regulations, which shall have the full force and effect of law, to safeguard the health of the people of the city, may enforce them and may provide fines and punishments for the violation of such rules and regulations. The Board shall have power to and shall make all needful rules and regulations relating to matters of sanitation of the city, including the removal of dead animals, the sanitary condition of the streets, alleys, vacant grounds, stockyards, cattle and hog pens, wells, cisterns, privies, water closets, cesspools, stables and all buildings and places not specified where filth, nuisances or offensive matter is kept or is liable to or does accumulate. It may regulate, suppress and prevent the occurrence of nuisances and enforce all laws of the state and ordinances of the city relating to nuisances or to matters of sanitation of the city. The Board shall also have control of hospitals, dispensaries, places for treatment of sick people and matters relating to the same under such restrictions and provisions as may be provided by ordinance of the city.

(Neb. Rev. Stat. § 17-121)

(B) The members of the Board of Health other than the Mayor, President of the Council and Chief of Police shall serve terms of office of the length specified by the City Council and may be reappointed.

(C) The Board of Health shall reorganize at its meeting after appointments are regularly considered by the City Council and, if necessary, select a member to serve as secretary. No member of the Board of Health shall hold more than one Board of Health position. The secretary shall keep full and correct minutes and records of all meetings and file the same with the City Clerk where they shall be available for public inspection during office hours.

(D) The Board shall meet at such times as the City Council may designate. Special meetings may be held upon the call of the Chairperson or any two members of the Board of Health.

(E) The members of the Board of Health shall serve without compensation. The Board of Health shall be funded by the City Council from time to time out of the General Fund.

(F) The Board of Health shall regularly inspect such premises and businesses as the City Council may direct.

(G) All members of the Board of Health shall be responsible for making such reports and performing such other duties as the City Council may from time to time designate.

#### **§ 32.04 CEMETERY BOARD.**

(A) *Members.* The Cemetery Board shall consist of six members appointed by the Mayor with the consent of the City Council from the citizens at large. Every new or reappointed member shall serve a term of three years. Board members shall be removable only for good and sufficient cause by the City Council, after public hearing. The Board shall serve without compensation.  
(Prior Code, § 1-1301)

(B) *Officers; meetings.* The members of the Cemetery Board may select such officers from among their own number as they may deem necessary. The City Council shall adopt rules under which the Cemetery Board shall conduct its meetings or, in the alternative, the Board may adopt rules under which it shall conduct its meetings, with the approval of the Council. It shall be the duty of the Board to keep full and correct minutes of all meetings and to file the same with the City Clerk within ten days of such meeting, where they shall be available for public inspection.  
(Prior Code, § 1-1302)

(C) *Powers, duties.* The Cemetery Board shall have entire control and management of any cemeteries belonging to the city. The Board shall establish appropriate rules and regulations for the management, use and operation of municipal cemeteries. The Board shall be responsible for making such reports and performing such other duties as the City Council from time to time may designate.  
(Prior Code, § 1-1303)  
(Ord. 574, passed 1-13-2009; Ord. 676, passed 6-9-2015)

#### **§ 32.05 COMMUNITY REDEVELOPMENT AGENCY.**

(A) *Creation of Agency; members.* There is hereby established, pursuant to Neb. Rev. Stat. § 18-2101.01, a Community Development Agency for the city. The Mayor and City Council are hereby designated to be members of the Community Development Agency for the city.  
(Prior Code, § 1-1501)

(B) *Officers.* The Mayor shall be the Chairperson of the Community Development Agency; the President of the City Council shall be the Vice-Chairperson; and the City Clerk shall be the secretary. (Prior Code, § 1-1502)

(C) *Powers.*

(1) The Community Development Agency shall have the power and authority to exercise those powers and authority granted to a community redevelopment authority under Neb. Rev. Stat. §§ 18-2101 through 18-2144. The Community Development Agency shall also have the power and authority to do all community development activities and to do all things necessary to cooperate with the federal government in all matters relating to community development program activities as a grantee or as an agent or otherwise under the provisions of the federal Housing and Community Development Act of 1974, being 42 U.S.C. §§ 53-101 et seq., as amended, through the Housing and Community Development Amendments of 1981, being 42 U.S.C. §§ 53-101 et seq.

(2) The Community Development Agency may levy taxes for the exercise of such jurisdiction and authority and may issue general obligation bonds, general obligation notes, revenue bonds and revenue notes including those general obligation and revenue refunding bonds and notes for the purposes set forth in such sections and under the powers granted to any community redevelopment authority described therein.

(Prior Code, § 1-1503)

(D) *Transfer of rights, property and obligations.* All of the rights and property, both real and personal, of the existing City Community Redevelopment Authority and all obligations including leases, bonds, redevelopment contracts, agreements and other evidence of debt of said Authority are hereby transferred to and assumed by the Community Development Agency of the city which is created pursuant to this section.

(Prior Code, § 1-1504)

(E) *Affirmation of prior obligations.* All obligations including leases, bonds, redevelopment contracts, agreements and other evidence of debt previously issued in the name of the Community Development Agency of the city are hereby affirmed as though issued after the adoption of this section.

(Prior Code, § 1-1505)

(Ord. 570, passed 11-11-2008)

## **§ 32.06 FAIR HOUSING BOARD.**

(A) *Purpose.* The City Council hereby declares it to be the public policy of this city to eliminate discrimination and safeguard the right of any person to sell, purchase, lease, rent, finance or obtain funding or real property without regard to race, color, sex, religion, national origin or ancestry.

(Prior Code, § 1-1601)



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

***HOUSING ACCOMMODATIONS.*** Any building or portion thereof, whether such building or portion is constructed to be used or is intended for use as the residence or sleeping place of one or more persons. ***HOUSING ACCOMMODATIONS*** shall not mean or include:

(a) The rental of a dwelling or portion thereof containing accommodations for no more than five families, one of which is occupied by the owner or his or her family at the time of the rental; or

(b) The rental of rooms in a one-family dwelling to another person or persons by the owner or occupant of such accommodation in which he or she or members of his or her family reside.

***OWNER.*** The owner, lessee, sub-lessee, assignee, manager, agent or other person, firm or corporation having the right to sell, rent or lease any housing accommodations or real property within the corporate limits of the city.

***PERSON.*** One or more individuals, partnerships or other organizations, corporations, legal representatives, trustees, trustees in bankruptcy or receivers.

***UNLAWFUL DISCRIMINATORY HOUSING PRACTICE.*** Any discrimination or segregation against any person or group of persons because of race, color, sex, religion, national origin or ancestry and shall include only those unlawful practices and acts as set forth herein.  
(Prior Code, § 1-1602)

## ***POLICE DEPARTMENT***

### **§ 32.20 DUTIES.**

(A) If the Mayor and City Council have provided for the appointment of a Police Chief, 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.

(B) The Chief of Police shall, subject to the direction of the Mayor, have control and management of all matters relating to the Police Department and its officers and members and shall have the custody and control of all property and books belonging to the Department. The Chief shall devote his or her whole time to the city affairs and interests of the city and to the preservation of peace, order, safety and cleanliness thereof.

(C) The Department shall execute and enforce all laws and also the orders of the Mayor. It shall be the duty of the Department to protect the rights of persons and property. The Department shall take notice of all nuisances, impediments, obstructions and defects in the streets, avenues, alleys, business places and residences of the 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. 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. It shall be the duty of every city police officer making a lawful arrest to search all persons in the presence of some other person, whenever possible, and to carefully keep and produce to the proper judicial official upon the trial everything found upon the person of such prisoners. All personal effects so taken from prisoners shall be restored to them upon their release. The Police Chief and other police officers shall file such reports as may be required by the city ordinances and the laws of the state. No law enforcement official shall have any interest in any establishment having a liquor license.

(D) Suitable badges shall be furnished to the city police by the city. Any police officer who loses or destroys the same shall be required to pay the replacement costs. If a police officer leaves the city police force, he or she shall immediately deliver his or her badge to the Police Chief.

(E) City police officers shall have full power and authority to call on any person whenever necessary to assist them in performing public duties, and failure, neglect or refusal to render such assistance shall be deemed an offense.

Penalty, see § 10.99

### **§ 32.21 ARREST AND ENFORCEMENT JURISDICTION.**

(A) The police officers of the city shall have the power to arrest all offenders against the laws of the state or of the city, by day or by night, in the same manner as the County Sheriff and to keep such offenders in the city prison, county jail or other place of confinement to prevent their escape until trial can be had before the proper officer.

(Neb. Rev. Stat. § 17-118)

(B) Every city law enforcement officer has the power and authority to enforce the laws of this state and the city or otherwise perform the functions of that office anywhere within his or her primary jurisdiction.

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

#### ***LAW ENFORCEMENT OFFICER IN NEED OF ASSISTANCE.***

(a) A law enforcement officer whose life is in danger; or

(b) A law enforcement officer who needs assistance in making an arrest and the suspect:

1. Will not be apprehended unless immediately arrested;
2. May cause injury to himself or herself or others or damage to property unless immediately arrested; or
3. May destroy or conceal evidence of the commission of a crime.

***PRIMARY JURISDICTION.*** The geographic area within territorial limits of the city.

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

(1) Any city law enforcement officer, if in a fresh attempt to apprehend a person suspected of committing a felony, may follow that person into any other jurisdiction in this state and there arrest and detain that person and return that person to the officer's primary jurisdiction.

(2) Any city law enforcement officer, if in a fresh attempt to apprehend a person suspected of committing a misdemeanor or a traffic infraction, may follow that person anywhere in an area within 25 miles of the boundaries of the officer's primary jurisdiction and there arrest and detain that person and return that person to the officer's primary jurisdiction.

(3) Any city law enforcement officer has this enforcement and arrest and detention authority when responding to a call in which a local, state or federal law enforcement officer is in need of assistance.

(4) If the city, under the provisions of the Interlocal Cooperation Act, being Neb. Rev. Stat. §§ 13-801 et seq. or the Joint Public Agency Act, being Neb. Rev. Stat. §§ 13-2501 et seq., enters into a contract with any other city or county for law enforcement services or joint law enforcement services, law enforcement personnel may have this enforcement authority within the jurisdiction of each of the participating political subdivisions if provided for in the agreement. Unless otherwise provided in the agreement, the city shall provide liability insurance coverage for its own law enforcement personnel as provided in Neb. Rev. Stat. § 13-1802.

(E) When probable cause exists to believe that a person is operating or in the actual physical control of any motor vehicle, motorboat, personal watercraft or aircraft while under the influence of alcoholic liquor or of any drug or otherwise in violation of Neb. Rev. Stat. §§ 28-1465, 28-1466, 28-1472, 37-1254.01, 37-1254.02, 60-4,163, 60-4,164, 60-6,196, 60-6,197, 60-6,211.01 or 60-6,211.02, a city

law enforcement officer has the power and authority to do any of the following or any combination thereof:

(1) Transport that person to a facility outside of the law enforcement officer's primary jurisdiction for appropriate chemical testing of the person;

(2) Administer outside of the law enforcement officer's primary jurisdiction any post-arrest test advisement to the person; or

(3) With respect to that person, perform other procedures or functions outside of the law enforcement officer's primary jurisdiction which are directly and solely related to enforcing the laws that concern a person operating or being in the actual physical control of any motor vehicle, motorboat or aircraft while under the influence of alcoholic liquor or of any other drug or otherwise in violation of Neb. Rev. Stat. §§ 28-1465, 28-1466, 28-1472, 37-1254.01, 37-1254.02, 60-4,163, 60-4,164, 60-6,196, 60-6,197, 60-6,211.01 or 60-6,211.02.

(Neb. Rev. Stat. § 29-215)

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

(Neb. Rev. Stat. § 81-829.65)

## **§ 32.22 OFFICERS; DISCIPLINE OR REMOVAL FROM DUTY.**

(A) Any city police officer or the Police Chief (hereinafter collectively referred to as officer) may be demoted, suspended with or without pay or discharged from duty for gross misconduct, neglect of duty, disobedience of orders of the Mayor or the City Council as a whole, or for any reason necessary for the proper management and the effective operation of the Police Department in the performance of its duties under the statutes of the state, upon the written accusation of the Police Chief, the Mayor or any citizen or taxpayer. In the event of gross misconduct, neglect of duty, disobedience of lawful orders of the Mayor or City Council as a whole, an officer may be subject to peremptory suspension or immediate removal from duty.

(B) Except in cases where the written accusation is made by the Mayor and cases where an officer has been peremptorily suspended or immediately removed from duty, within 30 days after receipt of a written accusation the Mayor shall meet with or make a good faith attempt to meet with the person making the written accusation. After such meeting or after good faith attempts to meet have failed, the Mayor shall take one of the following actions:

(1) Make a finding that no action shall be taken on the written accusation, in which case there shall be no informal hearing;

(2) Conduct such investigation concerning the allegations contained in the written accusation as he or she deems appropriate. At the conclusion of any such investigation, the Mayor shall either make a finding that no action shall be taken on the written accusation, in which case there shall be no informal hearing, or set a time and date for an informal hearing in front of the Mayor on the allegations contained in the written accusation; or

(3) An informal hearing, if any, shall be held no later than 30 days after receipt of the written accusation by the Mayor.

(C) In cases where the written accusation has been made by the Mayor and in cases where an officer has been peremptorily suspended or immediately removed from duty, the Mayor shall set a time and date for an informal hearing in front of the Mayor on the allegations contained in the written accusation. In the event of a written accusation by the Mayor, the informal hearing shall be no later than 30 days after the date of the written accusation. In the event of a peremptory suspension or immediate removal from duty, the informal hearing shall be not later than 30 days after the effective date of the suspension or removal.

(D) In all cases where an informal hearing is to be held, the Mayor or the City Administrator shall give the officer written notice of the date and time of such hearing. Notice shall be deemed sufficient if mailed to the officer's address as maintained in the city's records. Notice of any such hearing shall also be given by U.S. mail to any known representative of the officer.

(E) After receipt of a written accusation and prior to any informal hearing, the following shall occur.

(1) The Mayor or the City Administrator shall provide the officer with notice of and a complete copy of the written accusation.

(2) The Mayor or the City Administrator shall advise the officer of the following.

(a) He or she has the right to have an attorney or representative retained by the officer present at all hearings or proceedings regarding any written accusation.

(b) Upon receipt of any written accusation, he or she has the right to respond with a written statement regarding the incident(s) in question.

(c) The officer or his or her attorney or representative shall have the right to be heard and the right to present evidence on the incident(s) contained in any written accusation.

(d) The officer and his or her attorney or representative, and the individual imposing the disciplinary action, shall have the right to record all hearings or proceedings regarding the written accusation.

(e) The date and time at which the Mayor will conduct an informal hearing on the written accusation and that at such hearing the officer shall have the rights enumerated in this section.

(F) At the informal hearing, a representative of the city may present evidence concerning the incident(s) alleged in the written accusation and the officer or his representative shall have the right to respond and to present evidence concerning the incident(s) described in the written accusation. The rules of evidence shall not apply at such hearing; however, the Mayor shall have the right to exclude evidence which is not relevant to the proceedings. The City Administrator shall be present at the informal hearing. The Mayor shall make a decision on the written accusation within ten business days after the date of the hearing and shall immediately advise the officer and his or her representative in writing of such decision, including the actions to be taken against the officer, if any, and the officer's right to appeal the decision to the City Council pursuant to the provisions of § 32.23.

(G) Nothing in this section shall be construed to prevent the peremptory suspension or immediate removal from duty of an officer by the Mayor, or the City Council acting as a whole, in cases of gross misconduct, neglect of duty or disobedience of orders.

(H) This section shall not apply to an officer during his or her probationary period.  
(Prior Code, § 1-703)  
(Ord. 630, passed 4-3-2012; Ord. 775, passed 5-10-2022)

### **§ 32.23 OFFICERS; SUSPENSION, REMOVAL, DEMOTION APPEALS.**

(A) In the event of removal, demotion or suspension for any of the causes set forth in § 32.22, the City Police Chief or police officer shall have the right to appeal his or her removal, demotion or suspension to the City Council. Such appeal shall be made within 30 days of his or her removal, demotion or suspension by filing a written application for a hearing before the Council. Such written application shall be made to the City Administrator, who shall immediately notify the Mayor of the receipt of such application.

(B) Upon notice of the filing of such application, the Mayor shall call a special meeting of the City Council to consider such application. Both the police officer and the individuals causing such removal,

demotion or suspension shall have the right to be heard at the hearing and to present evidence to the Council for its consideration. The hearing will be governed as follows.

(1) The hearing will be before the City Council. It will be held within 30 days of the filing of the request, unless a later date is agreed upon by the Police Chief or police officer.

(2) Notice for hearing will be given the Police Chief or police officer and posted.

(3) All witnesses testifying at hearing must take an oath or affirmation to be truthful in their testimony. All witnesses are subject to cross-examination by the other party.

(4) In the event a participant requires an interpreter, the participant shall notify the City Administrator at least 14 days prior to the hearing. Interpreters may participate in person or by telephone.

(5) The rules of privilege apply to the extent recognized by law.

(6) Hearings are open to the public unless closure is requested by the Police Chief or police officer, in which case the hearing will be closed to the public if permitted by law. Those persons in attendance at the hearing who are not parties are generally not permitted to speak at the hearing unless called as witnesses by a party.

(7) The City Council may allow testimony or evidence via teleconference, video conference or similar electronic means. Each party to the proceeding shall have the opportunity to hear (or, for a videoconference, to both hear and see) testimony given in this manner and to question the person giving such testimony. Any costs associated with electronic conferencing shall be borne by the party requesting it.

(8) At the hearing, a city representative shall first present evidence in support of the disciplinary action or discharge. The Police Chief or police officer may then present evidence on his or her behalf. The city may then offer rebuttal evidence.

(9) All persons appearing shall conduct themselves with civility and courtesy to all persons involved in the hearing.

(10) (a) At the hearing, the President of the City Council shall be the presiding officer, unless he or she presented the written accusation resulting in the removal, demotion or suspension, in which case the presiding officer shall be chosen by a vote of the remaining members of the City Council.

(b) The presiding officer shall rule on all questions of evidence. Evidence, including hearsay, may be admitted if the presiding officer determines that it is relevant to the issue, comes from a reliable source and has probative value. Such evidence is that on which responsible persons would

commonly rely in the conduct of their important affairs. The presiding officer may exclude evidence that is irrelevant, unreliable, immaterial, unduly repetitive or privileged. Documentary evidence may be received in the form of copies or excerpts.

(11) Hearings may be continued.

(12) The proceeding will be recorded by electronic means.

(13) Not later than 30 days following the adjournment of the meeting at which the hearing was held, the City Council shall vote to uphold, reverse or modify the removal, demotion or suspension.

(14) Deliberations for decision will comply with applicable open meeting laws.

(C) The failure of the City Council to act within 30 days or the failure of a majority of the Council members to vote to reverse or modify the removal, demotion or suspension shall be construed as a vote to uphold the removal, demotion or suspension. The decision of the Council shall be based upon its determination that, under the facts and evidence presented at the hearing, the challenged removal, demotion or suspension was necessary for the proper management and effective operation of the Police Department in the performance of its duties under the statutes of the state.

(D) Nothing in this section shall be construed to prevent the peremptory suspension or immediate removal from duty of an officer by the appropriate authority, pending the hearing authorized by this section and § 32.22, in cases of gross misconduct, neglect of duty or disobedience of orders.  
(Prior Code, § 1-704) (Ord. 630, passed 4-3-2012; Ord. 775, passed 5-10-2022)

***Statutory reference:***

*Similar provisions, see Neb. Rev. Stat. § 17-107*



## CHAPTER 33: ELECTIONS

### Section

- 33.01 Generally
- 33.02 Registered voters; qualifications
- 33.03 Special elections
- 33.04 Primary election; number of candidates filing
- 33.05 Tie votes
- 33.06 Filing fee
- 33.07 Petition, write-in and other candidates for general election ballot; procedures
- 33.08 Exit polls; poll watchers
- 33.09 Certificate of nomination or election
- 33.10 Inability to assume office
- 33.11 Ballots
- 33.12 Elections at large; single polling place
- 33.13 Recall procedure

### § 33.01 GENERALLY.

(A) All city issues and offices shall be combined on the statewide primary and general election ballots whenever possible. The issuance of separate ballots shall be avoided in a statewide election if city offices or issues can reasonably be combined with the nonpartisan ballot and state law does not require otherwise. All city elections involving the election of officers shall be held in accordance with the Election Act, being Neb. Rev. Stat. §§ 32-101 et seq. and in conjunction with the statewide primary or general election.

(Neb. Rev. Stat. § 32-556)

(B) When the city holds an election in conjunction with the statewide primary or general election, the election shall be held as provided in the Election Act, being Neb. Rev. Stat. §§ 32-101 et seq. Any other election held by the city shall be held as provided in the Election Act, being Neb. Rev. Stat. §§ 32-101 et seq. unless otherwise provided by the charter, code or bylaws of the city.

(Neb. Rev. Stat. § 32-404)

**§ 33.02 REGISTERED VOTERS; QUALIFICATIONS.**

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

**REGISTERED VOTER.** An elector who has a current voter registration record on file with the Election Commissioner or County Clerk in the county of his or her residence.  
(Neb. Rev. Stat. § 32-115)

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

**Statutory reference:**

*Definition of elector, see Neb. Rev. Stat. § 32-110*

**§ 33.03 SPECIAL ELECTIONS.**

(A) (1) Except as provided in Neb. Rev. Stat. § 77-3444, any issue to be submitted to the registered voters at a special election by the city shall be certified by the City Clerk to the Election Commissioner or County Clerk on or before the eighth Friday prior to the election. A special election may be held by mail as provided in Neb. Rev. Stat. §§ 32-952 through 32-959. Any other special election under this section shall be subject to division (B) below.

(2) In lieu of submitting the issue at a special election, the city may submit the issue at a statewide primary or general election or at any scheduled county election, except that no such issue shall be submitted at a statewide election or scheduled county election unless the issue to be submitted has been certified by the City Clerk to the Election Commissioner or County Clerk by March 1 for the primary election and by September 1 for the general election.

(3) After the Election Commissioner or County Clerk has received the certification of the issue to be submitted, he or she shall be responsible for all matters relating to the submission of the issue to the registered voters, except that the City Clerk shall be responsible for the publication or posting of any required special notice of the submission of the issue other than the notice required to be given of the statewide election issues. The Election Commissioner or County Clerk shall prepare the ballots and issue ballots for early voting and shall also conduct the submission of the issue, including the receiving and counting of ballots on the issue. The election returns shall be made to the Election Commissioner or County Clerk. The ballots shall be counted and canvassed at the same time and in the same manner as the other ballots. Upon completion of the canvass of the vote by the County Canvassing Board, the Election Commissioner or County Clerk shall certify the election results to the City Council. The canvass by the County Canvassing Board shall have the same force and effect as if made by the City Council.

(B) (1) A city that has submitted an issue for a special election under division (A)(1) above may cancel the special election if the Secretary of State, Election Commissioner or County Clerk receives a resolution adopted by the political subdivision canceling the special election on or before the fourth Thursday prior to the election. No cancellation shall be effective after such date. If a special election is canceled in such manner, the city shall be responsible for the costs incurred that are related to the canceled election. Such costs shall include all chargeable costs as provided in section Neb. Rev. Stat. § 32-1202 associated with preparing for and conducting a special election.

(2) A city that has submitted an issue at a statewide primary or general election or at any scheduled county election under division (A)(2) above may withdraw the issue from the ballot if the Secretary of State, Election Commissioner or County Clerk receives a resolution adopted by the city withdrawing the issue from the ballot no later than March 1 prior to a statewide primary election or September 1 prior to a statewide general election. No withdrawal shall be effective after such date. Any issue withdrawn in this manner shall not be printed on the ballot.  
(Neb. Rev. Stat. § 32-559)

(C) Any special election under the Election Act, being Neb. Rev. Stat. §§ 32-101 et seq. shall be held on the first Tuesday following the second Monday of the selected month unless otherwise specifically provided. No special election shall be held under the Election Act, being Neb. Rev. Stat. §§ 32-101 et seq. in April, May, June, October, November or December of an even-numbered year unless it is held in conjunction with the statewide primary or general election. No special election shall be held under the Election Act, being Neb. Rev. Stat. §§ 32-101 et seq. in September of an even-numbered year except for a special election by a political subdivision pursuant to Neb. Rev. Stat. §§ 13-519 or 77-3444 to approve a property tax levy or exceed a property tax levy limitation.  
(Neb. Rev. Stat. § 32-405)

#### **§ 33.04 PRIMARY ELECTION; NUMBER OF CANDIDATES FILING.**

If the number of candidates properly filed for nomination at the primary election does not exceed two for each vacancy to be filled, all candidates properly filed shall be considered nominated and no primary election for their nomination shall be required.  
(Prior Code, § 1-602)

#### **§ 33.05 TIE VOTES.**

In the case of a tie vote of any of the candidates in either the primary or general election, the County Clerk shall notify such candidates to appear at his or her office on a given day and hour to determine the

same by lot before the Canvassing Board, and the certificate of nomination or election shall be given accordingly. Notice to appear shall be given by certified mail.

(Prior Code, § 1-603)

***Statutory reference:***

*Similar provisions, see Neb. Rev. Stat. § 32-1122*

**§ 33.06 FILING FEE.**

(A) Except as provided in division (D) or (E) below, a filing fee shall be paid to the City Treasurer by or on behalf of each candidate for city office prior to filing for office. The fee shall be placed in the General Fund of the city. No candidate filing forms shall be filed until the proper payment or the proper receipt showing the payment of such filing fee is presented to the filing officer. On the day of the filing deadline, the City Treasurer's office shall remain open to receive filing fees until the hour of the filing deadline.

(B) Except as provided in division (D) or (E) below, the filing fee shall be a sum equal to 1% of the annual salary as of November 30 of the year preceding the election for the office for which he or she files as a candidate.

(C) All declared write-in candidates shall pay the filing fees that are required for the office at the time that they present the write-in affidavit to the filing officer.

(D) No filing fee shall be required for any candidate filing for an office in which a per diem is paid rather than a salary or for which there is a salary of less than \$500 per year.

(E) (1) No filing fee shall be required of any candidate completing an affidavit requesting to file for elective office in forma pauperis.

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

***AVAILABLE RESOURCES.*** Includes every type of property or interest in property that an individual owns and may convert into cash except:

1. Real property used as a home;
2. Household goods of a moderate value used in the home; and
3. Assets to a maximum value of \$3,000 used by a recipient in a planned effort directed towards self-support.

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

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

(Neb. Rev. Stat. § 32-608)

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

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

(2) Any candidate who was defeated in the primary election and any registered voter who was not a candidate in the primary election may have his or her name placed on the general election ballot if a vacancy exists on the ballot under Neb. Rev. Stat. § 32-625(2) and the candidate files for the office by petition as prescribed in divisions (B) and (C) below, files as a write-in candidate as prescribed in Neb. Rev. Stat. § 32-615 or is nominated by political party convention or committee pursuant to Neb. Rev. Stat. § 32-710.

(Neb. Rev. Stat. § 32-616)

(B) Petitions for nomination shall conform to the requirements of Neb. Rev. Stat. § 32-628. Petitions shall state the office to be filled and the name and address of the candidate. Petitions for partisan office shall also indicate the party affiliation of the candidate. A sample copy of the petition shall be filed with the filing officer prior to circulation. Petitions shall be signed by registered voters residing in the city, if candidates are chosen at large, or in the ward in which the officer is to be elected, if candidates are chosen by ward, and shall be filed with the filing officer in the same manner as provided for candidate filing forms. Petition signers and petition circulators shall conform to the requirements of Neb. Rev. Stat. §§ 32-629 and 32-630. No petition for nomination shall be filed unless there is attached thereto a receipt showing the payment of the filing fee required pursuant to Neb. Rev. Stat. § 32-608. The petitions shall be filed by September 1 in the year of the general election.

(Neb. Rev. Stat. § 32-617)

(C) (1) The number of signatures of registered voters needed to place the name of a candidate upon the nonpartisan ballot for the general election shall be at least 10% of the total number of registered

voters voting for Governor or President of the United States at the immediately preceding general election in the city or in the ward in which the officer is to be elected, not to exceed 2,000.

(2) The number of signatures of registered voters needed to place the name of a candidate for an office upon the partisan ballot for the general election shall be as follows:

(a) For each partisan office to be filled by the registered voters of the entire state, at least 4,000, and at least 750 signatures shall be obtained in each congressional district in the state;

(b) For each partisan office to be filled by the registered voters of a county, at least 20% of the total number of registered voters voting for Governor or President of the United States at the immediately preceding general election within the county, not to exceed 2,000, except that the number of signatures shall not be required to exceed 25% of the total number of registered voters voting for the office at the immediately preceding general election; and

(c) For each partisan office to be filled by the registered voters of a political subdivision other than a county, at least 20% of the total number of registered voters voting for Governor or President of the United States at the immediately preceding general election within the political subdivision, not to exceed 2,000.

(Neb. Rev. Stat. § 32-618)

### **§ 33.08 EXIT POLLS; POLL WATCHERS.**

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

(B) (1) No poll watcher shall interfere with any voter in the preparation or casting of such voter's ballot or prevent any election worker from performing the worker's duties.

(2) A poll watcher shall not provide assistance to a voter as described in Neb. Rev. Stat. § 32-918 unless selected by the voter to provide assistance as provided in Neb. Rev. Stat. § 32-918.

(3) A poll watcher shall not engage in electioneering as defined in Neb. Rev. Stat. § 32-1524 while engaged in observing at a polling place.

(4) A poll watcher shall maintain a distance of at least eight feet from the sign-in table, the sign-in register, the polling booths, the ballot box and any ballots which have not been cast, except that if the polling place is not large enough for a distance of eight feet, the judge of election shall post a

notice of the minimum distance the poll watcher must maintain from the sign-in table, the sign-in register, the polling booths, the ballot box and any ballots which have not been cast. The posted notice shall be clearly visible to the voters and shall be posted prior to the opening of the polls on election day. The minimum distance shall not be determined to exclude a poll watcher from being in the polling place. (Neb. Rev. Stat. § 32-1525) Penalty, see § 10.99

### **§ 33.09 CERTIFICATE OF NOMINATION OR ELECTION.**

The County Clerk shall, within 40 days after the election, prepare, sign and deliver a certificate of nomination or certificate of election to each person whom the Canvassing Board has declared to have received the highest vote for each municipal office. A certificate of election prepared by the City Clerk shall be as near as possible to the form prescribed in Neb. Rev. Stat. § 32-1033 and shall be signed by the Mayor under the seal of the city and countersigned by the City Clerk.

(Prior Code, § 1-609)

***Statutory reference:***

*Similar provisions, see Neb. Rev. Stat. §§ 32-558 and 32-1033*

### **§ 33.10 INABILITY TO ASSUME OFFICE.**

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

(Prior Code, § 1-610)

### **§ 33.11 BALLOTS.**

The County Clerk shall provide printed ballots for every general municipal election, and the expense of printing and delivering the ballots and cards of instruction shall be a charge upon the city.

(Prior Code, § 1-612)

***Statutory reference:***

*Similar provisions, see Neb. Rev. Stat. § 32-1202*

**§ 33.12 ELECTIONS AT LARGE; SINGLE POLLING PLACE.**

All elected officials of the city shall be nominated and elected on an at-large basis. There shall be one polling place within the city to be selected and designated as provided by law.

(Prior Code, § 1-613)

**§ 33.13 RECALL PROCEDURE.**

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

***FILING CLERK.*** The Election Commissioner or County Clerk.

(Neb. Rev. Stat. § 32-1301)

(B) (1) The Mayor, any member of the City Council and any other elected official of the city may be removed from office by recall pursuant to this section.

(2) The recall procedure and special election provisions of this section shall apply to members of the City Council who are elected by ward. Only registered voters of such member's ward may sign a recall petition or vote at the recall election. The recall election shall be held within the member's ward. When a member of the City Council is nominated by ward in the primary election and elected at large in the general election, the recall provisions shall apply to the registered voters at the general election. (Neb. Rev. Stat. § 32-1302)

(C) (1) A petition demanding that the question of removing the Mayor, a member of the City Council or any other elected official be submitted to the registered voters shall be signed by registered voters equal in number to at least 35% of the total vote cast for that office in the last general election, except that for City Council office for which more than one candidate is chosen, the petition shall be signed by registered voters equal in number to at least 35% of the number of votes cast for the person receiving the most votes for such office in the last general election. The signatures shall be affixed to petition papers and shall be considered part of the petition.

(2) Petition circulators shall conform to the requirements of Neb. Rev. Stat. §§ 32-629 and 32-630.

(3) The petition papers shall be procured from the filing clerk. Prior to the issuance of such petition papers, a recall petition filing form shall be signed and filed with the filing clerk by at least one registered voter. Such voter or voters shall be deemed to be the principal circulator or circulators of the recall petition. The filing form shall state the name and office of the official sought to be removed, shall include in concise language of 60 words or less the reason or reasons for which recall is sought, and shall request that the filing clerk issue initial petition papers to the principal circulator for circulation.



The filing clerk shall notify the official sought to be removed by any method specified in Neb. Rev. Stat. § 25-505.01 or, if notification cannot be made with reasonable diligence by any of the methods specified in Neb. Rev. Stat. § 25-505.01, by leaving a copy of the filing form at the official's usual place of residence and mailing a copy by first class mail to the official's last known address. If the official chooses, he or she may submit a defense statement in concise language of 60 words or less for inclusion on the petition. Any such defense statement shall be submitted to the filing clerk within 20 days after the official receives the copy of the filing form. The filing clerk shall prepare the petition papers within five business days after receipt of the defense statement. The principal circulator or circulators shall gather the petition papers within 20 days after being notified by the filing clerk that the petition papers are available. The filing clerk shall notify the principal circulator or circulators that the necessary signatures must be gathered within 30 days from the date of issuing the petitions.

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

(5) Petition signers shall conform to the requirements of Neb. Rev. Stat. §§ 32-629 and 32-630. Each signer of a recall petition shall be a registered voter and qualified by his or her place of residence to vote for the office in question.  
(Neb. Rev. Stat. § 32-1303)

(D) Each petition paper shall conform to the requirements of Neb. Rev. Stat. § 32-1304.

(E) (1) The principal circulator or circulators shall file, as one instrument, all petition papers comprising a recall petition for signature verification with the filing clerk within 30 days after the filing clerk issues the initial petition papers to the principal circulator or circulators as provided in division (C) above.

(2) Within 15 business days after the filing of the petition, the filing clerk shall ascertain whether or not the petition is signed by the requisite number of registered voters. No new signatures may be added after the initial filing of the petition papers. No signatures may be removed unless the filing clerk receives an affidavit signed by the person requesting his or her signature be removed before the petitions are filed with the filing clerk for signature verification. If the petition is found to be sufficient, the filing clerk shall attach to the petition a certificate showing the result of such examination. If the requisite number of signatures has not been gathered, the filing clerk shall file the petition in his or her office without prejudice to the filing of a new petition for the same purpose.  
(Neb. Rev. Stat. § 32-1305)

(F) (1) If the recall petition is found to be sufficient, the filing clerk shall notify the official whose removal is sought and the City Council that sufficient signatures have been gathered. Notification of the official sought to be removed may be by any method specified in Neb. Rev. Stat. § 25-505.01 or, if notification cannot be made with reasonable diligence by any of the methods specified in Neb. Rev. Stat. § 25-505.01, by leaving such notice at the official's usual place of residence and mailing a copy by first class mail to the official's last known address.

(2) The City Council shall, within 21 days after receipt of the notification from the filing clerk pursuant to division (F)(1) above, order an election. The date of the election shall be the first available date that complies with Neb. Rev. Stat. § 32-405 and that can be certified to the Election Commissioner or County Clerk at least 50 days prior to the election, except that if any other election is to be held in the city within 90 days after such notification, the City Council shall provide for the holding of the recall election on the same day.

(3) All resignations shall be tendered as provided in Neb. Rev. Stat. § 32-562. If the official whose removal is sought resigns before the recall election is held, the City Council may cancel the recall election if the City Council notifies the Election Commissioner or County Clerk of the cancellation on or before the fourth Thursday prior to the election, otherwise the recall election shall be held as scheduled.

(4) If a filing clerk is subject to a recall election, the Secretary of State shall conduct the recall election.  
(Neb. Rev. Stat. § 32-1306)

(G) The form of the official ballot at a recall election held pursuant to division (F) above shall conform to the requirements of Neb. Rev. Stat. § 32-1307.

(H) (1) If a majority of the votes cast at a recall election are against the removal of the official named on the ballot or the election results in a tie, the official shall continue in office for the remainder of his or her term but may be subject to further recall attempts as provided in division (I) below.

(2) If a majority of the votes cast at a recall election are for the removal of the official named on the ballot, he or she shall, regardless of any technical defects in the recall petition, be deemed removed from office unless a recount is ordered. If the official is deemed removed, the removal shall result in a vacancy in the office which shall be filled as otherwise provided in this section and Neb. Rev. Stat. §§ 32-567 through 32-570 and 32-574.

(3) If the election results show a margin of votes equal to 1% or less between the removal or retention of the official in question, the Secretary of State, Election Commissioner or County Clerk shall order a recount of the votes cast unless the official named on the ballot files a written statement with the filing clerk that he or she does not want a recount.

(4) If there are vacancies in the offices of one-half or more of the members of the City Council or any other governing body at one time due to the recall of such members, a special election to fill such vacancies shall be conducted as expeditiously as possible by the Secretary of State, Election Commissioner or County Clerk.

(5) 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.  
(Neb. Rev. Stat. § 32-1308)

(I) No recall petition filing form shall be filed against an elected official within 12 months after a recall election has failed to remove him or her from office or within six months after the beginning of his or her term of office or within six months prior to the incumbent filing deadline for the office.  
(Neb. Rev. Stat. § 32-1309)



## **CHAPTER 34: FINANCE AND REVENUE**

### **Section**

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### ***GENERAL PROVISIONS***

#### **§ 34.01 ANNUAL AUDIT; FINANCIAL STATEMENTS.**

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

**ACCOUNTANT.** A duly licensed public accountant or certified public accountant who otherwise is not an employee of or connected in any way with the city.

**ANNUAL AUDIT REPORT.** The written report of the accountant and all appended statements and schedules relating thereto presenting or recording the findings of an examination or audit of the financial transactions, affairs or financial condition of the city and its proprietary functions for the fiscal year immediately prior to the making of the annual report.

**FISCAL YEAR.** The fiscal year for the city or the fiscal year established in Neb. Rev. Stat. § 18-2804 for a proprietary function if different than the city fiscal year.  
(Neb. Rev. Stat. § 19-2902)

(2) (a) The City Council shall cause an audit of the city's accounts to be made by a recognized independent and qualified accountant as expeditiously as possible following the close of the fiscal year and to cover all financial transactions and affairs of the city for that preceding fiscal year. The audit shall be made on a cash or accrual method at the discretion of the City Council. The audit shall be completed and the annual audit report made by the accountant shall be submitted within six months after the close of the fiscal year in any event, unless an extension of time is granted by a written resolution adopted by the City Council.

(b) If the city owns or operates any type of public utility or other enterprise which substantially generates its own revenue, that phase of the affairs of the city shall be audited separately from other functions of the city and the result shall appear separately in the annual audit report made by the accountant to the city and such audit shall be on an accrual basis and shall contain statements and materials which conform to generally accepted accounting principles.

(c) For the utilities operated through the Board of Public Works, the City Council may provide for an entirely separate audit, on an accrual basis, of such operations and report and by a different accountant than the one making the general audit.  
(Neb. Rev. Stat. § 19-2903)

(3) The annual audit report shall set forth, insofar as possible, the financial position and results of financial operations for each fund or group of accounts of the city. When the accrual method is selected for the annual audit report, the report shall be in accordance with generally accepted accounting principles. The annual audit report shall also include the professional opinion of the accountant with respect to the financial statements, or, if an opinion cannot be expressed, a declaration that the accountant is unable to express such an opinion with an explanation of the reasons why he or she cannot do so.  
(Neb. Rev. Stat. § 19-2904)

(4) At least three copies of such annual audit report shall be properly signed and attested by the accountant; two copies shall be filed with the City Clerk, and one copy shall be filed with the Auditor

of Public Accounts. The annual audit report filed, together with any accompanying comment or explanation, shall become a part of the public records of the City Clerk and shall at all times thereafter be open and subject to public inspection.

(Neb. Rev. Stat. § 19-2905)

(B) The City Council shall provide and file with the City Clerk, not later than August 1 of each year, financial statements showing the city's actual and budgeted figures for the most recently completed fiscal year.

(Neb. Rev. Stat. § 13-606)

***Statutory reference:***

*Other provisions on audits, see Neb. Rev. Stat. §§ 19-2906 through 19-2909*

**§ 34.02 CONTRACTS AND PURCHASES; BIDDING AND OTHER REQUIREMENTS.**

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

(B) (1) Except as provided in Neb. Rev. Stat. § 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 Council.

(2) In advertising for bids as provided in this section, the City Council may publish the amount of the estimate.

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

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

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

(Prior Code, § 1-508) (Ord. 580, passed 2-10-2008)

***Statutory reference:***

*Similar provisions, see Neb. Rev. Stat. § 17-568.01*

**§ 34.03 ORDERS OR WARRANTS FOR MONEY; EXPENDITURES; REQUIREMENTS.**

(A) The Mayor and City Council shall have no 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 for the payment of which such order or warrant is issued has been allowed according to the provisions of § 34.04, and funds for the class or object out of which such claim is payable have been included in the adopted budget statement or transferred according to law.  
(Neb. Rev. Stat. § 17-708)

(B) All warrants drawn upon the City Treasurer must be signed by the Mayor and countersigned by the City Clerk, stating the particular fund to which the same is chargeable, the person to whom payable and for what particular object. No money shall be otherwise paid than upon such warrants so drawn. Each warrant shall specify the amount included in the adopted budget statement for such fund upon which it is drawn and the amount already expended of such fund.  
(Neb. Rev. Stat. § 17-711)

**§ 34.04 CLAIMS AND ACCOUNTS PAYABLE.**

(A) (1) All liquidated and unliquidated claims and accounts payable against the city shall:

(a) Be presented in writing;

(b) State the name and address of the claimant and the amount of the claim; and

(c) 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. Rev. Stat. § 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.  
(Neb. Rev. Stat. § 17-714)

(B) Upon the allowance of claims by the City Council, the order for their payment shall specify the particular fund or appropriation out of which they are payable as specified in the adopted budget



statement; and no order or warrant shall be drawn in excess of 85% of the current levy for the purpose for which it is drawn, unless there is sufficient money in the Treasury at the credit of the proper fund for its payment; provided, that if there exists at the time such warrant is drawn, obligated funds from the federal government or the state, or both from the federal government and the state, for the general purpose or purposes of such warrant, then such warrant may be drawn in excess of 85% of the current levy for the purpose for which it is drawn to the additional extent of 100% of such obligated federal or state funds. No claim shall be audited or allowed unless an order or warrant for the payment thereof may legally be drawn.

(Neb. Rev. Stat. § 17-715)

#### **§ 34.05 SPECIAL ASSESSMENT FUND.**

All money received on special assessments shall be held by the City Treasurer as a special fund to be applied to the payment of the improvement for which the assessment was made, and this money shall be used for no other purpose whatever, unless to reimburse the city for money expended for any such improvement.

(Neb. Rev. Stat. § 17-710)

#### **§ 34.06 SINKING FUNDS; GIFTS OF MONEY OR PROPERTY.**

(A) The city is hereby empowered to receive money or property by donation, bequest, gift, devise or otherwise for the benefit of any one or more of the public purposes for which sinking funds are established by this section, as stipulated by the donor. Title to any money or property so donated shall vest in the City Council, or in its successors in office, who shall become the owners thereof in trust to the uses of the sinking fund or funds. In the event of a donation of real estate, the City Council may manage such real estate as in the case of real estate donated to the city for city library purposes under the provisions of Neb. Rev. Stat. §§ 51-215 and 51-216.

(Neb. Rev. Stat. § 19-1301)

(B) The City Council, subject to all the limitations set forth in this section, shall have the power to levy a tax of not to exceed \$0.105 on each \$100 in any one year upon the taxable value of all the taxable property within the city for a term of not to exceed ten years, in addition to the amount of tax which may be annually levied for the purposes of the adopted budget statement of the city, for the purpose of establishing a sinking fund for the construction, purchase, improvement, extension, original equipment or repair, not including maintenance, of any one or more of the following public improvements, including acquisition of any land incident to the making thereof: city libraries; city auditoriums or community houses for social or recreational purposes; city halls; city public libraries, auditoriums or community houses in a single building; city swimming pools; city jails; city fire stations, together with firefighting equipment or apparatus; city parks; city cemeteries; city medical buildings, together with

furnishings and equipment; or city hospitals. The city shall not be authorized to levy the tax or to establish the sinking fund as provided in this division (B) if, having bonded indebtedness, such city has been in default in the payment of interest thereon or principal thereof for a period of ten years prior to the date of the passage of the resolution providing for the submission of the proposition for establishment of the sinking fund as required in division (C) below.

(Neb. Rev. Stat. § 19-1302)

(C) Before any sinking fund or funds are established or before any annual tax is levied for any such planned city improvements mentioned in division (B) above by the city, the City Council shall declare its purpose by resolution to submit to the qualified electors of the city at the next general city election the proposition to provide the city with the specific city improvement planned under this section. The resolution of submission shall, among other things, set forth a clear description of the improvement planned, the estimated cost according to the prevailing costs, the amount of annual levy over a definite period of years, not exceeding ten years, required to provide such cost, and the specific name or designation for the sinking fund sought to be established to carry out the planned improvement, together with a statement of the proposition for placement upon the ballot at the election. Notice of the submission of the proposition, together with a copy of the official ballot containing the proposition, shall be published in its entirety three successive weeks before the day of the election in a legal newspaper in or of general circulation in the city or, if no legal newspaper is in or of general circulation in the city, in a legal newspaper in or of general circulation in the county in which the city is located. No such sinking fund shall be established unless the same has been authorized by a majority or more of the legal votes of the city cast for or against the proposition. If less than a majority of the legal votes favor the establishment of the sinking fund, the planned improvement shall not be made, no annual tax shall be levied therefor, and no sinking fund or sinking funds shall be established in connection therewith, but such resolution of submission shall immediately be repealed. If the proposition shall carry at such election in the manner prescribed in this division (C), the City Council and its successors in office shall proceed to do all things authorized under such resolution of submission but never inconsistent with this section. The election provided for under this section shall be conducted as provided under the Election Act, being Neb. Rev. Stat. §§ 32-101 et seq.

(Neb. Rev. Stat. § 19-1303)

(D) All funds received by the City Treasurer, by donation or by tax levy, as hereinbefore provided, shall, as they accumulate, be immediately invested by the Treasurer, with the written approval of the City Council, in the manner provided in § 34.08. Whenever investments of such sinking fund or funds are made, as aforesaid, the nature and character of the same shall be reported to the City Council, and the investment report shall be made a matter of record by the City Clerk in the proceedings of the City Council. The sinking fund, or sinking funds, accumulated under the provisions of this section, shall constitute a special fund, or funds, for the purpose or purposes for which the same was authorized and shall not be used for any other purpose unless authorized by 60% of the qualified electors of the city voting at a general election favoring such change in the use of the sinking fund or sinking funds. The

question of the change in the use of the sinking fund or sinking funds, when it fails to carry, shall not be resubmitted in substance for a period of one year from and after the date of such election.

(Neb. Rev. Stat. § 19-1304)

***Statutory reference:***

*Additional levy limitations, see Neb. Rev. Stat. § 17-702*

*Investment in warrants, see Neb. Rev. Stat. § 77-2337*

**§ 34.07 DEPOSIT OF FUNDS.**

(A) (1) The City Treasurer shall deposit, and at all times keep on deposit, for safekeeping, in banks, capital stock financial institutions or qualifying mutual financial institutions of approved and responsible standing, all money collected, received or held by him or her as City Treasurer. These 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 the bank, capital stock financial institution or qualifying mutual financial institution is also serving as Mayor, a member of the City Council, as a member of the Board of Public Works, or as any other officer of the city shall not disqualify the bank, capital stock financial institution or qualifying mutual financial institution from acting as a depository for the city funds.

(2) The City Council shall require from all banks, capital stock financial institutions or qualifying mutual financial institutions a bond in such penal sum as may be the maximum amount on deposit at any time less the amount insured or guaranteed by the Federal Deposit Insurance Corporation or, in lieu thereof, security given as provided in the Public Funds Deposit Security Act, to secure the payment of all such deposits and accretions. The City Council shall approve this bond or giving of security. The City Treasurer shall not be liable for any loss of any money sustained by reason of the failure of any such depository so designated and approved.

(Neb. Rev. Stat. § 17-607)

(B) The insurance afforded to depositors in banks, capital stock financial institutions or qualifying mutual financial institutions through the Federal Deposit Insurance Corporation shall be deemed and construed to be a surety bond or bonds to the extent that the deposits are insured or guaranteed by that corporation, and for deposits so insured or guaranteed, no other surety bond or bonds or other security shall be required.

(Neb. Rev. Stat. § 77-2362)

(C) Neb. Rev. Stat. § 77-2366 shall apply to deposits in capital stock financial institutions. Neb. Rev. Stat. § 77-2365.01 shall apply to deposits in qualifying mutual financial institutions.

(Neb. Rev. Stat. §§ 17-607 and 77-2362)

***Statutory reference:***

*Other provisions on deposits of public funds, see Neb. Rev. Stat. §§ 77-2363 and 77-2364*

*Public Funds Deposit Security Act, see Neb. Rev. Stat. § 77-2386*

**§ 34.08 INVESTMENT AND USE OF SURPLUS FUNDS.**

(A) When the City Treasurer holds funds of the city in excess of the amount required for maintenance or set aside for betterments and improvements, the Mayor and City Council may by resolution direct and authorize the Treasurer to invest the surplus funds in the outstanding bonds or registered warrants of the city, 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, or in interest-bearing bonds or the obligations of the United States. The interest on such bonds or warrants shall be credited to the fund out of which the bonds or warrants were purchased.

(Neb. Rev. Stat. § 17-608)

(B) All income received by the city from public utilities and from the payment and collection of water taxes, rents, rates or assessments shall be applied to the payment of running expenses, interest on bonds or money borrowed and the erection and construction of public utilities; should there be any surplus, it shall be annually created into a sinking fund for the payment of public utility bonds or for the improvements of the works, or into the General Fund as the Council may direct. The surplus remaining, if any, may, if the Council so directs, be invested in interest-bearing bonds or obligations of the United States.

(Neb. Rev. Stat. § 17-540)

(C) The Mayor and City Council may by resolution direct and authorize the Treasurer to dispose of the surplus electric light, water or gas funds, or the funds arising from the sale of electric light, water or natural gas distribution properties, by the payment of outstanding electric light, water or gas distribution bonds or water warrants then due. The excess, if any, after such payments, may be transferred to the General Fund of the city.

(Neb. Rev. Stat. § 17-609)

(D) Any surplus funds arising out of the operation of any system of waterworks, power plant, ice plant, gas plant, sewerage, heating or lighting plant or distribution system by the Board of Public Works, or by the City Council, where any of such utilities are not being operated by such a Board, may be invested, if not invested pursuant to the provisions of any other law upon the subject, in like manner and subject to the same conditions as the investment of similar funds of cities of the first class, as provided in Neb. Rev. Stat. § 16-691.01.

(Neb. Rev. Stat. § 17-803)

(E) (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 Council may invest any such surplus in excess of current needs or such excess in its sinking fund in certificates of deposit, in time deposits and in any securities in which the State Investment Officer is authorized to invest pursuant to the State Capital Expansion Act, being Neb. Rev.

Stat. §§ 72-1260 et seq. and the State Funds Investment Act and as provided in the authorized investment guidelines of the State Investment Council in effect on the date the investment is made. The State Investment Officer shall upon request furnish a copy of current authorized investment guidelines of the State Investment Council.

(2) Nothing in division (E)(1) above shall be construed to authorize investments in venture capital.

(Neb. Rev. Stat. § 77-2341)

### **§ 34.09 BOND ISSUES.**

(A) The City Council may, after meeting all the requirements of state law, issue bonds, fund bonds and retire bonds for such purposes as may be permitted by state law.

(B) The City Council shall have the authority to levy special assessments for the payment of interest and principal on these bonds and may spread the payments up to the maximum number of years permitted by state law.

#### ***Statutory reference:***

*Bonds in general, see Neb. Rev. Stat. §§ 18-1801 through 18-1805*

*Funding and refunding bonds, see Neb. Rev. Stat. §§ 10-606 through 10-612*

*General provisions, see Neb. Rev. Stat. §§ 10-101 through 10-143*

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

(A) Notwithstanding provisions in the statutes of the state and this code to the contrary, for any fiscal year the City Council may decide to certify to the County Clerk for collection one all-purpose levy required to be raised by taxation for all city purposes instead of certifying a schedule of levies for specific purposes added together. Subject to the limits of state law, the all-purpose levy shall not exceed an annual levy of \$1.05 on each \$100 upon the taxable valuation of all the taxable property in the city. Otherwise authorized extraordinary levies to service and pay bonded indebtedness of the city may be made by the city in addition to such all-purpose levy.

(Neb. Rev. Stat. § 19-1309)

(B) If the method provided in division (A) above is followed in city financing, the city shall allocate the amount so raised to the several departments of the city in its annual budget and appropriation ordinance, or in other legal manner, as the City Council deems wisest and best.

(Neb. Rev. Stat. § 19-1310)

(C) If the city elects to follow the method provided in division (A) above, it shall be bound by that election during the ensuing fiscal year but may abandon such method in succeeding fiscal years.  
(Neb. Rev. Stat. § 19-1311)

(D) If it is necessary to certify the amount to county officers for collection, the same shall be certified as a single amount for general fund purposes.  
(Neb. Rev. Stat. § 19-1312)

#### **§ 34.11 NATURAL GAS FRANCHISE FEE.**

(A) The city hereby establishes a franchise fee on every natural gas company and every other person, firm or corporation, their successors and assigns, owning, operating, controlling, leasing or managing a natural gas plant or system and/or generating, manufacturing, selling, distributing or transporting natural gas (hereinafter referred to, collectively, as “energy providers,” each, individually, an “energy provider”). Energy providers shall collect from their customers located within the corporate limits of the city as depicted on the map (but not from the city) and pay to the city an amount equal to 3% of gross receipts energy providers derive from the sale, distribution or transportation of natural gas delivered within the present or future limits of the city. Gross receipts as used herein are revenues received from the sale, distribution, or transportation of natural gas, after adjustment for the net write-off of uncollectible accounts and corrections of bills theretofore rendered. The amount paid by energy providers shall be in lieu of, and energy providers shall be exempt from, all other fees, charges, taxes or assessments which the city may impose for the privilege of doing business within the city, including, without limitation, excise taxes, occupation taxes, licensing fees or right-of-way permit fees, and in the event the city imposes any such fee, charge, tax or assessment, the payment to be made by energy providers in accordance with this section shall be reduced in an amount equal to any such fee, charge, tax or assessment imposed upon the energy providers. Ad valorem property taxes imposed generally upon all real and personal property within the city shall not be deemed to affect energy providers’ obligations under this section.

(B) Energy providers shall report and pay any amount payable under this section on an annual basis. Such payment shall be made no more than 30 days following the close of the period for which payment is due. Initial and final payments shall be prorated for the portions of the periods at the beginning and end of any franchise granted by the city to an energy provider.

(C) Energy providers shall list the franchise fee collected from customers as a separate item on bills for utility service issued to their customers. If at any time the State Public Service Commission or other authority having proper jurisdiction prohibits such recovery, energy providers will no longer be obligated to collect and pay the franchise fee. In addition, energy providers may reduce the franchise fee payable for natural gas delivered to a specific customer when such reduction is required to attract or retain the business of that customer.

(D) Within ten days of the date of this section, the city shall provide the energy providers with a map of its corporate limits (the “map”). The map shall be of sufficient detail to assist energy providers in determining whether their customers reside within the city’s corporate limits. The map along with energy provider’s geographic information system (“GIS”) mapping information shall serve as the sole basis for determining energy provider’s obligation hereunder to collect and pay the franchise fee from customers; provided, however, that if the city’s corporate limits are changed by annexation of otherwise, it shall be the city’s sole responsibility to update the map so that such changes are included therein, and provide the updated map to the energy providers. An energy provider’s obligation to collect and pay the franchise fee from customers within an annexed area shall not commence until the later of 60 days after such energy provider’s receipt from the city of an updated map including such annexed area, or such time after such energy provider’s receipt from the city of an updated map including such annexed area as is reasonably necessary for such energy provider to identify the customers in the annexed area obligated to pay the franchise fee. In addition, energy providers shall not be liable for paying franchise fees from or to any customer incorrectly identified by the city or by the energy provider, as being subject to the franchise fee or being subject to a different level of franchise fees or being exempt from the imposition of franchise fees.

(E) The city shall have access to and the right to examine, during normal business hours, such of an energy provider’s books, receipts, files, records and documents as is reasonably necessary to verify the accuracy of payments due hereunder; provided, that the city shall not exercise such right more than twice per calendar year. If it is determined that a mistake was made in the payment of any franchise fee required hereunder, such mistake shall be corrected promptly upon discovery such that any under-payment by an energy provider shall be paid within 30 days of recalculation of the amount due, and any over-payment by an energy provider shall be deducted from the next payment of such franchise fee due by such energy provider to the municipality; provided, that neither party shall have the obligation to correct a mistake that is discovered more than one year after the occurrence thereof.

(Ord. 811, passed 5-14-2024)

### ***ANNUAL BUDGET***

#### **§ 34.25 FISCAL YEAR.**

The fiscal year of the city and any public utility of the city commences on October 1 and extends through the following September 30 except as provided in the Municipal Proprietary Function Act, being Neb. Rev. Stat. §§ 18-2801 et seq.

(Neb. Rev. Stat. § 17-701)

**§ 34.26 BUDGET PROCEDURES.**

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

**§ 34.27 PROPOSED BUDGET STATEMENT; CONTENTS; AVAILABILITY; CORRECTION.**

(A) The City Council shall annually or biennially prepare a proposed budget statement on forms prescribed and furnished by the Auditor of Public Accounts. The proposed budget statement shall be made available to the public prior to publication of the notice of the hearing on the proposed budget statement pursuant to § 34.28. A proposed budget statement shall contain the following information, except as provided by state law:

(1) For the immediately preceding fiscal year or biennial period, 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 or biennial period; the amount received by taxation of personal and real property; and the amount of actual expenditures;

(2) For the current fiscal year or biennial period, 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 or biennial period; the amount received from personal and real property taxation; and the amount of actual and estimated expenditures, whichever is applicable. This statement shall contain the cash reserve for each fiscal year or biennial period and shall note whether or not the reserve is encumbered. The cash reserve projections shall be based upon the actual experience of prior years or biennial periods. The cash reserve shall not exceed 50% of the total budget adopted exclusive of capital outlay items;

(3) For the immediately ensuing fiscal year or biennial period, 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 or biennial period; the amounts proposed to be expended during the year or biennial period; and the amount of cash reserve, based on actual experience of prior years or biennial period, which cash reserve shall not exceed 50% of the total budget adopted exclusive of capital outlay items;

(4) A statement setting out separately the amount sought to be raised from the levy of a tax on the taxable value of real property:

(a) For the purpose of paying the principal or interest on bonds issued or authorized to be issued by the City Council or the legal voters of the political subdivision; and



(b) For all other purposes.

(5) A uniform summary of the proposed budget statement, including each proprietary function fund included in a separate proprietary budget statement prepared pursuant to the Municipal Proprietary Function Act and a grand total of all funds maintained by the City Council; and

(6) A list of the proprietary functions which are not included in the budget statement. These proprietary functions shall have a separate budget statement which is approved by the City Council as provided in the Municipal Proprietary Function Act.

(B) The actual or estimated unencumbered cash balance required to be included in the budget statement by this section shall include deposits and investments of the city as well as any funds held by the County Treasurer for the city and shall be accurately stated on the proposed budget statement.

(C) The city shall correct any material errors in the budget statement detected by the Auditor of Public Accounts or by other sources.  
(Neb. Rev. Stat. § 13-504)

(D) The estimated expenditures plus the required cash reserve for the ensuing fiscal year or biennial period less all estimated and actual unencumbered balances at the beginning of the year or biennial period 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 that 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 or biennial period.  
(Neb. Rev. Stat. § 13-505)

#### **§ 34.28 PROPOSED BUDGET STATEMENT; HEARING; ADOPTION; CERTIFICATION OF TAX AMOUNT.**

(A) The City Council shall each year or biennial period conduct a public hearing on its proposed budget statement. Such hearing shall be held separately from any regularly scheduled meeting of the governing body and shall not be limited by time. Notice of the place and time of the hearing, together with a summary of the proposed budget statement, shall be published four calendar days prior to the date set for hearing in a newspaper of general circulation within the city's jurisdiction. For purposes of such notice, the four calendar days shall include the day of publication but not the day of hearing. When the total operating budget, not including reserves, does not exceed \$10,000 per year or \$20,000 per biennial period, the proposed budget summary may be posted at the City Council's principal headquarters. At such hearing, the governing body shall make at least three copies of the proposed budget statement available to the public and shall make a presentation outlining key provisions of the proposed budget

statement, including, but not limited to, a comparison with the prior year's budget. Any member of the public desiring to speak on the proposed budget statement shall be allowed to address the governing body at the hearing and shall be given a reasonable amount of time to do so.

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

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

(Neb. Rev. Stat. § 13-506)

(D) Upon approval by City Council, the budget shall be filed with the Auditor of Public Accounts. The Auditor may review the budget for errors in mathematics, improper accounting and noncompliance with the State Budget Act or Neb. Rev. Stat. §§ 13-518 through 13-522. If the Auditor detects such errors, he or she shall immediately notify the Council of such errors. The Council shall correct any such error as provided in § 34.31. Warrants for the payment of expenditures provided in the budget adopted under this section shall be valid notwithstanding any errors or noncompliance for which the Auditor has notified the Council.

(Neb. Rev. Stat. § 13-508)

(E) When a levy increase has been authorized by vote of the electors, the adopted budget statement shall indicate the amount of the levy increase.

(Neb. Rev. Stat. § 13-507)

#### **§ 34.29 ADOPTED BUDGET STATEMENT; FILING; CERTIFICATION OF TAX AMOUNT.**

(A) (1) After publication and hearing on the proposed budget statement and within the time prescribed by law, the City Council shall file with and certify to the levying board or boards on or before September 30 of each year or September 30 of the final year of a biennial period and file with the Auditor of Public Accounts a copy of the adopted budget statement which complies with Neb. Rev. Stat. §§ 13-518 through 13-522, together with the amount of the tax required to fund the adopted budget, setting out separately:

(a) The amount to be levied for the payment of principal or interest on bonds issued or authorized to be issued by the City Council or the legal voters of the political subdivision; and

(b) The amount to be levied for all other purposes.

(2) Proof of publication shall be attached to the statements.

(B) If the prime rate published by the Federal Reserve Board is 10% or more at the time of the filing and certification required under this section, 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 or biennial period 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 or biennial period 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 under § 34.27.

(C) The City Council shall use the certified taxable values as provided by the County Assessor pursuant to Neb. Rev. Stat. § 13-509 for the current year in setting or certifying the levy. The City Council may designate one of its members to perform any duty or responsibility required of the Council by this section.

(Neb. Rev. Stat. § 13-508)

### **§ 34.30 TRANSFER OF FUNDS.**

(A) Whenever during the current fiscal year it becomes apparent to the City Council that due to unforeseen emergencies there is temporarily insufficient money in a particular fund to meet the requirements of the adopted budget of expenditures for that fund, the Council may by a majority vote, unless otherwise provided by state law, transfer money from other funds to such fund.

(B) No expenditure during any fiscal year shall be made in excess of the amounts indicated in the adopted budget statement, except as authorized in § 34.31 or by state law.

(C) Any officer or officers of the City Council who obligate funds contrary to the provisions of this section shall be guilty of an offense.

(Neb. Rev. Stat. § 13-510) Penalty, see § 10.99

### **§ 34.31 BUDGET REVISION.**

(A) (1) Unless otherwise provided by law, the City Council may propose to revise the previously adopted budget statement and shall conduct a public hearing on that proposal whenever during the current fiscal year it becomes apparent to the City Council that:

(a) There are circumstances which could not reasonably have been anticipated at the time the budget for the current year was adopted;

(b) The budget adopted violated Neb. Rev. Stat. §§ 13-518 through 13-522, such that the revenue of the current fiscal year for any fund thereof will be insufficient, additional expenses will be necessarily incurred, or there is a need to reduce the budget requirements to comply with Neb. Rev. Stat. §§ 13-518 through 13-522; or

(c) The City Council has been notified by the Auditor of Public Accounts of a mathematical or accounting error or noncompliance with the State Budget Act, being Neb. Rev. Stat. §§ 13-501 et seq.

(2) The public hearing requirement shall not apply to emergency expenditures pursuant to Neb. Rev. Stat. § 81-829.51.

(B) Notice of the time and place of the hearing shall be published at least four calendar days prior to the date set for hearing in a newspaper of general circulation within the Council's jurisdiction. For purposes of such notice, the four calendar days shall include the day of publication but not the day of hearing. This published notice shall set forth:

(1) The time and place of the hearing;

(2) The amount in dollars of additional or reduced money required and for what purpose;

(3) A statement setting forth the nature of the unanticipated circumstances and, if the budget requirements are to be increased, the reasons why the previously adopted budget of expenditures cannot be reduced during the remainder of the current year to meet the need for additional money in that manner;

(4) A copy of the summary of the originally adopted budget previously published; and

(5) A copy of the summary of the proposed revised budget.

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

(D) Upon conclusion of the public hearing on the proposed revised budget and approval of the proposed revised budget by the City Council, the Council shall file with the County Clerk of the county or counties in which the City Council is located, and with the Auditor of Public Accounts, a copy of the revised budget, as adopted. The City Council may then issue warrants in payment for expenditures authorized by the adopted revised budget. These warrants shall be referred to as registered warrants and shall be repaid during the next fiscal year from funds derived from taxes levied therefor.

(E) Within 30 days after the adoption of the budget under § 34.28, the City Council may, or within 30 days after notification of an error by the Auditor of Public Accounts, the Council shall correct an adopted budget which contains a clerical, mathematical or accounting error which does not affect the total amount budgeted by more than 1 % or increase the amount required from property taxes. No public hearing shall be required for such a correction. After correction, the City Council shall file a copy of the corrected budget with the County Clerk of the county or counties in which the City Council is located and with the Auditor of Public Accounts. The City Council may then issue warrants in payment for expenditures authorized by the budget.

(Neb. Rev. Stat. § 13-511)



## **TITLE V: PUBLIC WORKS**

### **Chapter**

**50. UTILITIES GENERALLY**

**51. SOLID WASTE**

**52. WATER**

**53. SEWER**





## **CHAPTER 50: UTILITIES GENERALLY**

### **Section**

- 50.01 Denial of service; when prohibited
- 50.02 Discontinuance of service; notice procedure
- 50.03 Diversion of services, meter tampering, unauthorized reconnection, prohibited; evidence
- 50.04 Diversion of services; civil action
- 50.05 Delinquent utility charges; lien; civil action

### **§ 50.01 DENIAL OF SERVICE; WHEN PROHIBITED.**

No applicant for the services of a public or private utility company furnishing water, natural gas or electricity at retail in this city shall be denied service because of unpaid bills for similar service which are not collectible at law because of statutes of limitations or discharge in bankruptcy proceedings.  
(Neb. Rev. Stat. § 70-1601)

### **§ 50.02 DISCONTINUANCE OF SERVICE; NOTICE PROCEDURE.**

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

***DOMESTIC SUBSCRIBER.*** Shall not include municipalities, cities, villages, political subdivisions, companies, corporations, partnerships, limited liability companies or businesses of any nature.  
(Neb. Rev. Stat. § 70-1602)

(B) No public or private utility company, including any utility owned and operated by the city, furnishing water, natural gas or electricity at retail in this city shall discontinue service to any domestic subscriber for nonpayment of any past-due account unless the utility company first gives notice to any subscriber whose service is proposed to be terminated. Such notice shall be given in person, by first class mail or by electronic delivery, except that electronic delivery shall only be used if the subscriber has specifically elected to receive such notices by electronic delivery. If notice is given by first class mail or electronic delivery, such notice 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. A public or private utility company shall not charge a fee for the discontinuance or reconnection of utility service that exceeds the reasonable costs of providing such service.

(Neb. Rev. Stat. § 70-1605)

(C) The notice required by division (A) above shall contain the following information:

- (1) The reason for the proposed disconnection;
- (2) A statement of the intention to disconnect unless the domestic subscriber either pays the bill or reaches an agreement with the utility regarding payment of the bill;
- (3) The date upon which service will be disconnected if the domestic subscriber does not take appropriate action;
- (4) The name, address and telephone number of the utility's employee or department to whom the domestic subscriber may address an inquiry or complaint;
- (5) The domestic subscriber's right, prior to the disconnection date, to request a conference regarding any dispute over such proposed disconnection;
- (6) A statement that the utility may not disconnect service pending the conclusion of the conference;
- (7) A statement to the effect that disconnection shall be postponed or prevented upon presentation of a duly licensed physician's, physician assistant's or advanced practice registered nurse's certificate, which shall certify that a 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, excluding holidays and weekends, and will prevent the disconnection of the utility's service for a period of at least 30 days from such filing. Only one postponement of disconnection shall be required under this division (C)(7) for each incidence of nonpayment of any past-due account;
- (8) The cost that will be borne by the domestic subscriber for restoration of service;
- (9) A statement that the domestic subscriber may arrange with the utility for an installment payment plan;
- (10) A statement to the effect that those domestic subscribers who are welfare recipients may qualify for assistance in payment of their utility bill and that they should contact their caseworker in that regard; and

(11) Any additional information not inconsistent with this section which has received prior approval from the City Council or Board of Public Works, in the case of a city utility or the board of directors or administrative board of any other utility.

(Neb. Rev. Stat. § 70-1606)

(D) The utility shall establish a third-party notice procedure for the notification of a designated third party of any proposed discontinuance of service and shall advise its subscribers, including new subscribers, of the availability of such procedures.

(Neb. Rev. Stat. § 70-1607)

(E) The provisions of Neb. Rev. Stat. §§ 70-1608 through 70-1614 shall apply to disputes over a proposed discontinuance of service.

(F) The procedures adopted for resolving utility bills by the City Council or Board of Public Works for any city utility, one copy of which is on file in the office of the City Clerk, are hereby incorporated by reference in addition to any amendments thereto and are made a part of this section as though set out in full.

(G) This section shall not apply to any disconnections or interruptions 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.

(Neb. Rev. Stat. § 70-1615)

### **§ 50.03 DIVERSION OF SERVICES, METER TAMPERING, UNAUTHORIZED RECONNECTION, PROHIBITED; EVIDENCE.**

(A) It is an offense for any person to do any of the following:

(1) To connect any instrument, device or contrivance with any wire supplying or intended to supply electricity or electric current or to connect any pipe or conduit supplying gas or water, without the knowledge and consent of any city utility supplying such products or services, in such a manner that any portion thereof may be supplied to any instrument by or at which electricity, electric current, gas or water may be consumed without passing through the meter made or provided for measuring or registering the amount or quantity thereof passing through it;

(2) To knowingly use or knowingly permit the use of electricity, electric current, gas or water obtained unlawfully pursuant to this section;

(3) To reconnect electrical, gas or water service without the knowledge and consent of any city utility supplying such service if the service has been disconnected pursuant to Neb. Rev. Stat. §§ 70-1601 through 70-1615 or § 50.02; or

(4) To willfully injure, alter or by any instrument, device or contrivance in any manner interfere with or obstruct the action or operation of any meter made or provided for measuring or registering the amount or quantity of electricity, electric current, gas or water passing through it, without the knowledge and consent of any city utility supplying the electricity, electric current, gas or water passing or intended to pass through the meter.

(B) Proof of the existence of any wire, pipe or conduit connection or reconnection or of any injury, alteration, interference or obstruction of a meter is prima facie evidence of the guilt of the person in possession of the premises where that connection, reconnection, injury, alteration, interference or obstruction is proved to exist.

(Neb. Rev. Stat. § 28-515.02) Penalty, see § 10.99

#### **§ 50.04 DIVERSION OF SERVICES; CIVIL ACTION.**

(A) For the purpose of this section, the definitions found in Neb. Rev. Stat. § 25-21,275 shall apply.

(B) (1) The city utility may bring a civil action for damages against any person who commits, authorizes, solicits, aids, abets or attempts bypassing, tampering or unauthorized metering, when that act results in damages to the utility. A city utility 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 utility shall be entitled, upon proof of willful or intentional bypassing, tampering or unauthorized metering, to recover as damages:

(a) The amount of actual damage or loss if the amount of the damage or loss is susceptible of reasonable calculation; or

(b) Liquidated damages of \$750 if the amount of actual damage or loss is not susceptible of reasonable calculation.

(3) In addition to damage or loss under division (B)(2)(a) or (B)(2)(b) above, the utility may recover all reasonable expenses and costs incurred on account of the bypassing, tampering or unauthorized metering, including, but not limited to, disconnection, reconnection, service calls, equipment, costs of the suit and reasonable attorneys' fees in cases within the scope of Neb. Rev. Stat. § 25-1801.

(Neb. Rev. Stat. § 25-21,276)

(C) (1) There shall be a rebuttable presumption that a tenant or occupant at any premises where bypassing, tampering or unauthorized metering is proven to exist caused or had knowledge of that bypassing, tampering or unauthorized metering if the tenant or occupant:

(a) Had access to the part of the utility supply system on the premises where the bypassing, tampering or unauthorized metering is proven to exist; and

(b) Was responsible or partially responsible for payment, either directly or indirectly, to the utility or to any other person for utility services to the premises.

(2) There shall be a rebuttable presumption that a customer at any premises where bypassing, tampering or unauthorized metering is proven to exist caused or had knowledge of that bypassing, tampering or unauthorized metering if the customer controlled access to the part of the utility supply system on the premises where the bypassing, tampering or unauthorized metering was proven to exist. (Neb. Rev. Stat. § 25-21,277)

(D) The remedies provided by this section shall be deemed to be supplemental and additional to powers conferred by existing laws. The remedies provided in this section are in addition to and not in limitation of any other civil or criminal statutory or common-law remedies.

(Neb. Rev. Stat. § 25-21,278)

Penalty, see § 10.99

#### **§ 50.05 DELINQUENT UTILITY CHARGES; LIEN; CIVIL ACTION.**

(A) All water rates, taxes or rent assessed by the City Council shall be a lien upon the premises or real estate, upon or for which the same is used or supplied; and such taxes, rents or rates shall be paid and collected and such lien enforced in such manner as the Council shall by ordinance direct and provide.

(B) All sewer charges established by the City Council shall be a lien upon the premises or real estate for which the same is used or supplied. Such lien shall be enforced in such manner as the Council provides by ordinance.

(C) If the service charge established by the City Council for the use of any city sewage disposal plant and sewerage system is not paid when due, such sum may be recovered by the city in a civil action or it may be certified to the County Assessor and assessed against the premises served and collected or returned in the same manner as other city taxes are certified, assessed, collected and returned.

(Neb. Rev. Stat. § 18-503)

(D) Unless the City Council otherwise provides, on June 1 of each year, the City Clerk shall report to the Council a list of all unpaid accounts due for utilities service together with a description of the premises served. If the Council approves the report, the Clerk shall certify the report to the County Clerk to be collected as a special tax in the manner provided by law.

***Statutory reference:***

*Similar provisions, see Neb. Rev. Stat. §§ 17-538 and 17-925.01*



## CHAPTER 51: SOLID WASTE

### Section

- 51.01 Definitions
- 51.02 Garbage, trash and waste
- 51.03 Dead animals
- 51.04 Collection authority; nuisance
- 51.05 Collection; notice; removal
- 51.06 Collection; nuisance
- 51.07 Collection; lien
- 51.08 Scope
- 51.09 Solid waste disposal; filling authorization
- 51.10 Solid waste disposal; enforcement
  
- 51.99 Penalty

### § 51.01 DEFINITIONS.

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

***BUILDING RUBBLE.*** Rubble from construction, remodeling and repairs on houses, commercial buildings and other structures, including, but not limited to, stones, brick, plaster, lumber and waste parts.

***DEMOLITION DEBRIS.*** Combustible and noncombustible waste material resulting from the demolition of structures, roadways or other paved surfaces, except hazardous or toxic substances.

***FILLING.*** The placement, without significant voids, of building rubble and/or demolition debris for the purpose of providing a stable raised grade on the property where it is placed, with final cover of at least 24 inches of clean dirt and seeded to prevent erosion.

***GARBAGE.*** Kitchen refuse, decayed waste, dead animals or anything that may decompose and become detrimental to the public health.

**HEALTH OFFICER.** The Director of the County Health Department or his or her authorized representative.

**REFUSE.** Garbage and rubbish, except sewage, dirt and manure, from all public and private establishments and residences.

**RUBBISH or TRASH.** Discarded machinery, chips, pieces of wood, sticks, dead trees, branches, bottles, broken glass, crockery, tin cans, boxes, papers, rags or any other litter or debris that is not an immediate hazard to the health of the residents of the city.

**WASTE.** Cinders, ashes, plaster, brick, stone, sawdust or sand.

**YARD WASTE.** Grass and leaves.  
(Prior Code, § 6-401)

#### **§ 51.02 GARBAGE, TRASH AND WASTE.**

(A) (1) It shall be unlawful for any person residing in a single-family dwelling to keep in, on or about his or her premises any decayed vegetable or animal substance, garbage or refuse matter 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 not exceeding a capacity of 35 gallons, as nearly airtight as may be practical.

(2) No person may permit garbage, rubbish, waste or refuse to collect, and all persons shall remove the same from their property within 24 hours after being notified to do so by the Police Chief, who shall represent the Board of Health. Any person having leaves or grass clippings or any other garbage, rubbish, waste or refuse that is subject to decay or fermentation within a short period of time shall be required to place the same in a standard garbage can with a tight cover or a durable plastic bag that is securely tied at its opening.

(3) All persons shall have the contents of their garbage cans removed at least once a week.

(B) See § 130.005 for prohibitions on placing lawn debris, garbage and other waste items on public or private property.  
(Prior Code, § 6-402) Penalty, see § 51.99

#### **§ 51.03 DEAD ANIMALS.**

Any dead animal shall be immediately removed and buried by its owner. If the owner of such animal cannot be found within two hours after discovery of the same, then such animal shall be removed by and



at the expense of the city. Dead animals shall not be buried within the corporate limits of the city nor within one mile thereof, nor in or above the course of groundwater that is used for drinking purposes by the inhabitants of the city.

(Prior Code, § 6-403)

#### **§ 51.04 COLLECTION AUTHORITY; NUISANCE.**

The City Council may provide for the collection and removal of garbage or refuse which constitutes a public nuisance found upon any lot or land within its corporate limits, or upon any streets, roads or alleys abutting such lot or land. The city may require the owner, duly authorized agent or tenant of such lot or land to remove the garbage or refuse from such lot or land and streets, roads or alleys.

(Prior Code, § 6-404)

***Statutory reference:***

*Similar provisions, see Neb. Rev. Stat. §§ 16-230, 16-231, 16-246, 16-901 and 18-1752*

#### **§ 51.05 COLLECTION; NOTICE; REMOVAL.**

Notice that removal of garbage or refuse is necessary shall be given to each owner or duly authorized agent and to the tenant, if any. Such notice shall be provided by personal service or by certified mail. After providing such notice, the city, through its proper offices, shall remove the garbage or refuse or cause it to be removed from such lot or land and streets, roads or alleys, in addition to other proper remedies.

(Prior Code, § 6-405)

***Statutory reference:***

*Similar provisions, see Neb. Rev. Stat. §§ 16-230, 16-231, 16-246, 16-901 and 18-1752*

#### **§ 51.06 COLLECTION; NUISANCE.**

If the Mayor declares that the accumulation of garbage or refuse upon any lot or land constitutes an immediate nuisance and hazard to public health and safety, the city shall remove the garbage or refuse or cause it to be removed from such lot or land within 48 hours after notice by personal service or following receipt of a certified letter in accordance with § 51.05, if such garbage or refuse has not been removed.

(Prior Code, § 6-406)

***Statutory reference:***

*Similar provisions, see Neb. Rev. Stat. §§ 16-230, 16-231, 16-246, 16-901 and 18-1752*

**§ 51.07 COLLECTION; LIEN.**

Whenever the city removes any garbage or refuse or causes it to be removed from any lot or land pursuant to this chapter, it shall assess the cost of the removal against such lot or land after a hearing conducted by the City Council.

(Prior Code, § 6-407)

***Statutory reference:***

*Similar provisions, see Neb. Rev. Stat. §§ 16-230, 16-231, 16-246, 16-901 and 18-1752*

**§ 51.08 SCOPE.**

The provisions of this chapter shall apply to the corporate limits of the city and its one-mile zoning jurisdiction.

(Prior Code, § 6-408)

***Statutory reference:***

*Similar provisions, see Neb. Rev. Stat. § 13-2016.01*

**§ 51.09 SOLID WASTE DISPOSAL; FILLING AUTHORIZATION.**

(A) It shall be unlawful to place building rubbish or demolition debris on any public or private property in a manner which conforms to the definitions of filling, or for the purpose of storage of such materials, without first obtaining written authorization from the City Council.

(B) Application for such authorization shall include:

- (1) Legal description of property;
- (2) Current ownership of property;
- (3) Dimensions of fill site;
- (4) Original and proposed final grades of project;
- (5) Duration of project in months;
- (6) Types of materials to be used in filling; and

(7) Estimated volume in cubic yards of building rubble and demolition debris to be used in filling.

(Prior Code, § 6-409) Penalty, see § 51.99

**§ 51.10 SOLID WASTE DISPOSAL; ENFORCEMENT.**

The health officer shall supply the operator of an authorized fill site written guidelines for the proper operation of such fill site. The health officer is hereby authorized and directed to make such inspections as are necessary to assure satisfactory compliance with these guidelines. The fill site operator shall be notified to correct any deficiencies noted by the health officer during such inspections.  
(Prior Code, § 6-410)

**§ 51.99 PENALTY.**

Any person, persons, firm or corporation who violates the provisions of this chapter shall, upon conviction, be fined in any sum not to exceed \$500 or be sentenced to be imprisoned not to exceed 30 days in jail, at the discretion of the court.  
(Prior Code, § 6-411)



## **CHAPTER 52: WATER**

### **Section**

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**GENERAL PROVISIONS****§ 52.001 DEFINITIONS.**

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

**CITY.** The City of Valley, Nebraska.

**CONSUMER** and **CUSTOMER.** As defined in state laws. The terms shall have the same meaning and are equivalent terms.

**MAIN.** Any pipe, other than a supply or service pipe, that is used for the purpose of carrying water to any premises and dispersing the same in the city.

**MUNICIPAL.** The City of Valley, Nebraska.

**SEPARATE PREMISES.** That only one consumer shall procure water from the same service or supply pipe. Any other property using the same service or supply pipe is to be considered a **SEPARATE PREMISES** for billing and installation of a separate water meter.

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

**SUPPLY PIPE.** Any pipe tapped into a main and extending from there to a point at or near the lot line of the consumer's premises where the shut-off, stop box or curb cock is located.  
(Prior Code, § 6-202)

## **§ 52.002 OPERATING AND FUNDING.**

The city owns and operates the Water Department through an operations and maintenance agreement with PeopleService, Inc. The City Council, for the purpose of defraying the cost, management and maintenance of the Water Department, may each year levy a tax not exceeding the maximum limit prescribed by state law on the actual valuation of all real estate and personal property within the corporate limits that is subject to taxation. The revenue from the tax shall be known as the Water Fund and shall remain in the custody of the City Treasurer. The Council shall by ordinance set the rates to be charged. A copy of the rates shall be filed in the office of the City Clerk for public inspection at any reasonable time.

(Prior Code, § 6-201)

**Statutory reference:**

*Similar provisions, see Neb. Rev. Stat. §§ 17-531, 17-534 and 19-1305*

## **§ 52.003 CONSUMER APPLICATION; SERVICE DEPOSIT.**

(A) Every person desiring a supply of water must make application upon a form obtained from the City Clerk. A new applicant shall be required to accompany his or her application with a service deposit

which shall be set from time to time by resolution of the City Council and which is addressed more thoroughly in § 52.094.

(B) An existing consumer with an account in good standing may transfer his or her water service to a new address upon completion of a new application and a new contract without any additional fee. For the purpose of this section, an **ACCOUNT IN GOOD STANDING** shall mean that a consumer has, for a period of at least one year, made all payments due to the Water Department on or before the due date.

(C) An existing consumer with an account not in good standing may transfer his or her water service to a new address upon completion of a new application, a new contract and the payment of a new service deposit. For the purpose of this section, an **ACCOUNT NOT IN GOOD STANDING** shall mean that a consumer has been delinquent on one or more payments due to the Water Department within the previous one-year period.

(D) The Department shall not supply water service to any person outside the corporate limits without special permission from the City Council; provided, that the entire cost of laying mains, service pipe and supply pipe shall be paid by the consumer. Nothing herein shall be construed to obligate the city to provide water service to nonresidents.

(Prior Code, § 6-203) (Ord. 745, passed 1-12-2021)

#### **§ 52.004 WATER CONTRACT.**

(A) *Conditions.*

(1) The city shall, through its water system, furnish water to persons within its corporate limits whose premises abut a street or alley in which a commercial main now is or may hereafter be laid. The city may furnish water to persons within its corporate limits whose premises do not abut a street or alley in which a city commercial main is now or may hereafter be laid, and may also furnish water to persons whose premises are situated outside the corporate limits of the city, as and when, according to law, the City Council may see fit to do so.

(2) The rules, regulations and water rates named in this chapter shall be considered a part of every application made for water service hereafter and shall be considered a part of the contract between every consumer now or hereafter served. Without further formality, the making of application on the part of any applicant or the use of water by any current consumer and the furnishing of water service to said consumer by the city shall constitute a contract between the consumer and the city, to which both parties are bound. If the consumer shall violate any of the provisions of said contract or any reasonable rules and regulations that the City Council may hereafter adopt, the city may cut off or disconnect the water service from the building or premises or place of such violation. No further connection for water service to said building, premises or place shall again be made except by order of the city.



(3) The city shall consider all requests for connections and extensions to its water system. If approved, the city and its City Engineer shall design, bid, construct and operate/maintain the connection and extension mains. The city shall determine the sizing, capacity and routing of all connections and extensions.

(4) The city may extend its water system into unserved areas in accordance with all available statutory procedures, including the establishment of water extension districts. The city shall levy special assessments for the cost of said extensions upon property specially benefited by such water extension.

(5) The city may extend its water system into unserved areas to serve new subdivisions and developments in accordance with its water main extension and pioneering policy.

(6) The city shall charge persons or property for connecting to the city water system and/or for the monthly use of water from the system. The connection fees and charges and the monthly use fees shall consist of the following:

- (a) Installation expense, water connection processing and inspection fee;
- (b) Water treatment capital facilities charge;
- (c) Special water main extension fee, if applicable;
- (d) Monthly water usage fees; and
- (e) Water service deposit fee.

(Prior Code, § 6-204)

(B) *Termination.* If any consumer shall sell or otherwise dispose the premises where service is furnished, or if said premises are destroyed by fire or other casualty, he or she shall at once inform the city, who shall cause the water service to be shut off from the premises. If the consumer should fail to give such notice, he or she shall be charged for all water used on the premises until the city is otherwise advised of such circumstances.

(Prior Code, § 6-205)

(Ord. 572, passed 12-9-2008; Ord. 745, passed 1-12-2021)

***Statutory reference:***

*Similar provisions, see Neb. Rev. Stat. § 17-537*

**§ 52.005 MANDATORY HOOKUP.**

All persons whose property abuts a water main that is now or hereafter may be laid shall be required, upon notice of the City Council, to hook up with the city water system.

(Prior Code, § 6-212)

**§ 52.006 INSTALLATION.***(A) Expense.*

(1) The customer, upon approval of his or her application for water service, shall pay to the City Water Department a water main tap fee of \$300 which compensates the city for the expense of processing the application and inspecting the connection between the applicant's private water service pipe and the city's public water main. In addition to paying the processing and inspection fee, the customer shall arrange for and pay all costs of the work and materials to make the connection. Such connection work shall only be made by a licensed plumber.

(2) No connections smaller than three-fourths-inch shall be allowed. The customer shall pay to the City Water Department a water meter fee based on the size of connection required. The fee shall be as approved by the City Council based on the actual cost of the water meter at the time of connection. (Prior Code, § 6-213)

*(B) Procedure.*

(1) In making excavations in streets, alleys or sidewalks for the purpose of installing pipe or making repairs, the paving, stones and earth must be removed and deposited in a manner that will occasion the least inconvenience to the public and provide for adequate drainage. No person shall leave an excavation made in the street, alley or sidewalk open at any time without a barricade. After service pipes are laid, the streets, alleys and sidewalks shall be restored to good condition. If an excavation in any street, alley or sidewalk is left open or unfinished for a period of 24 hours or more, the city shall have the duty to finish or correct the work, and all expenses so incurred shall be charged to the consumer.

(2) All installations or repairs of pipes require two inspections by the city. The first inspection shall be made when connections or repairs are completed and before the pipes are covered. The second inspection shall be made after the dirt work is completed and the service is restored. It is the consumer's responsibility to notify the city at the time the work is ready for each inspection. All installation shall be done under the supervision of and strictly in accordance with the rules, regulations and specifications prescribed by the city.

(Prior Code, § 6-214)

***Statutory reference:***

*Similar provisions, see Neb. Rev. Stat. § 17-537*

**§ 52.007 PROHIBITION OF LEAD PIPES, SOLDER AND FLUX.**

(A) Any pipe, solders or flux used in the installation or repair of any residential or nonresidential facility which is connected to the public water supply system shall be lead free.

(B) For the purpose of this section, **LEAD-FREE** shall mean:

(1) Solders and flux, not more than 0.2% lead; and

(2) Pipe and pipe fittings, not more than 8% lead.

(Prior Code, § 6-215)

#### **§ 52.008 NEW LINES; CHECK VALVES.**

All new lines shall have check valves installed and such installations shall be inspected and approved by the city. Water to any premises shall not be turned on until the plumbing has been made to comply with all statutory sections.

(Prior Code, § 6-216)

**Statutory reference:**

*Similar provisions, see Neb. Rev. Stat. § 71-5301*

#### **§ 52.009 REPAIRS.**

(A) Repairs to the service pipe shall be made by and at the expense of the customer. All other repairs to the property of the Water Department shall be made by the city. If excavation is required to determine what repairs are necessary, the customer is responsible for and shall bear the expense of such excavation.

(B) If an examination reveals that repairs are necessary to the service pipe, the customer bears the responsibility for and the expense of all repairs, as well as the responsibility for and the expense of refilling the excavation and restoring the property to its original condition. If an examination reveals that repairs are to be made only to the property of the Water Department, the city shall be responsible for and bear the expense of refilling the excavation and restoring the property to its original condition, as well as for the expense of excavation up to an amount of \$100.

(C) If the city determines that it is responsible for the repairs, but the customer makes repairs and/or replacement of the service pipe, the customer then becomes responsible for and bears the expense of filling in the excavation and restoring the property to its original condition, plus the entire cost of the excavation.

(Prior Code, § 6-217)

**Statutory reference:**

*Similar provisions, see Neb. Rev. Stat. § 17-537*

**§ 52.010 WATER METERS.**

(A) *Required.* The purpose of this section is to require water meters as a condition precedent to the use of water from the waterworks of the city, as authorized by Neb. Rev. Stat. § 17-542. Any new building or structure erected or constructed in the city shall contain a water meter with remote readouts and fittings to accommodate connections thereto of not less than five-eighths-inch.  
(Prior Code, § 6-218)

(B) *Regulations.*

(1) Every new building or structure hereafter erected or constructed in the city shall contain the necessary fittings, piping and mechanical accommodations to permit the installation of a water meter with a remote readout.

(2) In terms of installation, methods of connection and use of materials in such installation, the water meter shall comply in all respects with the Uniform Plumbing Code, published by the International Association of Plumbing and Mechanical Professionals (IAPMO).

(3) The City Council may fix further specifications for such water meters from time to time by resolution, and in the event that such specifications fixed from time to time by resolution are at variance with any uniform code condition adopted by the city, then and in that event the terms of the resolution shall prevail.  
(Prior Code, § 6-219)

(C) *Purchase and installation.*

(1) Anyone wishing to install or replace a water meter in the city must purchase said water meter from the city, which shall charge the current market price for the meters selected for installation, plus shipping and handling charges. The city may charge different prices for different size meters and for meters to be installed in underground pits.

(2) The city shall publish and keep on file a list of the current prices for the purchase of any meters and the current charges for shipping and handling of said meters. This list shall be kept on file with the City Clerk.

(3) All said water meters shall be installed at the customer's expense by a licensed plumber, selected by the customer.  
(Prior Code, § 6-220)

**§ 52.011 APPROVAL OF WATER MAIN CONNECTIONS AND EXTENSIONS.**

(A) The size of water mains in the city municipal water system have been selected based on a number of conditions, including, but not necessarily limited to, normal domestic water usage, fire protection flows and ability to serve future undeveloped areas that may eventually desire to receive water service from the city.

(B) In order that these service conditions shall continue to be met, the city may require that water mains be oversized in capacity above what might be considered adequate to serve a sole and specific area or development. The decision on the proper sizing of water mains within the city or within its planning and service areas shall rest solely with the city.

(C) In the event that a development or entity desires to connect to and extend service from an existing city water main, the city shall determine the unused capacity of the water main to be connected to or extended, whether or not a connection or extension can be allowed and the size of the water main connection and the size of the water main to be extended.

(D) If it is determined that the water main has unused capacity to allow a connection or extension, the city may approve of the connection or extension and shall determine its size. If there is no possibility of future water service requests or expansion beyond the development's or entity's use, then the size of the extended main shall be based on that development's or entity's sole use. However, if future water service is possible to areas beyond the development's or entity's use, then the main shall be sized to accommodate that future use as well. The determination of future use shall rest solely with the city.

(E) The city may extend a water main to serve subdivisions or developments. The approval of such extension, and the provisions of the extension, shall be in accordance with the city's water main extension and pioneering policy.

(F) The city shall charge water treatment capital facilities charges to all applicants desiring to connect to the city water system. The city shall also charge, if applicable, special water main extension fees. These charges and fees are specific for water treatment facilities and special water main extensions and do not cover any of the applicant's costs of extending interior water mains or service lines to the point(s) of usage.

(Prior Code, § 6-221) (Ord. 572, passed 12-9-2008)

**§ 52.012 SINGLE PREMISES.**

No consumer shall supply water to other households or allow them to take water from his or her premises, nor after water is supplied into a building shall any person make or employ a plumber or other

person to make a tap or connection with the pipe upon the premises for alteration, extension or attachment without the written permission of the city.

(Prior Code, § 6-223) Penalty, see § 10.99

#### **§ 52.013 RESTRICTED USE.**

The City Council may order a reduction in the use of water or shut off the water on any premises in the event of a water shortage due to fire or other good and sufficient cause. The city shall not be liable for any damages caused by shutting off the supply of water to 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.

(Prior Code, § 6-224)

***Statutory reference:***

*Similar provisions, see Neb. Rev. Stat. § 17-537*

#### **§ 52.014 FIRE HYDRANTS.**

All hydrants for the purpose of extinguishing fires are hereby declared to be public hydrants, and it shall be unlawful for any person other than members of the Fire Department or employees of the Water Department to open or attempt to open any public or private hydrant and draw water from the same or in any manner to interfere with the hydrants. Any person doing so or attempting to do so may be prosecuted as provided by law.

(Prior Code, § 6-225) Penalty, see § 10.99

#### **§ 52.015 POLLUTION.**

It shall be unlawful for any person to pollute or attempt to pollute any stream or source of water for the supply of the City Water Department.

(Prior Code, § 6-230) Penalty, see § 10.99

#### **§ 52.016 INSPECTION.**

Duly authorized agents of the city 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.

(Prior Code, § 6-226)

***Statutory reference:***

*Similar provisions, see Neb. Rev. Stat. § 17-537*

**§ 52.017 DESTRUCTION OF PROPERTY.**

It shall be unlawful for any person willfully or carelessly to break, injure or deface any building, machinery, apparatus, fixture, attachment or appurtenance of the City Water Department. No person may deposit anything in a stop box or commit any act tending to obstruct or impair the intended use of any of the above-mentioned property without the written permission of the city.

(Prior Code, § 6-227) Penalty, see § 10.99

**§ 52.018 WELLS, WELLFIELDS; DRILLING OR INSTALLATION OF OTHER FACILITIES.**

(A) The intent of this section is to establish control by the city over the location of future potential sources of contamination within the city's wellfield, within the city limits or within the city's extraterritorial jurisdiction, so as to prevent or minimize any hazard to the safety of the city's potable water system.

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

**WATER WELL.** Any excavation that is drilled, cored, bored, washed, driven, dug, jetted or otherwise constructed, screened and cased, for the purpose of exploring for groundwater, monitoring groundwater or extracting groundwater from an underground aquifer for public drinking water use.

**WELLFIELD.** The area or region under which the city's drinking water aquifer is located and which contains the city's potable water wells for extraction of groundwater for public drinking water purposes. The city's wellfield is described as follows: part of the NE quarter of the NW quarter of Section 6, T15N, R10E, 6th P.M., Douglas County, Nebraska, the point of beginning which exists 735.05 feet south of the N quarter corner of Section 6, T15N, R10E, along the east line of the NE quarter of the NW quarter of Section 6, thence west along a line perpendicular to the east line of the NE quarter of the NW quarter of Section 6 a distance of 751.95 feet; thence south along a line parallel to the east line of the NE quarter of the NW quarter of Section 6 a distance of 569.26 feet, thence east along a line perpendicular to the east line of the NE quarter of the NW quarter of Section 6 a distance of 751.95 feet; thence north along the east line of the NE quarter of the NW quarter of Section 6 a distance of 569.26 feet to the point of beginning. A plat of the described wellfield boundary is attached for reference.

(C) It shall be unlawful to place, maintain, construct or replace any of the following facilities or structures or to discharge any of the following materials within a distance of 1,200 feet from any point on the boundary of the city's defined wellfield:

(1) Water well (drinking, irrigation, geothermal or injection);

(2) Chemical storage (dry or liquid);

- (3) Petroleum storage;
- (4) Sewage lagoon;
- (5) Cesspool;
- (6) Dump;
- (7) Feedlot, feedlot runoff or animal waste disposal;
- (8) Corral or animal enclosure;
- (9) Pit toilet;
- (10) Septic tank;
- (11) Sanitary landfill;
- (12) Sewage treatment plant;
- (13) Sewage wet well;
- (14) Absorption of disposal field for waste;
- (15) Land application of solid or liquid waste; and
- (16) Sanitary or industrial discharges.

(D) Water wells in existence and in use within the restricted area, as of February 14, 1995, the effective date of this section, shall continue to be permitted unless such continued existence or use presents a hazard to the quality of the drinking water available for public use to the city's water system. The owner of any existing water well shall have the burden of establishing the existence and use of such well at the time of the effective date.

(Prior Code, § 6-229) Penalty, see § 10.99

#### **§ 52.019 FLUORIDE.**

Fluoride shall be added to the water supply of the city.  
(Prior Code, § 6-228)



***CROSS-CONNECTION CONTROL DEVICES; BACKFLOW PREVENTION*****§ 52.030 POLICY AND PURPOSE.**

(A) The purpose of these backflow regulations is to protect the public water supply system of the city from the possibility of contamination or pollution which may backflow into the system. These regulations provide for the maintenance of a continuing program of cross-connection controls which will systematically and effectively prevent the contamination or pollution of the potable water supply system. These backflow regulations shall apply to all premises serviced by the public potable water system of the city.

(B) The duly authorized agent of the city shall be responsible for the implementation of the backflow prevention program as outlined within these regulations. If an approved backflow prevention device is required for the safety of the public water supply system in the judgment of the agent, then he or she shall give notice in writing to the consumer to install said devices at each recommended location. The agent shall inspect and approve all installations of the required backflow prevention devices. The costs for purchasing, installing and maintaining a backflow prevention device shall be the responsibility and sole expense of the consumer. The installation of backflow prevention devices, except for outlet fixture vacuum breakers, shall be by a licensed plumber. Annual testing of all double check valves and reduced pressure zone devices shall be performed by the city. If maintenance and repairs are deemed necessary, the owner shall be contacted and issued an order to make all necessary repairs or maintenance. The owner shall complete all maintenance or repairs within 30 days; if not, the owner shall be considered in violation of the backflow regulations and will be subject to disconnection of municipal water service.

(C) No person shall install or maintain a water service connection containing cross-connections to a public water supply system or a consumer's potable water supply system unless such cross-connections are abated or controlled in accordance with this rule and as required by the laws and regulations of the State Department of Health.

(D) No water service connection shall be installed or maintained to any premises in which the plumbing system, facilities and fixtures have not been constructed and installed using acceptable plumbing practices considered by the Water Department and the National Standard Plumbing Code (published by IAMPO) as necessary for the protection of health and safety.

(E) For the purposes of these backflow prevention regulations, whenever the city or its agent is to make any decisions or interpretations or whenever reference is made to the fact that the city or its agent is to exercise judgment, such decision, interpretation or judgment shall be in accordance with the provisions of these backflow prevention regulations and any other applicable provisions of the municipal code and state and federal laws.

(Prior Code, § 6-231)

**§ 52.031 DEFINITIONS.**

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

**AIR GAP SEPARATION.** The unobstructed vertical distance through the free atmosphere between the lowest opening from any pipe or faucet supplying water to a tank, plumbing fixture or other device and the flood level rim of the receptacle. An approved air gap shall be at least double the diameter of the supply pipe, measured vertically, above the top of the rim of the receptacle and in no case less than one inch.

**ANTI-SIPHON VACUUM BREAKER.** A device which restricts the backflow of water into a potable water system by a simple check valve. The vacuum is broken by allowing air to enter upstream of the check valve.

**APPROVED.** That a backflow prevention device or method has been accepted by the city as suitable for the intended use.

**AUXILIARY WATER SYSTEM.** Any water supply system available to the premises other than the public water supply system and includes the water supplied by such system. These auxiliary water systems may include water from another owner's public water supply system, polluted or contaminated water, process fluids, used water or other sources of water over which the city does not have sanitary control.

**BACKFLOW or BACKSIPHONAGE.** The flow of water or other liquids, mixtures or substances into the water distribution system from any other source than the intended source of the potable water supply.

**BACKFLOW PREVENTION DEVICE.** Any device, method or type of construction intended to prevent backflow into a potable water system. Devices such as an approved air gap, double check valve assembly, anti-siphon vacuum breaker or a reduced pressure principle device can be used. These devices must have been approved by the city or its agent.

**CONSUMER.** The owner or person in control of any premises supplied by or in any manner connected to a public water supply system.

**CONSUMER'S WATER SUPPLY SYSTEM.** Any water supply system located on the consumer's premises supplied by or in any manner connected to a public water supply system. A household plumbing system is considered to be a **CONSUMER'S WATER SUPPLY SYSTEM**. A fire suppression system is also considered to be a **CONSUMER'S WATER SUPPLY SYSTEM**.

**CONTAMINATION.** An impairment of water quality by sewage or waste to a degree which could cause an actual hazard to the public health through poisoning or through spread of disease by exposure.

**CROSS-CONNECTION.** Any arrangement whereby contamination due to backflow or backsiphonage can occur.

**DEGREE OF HAZARD.** A term derived from an evaluation of the potential risk to health and the adverse effects upon the potable water system.

**DOUBLE CHECK-VALVE ASSEMBLY.** An assembly composed of two single, independently acting check valves including 100% closing shutoff ball valves located at each end of the assembly and suitable connections for testing the watertightness of each check valve.

**HEALTH HAZARD.** Any condition, device or practice in a water system or its operation that creates a real or potential danger to the health and well-being of the consumer.

**INTERCHANGEABLE CONNECTION.** An arrangement or device that will allow alternate but not simultaneous uses of two sources of water.

**LICENSED PLUMBER.** A person who has obtained the appropriate permit from the City Council to perform plumbing-related work within the city limits.

**NON-POTABLE WATER.** Water not safe for drinking or personal or culinary use or which does not meet the requirements of the State Department of Health.

**OWNER.** The entity delivering water through the public water supply system. The **OWNER** is the city operating through PeopleService, Inc.

**PLUMBING HAZARD.** A plumbing cross-connection in a consumer's potable water system that has not been properly protected by air gap separation or backflow prevention devices.

**POLLUTION.** The presence in water of any foreign substances (organic, inorganic or biological) that degrade the quality of water to a degree which does not necessarily cause an actual hazard to the public health but which does adversely and unreasonably affect such waters for any desired use.

**POLLUTION HAZARD.** A condition through which an aesthetically objectionable or degrading material not dangerous to health may enter the public water supply system or the consumer's water supply system.

**POTABLE WATER.** Water which is satisfactory for drinking, culinary and domestic purposes and meets the requirements of the State Department of Health.

**PUBLIC WATER SUPPLY SYSTEM.** A water supply system designed and intended to provide potable water to a designated consumer. The water supply shall include the water supply source and distribution piping network. **WATER SUPPLY SOURCE** is defined as any artificial or natural

accumulation of water used to supply the potable water system. The distribution piping network includes all piping, pumping and treatment devices used to convey an adequate quality and quantity of potable water to the consumer.

**REDUCED PRESSURE ZONE BACKFLOW PREVENTION DEVICE.** A device containing a minimum of two independently acting check valves together with an automatically operated pressure differential relief valve located between two check valves. During normal flow and at the cessation of normal flow, the pressure between these two checks shall be less than the supply pressure. In case of leakage of either check valve, the differential relief valve, by discharging to the atmosphere, shall operate to maintain the pressure between the check valves at less than the supply pressure. The unit must include 100% closing shutoff ball valves located at each end of the device, and each device shall be fitted with properly located test cocks.

**SERVICE CONNECTION.** The terminal end of a service line from the public water system. If a meter is installed at the end of the service line, then the **SERVICE CONNECTION** means the downstream end of the meter.

**SYSTEM HAZARD.** A condition posing an actual or potential threat of damage to the physical properties of the public's or the consumer's water supply system.

**USED WATER.** Any water supplied by the public water supply system to a consumer's water supply system after it has passed through the service connection and is no longer under the sanitary control of the water supplier.

(Prior Code, § 6-232)

## **§ 52.032 SURVEYS AND INVESTIGATIONS.**

(A) It shall be the responsibility of the water consumer to conduct or cause to be conducted periodic surveys of water use practices on his or her premises as necessary to determine whether there are actual or potential cross-connections in his or her water supply system. The city shall have the authority to conduct or cause to be conducted periodic surveys and investigations of water use practices within a consumer's premises to determine whether there are actual or potential cross-connections to the consumer's water supply system through which contaminants or pollutants could backflow into the public water system. The city may conduct these surveys to provide information in determining what level of protection will be necessary to protect the public health and safety.

(B) On request by the city, the consumer shall furnish information on water use practices within his or her premises. If the consumer refuses to submit the proper information or to cooperate in obtaining the proper information, the city shall treat the premises as if no appropriate cross-connection survey has been completed, and in such event, the consumer shall be required to install an approved backflow prevention device as required in § 52.034(C).

(C) The duly authorized agent of the city shall have the right to enter any premises served by the public water supply system at all reasonable times for the purpose of making surveys and investigations of water use practices. In order to inspect any premises, said agent shall give notice setting forth a proposed date and time to the consumer at least ten days in advance. If the consumer cannot make the premises available for inspection at the proposed date and time, the consumer shall contact the city and arrange for another date and time for the inspection. If the city and the consumer cannot agree on a date and time, then the city shall treat the premises as if no appropriate cross-connection survey has been completed, and in such event, the consumer shall be required to install an approved backflow prevention device as required in § 52.034(C).

(D) The City Council is hereby appointed as a Hearing Board to hear differences between its duly authorized agent and any consumer on matters concerning interpretation and execution of the provisions of this subchapter by the agent. Any consumer aggrieved by being required to pay the expense of installing, furnishing and/or maintaining a backflow prevention device may, within 14 days of the act or event causing the grievance, request a hearing in writing to present such grievance to the Hearing Board. Said Board shall schedule the matter for hearing within 30 days and provide written notice of the meeting by first class mail to the consumer. The notice shall be mailed to the consumer at least seven days and not more than 21 days before the hearing. At the hearing, the consumer shall first state the nature of the grievance and the city's agent shall be entitled to respond thereto, whereupon the Hearing Board shall render its decision which will be binding upon the consumer and the agent.

(Prior Code, § 6-233)

### **§ 52.033 PROTECTION REQUIRED; TYPE AND LOCATION.**

(A) *Where protection is required.*

(1) An approved backflow prevention device shall be installed between the service connection and the point of potential backflow into a consumer's water supply system when, in the judgment of the city, a health, plumbing, pollution or system hazard exists.

(2) An approved backflow prevention device shall be installed when the following conditions are found by the city to exist:

(a) Premises on which any substance is handled in such a fashion as to create an actual or potential hazard to the public water supply system. This shall include premises having sources or systems containing process fluids or waters originating from the public water supply system which are no longer under the sanitary control of the owner;

(b) Premises having internal cross-connections that, in the judgment of the city, are not correctable or there exist intricate plumbing arrangements which make it impracticable to determine whether or not cross-connections exist;

(c) Premises where, because of security requirements or other prohibitions or restrictions, it is impossible or impractical to make a complete cross-connection survey;

(d) Premises having a repeated history of cross-connections being established or re-established; and

(e) Premises having more than one customer service connection, which could constitute a potential cross-connection.

(3) An approved backflow prevention device shall be installed on each service line to a customer's water supply system serving the following types of facilities, unless the city determines that no health, pollution or system hazard to the public water supply system exists:

(a) Hospitals, mortuaries, dental clinics, nursing and convalescent homes and medical buildings;

(b) Testing laboratories, film laboratories and film development facilities;

(c) Sewage treatment plants, sewage pumping stations or stormwater pumping stations;

(d) Food or beverage processing plants;

(e) Chemical plants;

(f) Metal de-greasing, plating industries, machine tool plants, die and metal processing or productions;

(g) Chemical and petroleum processing or storage plants;

(h) Car washes and automobile servicing facilities;

(i) Lawn irrigation systems and swimming pools;

(j) Laundries and dry cleaners;

(k) Packing houses;

(l) Power plants;

(m) Premises having radioactive materials such as laboratories, industries and hospitals;

(n) Rendering plants;

- (o) Premises having a water recirculating system as used for boilers or cooling systems;
- (p) Veterinary establishments, kennels, feedyards, stables, rodeo grounds, stockyards and pet grooming salons;
- (q) Beauty salons, barbershops, massage parlors and health clubs;
- (r) Fire suppression systems;
- (s) Multi-storied buildings greater than three stories in height;
- (t) Schools, universities and colleges; and
- (u) Other commercial or industrial facilities which may constitute potential cross-connection sites.  
(Prior Code, § 6-234)

(B) *Type of protection required.*

(1) The type of protection required under § 52.034(C)(1) and (C)(2) shall depend on the degree of hazard that exists, as follows.

(a) An approved air gap separation or an approved reduced pressure principle backflow prevention device shall be installed where a public water supply system may be contaminated with any substance that could cause a system hazard or health hazard.

(b) An approved double check valve assembly shall be installed where a public water supply system may be contaminated with any substance that could cause a pollution hazard.

(c) An approved reduced pressure principle backflow prevention device shall be installed at the service connection where a plumbing hazard exists.

(d) In the case of any premises where, because of security requirements or other prohibitions, it is impossible or impractical to make a complete cross-connection survey of the consumer's potable water system, a reduced pressure principle backflow prevention device shall be installed at the service connection.

(2) An approved anti-siphon vacuum breaker may be used as a backflow prevention device where it is not subjected to back pressures. This device shall not be used for applications where water flow is expected to be continuous for 12 or more hours. The device shall be installed ahead of the potential source of contamination on the discharge side of the last control valve. It shall be placed at the least six inches above the highest point reached by any water passing through the potential source of

contamination. Typically, this type of device is used for such equipment as lawn sprinklers, water-cooled compressors or other water-cooled equipment.

(Prior Code, § 6-235)

#### **§ 52.034 BACKFLOW PREVENTION DEVICES; INSTALLATION, TESTING.**

*(A) Generally.*

(1) Any approved backflow prevention device required by division (C) below shall be installed at a location and in a manner approved by the city. The consumer, at his or her sole expense, shall obtain and install said approved backflow prevention device within 90 days of notice and as directed by the city.

(2) Existing backflow prevention devices approved by the city prior to the effective date of this rule and which are properly maintained shall, except for inspection, testing and maintenance requirements, be excluded from the requirements of division (E) below, but only if the city determines that the devices will satisfactorily protect the public water supply system. If deemed necessary for proper testing, 100% closing shutoff ball valves for testing shall be provided on existing backflow prevention devices. If the city determines that an existing backflow prevention device requires replacement, it shall be replaced with an approved backflow prevention device.

(Prior Code, § 6-236)

*(B) Booster pumps.*

(1) No person shall install or maintain a water service connection to any premises where a booster pump has been installed on the service line to or within such premises unless such booster pump is equipped with a low pressure cutoff designed to shut off the booster pump when the pressure in the service line on the suction side of the pump drops to 20 pounds per square inch gauge or less.

(2) It shall be the duty of the water consumer to maintain the low pressure cutoff device in proper working order.

(Prior Code, § 6-237)

*(C) Yard hydrants.*

(1) The installation of yard hydrants where water is available or accessible for drinking or culinary purposes and which have drip openings below the ground surface is prohibited unless such hydrants are equipped with an approved device to prevent entrance of groundwater into chambers connected with the water supply.

(2) Yard hydrants or hose bibs which would be used by the consumer to provide water to mix pesticides, fertilizer or other chemicals for direct use or aerial application to surface areas shall be equipped with an anti-siphon vacuum breaker.



(3) All underground lawn and garden sprinkler systems shall be equipped with an approved backflow prevention device.

(Prior Code, § 6-238)

(D) *Installation.*

(1) Backflow prevention devices required by this policy shall be installed at a location and in a manner approved by the city or its authorized representative. All devices shall be installed at the expense of the consumer unless the city or its authorized representative agrees otherwise.

(2) Backflow prevention devices installed at the service connection shall be located on the consumer's side of the water meter (if one is installed) or the corporation stop, as close to the meter or corporation stop and prior to any other connection.

(3) Backflow prevention devices shall be installed: according to manufacturer's recommendations; where conveniently accessible for maintenance and testing; where protected from freezing; and where no part of the device will be submerged or subject to flooding by any fluid.

(Prior Code, § 6-239)

(E) *Testing.*

(1) Backflow and backsiphonage prevention devices designed to be tested shall be tested for proper operation annually or when necessary, in the opinion of the city or its authorized representative. Testing and repair must be done by a certified (Grade 6) backflow tester. Actual testing shall be at the expense of the consumer unless the city or its authorized representative agrees otherwise.

(2) Any required maintenance or repairs shall be at the expense of the consumer and subject to the approval of the city. If testing shall require entry into the premises, the city's authorized representative shall give notice setting forth a proposed date and time to the consumer at least ten working days in advance by first class mail, return receipt requested.

(3) If the consumer cannot make the appointment, he or she shall contact the city's authorized representative to arrange another date and time.

(Prior Code, § 6-240)

**§ 52.035 AUTHORIZED REPRESENTATIVE, AUTHORITY.**

The authorized representative shall have the authority to issue any order consistent with the provisions of these regulations in order to protect the public health and safety. Any order of the authorized representative shall be in writing and shall clearly state the nature of the order and compliance

requirements and shall set a reasonable date by which compliance must be met. All orders will be mailed by certified mail with return receipt requested.

(Prior Code, § 6-241)

#### **§ 52.036 APPEALS.**

In the event that it is claimed that: the true intent and meaning of these regulations has been wrongfully interpreted by the authorized representative; the time allowed for compliance with any order of the authorized representative is too short; or conditions peculiar to a particular premises make it unreasonably difficult to meet the literal requirements prescribed by this chapter, the owner may file a written notice of appeal with the City Clerk within ten days after the decision or order of the authorized representative has been made. When appealed to, the City Council shall hear all appeals and shall have the power and authority to modify the decision or order of the authorized representative. Such a decision shall be final, subject only to any remedy which the aggrieved party may have at law or equity. Any appeal shall be in writing and shall state the reason for the appeal.

(Prior Code, § 6-242)

#### **§ 52.037 VIOLATIONS.**

The city or its authorized representative shall deny or discontinue water service to any premises or any consumer wherein any backflow prevention device required by this subchapter is not installed, tested and maintained in a manner acceptable to the city or its authorized representative, if it is found that the backflow prevention device has been removed or bypassed or if an unprotected cross-connection exists. Water service to such premises shall not be restored until the consumer is in compliance with these cross-connection regulations to the satisfaction of the city or its authorized representative.

(Prior Code, § 6-243)

#### **§ 52.038 LIABILITY CLAIMS.**

The authorized representative shall be relieved from personal liability. The city shall hold harmless the authorized representative, when acting in good faith and without malice, from all personal liability for any damage that may occur to any person or property as a result of any act required or authorized by this subchapter or by reason of any act or omission of the authorized representative in the discharge of his or her duties hereunder. Any suit brought carrying out the provisions of this subchapter shall be defended by the city or its insurance carrier, if any, through final determination of such proceedings.

(Prior Code, § 6-244)

***WATER SHORTAGE*****§ 52.050 DEFINITIONS.**

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

***BASIC WATER USE.*** Includes water for drinking, water for cooking, water for bathing, water for laundry and water for sanitary flushing in residential and business premises.

***ODD/EVEN WATERING.*** Includes alternate daily lawn watering throughout the city and its water service area. During this restriction, residence and business addresses with odd-numbered addresses shall be allowed to water lawns on odd-numbered days of the month (e.g., first, third, fifth, and so on, day of the month). During this restriction, residence and business addresses with even-numbered addresses shall be allowed to water lawns on even-numbered days of the month (e.g., second, fourth, sixth, and so on, day of the month).

***WASTE OF WATER.*** Includes, but shall not be limited to, leaving hoses run, leaving faucets run, allowing faucets and toilets to leak, watering of lawns excessively or continuously, not repairing broken sprinkler heads and the like or failing to repair a controllable water leak due to defective plumbing.

***WATERWORKS SYSTEM.*** Includes the municipal water supply wells, treatment plant, storage reservoirs, water supply pumps and water distribution system.  
(Prior Code, § 6-245) (Ord. 776, passed 6-14-2022)

**§ 52.051 WATCH, WARNING OR EMERGENCY.**

(A) A water watch, warning or emergency shall be in effect whenever the city water system operator and/or the City Engineer find that conditions indicate the probability of a major water supply shortage is rising. The city water system operator and/or the City Engineer shall notify the Mayor of conditions which may, pursuant to the city's water conservation plan, as may be amended from time to time, trigger a watch, warning or emergency.

(B) The Mayor shall be empowered to declare that a water watch, warning or emergency exists and shall take steps to inform the public and ask for reductions in water use. Such watch, warning or emergency shall be deemed to continue until it is declared to have ended. Declaring the existence and end of a water watch, warning or emergency shall be effective upon posting notice at the city's designated areas.

(Prior Code, § 6-246) (Ord. 776, passed 6-14-2022)

**§ 52.052 DECLARATION OF WATCH.**

Upon the declaration of a water watch, the following affirmative measures may be implemented by the city.

(A) *Education actions.* The city will make occasional news releases or post notices in designated places encouraging water conservation and shall educate the public on how to conserve water through social media, mailings and posting on city website.

(B) *Management actions.*

(1) Any repairs or replacements to equipment components of the city waterworks system shall be completed immediately.

(2) Leaks will be repaired immediately.

(3) The city will monitor its use of water and will curtail activities such as hydrant flushing.

(C) *Regulation actions.* The public will be asked to voluntarily curtail some outdoor water use and to make efficient use of indoor water, i.e., washing full loads, taking short showers, not letting faucets run and the like.

(Prior Code, § 6-247) (Ord. 776, passed 6-14-2022)

**§ 52.053 DECLARATION OF WARNING.**

Upon the declaration of a water warning, the following affirmative measures may be implemented by the city:

(A) *Education actions.* The city will make occasional news releases or post notices in designated places indicating the current water supply situation. Water conservation articles may be provided to the public on a regular basis.

(B) *Management actions.*

(1) Any repairs or replacements to equipment components of the city waterworks system shall be completed immediately. Water storage volumes shall be monitored hourly to ensure that reserves are in place for emergency firefighting operations.

(2) Leaks will be repaired immediately.

(3) The city will curtail its water usage, including hydrant flushing and watering of publicly owned parks and other grounds.

(C) *Regulation actions.* The public will be asked to voluntarily curtail some outdoor water use and to make efficient use of indoor water, i.e., washing full loads, taking short showers, not letting faucets run and the like.

(1) An odd/even lawn watering system will be imposed on city residents. These restrictions shall not apply to any person, firm or corporation engaged in the business of growing or selling plants of any kind.

(2) Waste of water will be prohibited, other than what is necessary for public safety.  
(Prior Code, § 6-248) (Ord. 776, passed 6-14-2022)

#### **§ 52.054 DECLARATION OF EMERGENCY.**

Upon the declaration of a water emergency, the following affirmative measures may be implemented by the city.

(A) *Education actions.* The city will make occasional news releases or post notices in designated places indicating the current water supply situation. The city may hold public meetings to discuss the emergency, the status of the water supply and further actions which need to be taken.

(B) *Management actions.*

(1) Any repairs and replacements of equipment components of the city waterworks system shall be completed immediately and water operating personnel shall be on site continuously to monitor all operations, usage volumes, storage volumes for fire protection and the like.

(2) Leaks will be repaired immediately.

(3) The city will seek additional emergency supplies from other water suppliers, the state or the federal government.

(C) *Regulation actions.* Outdoor water use will be banned. Waste of water will be prohibited.  
(Prior Code, § 6-249) (Ord. 776, passed 6-14-2022)

#### **§ 52.055 REPORTS AND REVIEW OF RATIONING.**

The city water system operator and City Engineer will make regular reports to the Mayor while water restrictions are in effect. The Mayor will review the reports and consider any changes that may be desirable in the regulations set out in this subchapter.  
(Prior Code, § 6-250) (Ord. 776, passed 6-14-2022)

**§ 52.056 VIOLATION; DISCONNECTION.**

If the Mayor learns of any violation of any water use regulation actions imposed pursuant to this subchapter, a written notice of the violation shall be affixed to the property where the violation occurred; and the customer of record or any other person known to the city who is responsible for the violation or its correction shall be provided with either actual or mailed notice. Said notice shall describe the violation and order that it be corrected, cured or abated immediately or within such specified time as the city determines is reasonable under the circumstances. If the order is not complied with, the city may immediately shut off the water on any premises until such time as the water watch, warning or emergency has ended.

(Prior Code, § 6-251) (Ord. 776, passed 6-14-2022)

**§ 52.057 EMERGENCY REDUCTION.**

Nothing in this subchapter shall limit the ability of the City Council to order a reduction in the use of water or shut off the water on any premises pursuant to § 52.013.

(Prior Code, § 6-252) (Ord. 776, passed 6-14-2022)

***PRIVATE WATER SYSTEMS*****§ 52.070 SCOPE.**

The provisions of this subchapter shall apply to all private water supply systems in the corporate limits of the city and its one-mile zoning jurisdiction.

(Prior Code, § 8-801)

**§ 52.071 DEFINITIONS.**

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

***BUILDING INSPECTOR.*** The building inspector of the city.

***HEALTH OFFICER.*** The Director of the County Health Department or his or her authorized representative.

***PRIVATE WATER SUPPLY SYSTEM.*** A water supply system not operated by a governmental subdivision.

**WELL.** The structural assembly constructed for the purpose of extracting water from the ground.  
(Prior Code, § 8-802)

#### **§ 52.072 SANITATION REQUIREMENTS.**

In order to protect the general health, safety and welfare of the people of the city and the general public, private water supply systems shall be constructed, used and maintained in accordance with the following standards and requirements.

(A) A well shall be located so as to be no nearer than 100 feet to any septic tank system, cesspool, privy, feed lot, barnyard or animal or fowl pen, or any other known source of contamination.

(B) A well shall be constructed so as to exclude dust, dirt or foreign material of any kind and to exclude surface water and any groundwater above a depth of ten feet.

(C) A well shall not be constructed as a driven or sand-point well.

(D) If stock or fowl are watered from wells controlled by this subchapter, all automatic stock or fowl watering devices shall be provided with backsiphonage devices approved by the health officer. Any cross-connections between a private water supply system or private well and the city municipal water supply system are expressly prohibited.

(Prior Code, § 8-803) Penalty, see § 10.99

#### **§ 52.073 CONSTRUCTION REQUIREMENTS.**

In addition to the sanitation requirements for private water supply systems listed above, all such systems shall be constructed, altered, maintained and used in accordance with the regulations and standards set forth in Title 178, Department of Health and Environmental Control Council, Chapter 12: *Regulations Governing Water Well Construction, Pump Installation and Water Well Abandonment Standards*, including future amendments. A copy of said regulations and standards shall be available for public inspection at the City Clerk's office.

(Prior Code, § 8-804)

#### **§ 52.074 QUALITY OF WATER.**

The sanitary quality of water from private water supply systems shall be determined by the bacteriological, chemical and physical standards as promulgated by the most recent edition of the *Public Health Service Drinking Water Standards*.

(Prior Code, § 8-805)

**§ 52.075 PERMITS AND FEES.**

(A) It shall be unlawful for any person to construct, alter or modify private water supply systems without first obtaining a valid permit issued by the County Health Department, which shall be in addition to the building permit or any other required permit. A permit for a private water supply system may be denied where the municipal water supply is available within 300 feet from the property to be served. Appropriate fees for said permit shall be payable to the County Health Department. In addition, an electrical permit must be obtained from the city.

(B) The fee for an electrical permit in conjunction with the County Health Department permit to construct a private water supply shall be payable to the city in an amount determined by resolution by the City Council.

(Prior Code, § 8-806) Penalty, see § 10.99

**§ 52.076 INSPECTIONS.**

The health officer is hereby authorized and directed to make such inspections as are necessary to determine satisfactory compliance with these regulations and standards.

(Prior Code, § 8-807)

**§ 52.077 ABATEMENT OF NUISANCE.**

Whenever a nuisance exists as defined in this subchapter, the city may proceed by a suit in equity to enjoin and abate the same in the manner provided by law. Whenever in any action it is established that a nuisance exists, the court may, together with the fine or penalty imposed, enter an order of abatement as part of the judgment in the case.

(Prior Code, § 8-809)

**§ 52.078 WATER SERVICE AND DRAIN LAYER; LICENSE.**

(A) No person shall tap water mains, install curb stops, install water service lines or construct, lay, install, replace or repair sanitary sewer lines, septic tank systems or septic tank fields within the city's corporate limits or extraterritorial jurisdiction without first having obtained from the City Building Inspector a water service and drain layer's license.

(B) A water service and drain layer's license shall be issued to an applicant by the City Building Inspector upon fulfillment of the following:



- (1) Completion of a water service and drain layer's license application form provided by the city;
- (2) Submission of documentation that the applicant has three years' experience as an apprentice plumber or equivalent;
- (3) A written endorsement of a master plumber who is registered as a master plumber with the city; and
- (4) Payment of the fee as provided in § 110.05.

(C) A water service and drain layer's license shall be valid from the date of issuance up to and including the next December 31, unless sooner revoked, and shall be renewed before the expiration date thereof by submitting the required application form, documentation and fee.  
(Prior Code, § 8-810) Penalty, see § 10.99

#### **§ 52.079 LAWN SPRINKLER INSTALLER; LICENSE.**

(A) No person shall install lawn sprinkler systems from the backflow prevention device in and through any lawn or yard within the city's corporate limits or extraterritorial jurisdiction without first having obtained a lawn sprinkler installer's license from the City Building Inspector.

(B) A lawn sprinkler installer's license shall be issued to an applicant by the City Building Inspector upon fulfillment of the following:

- (1) Completion of a lawn sprinkler installer's license application form provided by the city;
- (2) Submission of documentation that the applicant has two years' experience in lawn sprinkler installations; and
- (3) Payment of the fee as provided in § 110.05.

(C) A lawn sprinkler installer's license shall be valid from the date of issuance up to and including the next December 31, unless sooner revoked, and shall be renewed before the expiration date thereof by submitting the required application form, documentation and fee.  
(Prior Code, § 8-811) Penalty, see § 10.99

***RATES AND FEES*****§ 52.090 FEES AND COLLECTIONS.**

(A) The City Council has the power and authority to fix the rates to be paid by consumers for the use of water from the Water Department. All such fees shall be on file for public inspection at the office of the City Clerk.

(B) The utility clerk shall bill the consumers, collect all money received by the city on the account of the Water Department and account for and pay to the City Treasurer all revenue collected, making receipts in duplicate, keeping one and filing the other in the Water Department's official records.  
(Prior Code, § 6-206)

***Statutory reference:***

*Similar provisions, see Neb. Rev. Stat. § 17-540*

**§ 52.091 WATER BILLS.**

(A) Water bills shall be due and payable monthly at the office of the utility clerk. The Mayor shall direct the collector to charge and collect from each customer for the amount of the water bill, together with any other charges, properly itemized, due the Water Department. Bills shall be due on the first day of each month and payable by the fifteenth of each month. The gross amount of all bills shall be due after the fifteenth day of each month and no discount will be allowed. Bills not paid by the fifteenth day of the following month shall be deemed to be delinquent. Upon being deemed to be delinquent, as herein defined, the utility clerk shall give a written notice as set forth in § 50.02 to the customer of such delinquency and shall demand payment immediately. In the event that the bill is not paid within seven days after the sending of said notice, service may be discontinued at any time.

(B) Disconnection of water service shall be made only after 12:00 p.m. on any business day Monday through Thursday. There shall be no disconnection of service unless the outside temperature is above 20°F. In the event service has been disconnected because of a delinquent bill, before service can be restored, the customer must pay the delinquent bill, the current amount owed and a reconnection charge. If service is restored prior to 3:00 p.m. on any non-holiday Monday through Friday, the reconnection fee shall be \$50, and if after 3:00 p.m., the reconnection fee shall be \$75.

(C) If service is reconnected at any time other than as above stated, the reconnection fee shall be \$75. The city shall make no reconnection of water service after 9:00 p.m. on any day.  
(Prior Code, § 6-207) (Ord. 692, passed 4-12-2016)

***Statutory reference:***

*Similar provisions, see Neb. Rev. Stat. §§ 17-542 and 70-1605*

**§ 52.092 WATER USAGE RATES.**

(A) All water consumers shall be liable for the minimum monthly base charge and, if applicable, the monthly usage charge set forth below unless and until the consumer shall, by written order, direct the city to shut off the water at the stop box, in which case the consumer shall not be liable thereafter for water service until the water service is reestablished.

(1) *Residential property inside city limits.*

(a) *Minimum monthly base charge.* The minimum monthly base charge for the use of zero to 3,000 gallons of water per month shall be \$20.

(b) *Monthly usage charge.* In the event water usage exceeds 3,000 gallons per month, then the monthly usage charge shall be \$2.20 per 1,000 gallons, or fraction thereof, above 3,000 gallons, which amount shall be added to the minimum monthly base charge (e.g., usage of 3,001 to 4,000 gallons in a month would result in a total monthly water bill of \$22.20; usage of 4,001 to 5,000 gallons in a month would result in a total monthly water bill of \$24.40 and so forth).

(2) *Residential users outside city limits.*

(a) *Minimum monthly base charge.* The minimum monthly base charge for the use of 0 to 3,000 gallons of water per month shall be \$26.25.

(b) *Monthly usage charge.* In the event water usage exceeds 3,000 gallons per month, then the monthly usage charge shall be \$2.75 per 1,000 gallons, or fraction thereof, above 3,000 gallons, which amount shall be added to the minimum monthly base charge (e.g., usage of 3,001 to 4,000 gallons in a month would result in a total monthly water bill of \$29; usage of 4,001 to 5,000 gallons in a month would result in a total monthly water bill of \$31.75 and so forth).

(3) *Commercial and industrial users inside or outside of city limits.*

(a) *Minimum monthly base charge.* The minimum monthly base charge for the use of 0 to 3,000 gallons of water per month shall be \$30.25.

(b) *Monthly usage charge.* In the event water usage exceeds 3,000 gallons per month, then the monthly usage charge shall be \$2.75 per 1,000 gallons, or fraction thereof, above 3,000 gallons, which amount shall be added to the minimum monthly base charge (e.g., usage of 3,001 to 4,000 gallons in a month would result in a total monthly water bill of \$33, usage of 4,001 to 5,000 gallons in a month would result in a total monthly water bill of \$35.75 and so forth).

(B) The rates fixed by this section shall be reviewed annually by the City Council during the month of February and shall be adjusted for the purpose of providing for the payment of the costs of

maintenance, operation, repair and replacement of the components of the water system. Such adjustment shall take effect on April 1 and may reflect the annual change as established by the Consumer Price Index for All Urban Consumers (CPI-U) as reported by the U.S. Bureau of Labor statistics each January.

(C) Bills for water charges shall be rendered following each month's usage and shall become delinquent after the fifteenth of each month. A delinquency fee of \$10 shall be added to any delinquent bill to cover the additional expenses incurred by the city.

(D) The Mayor and City Council members hereby find and determine that the charges established by this section are just and equitable rates and charges to be paid to the city by each consumer using the system.

(Prior Code, § 6-208) (Ord. 674, passed 4-4-2015; Ord. 784, passed 1-10-2023; Ord. 793, passed 7-11-2023; Ord. 807, passed 2-13-2024)

#### **§ 52.093 WATER TREATMENT CAPITAL FACILITIES CHARGE.**

(A) The customer, upon approval of his or her application for water services, shall pay to the Water Department a water treatment capital facilities charge to compensate the city for the expense of providing the capital facilities needed to process and treat the potable water supply to be used by the customer.

(B) The water treatment capital facilities charges shall be in accordance with the following schedule.

|                                                                                                                                                                                                                                                                                                   |         |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------|
| For each acre of commercial or industrial property                                                                                                                                                                                                                                                | \$3,000 |
| For each acre of park, common area or outlots*                                                                                                                                                                                                                                                    | \$3,000 |
| For each acre of residential multi-family property                                                                                                                                                                                                                                                | \$3,300 |
| For each residential, duplex lot                                                                                                                                                                                                                                                                  | \$1,480 |
| For each residential, single-family lot                                                                                                                                                                                                                                                           | \$1,100 |
| *Any outlot that is an existing lake will not pay water treatment capital facilities charges. In the event that a new lake is intentionally created as part of a new development, the City Council shall determine if water treatment capital facilities charges will be due for the lake outlot. |         |

(C) The water treatment capital facilities charge shall be collected by the City Treasurer at the time of the application for water service, provided that:

(1) Credit shall be given for the amount of prepayment, if any, for the property being connected; and

(2) The applicant furnishes proof of prepayment made on the property sought to be connected.

(D) The water treatment capital facilities charges connection policy for new subdivisions and developments shall be as follows.

(1) The first one-half of the water treatment capital facilities charges for all residential, commercial and industrial property shall be collected by the City Clerk/Treasurer from the developer of the subdivision's owner prior to the signing of the subdivision's final plat.

(2) The final one-half of the water treatment capital facilities charges for all residential, commercial and industrial property shall be collected from the applicant at the time the application for water service is made.

(3) One hundred percent of the water treatment capital facilities charges for park, common area or outlots shall be collected from the developer of the subdivision's owner prior to the signing of the subdivision's final plat.

(E) The city may consider an alternate method of determining the water treatment capital facilities charges for commercial and industrial properties which exceed five acres in size, and where the water demand and impact on the city's infrastructure is not commensurate with large land areas needed for the commercial or industrial entity to function. Examples of large area requirements would include storage of raw and finished materials or staging of transportation loading and unloading activities. The alternate calculation would be based on water main taps needed for fire protection. The alternate charge system would be as follows:

(1) *Capital facility charge.*

| <i>Meter Size</i> | <i>Charge</i> |
|-------------------|---------------|
| 5/8-inch          | \$1,100       |
| 1/2-inch          | \$1,650       |
| 1-inch            | \$2,750       |
| 1 1/2-inch        | \$5,500       |
| 2-inch disc       | \$8,800       |
| 2-inch turbo      | \$17,600      |
| 3-inch compound   | \$17,600      |
| 3-inch turbo      | \$38,500      |

(2) *Connection tap charge.*

| <i>Size Tap</i> | <i>Charge</i> |
|-----------------|---------------|
| 4-inch          | \$1,400       |
| 6-inch          | \$1,600       |
| 8-inch          | \$1,800       |

(3) *Notes.* The above charges would apply to each meter in each building. The minimum capital facility charge would be \$15,000 (i.e., five acres at \$3,000 per acre).

(4) *Alternative method.* The use of the alternative method of determining water capital facilities charges is not an elective of the commercial or industrial property and is reserved solely for use by the city if needed. The implementation of the alternative method and the sizing of meters and connections to sewer mains will be determined by the City Engineer and City Council.

(Prior Code, § 6-209) (Ord. 567, passed 10-28-2008; Ord. 572, passed 12-9-2008; Ord. 658, passed 5-13-2014)

#### **§ 52.094 DEPOSIT.**

(A) All new applicants for service from the city water system shall be required to pay a deposit in the amount of \$150 to the Water Department before such water service is supplied. From such deposit, the city may, without notice, deduct all delinquent water rents or any unpaid claims due to the Water Department.

(B) The Water Department shall refund the water deposit to each water consumer after a period of not less than one year; provided, that the water consumer's account is in good standing.

(C) If the water deposit has been refunded after one year and if, anytime thereafter, the consumer is late paying his or her water charges two consecutive times, an additional water deposit of \$150 will be required by the city, to be held pursuant to the terms of this section.

(D) In the event that a water consumer's account has not been an account in good standing at any time during a period of five years or more from the date of the original deposit, the deposit shall immediately be forfeited to the city and the water consumer shall not be entitled to a refund.

(E) In the event that a water consumer's account is inactive, no water service is being provided in connection therewith and, after reasonable attempts, the water consumer cannot be located, the deposit shall immediately be forfeited to the city, and the water consumer shall not be entitled to a refund.

(Prior Code, § 6-210) (Ord. 522, passed 5-16-2006; Ord. 745, passed 1-12-2021)

**§ 52.095 RENTAL UNIT BILLING.**

(A) *Existing single-family dwelling unit.* All single-family dwelling rental units that have individual meters and curb stops shall be billed directly to the tenant/resident upon the owner's request. However, the owner/landlord is responsible for the collection of the water and sewer deposit fee and is ultimately responsible for payment of the water and sewer bill. In the event that the owner/landlord does not pay a delinquent water and sewer bill, the city shall have the right to place a lien upon the property or pursue any other remedy available.

(B) *Existing multi-family dwelling units.* Owners/landlords will be responsible for the payment of the water and sewer base fee and water and sewer usage fee for each separate living unit, even though there may be only one meter supplying the multi-family dwelling unit. In the event that the owner/landlord does not pay a delinquent water and sewer bill, the city shall have the right to place a lien upon the property or pursue any other remedy available.

(C) *Existing duplexes.* All existing duplexes that have individual meters and curb stops for each unit shall be billed directly to the tenant(s) upon the owner's/landlord's request or to the resident owner. In any case, the owner/landlord is responsible for payment of the deposit fee for each rental unit and ultimately responsible for the payment of the basic water/sewer fee and water usage fee for each rental unit. In the event that the owner/landlord does not pay a delinquent water and sewer bill, the city shall have the right to place a lien upon the property or pursue any other remedy available.

(D) *Existing townhome rental units.* All existing townhome rental units that have their own water meters and curb stops shall be billed directly to the tenant(s) upon request of the owners/landlords. In any case, each owner/landlord is responsible for the payment of the deposit fee and ultimately responsible for the payment of the basic water/sewer fee and water usage fee. In the event that the owner/landlord does not pay a delinquent water and sewer bill, the city shall have the right to place a lien upon the property or pursue any other remedy available.

(Prior Code, § 6-211)

**§ 52.096 SPECIAL WATER MAIN EXTENSION FEE.**

(A) The customer, upon approval of his or her application for water service, shall pay to the City Water Department, if required, a special water main extension fee. The fee shall only be charged to customers seeking to connect to the municipal water system in areas whose property was not charged, by way of special assessments, for the benefit of the water extension made in that district.

(B) The amount of the special water main extension fee shall be based upon the balance of the cost of construction of the water extension improvements not assessed to other property and apportioned to the applicant according to the area to be benefited by connection to the system. The entire amount of the special water main extension fee shall be paid in full before a water connection shall be approved.

(Prior Code, § 6-222)





## **CHAPTER 53: SEWER**

### **Section**

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### ***GENERAL PROVISIONS***

#### **§ 53.001 OPERATION AND FUNDING.**

The city owns the sewer system and operates the same through an operations and maintenance agreement with PeopleService, Inc. The City Council, for the purpose of defraying the cost of the management and maintenance of the sewer system, may each year levy a tax not exceeding the maximum limit prescribed by state law on the actual valuation of all real estate and personal property within the corporate limits that is subject to taxation. The revenue from the tax shall be known as the Sewer Maintenance Fund and shall remain in the custody of the City Treasurer. The Council shall by ordinance set the rates to be charged. A copy of the rates shall be filed in the office of the City Clerk for public inspection at any reasonable time.

(Prior Code, § 6-301)

**§ 53.002 DEFINITIONS.**

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

**BIOLOGICAL OXYGEN DEMAND.** The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20°C, expressed in parts per million by weight.

**BUILDING OR HOUSE DRAIN.** The part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five feet outside the inner face of the building wall.

**BUILDING OR HOUSE SEWER.** The extension from the building drain to its connection with the main sewer.

**COMBINED SEWER.** A sewer that receives both surface runoff and sewage.

**EASEMENT.** An acquired legal right for the specific use of land owned by others.

**GARBAGE.** Solid wastes from the domestic and commercial preparation, cooking and dispensing of food and from the handling, storage and sale of produce.

**INDUSTRIAL WASTES.** The liquid wastes from industrial manufacturing processes, trade or business as distinct from sanitary sewage.

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

**NATURAL OUTLET.** Any outlet into a watercourse, pond, ditch, lake or other body of surface or groundwater.

**pH.** The logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

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

**PROPERLY SHREDDED GARBAGE.** The wastes from the preparation, cooking and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half inch in any dimension.

***PUBLIC SEWER.*** A sewer in which all owners of abutting properties have equal rights and is controlled by public authority.

***SANITARY SEWER.*** A sewer which carries sewage and to which storm, surface and groundwaters are not intentionally admitted.

***SEWAGE.*** A combination of the water-carried wastes from residences, business buildings, institutions and industrial establishments, together with such ground, surface and stormwaters as may be present.

***SEWAGE TREATMENT PLANT.*** Any arrangement of devices and structures used for treating sewage.

***SEWER SYSTEM* or *SEWERAGE FACILITIES.*** All facilities for collecting, pumping, treating and disposing of sewage.

***SLUG.*** Any discharge of water, sewage or industrial waste which in concentration of any given constituent or in quantity of flow exceeds more than five times the average 24-hour concentration or flows during normal operation for any period of duration longer than 15 minutes.

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

***STORM SEWER.*** A sewer which carries storm and surface waters and drainage, but excludes sewage and industrial wastes other than unpolluted cooling water.

***SUSPENDED SOLIDS.*** Solids that either float on the surface of, or are in suspension, in water, sewage or other liquids, and are removable by laboratory filtering.

***TRAP.*** A fitting or device so constructed as to prevent the passage of air or gas through a pipe without materially affecting the flow of sewage or waste through it.

***TRAP SEAL.*** The vertical distance between the crown weir and the dip of the trap.

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

***WASTE PIPE.*** 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.

***WATERCOURSE.*** A natural or artificial channel in which a flow of water occurs either continuously or intermittently.  
(Prior Code, § 6-302)

**§ 53.003 SEWER CONTRACT NOT TRANSFERABLE.**

(A) The city, through the Sewer Department, shall furnish sewer services to persons within its corporate limits whose premises abut a street or alley in which a commercial main is now or may hereafter be laid. The rules, regulations and sewer rental rates in this chapter shall be considered a part of every application hereafter made for sewer service and the contract between every customer now or hereafter served. Without further formality, the making of an application on the part of any applicant or the use of sewer service by present customers shall constitute a contract between the customer and the city, to which said contract both parties are bound.

(B) Contracts for sewer service are not transferable. Any person wishing to move from one location to another in the city shall make a new application and sign a new contract. If any customer shall sell, dispose of or move from the premises where service is furnished, or if the premises are destroyed by fire or other casualty, he or she shall at once inform the city, 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 city is otherwise advised of such circumstances.  
(Prior Code, § 6-303)

**§ 53.004 CONNECTIONS AND EXTENSIONS.**

(A) The city shall approve all connections and extensions to its sanitary sewer system. The city shall determine the capacity of all existing public sewers and the suitability of new connections and shall approve the capacity, sizing and routing of all new public sewers proposed for connection or extension to the sanitary sewer system. The city shall also determine the service area of all trunk and interceptor sewers and may require oversizing of any sewer to accommodate future projected growth.

(B) The city may extend its sanitary sewer system into unserved areas in accordance with all available statutory procedures, including the establishment of sanitary sewer extension districts. The city shall levy special assessments for the cost of said extensions upon property specially benefited by the sewer extension.

(C) The city may allow a private development or entity to extend the city sanitary sewer system into unserved areas. Any such extension shall be in accordance with approval by the city and the State Department of Environmental Quality. The city shall approve all sewer extension main sizes, including oversizing as determined solely by the city. The costs of the extension shall be borne by the private

development or entity. Upon completion and final acceptance, the extension shall become the property of the city. No pioneering rights or provisions to recoup any portion of the costs of the extension shall be granted or allowed for the private development or entity making the extension.

(Prior Code, § 6-307)

#### **§ 53.005 SERVICE TO NONRESIDENTS.**

(A) Any person whose premises are located outside the corporate limits of the city and who desires to install a house or building sewer that will be connected with the city sewer system shall file a written application with the City Clerk for a permit for such connection, setting forth the name of the owner, occupant or lessee of the premises, the use to which the property is devoted and such other information as the city may require.

(B) The City Council may approve or deny such application in its absolute discretion. If the Council approves the application, it may do so by attaching to such approval whatever conditions it determines necessary.

(Prior Code, § 6-308)

#### **§ 53.006 REPAIR AND REPLACEMENT.**

(A) The Sewer Department may require the owner of any property which is within the city and connected to the public sewers or drains to repair or replace any connection line which serves the owner's property and is broken, clogged or otherwise in need of repair or replacement. The property owner's duty to repair or replace such a connection line shall include those portions upon the owner's property and those portions upon public property or easements up to and including the point of junction with the public main.

(B) The City Clerk shall give the property owner notice by registered letter or certified mail, directed to the last known address of such owner or the agent of such owner, directing the repair or replacement of such connection line. If within 30 days of mailing such notice the property owner fails or neglects to cause such repairs or replacements to be made, the city may cause such work to be done and assess the cost upon the property served by such connection.

(Prior Code, § 6-325)

#### **§ 53.007 MANHOLES; ACCESS; UNLAWFUL DEPOSITS.**

(A) Entrance into a manhole or other opening for any purpose except by authorized persons is hereby prohibited.

(B) It shall be unlawful to deposit or cause to be deposited in any receptacle connected with the sewer system any substance which is not the usual and natural waste carried by the sewer system. (Prior Code, § 6-326) Penalty, see § 53.999

#### **§ 53.008 DESTRUCTION OF PROPERTY.**

No person or persons shall maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is part of the city sewer system. (Prior Code, § 6-327) Penalty, see § 53.999

#### **§ 53.009 COMPLIANCE; INSPECTIONS; INJURY LIABILITY.**

(A) (1) The duly authorized employees or agents 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 of the sewer system in accordance with the provisions of this chapter.

(2) The city shall have no authority to inquire into any processes including metallurgical, chemical, oil, refining, ceramic, paper or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment.

(B) The duly authorized employees or agents of the city bearing proper credentials and identification shall be permitted to enter all private properties through which the city holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair and maintenance of any portion of the sewage works lying within said easement. All entry and subsequent work, if any, on said easement shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

(C) While performing the necessary work on the private property of any company, the duly authorized employees or agents of the city shall observe all safety rules established by said company which are applicable to the premises. The company shall be held harmless for injury or death to any city employees or agents, and the city shall indemnify the company against loss or damage to its property by city employees or agents 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.

(Prior Code, § 6-342)

***PUBLIC SEWERS REQUIRED*****§ 53.020 MANDATORY HOOK-UP.**

(A) Upon written notice by the city, the property owner, occupant or lessee of any premises within 300 feet of any sewer main shall cause the building to be connected with the sewer system and equipped with inside sewerage facilities. Every building hereafter erected shall be connected with the sewer system at the time of its construction.

(B) In the event that any property owner, occupant or lessee shall neglect, fail or refuse to make connection with the city sewer system within a period of ten days after notice to do so has been given by registered mail or by publication in a newspaper in or of general circulation in the city, the City 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.

(Prior Code, § 6-304)

**§ 53.021 UNLAWFUL DISCHARGE OF WASTE.**

It shall be unlawful to discharge any sewage or other polluted waters to any natural outlet within the city or within one mile of the corporate limits thereof, or in any area under the jurisdiction of said city, except where suitable treatment has been provided in accordance with provisions of this chapter.

(Prior Code, § 6-305) Penalty, see § 53.999

**§ 53.022 CESSPOOLS, PRIVIES AND SEPTIC TANKS PROHIBITED.**

Except as provided in §§ 53.055 through 53.059, 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.

(Prior Code, § 6-306) Penalty, see § 53.999

***BUILDING SEWER INSTALLATION*****§ 53.035 PERMIT REQUIRED.**

Any person wishing to connect with the sewer system shall make application to the City Clerk. In the event the building to be connected is new construction, the application shall be a combined



application for utility service and a building permit. If the building is already in existence, the applicant shall be required to submit a separate application for connection of the sewer and/or water service. The City Clerk may require any applicant to make a service deposit in such amount as he or she deems necessary, subject to the review of the City Council. Sewer service may not be supplied to any house or building except upon application and acceptance of city water service and upon the order of the city. The Department shall not supply sewer service to any person outside the corporate limits without special permission from the City Council; provided, that the entire cost of pipe and other installation charges shall be paid by such consumer.

(Prior Code, § 6-317)

### **§ 53.036 PROCEDURE.**

(A) In making excavations in streets, alleys or sidewalks for the purpose of installing pipe or making repairs, the paving, stones and earth must be removed and deposited in a manner that will occasion the least inconvenience to the public and provide for adequate drainage. No person shall leave an excavation made in the street, alley or sidewalk open at any time without a barricade. After service pipes are laid, the streets, alleys and sidewalks shall be restored to good condition. If the excavation in any street, alley or sidewalk is left open or unfinished for a period of 24 hours or more, the city shall have the duty to finish or correct the work and all expenses so incurred shall be charged to the consumer.

(B) All installations or repairs of pipes require two inspections by the city. The first inspection shall be made when connections or repairs are completed and before the pipes are covered. The second inspection shall be made after the dirt work is completed and the service is restored. It is the consumer's responsibility to notify the city at the time the work is ready for each inspection. All installation shall be done under the supervision of and strictly in accordance with the rules, regulations and specifications prescribed by the city.

(Prior Code, § 6-318)

### **§ 53.037 INSTALLATION EXPENSE; LICENSED PLUMBER.**

(A) The customer, upon approval of his or her application for sewer service, shall pay to the Sewer Department a sewer connection processing and inspection fee to compensate the city for the expense of processing the application and inspecting the connection between the applicant's private building sewer and the city's public sewer main. The customer shall, in addition to the processing and inspection fee, arrange for and pay for all costs of the work and materials to make the connection. Such connection work shall only be made by a licensed plumber.

(B) The sewer connection processing and inspection fee shall be \$300 per connection.

(Prior Code, § 6-319)

**§ 53.038 PLUMBING REGULATIONS.**

(A) It shall be unlawful for any person, firm or corporation to:

- (1) Engage in or conduct the business of sewer connection and house drainage;
- (2) Excavate a trench for any sewer pipe;
- (3) Open, uncover or in any manner make connection with or lay any sewer drain; or

(4) Attach to, modify or repair any appurtenances without complying with the rules and regulations of the city.

(B) Nothing herein shall be construed to apply to persons, firms or corporations under special contract with the city for the construction, extension or repair of the city sewer system.

(Prior Code, § 6-320) Penalty, see § 53.999

**§ 53.039 PLUMBER'S LIABILITY.**

The licensed plumber who connects with the public sewer shall be held responsible for any damage to the sewers or the public ways and property. He or she shall restore all streets that he or she has excavated and make good any settlement of the ground or pavement caused by such excavation to the complete satisfaction of the city.

(Prior Code, § 6-321)

**§ 53.040 SINGLE PREMISES.**

(A) A separate and independent building sewer shall be provided for every building, except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard or driveway.

(B) The building sewer from the front building may be extended to the rear building and the whole considered as one building sewer, but the city does not and will not assume any obligation or responsibility for damage caused by or resulting from any such single connection.

(Prior Code, § 6-322)

**§ 53.041 USE OF EXISTING SEWERS.**

Old building sewers may be used in connection with new buildings only when they are found to meet all requirements of this chapter upon examination and testing by the city.  
(Prior Code, § 6-323)

**§ 53.042 CONSTRUCTION CODES.**

(A) The size, slope, alignment and materials of construction of a building sewer and the methods to be used in excavating, placing of the pipe, jointing, testing and backfilling the trench shall all conform to the requirements of the building and plumbing code or other applicable rules and regulations of the city. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the A.S.T.M. and W.P.C.F. Manual of Practice No. 9 shall apply.

(B) Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.

(C) The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing codes or other applicable rules and regulations of the city or the procedures set forth in 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 city before installation.  
(Prior Code, § 6-324)

***PRIVATE SEWAGE DISPOSAL*****§ 53.055 WHEN APPLICABLE.**

Where a public sanitary or combined sewer is not available under the provisions of § 53.020, the building sewer shall be connected to a private sewage disposal system complying with the provisions of this chapter. At such time as a public sewer becomes available to a property served by a private wastewater disposal system, as provided in herein, a direct connection shall be made to the public sewer within 60 days in compliance with this chapter. Any septic tanks, cesspools and similar private wastewater disposal facilities shall be cleaned of sludge and filled with suitable material.  
(Prior Code, § 6-328)

**§ 53.056 PERMIT REQUIRED.**

(A) *Permit required; application.* Before commencement of construction of a private sewage disposal system, the owner shall first obtain a written permit. The application for such permit shall be made on a form furnished by the city, which the applicant shall supplement by any plans, specifications and other information as is deemed necessary by the city. A permit and inspection fee shall be paid at the time the application is filed.

(Prior Code, § 6-329)

(B) *When effective; inspections.* A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the city or its agent, who shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for the permit shall notify the city when the work is ready for final inspection and before any underground portions are covered. The inspection shall be made within 24 hours of the receipt of notice by the city.

(Prior Code, § 6-330)

**§ 53.057 SPECIFICATIONS.**

The type, capacities, location and layout of a private sewage disposal system shall comply with all recommendations of the State Department of Health. No permit shall be issued for any private sewage disposal system employing subsurface soil absorption facilities when the area of the lot is less than 10,000 square feet. No septic tank or cesspool shall be permitted to discharge to any natural outlet.

(Prior Code, § 6-331)

**§ 53.058 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.

(Prior Code, § 6-332)

**§ 53.059 ADDITIONAL REQUIREMENTS.**

No statement contained in §§ 53.055 through 53.058 shall be construed to interfere with any additional requirements that may be imposed by the health officer.

(Prior Code, § 6-333)

**WASTEWATERS****§ 53.070 STORMWATER, SURFACE WATER, GROUNDWATER, COOLING WATER AND PROCESS WATER.**

(A) 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 heating or cooling water or unpolluted industrial waters to any sanitary sewer.

(B) Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers or to a natural outlet approved by the city. Industrial cooling water or unpolluted process water may be discharged to a storm sewer or natural outlet on approval of the city.

(Prior Code, § 6-334) Penalty, see § 53.999

**§ 53.071 FLAMMABLE, TOXIC, CORROSIVE AND OBSTRUCTIVE SUBSTANCES.**

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 or wastes containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any waste treatment process, constitute a hazard to humans or animals, create a public nuisance or create any hazard in the receiving waters of the wastewater treatment plant, including, but not limited to, cyanides in excess of two mg/l as CN in the wastes as discharged to the public sewer;

(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 sewage works; or

(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.

(Prior Code, § 6-335) Penalty, see § 53.999

**§ 53.072 SPECIAL PROHIBITIONS.**

(A) No person shall discharge or cause to be discharged the following described substances, materials, waters or wastes if it appears likely, in the judgment of the city or its agent, that such wastes can harm either the sewers, sewage treatment process or equipment, have an adverse effect on the receiving stream, or can otherwise endanger life, limb or public property or constitute a nuisance. The city or its agent, in forming a judgment as to the acceptability of these wastes, will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant and other pertinent factors.

(B) The substances prohibited are:

(1) Any liquid or vapor having a temperature higher than 150°F (65°C);

(2) Any water or waste containing fats, wax, grease or oils, whether emulsified or not, in excess of 100 mg/l or containing substances which may solidify or become viscous at temperatures between 32° and 150°F (0° and 65°C);

(3) Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor with three-fourths' horsepower or greater shall be subject to the review and approval of the city;

(4) Any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solutions whether neutralized or not;

(5) Any water or wastes containing iron, chromium, copper, zinc and similar objectionable or toxic substances, or wastes exerting an excessive chlorine requirement to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by city for such materials;

(6) Any waters or wastes containing phenols or other taste- or odor-producing substances in such concentrations exceeding limits which may be established by the city as necessary, after treatment of the composite sewage, to meet the requirements of state, federal or other public agencies of jurisdiction for such discharge to the receiving waters;

(7) Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the city in compliance with applicable state or federal regulations;

(8) Materials which exert or cause:

(a) Unusual concentrations of inert suspended solids such as, but not limited to, Fuller's earth, lime slurries and lime residues; or of dissolved solids such as, but not limited to, sodium chloride or sodium sulfate;

(b) Excessive discoloration such as, but not limited to, dye wastes and vegetable tanning solutions;

(c) Unusual BOD, chemical oxygen demand or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works; and

(d) Unusual volume of flow or concentration of wastes constituting slugs as defined herein.

(9) 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;

(10) Sand, mud, metal, rags, paper, whole blood, paunch manure, hair or fleshings, entrails or other solid capable of causing damage or hazard to structures, equipment and personnel of the sewer system or injure the sewage treatment process;

(11) Toxic or poisonous substances in sufficient quantity to interfere with or injure the sewage treatment process, constitute a hazard to humans, animals or fish or create any hazard in the receiving area of the sewage treatment plant;

(12) Suspended solids of such character and quantity that unusual attention or expense is required to handle such materials;

(13) Waters or wastes having a pH lower than 5.5 or higher than 9.0 or having other corrosive properties capable of causing damage to the structures, equipment and personnel of the City Sewer Department;

(14) Any noxious or malodorous gas or substance capable of creating a public nuisance;

(15) Any gasoline, benzene, naphtha, fuel oil or explosive liquid, solid or gas;

(16) Any waters or wastes having a five-day biochemical oxygen demand (BOD) greater than 300 parts per million by weight; containing more than 350 parts per million by weight of suspended solids; or having an average daily flow greater than 2% of the average sewage flow of the city shall be subject to review. Where necessary in the opinion of the city or its agent, the owner shall provide, at his or her expense, such preliminary treatment as may be necessary to: reduce the BOD to 300 parts per million by weight; reduce the suspended solids to 350 parts per million by weight; or control the

quantities and rates of discharge of such waters or wastes. Plans, specifications and other pertinent information relating to proposed preliminary treatment facilities shall be submitted for the approval of the city, and no construction of such facilities shall be commenced until said approval is obtained in writing; and

(17) Any interior and exterior foundation drains and cooling water.  
(Prior Code, § 6-336) Penalty, see § 53.999

### **§ 53.073 CITY'S DISCRETION.**

(A) If any waters or wastes are discharged or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in § 53.072 and which, in the judgment of the city or its agent, 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 may:

- (1) Reject the wastes;
- (2) Require pretreatment to an acceptable condition for discharge to the public sewers;
- (3) Require control over the quantities and rates of discharge; and/or

(4) Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of § 53.074.

(B) If the city 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 or its agent and subject to the requirements of all applicable codes, ordinances and laws.  
(Prior Code, § 6-337)

### **§ 53.074 SPECIAL EXCEPTIONS PERMITTED; USE FEE SURCHARGE.**

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 for treatment, subject to payment therefor, by the industrial concern.

(Prior Code, § 6-338)



**§ 53.075 GREASE, OIL AND SAND INTERCEPTORS.**

(A) Grease, oil and sand interceptors shall be provided when, in the judgment of the city, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, any flammable wastes, sand or other harmful ingredients, except that such interceptors shall not be required for private living quarters or dwelling units.

(B) All interceptors shall be of a type and capacity approved by the city or its agent and shall be located as to be readily and easily accessible for cleaning and inspection.

(Prior Code, § 6-339)

**§ 53.076 PRELIMINARY TREATMENT OR FLOW EQUALIZING FACILITIES; MAINTENANCE BY OWNER.**

Where preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his or her expense.

(Prior Code, § 6-340)

**§ 53.077 CONTROL MANHOLES/SAMPLING STATIONS.**

(A) When required by the city or its agent, 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. Such 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.

(B) 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, and shall be determined at the control manhole provided or upon suitable samples taken at said control manhole. In the event no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb and property. (The particular analyses involved will determine whether a 24-hour composite of all outfalls of any premises is appropriate or whether a grab sample or samples should be taken. Normally, but not always, BOD and suspended solids analyses are obtained from 24-hour composites of all outfalls, whereas pHs are determined from periodic grab samples.)

(Prior Code, § 6-341)

***RATES AND FEES*****§ 53.090 CLASSIFICATION.**

The City Council may classify the customers of the Sewer Department for the purpose of establishing rental fees; provided, that such classifications are reasonable and do not discriminate unlawfully against any consumer or group of consumers.

(Prior Code, § 6-310)

**§ 53.091 SPECIAL COLLECTION SYSTEM EXTENSION FEE.**

(A) The customer, upon approval of his or her application for sewer service, shall pay a special collection system extension fee to the City Sewer Department, if required. Such fee shall be charged only to customers seeking to connect to the municipal sewer system in areas whose property was not included within a previously created Sanitary Sewer Extension District and was not charged by way of special assessments for the benefit of the sanitary sewer extension made in that District.

(B) The amount of the special collection system extension fee shall be based on the balance of the cost of construction of the sanitary sewer extension improvements not assessed to other property and apportioned to the applicant according to the area to be benefited by the connection to the system. The entire amount of the special collection system extension fee shall be paid in full before a sewer connection shall be approved.

(Prior Code, § 6-309)

**§ 53.092 RATE SETTING.**

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

***COMMERCIAL.*** Customers, except small business, residential, institutional and industrial, using 10,000 gallons or more per month of metered water.

***INDUSTRIAL.*** Customers engaged in manufacturing of goods or products.

***INSTITUTIONAL.*** Schools, nursing homes and assisted living facilities.

***RESIDENTIAL.*** Single-family units, individual apartments, duplex units, multi-family units and individual mobile home units.

***SMALL BUSINESS.*** Customers, except residential, institutional and industrial, using 10,000

gallons or less per month of metered water.  
(Prior Code, § 6-311)

(B) *Charges; review of rates; appeals.*

(1) Customers of the Sewer Department shall be charged the following monthly rates for the use of sewer services.

| <i>Industrial</i>                                        |         |
|----------------------------------------------------------|---------|
| Fixed monthly charge                                     | \$146.7 |
| Variable rate, per 1,000 gallons                         | \$5.50  |
| <i>Institutional and Commercial</i>                      |         |
| Fixed monthly charge                                     | \$73.50 |
| Variable rate, per 1,000 gallons                         | \$5.50  |
| <i>Residential and Small Business</i>                    |         |
| Minimum monthly charge, 0 - 2,000 gallons                | \$33.75 |
| Variable rate, 2,001 gallons and over, per 1,000 gallons | \$5.50  |

(2) For residential and small business customers inside and outside the city limits who are on city metered water shall have their sewer charge billed for the previous month as of the first day of the following month. The sewer rate for March of each year, which shall be computed from average water consumption during the preceding December, January and February based on water meter readings and billed on April 1 which shall become the monthly sewer charge for bills sent out each month through the following March 1. For new customers until consumption history is established, the pre-charge shall be based on a pre-determined monthly average residential and small business water usage of similar type.

(3) Institutional and commercial users shall have their monthly sewer charges based on actual water consumption for each month, based on water meter readings. Industrial users shall have their monthly sewer charges based on metered readings.

(4) The rates fixed by this section shall be reviewed annually by the City Council and shall be adjusted for the purpose of providing for the payment of expenses of maintenance, operation and repair of the sewer system.

(5) A water metered customer who has had a water leak causing heavy usage during the rate setting months may, with proper documentation, appeal to the City Administrator for a rate adjustment within 60 days after the April billing. The City Administrator, utility billing clerk and a Council member appointed annually will meet with the customer and review his or her usage history to determine if a rate

adjustment is warranted. A rate adjustment would defer to the prior year's rate, or the rate of the average customer/household of the customer's size, whichever is lower. The customer will be informed of the decision in writing. The new rate will become effective with the next month's billing. A listing of rate adjustments will be provided to the Mayor and City Council annually.

(6) Bills for sewer charges shall be rendered following each month's usage and shall become delinquent after the fifteenth of each month. A delinquency fee of \$10 shall be added to any delinquent bill to cover the additional expenses incurred by the city.

(Prior Code, § 6-312)

(Ord. 562, passed 4-8-2008; Ord. 565, passed 8-12-2008; Ord. 621, passed 4-12-2011; Ord. 645; passed 4-9-2013; Ord. 675, passed 4-4-2015; Ord. 691, passed 4-12-2016; Ord. 789, passed 4-11-2023; Ord. 793, passed 7-11-2023; Ord. 808, passed 2-13-2024)

### § 53.093 HIGH-STRENGTH WASTE SURCHARGE.

(A) Customers of the Sewer Department shall be assessed a high-strength waste surcharge for pollutant levels as a minimum, BOD and suspended solids, which exceed the levels contained in the domestic strength wastewater of the service area of the sewage treatment works.

(B) The following discharge concentrations for BOD and suspended solids above which the surcharge shall be assessed and a formula for calculation of such surcharge shall be as follows.

| $SC = Bu (Bi - Bn) + Su (Si - Sn) + Ru (Ri - Rn) \times 8.34 \times V$ |                                                                                                                                                                                                                  |
|------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Bi                                                                     | Concentration of BOD discharged from user during billing period, mg/l (this shall be an average over the billing period unless high-strength slugs add to OM&R expense)                                          |
| Bn                                                                     | BOD concentration limit for surcharge, 200 mg/l                                                                                                                                                                  |
| Bu                                                                     | OM&R costs to treat per unit of BOD, \$0.089 per pound                                                                                                                                                           |
| Ri                                                                     | Concentration of additional substance discharged from user during billing period, mg/l                                                                                                                           |
| Rn                                                                     | Additional substance concentration limit for surcharge, 0 mg/l (this will be established upon the introduction of any additional substance to the plant influent)                                                |
| Ru                                                                     | OM&R cost to treat per unit of any additional substance adding to expense to operate treatment works, \$0/lb. (this will be established upon the introduction of any additional substance to the plant influent) |
| SC                                                                     | High-strength waste surcharge, \$/billing period                                                                                                                                                                 |
| Si                                                                     | Concentrations of SS discharged from user during billing period, mg/l (this shall be an average over the billing period unless high-strength slugs add to OM&R expense)                                          |
| Sn                                                                     | SS concentration limit for surcharge, 250 mg/l                                                                                                                                                                   |

|                                                                                                              |                                                                    |
|--------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------|
| Su                                                                                                           | OM&R cost to treat per unit of SS, \$0.068 per pound               |
| V                                                                                                            | Volume discharged from user during billing period, million gallons |
| The formula herein provided shall read:<br>$SC = /0.089 (Bi - 200) + 0.068 (Si - 250)/ \times 8.34 \times V$ |                                                                    |

(Prior Code, § 6-313)

#### **§ 53.094 SEWAGE TREATMENT WORKS FUND.**

(A) All amounts billed and collected for sewage service from all users shall be segregated in a separate fund designated as the Sewage Treatment Works Fund, and amounts within such Fund shall be credited to said accounts. Within this Fund, there are hereby established three accounts: Sewage Works Operation and Maintenance Account; Sewage Treatment Replacement Account; and Sewage Treatment Works Debt Service Retirement Account.

(1) *Sewage Treatment Works Operation and Maintenance Account.* Fifty-four and one-half percent of all amounts credited to the Sewage Treatment Works Fund shall be designated for this Account and used only for the purpose of paying the costs of the operation, maintenance and administration of the sewage treatment works of the city, including any minor replacements to the system not otherwise provided for in the Sewage Treatment Works Replacement Account.

(2) *Sewage Treatment Works Replacement Account.* Fifteen and fourteen hundredth percent of all amounts credited to the Sewage Treatment Works Fund shall be designated for this Account and shall be used only to meet the replacement needs of the treatment works, including any necessary upgrading in the process of replacements to the sewage treatment works. Credits to this Account from the Sewage Treatment Works Fund shall be made at least annually.

(3) *Sewage Treatment Works Debt Service Retirement Account.* Thirty and eighty-one hundredths percent of all amounts credited to the Sewage Treatment Works Fund shall be designated for this Account and shall be used only to meet the debt service retirement requirements of the treatment works. Credit to this Account from the Sewage Treatment Works Fund shall be made not less than annually.

(B) Should a balance remain in any account within the Sewage Treatment Works Fund after payment of the items hereinbefore provided, then said balance shall be carried over within the same account and used for the same purposes in the following year. Transfers of funds to meet temporary shortages in any account within this Fund shall be returned to the appropriate accounts following an adjustment in the user charge for operation and maintenance, replacement and debt service retirement.  
(Prior Code, § 6-315)

**§ 53.095 SEWAGE PROCESSING CAPITAL FACILITIES CHARGES.**

(A) Every customer, upon approval of his or her application for sewer service, shall pay to the Sewer Department a sewage processing capital facilities charge to compensate the city for the expense of providing the capital facilities needed to process and treat the sewage generated by the customer.

(B) The sewage processing capital facilities charges shall be in accordance with the following schedule.

|                                                                                                                                                                                                                                                                                                    |         |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------|
| For each acre of commercial or industrial property                                                                                                                                                                                                                                                 | \$3,600 |
| For each acre of park, common area or outlots*                                                                                                                                                                                                                                                     | \$3,000 |
| For each acre of residential multi-family property                                                                                                                                                                                                                                                 | \$3,900 |
| For each residential, duplex lot                                                                                                                                                                                                                                                                   | \$1,780 |
| For each residential, single-family lot                                                                                                                                                                                                                                                            | \$1,300 |
| *Any outlot that is an existing lake will not pay sewer processing capital facilities charges. In the event that a new lake is intentionally created as part of a new development, the City Council shall determine if sewer treatment capital facilities charges will be due for the lake outlot. |         |

(C) The sewage processing capital facilities fee shall be collected by the City Administrator/Clerk/Treasurer at the time of the application for sewer service, provided that:

(1) Credit shall be given for the amount of prepayment, if any, for the property being connected; and

(2) The applicant furnishes proof of the prepayment made on the property sought to be connected.

(D) The sewage processing capital facilities charges connection policy for new subdivisions and developments shall be as follows.

(1) The first one-half of the sewage processing capital facilities charges for all residential, commercial and industrial property shall be collected by the City Clerk/Treasurer from the developer of the subdivision's owner prior to the signing of the subdivision's final plat.

(2) The final one-half of the sewage processing capital facilities charges for all residential, commercial and industrial property shall be collected from the applicant at the time the application for water service is made.

(3) One hundred percent of the sewage processing capital facilities charges for park, common area or outlots shall be collected from the developer of the subdivision's owner prior to the signing of the subdivision's final plat.

(E) (1) The city may consider an alternate method of determining the sewage processing capital facilities charges for commercial and industrial properties which exceed five acres in size, and where the sewer demand and impact on the city's infrastructure is not commensurate with large land areas needed for the commercial or industrial entity to function. Examples of large area requirements would include storage of raw and finished materials or staging of transportation loading and unloading activities. The alternate calculation would be based on water meter sizing and size of sewer main taps to serve the entity.

(2) The alternate charge system would be as follows:

(a) *Capital facility charge.*

| <i>Meter Size</i> | <i>Charge</i> |
|-------------------|---------------|
| 5/8-inch          | \$1,300       |
| 3/4-inch          | \$1,950       |
| 1-inch            | \$3,250       |
| 1-1/2-inch        | \$6,500       |
| 2-inch disc       | \$10,400      |
| 2-inch turbo      | \$20,800      |
| 3-inch compound   | \$20,800      |
| 3-inch turbo      | \$45,500      |

(b) *Connection tap charge.*

| <i>Meter Size</i> | <i>Charge</i> |
|-------------------|---------------|
| Up to 4-inch      | \$1,400       |
| 6-inch            | \$1,600       |
| 8-inch            | \$1,800       |

(c) *Notes.*

1. The above charges would apply to each building where sanitary sewer wastes are generated.
2. The minimum capital facility charge would be \$19,000 (i.e., five acres at \$3,600 per acre).

(d) *Alternative method.* The use of the alternative method of determining sewage processing facilities charges is not an elective of the commercial or industrial property and is reserved solely for the use by the city if needed. The implementation of the alternative method and the sizing of meters and connections to sewer mains will be determined by the City Engineer and City Council. (Prior Code, § 6-316) (Ord. 567, passed 10-28-2008; Ord. 568, passed 10-28-2008; Ord. 659, passed 5-13-2014)

**§ 53.999 PENALTY.**

Anyone violating any of the terms and conditions of any of this chapter shall be deemed guilty of a misdemeanor and shall be fined in a sum of not more than \$500 for each offense. Each day's maintenance of the same shall constitute a separate offense. (Prior Code, § 6-501)



## **TITLE VII: TRAFFIC CODE**

### **Chapter**

**70. GENERAL PROVISIONS**

**71. TRAFFIC REGULATIONS**

**72. PARKING REGULATIONS**

**73. RECREATIONAL VEHICLES**

**74. TRAFFIC SCHEDULES**



## CHAPTER 70: GENERAL PROVISIONS

### Section

- 70.01 Definitions
- 70.02 Enforcement of rules and laws
- 70.03 Failure or refusal to obey order
- 70.04 Traffic officers

- 70.99 Penalty

### ***Statutory reference:***

*State Rules of the Road, see Neb. Rev. Stat. § 60-601*

### **§ 70.01 DEFINITIONS.**

For the purpose of this title, the following definitions and the other definitions in Neb. Rev. Stat. §§ 60-606 through 60-676 shall apply unless the context clearly indicates or requires a different meaning.

***ALLEY.*** A highway intended to provide access to the rear or side of lots or buildings and not intended for the purpose of through vehicular traffic.  
(Neb. Rev. Stat. § 60-607)

***AUTHORIZED EMERGENCY VEHICLE.*** Such fire department vehicles, police vehicles, rescue vehicles and ambulances as are publicly owned, such other publicly or privately owned vehicles as are designated by the Director of Motor Vehicles, and such publicly owned military vehicles of the National Guard as are designated by the Adjutant General pursuant to Neb. Rev. Stat. § 55-133.  
(Neb. Rev. Stat. § 60-610)

***BUSINESS DISTRICT.*** The territory contiguous to and including a highway when within any 600 feet along such highway there are buildings in use for business or industrial purposes, including, but not limited to, hotels, banks, office buildings, railroad stations or public buildings which occupy at least 300 feet of frontage on one side or 300 feet collectively on both sides of a highway.  
(Neb. Rev. Stat. § 60-613)

**HIGHWAY.** The entire width between the boundary limits of any street, road, avenue, boulevard or way which is publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

(Neb. Rev. Stat. § 60-624)

**MANUAL.** The *Manual on Uniform Traffic Control Devices* adopted by the Department of Transportation pursuant to Neb. Rev. Stat. § 60-6,118.

(Neb. Rev. Stat. § 60-631)

**MOTOR VEHICLE.** Every self-propelled land vehicle, not operated upon rails, except bicycles, mopeds, self-propelled chairs used by persons who are disabled and electric personal assistive mobility devices.

(Neb. Rev. Stat. § 60-638)

**PEACE OFFICER.** The Police Chief or other chief law enforcement official, any city police officer or any other person authorized to enforce city ordinances. With respect to directing traffic only, **PEACE OFFICER** shall also include any person authorized to direct or regulate traffic.

(Neb. Rev. Stat. § 60-646)

**RESIDENTIAL DISTRICT.** The territory contiguous to and including a highway not comprising a business district when the property on such highway for a distance of 300 feet or more is in the main improved with residences or residences and buildings in use for business.

(Neb. Rev. Stat. § 60-654)

**ROADWAY.** The portion of a highway improved, designed or ordinarily used for vehicular travel, exclusive of the berm or shoulder. If a highway includes two or more separate roadways, the term **ROADWAY** shall refer to any such roadway separately but not to all such roadways collectively.

(Neb. Rev. Stat. § 60-656)

**SCHOOL CROSSING ZONE.** The area of a roadway designated to the public by the state Department of Transportation or City Council as a school crossing zone through the use of a sign or traffic control device as specified by the City Council in conformity with the *Manual* but does not include any area of a freeway. A **SCHOOL CROSSING ZONE** starts at the location of the first sign or traffic control device identifying the school crossing zone and continues until a sign or traffic control device indicates that the **SCHOOL CROSSING ZONE** has ended.

(Neb. Rev. Stat. § 60-658.01)

**SHOULDER.** The part of the highway contiguous to the roadway and designed for the accommodation of stopped vehicles, for emergency use and for lateral support of the base and surface courses of the roadway.

(Neb. Rev. Stat. § 60-661)

**TRAFFIC.** Pedestrians, ridden or herded animals and vehicles and other conveyances either singly or together while using any highway for purposes of travel.  
(Neb. Rev. Stat. § 60-669)

**TRAFFIC CONTROL DEVICE.** Any sign, signal, marking or other device not inconsistent with the State Rules of the Road placed or erected by authority of the City Council or any official having jurisdiction for the purpose of regulating, warning or guiding traffic.  
(Neb. Rev. Stat. § 60-670)

**TRAFFIC CONTROL SIGNAL.** Any signal, whether manually, electrically or mechanically operated, by which traffic is alternately directed to stop and permitted to proceed.  
(Neb. Rev. Stat. § 60-671)

**TRAFFIC INFRACTION.** The violation of any provision of the State Rules of the Road or of any law, ordinance, order, rule or regulation regulating traffic which is not otherwise declared to be a misdemeanor or a felony or, in this title, an offense.  
(Neb. Rev. Stat. § 60-672)

**VEHICLE.** Every device in, upon or by which any person or property is or may be transported or drawn upon a highway except devices moved solely by human power or used exclusively upon stationary rails or tracks.  
(Neb. Rev. Stat. § 60-676)

## **§ 70.02 ENFORCEMENT OF RULES AND LAWS.**

(A) All peace officers are hereby specifically directed and authorized and it shall be deemed and considered a part of the official duties of each of such officers to enforce the provisions of State Rules of the Road and this title, including the specific enforcement of maximum speed limits, and any other state or city law regulating the operation of vehicles or the use of the highways.

(B) To perform the official duties imposed by this section, peace officers shall have the power:

(1) To make arrests upon view and without warrant for any violation committed in their presence of any of the provisions of the Motor Vehicle Operator's License Act, being Neb. Rev. Stat. § 60-489 or this title or of any other law regulating the operation of vehicles or the use of the highways, if and when designated or called upon to do so as provided by law;

(2) To make arrests upon view and without warrant for any violation committed in their presence of any provision of the laws of this state relating to misdemeanors or felonies or of similar city ordinances if and when designated or called upon to do so as provided by law;

(3) At all times to direct all traffic in conformity with law or, in the event of a fire or other emergency, or in order to expedite traffic or ensure safety, to direct traffic as conditions may require;

(4) When in uniform, to require the driver of a vehicle to stop and exhibit his or her operator's license and registration certificate issued for the vehicle and submit to an inspection of such vehicle and the license plates and registration certificate for the vehicle and to require the driver of a motor vehicle to present the vehicle within five days for correction of any defects revealed by such motor vehicle inspection as may lead the inspecting officer to reasonably believe that such motor vehicle is being operated in violation of the statutes of the state, the rules and regulations of the Director of Motor Vehicles or any city ordinance or regulation;

(5) To inspect any vehicle of a type required to be registered according to law in any public garage or repair shop or in any place where such a vehicle is held for sale or wrecking;

(6) To serve warrants relating to the enforcement of the laws regulating the operation of vehicles or the use of the highways; and

(7) To investigate traffic accidents for the purpose of carrying on a study of traffic accidents and enforcing motor vehicle and highway safety laws.

(Neb. Rev. Stat. § 60-683)

***Statutory reference:***

*Motor Vehicle Operator's License Act, see Neb. Rev. Stat. § 60-462*

**§ 70.03 FAILURE OR REFUSAL TO OBEY ORDER.**

(A) Any person who knowingly fails or refuses to obey any lawful order of any peace officer who is controlling or directing traffic shall be guilty of a traffic infraction.

(B) Any person who knowingly fails to obey any lawful order of a peace officer shall be guilty of an offense whenever such order is given in furtherance of the apprehension of a person who has violated the State Rules of the Road or this title or of a person whom such officer reasonably believes has violated the Rules or this title.

(Neb. Rev. Stat. § 60-6,110) Penalty, see § 70.99

**§ 70.04 TRAFFIC OFFICERS.**

The City 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 that may have been placed at any such intersection.

Penalty, see § 70.99

**§ 70.99 PENALTY.**

Any person, firm, association or corporation violating any of the provisions of this title for which no other penalty is imposed shall, upon conviction, be deemed guilty of a misdemeanor and be fined in a sum of not more than \$500 for each offense. Each day's maintenance of the same shall constitute a separate offense.

(Prior Code, § 3-501)





## **CHAPTER 71: TRAFFIC REGULATIONS**

### **Section**

#### ***General Provisions***

- 71.01 Truck routes
- 71.02 Engine brakes prohibited
- 71.03 Turning generally; U-turns
- 71.04 Right-of-way generally; emergency vehicles
- 71.05 Position of vehicle on highway
- 71.06 Signs; signals
- 71.07 Stop signs
- 71.08 Signs; unauthorized display
- 71.09 Interference with traffic control devices or railroad signs or signals

#### ***Prohibitions and Enforcement***

- 71.20 Speed; electronic detector
- 71.21 Careless driving
- 71.22 Reckless driving
- 71.23 Backing
- 71.24 Stops; mandatory
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- 71.26 Driving abreast
- 71.27 Following distance
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- 71.29 Glass; pointed objects
- 71.30 Littering
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- 71.33 Clinging to motor vehicles
- 71.34 Driving in sidewalk space
- 71.35 Vehicle; muffler
- 71.36 Emergency regulations
- 71.37 Vehicle loads

**GENERAL PROVISIONS****§ 71.01 TRUCK ROUTES.**

(A) For the purpose of this section, a **TRUCK** shall be defined as a motor vehicle that is designated, used or maintained primarily for the transportation of property and having a gross vehicle weight of 20,000 pounds or more.

(B) The City Council may by resolution designate certain streets in the city that trucks shall travel upon, and it shall be unlawful for the driver of such a truck to travel on streets other than those so designated except to pick up or deliver goods, wares or merchandise, and in such events, the operator of such vehicle shall return to such truck routes as soon as possible in traveling through or about the city. The City Council shall cause notices to be posted or shall erect signs indicating the streets so designated as restricted routes.

(Prior Code, § 3-102) Penalty, see § 70.99

**§ 71.02 ENGINE BRAKES PROHIBITED.**

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

(Prior Code, § 3-103) Penalty, see § 70.99

**§ 71.03 TURNING GENERALLY; U-TURNS.**

(A) *Turning; U-turns.* No vehicle shall be turned so as to proceed in the opposite direction except at a street intersection or other designated area. No vehicle shall be turned so as to proceed in the opposite direction at any intersection where a sign is posted indicating that U-turns are prohibited.

(Prior Code, § 3-104)

(B) *Turning; signals.* A signal of intention to turn right or left shall be given continuously during not less than the last 50 feet traveled by any vehicle before turning. The signals herein required shall be given either by means of the hand and arm or by a signal device of a type approved by the Department of Roads.

(Prior Code, § 3-105)

(C) *Turning; generally.* Vehicles turning to the right into an intersecting street shall approach such intersection in the lane of traffic nearest to the right-hand side of the street and must turn the corner as

near the right-hand curb as possible to keep between the curb to the right and the center of the intersection of the two streets. The driver of a vehicle intending to turn to the left shall approach the centerline of the street and in turning shall pass as near as possible to the center of the intersection, passing as closely as practicable to the right thereof before turning such vehicle to the left. For the purpose of this section, the **CENTER OF THE INTERSECTION** shall mean the meeting point of the medial lines of the highways intersecting one another.

(Prior Code, § 3-106)

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

(Prior Code, § 3-107)

#### **§ 71.04 RIGHT-OF-WAY GENERALLY; EMERGENCY VEHICLES.**

(A) *Generally.*

(1) When two vehicles approach or enter an intersection at approximately the same time, the driver of the vehicle on the left shall yield the right-of-way to the vehicle on the right when the paths of such vehicles intersect and there is danger of a collision, unless otherwise directed by a law enforcement officer stationed at the intersection. The driver of a vehicle intending to turn to the left within an intersection, or into an alley, private road or driveway, shall yield the right-of-way to any vehicle approaching from the opposite direction which is within the intersection or so close thereto as to constitute an immediate hazard. The driver of a vehicle entering a city street from a private road or drive shall yield the right-of-way to all vehicles approaching on such streets.

(2) The driver of a vehicle on any street shall yield the right-of-way to a pedestrian crossing such street within any clearly marked crosswalk or at any regular pedestrian crossing at the end of a block where the movement of traffic is being regulated by traffic officers or traffic direction devices. The driver of a vehicle emerging from or entering an alley, building, private road or driveway shall yield the right-of-way to any pedestrian approaching on any sidewalk. Every pedestrian crossing a street at any point other than a pedestrian crossing, crosswalk or intersection shall yield the right-of-way to vehicles upon the street.

(Prior Code, § 3-108)

(B) *Emergency vehicles.* Upon the approach of any authorized emergency vehicle signaling an emergency by lights and/or siren, all vehicles within one block of the route of such emergency vehicle shall immediately stop unless they are on or crossing a street intersection, in which event such vehicles

shall drive clear of the street intersection and then stop. All vehicles 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 has passed.

(Prior Code, § 3-109)

#### **§ 71.05 POSITION OF VEHICLE ON HIGHWAY.**

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

(Prior Code, § 3-110)

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

(Prior Code, § 3-111)

Penalty, see § 70.99

#### **§ 71.06 SIGNS; SIGNALS.**

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

(Prior Code, § 3-115) Penalty, see § 70.99

#### **§ 71.07 STOP SIGNS.**

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

(Prior Code, § 3-116)

**§ 71.08 SIGNS; UNAUTHORIZED DISPLAY.**

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

(Prior Code, § 3-124) Penalty, see § 70.99

**§ 71.09 INTERFERENCE WITH TRAFFIC CONTROL DEVICES OR RAILROAD SIGNS OR SIGNALS.**

No person shall, without lawful authority, attempt to or in fact alter, deface, injure, knock down or remove any traffic control device, any railroad sign or signal or any part of such a device, sign or signal. (Neb. Rev. Stat. § 60-6,129) Penalty, see § 70.99

***PROHIBITIONS AND ENFORCEMENT*****§ 71.20 SPEED; ELECTRONIC DETECTOR.**

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

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

(C) In the event of an arrest based on such a message, such radio message must have been dispatched immediately after the speed of the motor vehicle was recorded and must include a description of the vehicle and the recorded speed.

(Prior Code, § 3-125)

***Statutory reference:***

*Similar provisions, see Neb. Rev. Stat. § 60-6,192*

**§ 71.21 CARELESS DRIVING.**

No person shall operate a vehicle on any highway, street or alley within the city in such a manner as to endanger the safety of others, disregard the property of others and/or cause immoderate wear and damage to any street or alley. Any person so operating a motor vehicle within the city limits shall be deemed guilty of careless driving. It shall be prima facie evidence that a person has operated a motor vehicle in a careless manner if he or she has operated such vehicle in a manner contrary to the duly published rules and regulations of the State Department of Roads governing the use of state highways. (Prior Code, § 3-126) Penalty, see § 70.99

**§ 71.22 RECKLESS DRIVING.**

(A) Any person who drives a motor vehicle in such manner as to indicate an indifferent or wanton disregard for the safety of persons or property shall be deemed to be guilty of reckless driving. (Prior Code, § 3-127)

(B) Any person who drives a motor vehicle in such a manner as to indicate a willful disregard for the safety of persons or property shall be deemed to be guilty of willful, reckless driving and shall be punished as provided by statute.

(Prior Code, § 3-128)

Penalty, see § 70.99

***Statutory reference:***

*Similar provisions, see Neb. Rev. Stat. §§ 60-6,213 and 60-6,214 through 60-6,218*

**§ 71.23 BACKING.**

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

(Prior Code, § 3-112)

**§ 71.24 STOPS; MANDATORY.**

(A) All vehicles, before crossing a sidewalk or emerging from a garage, alley, gas station or other place shall come to a complete stop and, after giving sufficient warning, shall proceed slowly and with extreme caution while crossing such sidewalk or leaving such garage, alley, gas station or other place.

(B) For the purpose of this section, ***SLOWLY*** shall be construed to mean such rate of speed as is reasonable and proper under the circumstances and the condition of the street and traffic thereon.

(Prior Code, § 3-114)

**§ 71.25 UNNECESSARY STOPPING.**

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

(Prior Code, § 3-117) Penalty, see § 70.99

**§ 71.26 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.

(Prior Code, § 3-134)

***Statutory reference:***

*Similar provisions, see Neb. Rev. Stat. §§ 60-6,139 and 60-6,308*

**§ 71.27 FOLLOWING DISTANCE.**

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

(Prior Code, § 3-120)

(B) *Fire apparatus.* No driver of any vehicle shall follow any fire apparatus traveling in response to a fire alarm closer than 500 feet or drive into or park such vehicle within the block where said fire apparatus has stopped in answer to a fire alarm.

(Prior Code, § 3-121)

***Statutory reference:***

*Similar provisions, see Neb. Rev. Stat. § 60-6,183*

**§ 71.28 FUNERAL PROCESSIONS.**

No vehicle shall be driven through a funeral procession or cortege, except ambulances, police vehicles or Fire Department vehicles when responding to emergency calls; vehicles carrying United States mail; or with the permission of a police officer.

(Prior Code, § 3-119)

**§ 71.29 GLASS; POINTED OBJECTS.**

No person shall throw, cast, lay or place upon any street any thorns, nails, tacks, glass, bottles, window glass or other articles made of or containing glass; and in case of an accident causing the breaking of any glass upon any street, the owner or person in charge of such glass or the person responsible for such breakage shall at once remove or cause the same to be removed from the street. (Prior Code, § 3-122) Penalty, see § 70.99

**§ 71.30 LITTERING.**

It shall be unlawful for any person in a motor vehicle to drop or cause to be left upon any city highway, street or alley, except at places designated by the City Council, any rubbish, debris or waste, and any person so doing shall be guilty of littering. (Prior Code, § 3-133) Penalty, see § 70.99

**§ 71.31 CROWDING; FRONT SEAT.**

No person shall drive a motor vehicle when it is so loaded, or when there is in the front such a number of persons, exceeding three, as to obstruct the view of the driver to the front or sides of the vehicle or to interfere with the driver's control over such vehicle. No passenger in a vehicle shall ride in such a position as to interfere with the driver's control over such vehicle. (Prior Code, § 3-136) Penalty, see § 70.99

**§ 71.32 RIDING OUTSIDE VEHICLE.**

No person shall permit any other person to ride on the running board, hood, top or fenders of any motor vehicle, nor shall any person ride on the running board, hood, top or fenders of any motor vehicle. (Prior Code, § 3-135) Penalty, see § 70.99

**§ 71.33 CLINGING TO MOTOR VEHICLES.**

No person riding upon any bicycle, roller skates, coaster, sled, skis or toy vehicle shall attach the same or himself or herself to any moving vehicle upon any roadway, and it shall be unlawful for the driver of any vehicle to permit any person traveling upon any bicycle, roller skates, coaster, sled, skis



or toy vehicle to cling to or attach himself or herself or his or her bicycle, roller skates, coaster, sled, skis or toy vehicle to such vehicle so driven and operated by him or her.

(Prior Code, § 3-404) Penalty, see § 70.99

***Statutory reference:***

*Similar provisions, see Neb. Rev. Stat. § 60-6,316*

**§ 71.34 DRIVING IN SIDEWALK SPACE.**

No motor vehicle, including motorcycles or scooters, shall be driven on any sidewalk or within any sidewalk space, except on a permanent or temporary driveway and except for snow removal purposes.

(Prior Code, § 3-113) Penalty, see § 70.99

***Statutory reference:***

*Similar provisions, see Neb. Rev. Stat. § 60-6,178*

**§ 71.35 VEHICLE; MUFFLER.**

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

(Prior Code, § 3-137) Penalty, see § 70.99

**§ 71.36 EMERGENCY REGULATIONS.**

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

(Prior Code, § 3-129)

**§ 71.37 VEHICLE LOADS.**

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

(Prior Code, § 3-138)

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

(Prior Code, § 3-139)



## **CHAPTER 72: PARKING REGULATIONS**

### **Section**

#### ***General Provisions***

- 72.01 Regulation or prohibition authorized
- 72.02 Roadway outside business or residential district
- 72.03 General prohibitions; exceptions
- 72.04 Parking near schools and theaters
- 72.05 Obstructing street, intersection or entrance
- 72.06 Intersections
- 72.07 Parking on left side of curb
- 72.08 Alleys
- 72.09 Truck parking, loading and unloading
- 72.10 Parking of detached trucks or trailers
- 72.11 Display or repair of vehicle
- 72.12 Time limits
- 72.13 Snow; weather emergencies; highway maintenance
- 72.14 Parallel, angle and center parking
- 72.15 Backing freight vehicle to curb
- 72.16 Painting of curbs
- 72.17 Removal of illegally stopped vehicles; liability for costs

#### ***Parking for Handicapped or Disabled Persons***

- 72.30 Definitions
- 72.31 Designation of on-street parking spaces; display of permits
- 72.32 Designation of off-street parking stalls or spaces
- 72.33 Permit issuance
- 72.34 Motor vehicle permit issuance
- 72.35 Removal of unauthorized vehicles
  
- 72.99 Penalty

**GENERAL PROVISIONS****§ 72.01 REGULATION OR PROHIBITION AUTHORIZED.**

(A) The City Council, with respect to highways under its jurisdiction and within the reasonable exercise of the police power, may regulate or prohibit stopping, standing or parking.  
(Neb. Rev. Stat. § 60-680)

(B) If the City Council regulates or prohibits stopping, standing or parking all vehicles or a particular kind or class of vehicles on a highway or a portion of a highway, no person shall stop, stand or park a vehicle subject to such regulation or prohibition on the highway or portion thereof longer than a period of time necessary to load and unload freight or passengers.  
Penalty, see § 72.99

**§ 72.02 ROADWAY OUTSIDE BUSINESS OR RESIDENTIAL DISTRICT.**

(A) No person shall stop, park or leave standing any vehicle, whether attended or unattended, upon a roadway outside of a business or residential district when it is practicable to stop, park or leave such vehicle off such part of a highway, but in any event an unobstructed width of the roadway opposite a standing vehicle shall be left for the free passage of other vehicles and a clear view of such stopped vehicle shall be available from a distance of 200 feet in each direction upon such highway. Such parking, stopping or standing shall in no event exceed 24 hours.

(B) No person shall stop, park or leave standing any vehicle on a freeway except in areas designated or unless so directed by a peace officer, except that when a vehicle is disabled or inoperable or the driver of the vehicle is ill or incapacitated, such vehicle shall be permitted to park, stop or stand on the shoulder facing in the direction of travel with all wheels and projecting parts of such vehicle completely clear of the traveled lanes, but in no event shall such parking, standing or stopping upon the shoulder of a freeway exceed 12 hours.

(C) No person, except law enforcement, Fire Department, emergency management, public or private ambulance or authorized Department of Transportation or local authority personnel, shall loiter or stand or park any vehicle upon any bridge, highway or structure which is located above or below or crosses over or under the roadway of any highway or approach or exit road thereto.

(D) Whenever a vehicle is disabled or inoperable in a roadway or for any reason obstructs the regular flow of traffic for reasons other than an accident, the driver shall move or cause the vehicle to be moved as soon as practical so as to not obstruct the regular flow of traffic.

(E) This section does not apply to the driver of any vehicle which is disabled while on the roadway in such manner and to such extent that it is impossible to avoid stopping and temporarily leaving such disabled vehicle in such position until such time as it can be removed pursuant to division (D) above. (Neb. Rev. Stat. § 60-6,164) Penalty, see § 72.99

**§ 72.03 GENERAL PROHIBITIONS; EXCEPTIONS.**

(A) Except when necessary to avoid conflict with other traffic or when in compliance with law or the directions of a peace officer or traffic control device, no person shall:

(1) Stop, stand or park any vehicle:

(a) On the roadway side of any vehicle stopped or parked at the edge or curb of a street;

(b) On a sidewalk;

(c) Within an intersection;

(d) On a crosswalk;

(e) Between a safety zone and the adjacent curb or within 30 feet of points on the curb immediately opposite the ends of a safety zone unless the City Council indicates a different length by signs or markings;

(f) Alongside or opposite any street excavation or obstruction when stopping, standing or parking would obstruct traffic;

(g) Upon any bridge or other elevated structure over a highway or within a highway tunnel;

(h) On any railroad track; or

(i) At any place where official signs prohibit stopping.

(2) Stand or park a vehicle, whether occupied or not, except momentarily to pick up or discharge a passenger or passengers:

(a) In front of a public or private driveway;

(b) Within 15 feet of a fire hydrant;

(c) Within 20 feet of a crosswalk at an intersection;

(d) Within 30 feet of any flashing signal, stop sign, yield sign or other traffic control device located at the side of a roadway;

(e) 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; or

(f) At any place where official signs prohibit standing.

(3) Park a vehicle, whether occupied or not, except temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers:

(a) Within 50 feet of the nearest rail of a railroad crossing; or

(b) At any place where official signs prohibit parking.

(B) No person shall move a vehicle not lawfully under his or her control into any such prohibited area or away from a curb such a distance as shall be unlawful.

(Neb. Rev. Stat. § 60-6,166) Penalty, see § 72.99

#### **§ 72.04 PARKING NEAR SCHOOLS AND THEATERS.**

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

(Prior Code, § 3-308)

#### **§ 72.05 OBSTRUCTING STREET, INTERSECTION OR ENTRANCE.**

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

Penalty, see § 72.99

#### **§ 72.06 INTERSECTIONS.**

Except when necessary to avoid conflict with other traffic or when in compliance with law or the directions of a peace officer or traffic control device, no person shall park a vehicle or leave a vehicle standing for any purpose, except momentarily to load or discharge passengers, within 25 feet of the

intersection of curb lines, or if none, then within 15 feet of the intersection of property lines, or where the curb lines are painted red or another color specified by the City Council to indicate such prohibition. Penalty, see § 72.99

**§ 72.07 PARKING ON LEFT SIDE OF CURB.**

(A) No vehicle shall park on any street with its left side to the curb unless said street has been designated to be a one-way street by the City Council.

(B) 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.

(Prior Code, § 3-310) Penalty, see § 72.99

***Statutory reference:***

*Similar provisions, see Neb. Rev. Stat. § 60-680*

**§ 72.08 ALLEYS.**

(A) No person shall park a vehicle with any portion thereof projecting into any alley entrance.

(B) No person shall park a vehicle 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 an alley shall be parked in such manner as will cause the least obstruction possible to traffic in the alley.

Penalty, see § 72.99

**§ 72.09 TRUCK PARKING, LOADING AND UNLOADING.**

(A) It shall be unlawful for the operator of any truck with an overall length of more than 20 feet to park or stop such vehicle on a street within the business district except to load or unload when loading or unloading in an alley is impossible and then only for the period of time reasonably necessary to load or unload.

(B) If the City Council provides truck parking areas adjoining or adjacent to the business district, all truck operators shall use such parking areas for all parking purposes.

(C) Except in an area provided for by the City Council by resolution, it shall be unlawful for the operator of any truck, including an oil tanker, to park or stop for any period of time within the limits of any street outside the business district except for the purpose of loading or unloading the cargo thereof in the ordinary course of business.

Penalty, see § 72.99

**§ 72.10 PARKING OF DETACHED TRUCKS OR TRAILERS.**

(A) It shall be unlawful for the owner or operator of a truck, utility trailer, boat trailer, horse trailer or other trailer designed to be pulled behind a motor vehicle to park such trailer detached from its motor vehicle on the streets in a business or residential district of the city, except when such owner or operator is performing a service for an adjacent or abutting property owner and only then for a period of no longer than eight hours; provided, that the detached trailer does not impede the safe flow of traffic. A detached trailer belonging to a contractor with a current building permit may be parked in an area where vehicles can legally park on the street longer than eight hours as long as the contractor is actively working on the property with the building permit and the detached trailer does not impede the safe flow of traffic. A placard issued by the Building Inspection Department showing the address of the permit, issuance date and expiration date shall be attached to the trailer and be visible from the traffic side.

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

**SEMI-TRAILER.** Any vehicle with or without motive power, designed to carry persons or property and to be drawn by a motor vehicle; and so constructed that some part of its weight rests upon or is carried by another vehicle.

**TRAILER.** Any vehicle, with or without motive power, designed to carry persons or property and to be drawn by a motor vehicle; and so constructed that no part of its weight rests upon the towing vehicle.

**TRUCK-TRACTOR.** Any motor vehicle designed and primarily used 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.

**VEHICLE.** Every device in, upon or by which any person or property is or may be transported or drawn upon a highway, except devices moved solely by human power or used exclusively upon stationary rails or tracks.

(Prior Code, § 3-312) Penalty, see § 72.99

**§ 72.11 DISPLAY OR REPAIR OF VEHICLE.**

It shall be unlawful for any person to park upon any highway or public place within the city any vehicle displayed for sale. Except when necessary due to a breakdown or other emergency, no person shall adjust or repair, or race the motor of, any motor vehicle or motorcycle while standing on the highways of the city. No person or employee connected with a garage or repair shop shall use sidewalks or highways in the vicinity of the garage or shop for the purpose of working on vehicles of any description.

Penalty, see § 72.99



**§ 72.12 TIME LIMITS.**

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

(Prior Code, § 3-315)

(B) *Maximum time limit.*

(1) The parking of a vehicle on a public street for over 48 consecutive hours is unlawful except where a different maximum time limit is posted. In determining the maximum time limit, Saturday and Sunday of each week are excluded from such limitation, as well as the following legal holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; and Christmas Day.

(2) For the purpose of this section, **VEHICLE** shall mean every device in, upon or by which a person or property is or may be transported or drawn upon a highway, except devices moved solely by human power or used exclusively upon stationary rails or tracks.

(Prior Code, § 3-316)

Penalty, see § 72.99

**Statutory reference:**

*Similar provisions, see Neb. Rev. Stat. § 60-680*

**§ 72.13 SNOW; WEATHER EMERGENCIES; HIGHWAY MAINTENANCE.**

(A) Unless the City Council provides otherwise, it is unlawful to park or stand any vehicle on any highway in the city at any time within 12 hours after a snowfall of three inches or more has occurred within a 24 hour period if the snow has not been removed within that time.

(B) The Police Chief, the city police or any other designated person may order any highway or portion thereof vacated for weather emergencies or highway maintenance. Notice shall be given by personally notifying the owner or operator of a vehicle parked on such highway or by posting appropriate signs along the highway not less than four hours prior to the time that the vacation order is to be effective. It is unlawful to park a vehicle on a highway or portion thereof vacated in accordance with this division (B).

(C) A vehicle parked in violation of this section may be removed and parked, under the supervision of the city police, to a suitable nearby location without further notice to the owner or operator of such vehicle.

Penalty, see § 72.99

**§ 72.14 PARALLEL, ANGLE AND CENTER PARKING.**

(A) Except as otherwise provided in this section, any vehicle stopped or parked upon a two-way roadway where parking is permitted shall be so stopped or parked with the right-hand wheels parallel to and within 12 inches of the right-hand curb or edge of such roadway. No vehicle shall be parked upon a roadway when there is a shoulder adjacent to the roadway which is available for parking.

(B) Except when otherwise provided by the City Council, every vehicle stopped or parked upon a one-way roadway shall be so stopped or parked parallel to the curb or edge of such roadway, in the direction of authorized traffic movement, with its right-hand wheels within 12 inches of the right-hand curb or edge of the roadway or its left-hand wheels within 12 inches of the left-hand curb or edge of such roadway.

(C) The City Council may permit angle or center parking on any roadway, except that angle or center parking shall not be permitted on any federal-aid highway or on any part of the state highway system unless the Director-State Engineer has determined that such roadway is of sufficient width to permit angle or center parking without interfering with the free movement of traffic.

(D) The City Council may prohibit or restrict stopping, standing or parking on highways under its jurisdiction and erect and maintain proper and adequate signs thereon. No person shall stop, stand or park any vehicle in violation of the restrictions stated on such signs.

(Neb. Rev. Stat. § 60-6,167)

(E) Where stalls are designated either on the curb or pavement, vehicles shall be parked within those stalls.

(F) 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.

Penalty, see § 72.99

**§ 72.15 BACKING FREIGHT VEHICLE TO CURB.**

The operator of a vehicle of an overall length of less than 20 feet, including load, while loading or unloading freight may back the vehicle to the curb but shall occupy as little of the street as possible.

Penalty, see § 72.99

**§ 72.16 PAINTING OF CURBS.**

(A) The curb space within 15 feet in either direction of a fire hydrant shall be painted red, or another color specified by the City Council, to indicate that parking is prohibited in such area.

(B) If the City Council adopts a resolution regulating or prohibiting the parking or stopping of vehicles at the curb on highways in front of certain facilities or at certain locations, the curbs adjacent to any such facility or location shall be painted in such manner as directed by the City Council to indicate such regulation or prohibition.

(C) It shall be the duty of the City Council or its agent to cause the curb space to be painted and to keep the same painted as provided in this chapter or as specified by the City Council. The marking or designating of portions of highways where the parking of vehicles is prohibited or limited shall be done only by the city through its proper officers, at the direction of the City Council. No person shall paint the curb of any highway or in any manner set aside, or attempt to prevent the parking of vehicles in, any highway or part thereof, except at such places where the parking of vehicles is prohibited by the provisions of this chapter or by a resolution adopted by the City Council.

Penalty, see § 72.99

#### **§ 72.17 REMOVAL OF ILLEGALLY STOPPED VEHICLES; LIABILITY FOR COSTS.**

(A) Whenever any peace officer, or any authorized employee of a law enforcement agency who is employed by the city and specifically empowered by ordinance to act, finds a vehicle standing upon a highway in violation of any of the provisions of this chapter, the individual may remove the vehicle, 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 the highway or from the highway.

(B) The owner or other person lawfully entitled to the possession of any vehicle towed or stored shall be charged with the reasonable cost of towing and storage fees. Any towing or storage fee shall be a lien upon the vehicle prior to all other claims. Any person towing or storing a vehicle shall be entitled to retain possession of the vehicle until the charges are paid. The lien provided for in this section shall not apply to the contents of any vehicle.

(Neb. Rev. Stat. § 60-6,165)

### ***PARKING FOR HANDICAPPED OR DISABLED PERSONS***

#### **§ 72.30 DEFINITIONS.**

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

***HANDICAPPED OR DISABLED PERSON.*** Any individual:

- (1) With a severe visual or physical impairment which limits personal mobility and results in an inability to travel unassisted more than 200 feet without the use of a wheelchair, crutch, walker or prosthetic, orthotic or other assistant device;
- (2) Whose personal mobility is limited as a result of respiratory problems;
- (3) Who has a cardiac condition to the extent that his or her functional limitations are classified in severity as being Class III or Class IV according to standards set by the American Heart Association; and
- (4) Who has permanently lost all or substantially all the use of one or more limbs.

***HANDICAPPED PARKING INFRACTION.*** The violation of any section of this subchapter regulating the use of parking spaces designated for use by handicapped or disabled persons.

***TEMPORARILY HANDICAPPED OR DISABLED PERSON.*** Any handicapped or disabled person whose personal mobility is expected to be limited in such manner for no longer than one year.  
(Prior Code, § 3-321)

***Statutory reference:***

*Similar provisions, see Neb. Rev. Stat. §§ 18-1741.01, 60-331.01 and 60-331.02*

**§ 72.31 DESIGNATION OF ON-STREET PARKING SPACES; DISPLAY OF PERMITS.**

(A) The City Council may designate parking spaces for the exclusive use of:

- (1) Handicapped or disabled persons whose motor vehicles display the distinguishing license plates issued to handicapped or disabled persons pursuant to Neb. Rev. Stat. §§ 60-3,113 through 60-3,113.07;
- (2) Handicapped or disabled persons whose motor vehicles display a distinguishing license plate issued to a handicapped or disabled person by another state;
- (3) Such other handicapped or disabled persons, or temporarily handicapped or disabled persons, as certified by the city, whose vehicles display the permit specified in Neb. Rev. Stat. §§ 60-3,113 through 60-3,113.07; and
- (4) Such other motor vehicles, as certified by the city, which display such permit.

(B) All such permits shall be displayed by attaching the permit to the motor vehicle's rearview mirror so as to be clearly visible through the front windshield. When there is no rearview mirror, the permit shall be displayed on the dashboard.

(C) If the city so designates a parking space, it shall be indicated by posting immediately adjacent to and visible from each space a sign which is in conformance with the *Manual on Uniform Traffic Control Devices* issued by the Federal Highway Administration. In addition to such sign, the space may also be indicated by blue paint on the curb or edge of the paved portion of the street adjacent to the space.

(Prior Code, § 3-319)

**Statutory reference:**

*Similar provisions, see Neb. Rev. Stat. §§ 18-1736 and 18-1737*

**§ 72.32 DESIGNATION OF OFF-STREET PARKING STALLS OR SPACES.**

(A) The City Council and any person in lawful possession of any off-street parking facility may designate stalls or spaces at such facility for the exclusive use of:

(1) Handicapped or disabled persons whose motor vehicles display the distinguishing license plates issued to such individuals pursuant to Neb. Rev. Stat. §§ 60-3,113 through 60-3,113.07;

(2) Such other handicapped or disabled persons, or temporarily handicapped or disabled persons, as certified by the city, whose vehicles display the permit specified in Neb. Rev. Stat. § 60-3,113 through 60-3,113.07; and

(3) Such other motor vehicles, as certified by the city, which display such permit.

(B) Such designation shall be made by posting immediately adjacent to and visible from each stall or space a sign which is in conformance with the *Manual on Uniform Traffic Control Devices*.

(Prior Code, § 3-320)

**Statutory reference:**

*Similar provisions, see Neb. Rev. Stat. § 18-1737*

**§ 72.33 PERMIT ISSUANCE.**

(A) The City Clerk shall take an application from a handicapped or disabled or temporarily handicapped or disabled person or his or her parent, legal guardian or foster parent for a permit which will entitle the holder thereof or a person driving a motor vehicle for the purpose of transporting such holder to park in those spaces provided for by this subchapter. A person applying for a permit shall complete such forms as are provided to the City Clerk by the Department of Motor Vehicles and shall

demonstrate to the satisfaction of the City Clerk that he or she is handicapped or disabled. The City Clerk may require medical certificates and proof of a handicap or disability.

(B) The City Clerk shall submit to the Department of Motor Vehicles the name, address and license number of all persons applying for permits pursuant to this section. The DMV, upon receipt of a completed application form and completed medical form from an applicant for a handicapped parking permit under this section from the City Clerk, shall verify that the applicant qualifies for such permit and, if so, shall issue the same by delivering the permit to the applicant in person or by first class U.S. mail, postage prepaid, as circumstances permit. Upon issuing such permit, the Department shall provide the basic issuing data to the City Clerk.

(Prior Code, § 3-322)

#### **§ 72.34 MOTOR VEHICLE PERMIT ISSUANCE.**

(A) The City Clerk shall take an application from any person for a motor vehicle permit which will entitle the holder thereof or a person driving the motor vehicle for the purpose of transporting handicapped or disabled persons, or temporarily handicapped or disabled persons, to park in those spaces provided by this section, if the motor vehicle is used primarily for the transportation of such persons. Such parking permit shall be used only when the motor vehicle for which it was issued is being used for the transportation of handicapped or disabled persons, or temporarily handicapped or disabled persons.

(B) Persons applying for permits pursuant to this section shall apply for a permit for each motor vehicle used for the transportation of handicapped or disabled persons, or temporarily handicapped or disabled persons, shall complete such forms as are provided by the Department of Motor Vehicles, and shall demonstrate to the City Clerk that each such motor vehicle is used primarily for the transportation of handicapped or disabled persons, or temporarily handicapped or disabled persons.

(C) The City Clerk shall submit to the Department of Motor Vehicles the name, address and license number of all persons applying for permits pursuant to this section. The Department of Motor Vehicles, upon receipt of a completed application form and completed medical form from an applicant for a handicapped parking permit under this section from the City Clerk, shall verify that the applicant qualifies for such permit and, if so, shall issue the same by delivering the permit to the applicant in person or by first class United States mail, postage prepaid, as circumstances permit. Upon issuing such permit, the Department shall provide the basic issuing data to the City Clerk.

(Prior Code, § 3-323)

#### **§ 72.35 REMOVAL OF UNAUTHORIZED VEHICLES.**

(A) The owner or person in lawful possession of an off-street parking facility, after notifying the Police or Sheriff's Department and the city, if it provides on-street parking or owns, operates or provides an off-street parking facility, may cause the removal from a stall or space designated exclusively for

handicapped or disabled persons, or temporarily handicapped or disabled persons, or motor vehicles for the transportation of such persons, of any vehicle not displaying the proper permit or the distinguishing license plates specified in this subchapter if there is posted immediately adjacent to and visible from such stall or space a sign which clearly and conspicuously states the area so designated as a tow-away zone.

(B) Anyone who parks a vehicle in any on-street parking space which has been designated exclusively for handicapped or disabled persons, or temporarily handicapped or disabled persons, or motor vehicles for the transportation of such persons, or in any so exclusively designated parking space in any off-street parking facility, without properly displaying the proper permit or when the handicapped or disabled person to whom or for whom the license plate or permit is issued will not enter or exit the vehicle while it is parked in the designated space, shall be guilty of a handicapped parking infraction as defined in § 72.30 and shall be subject to the penalties and procedures set forth in this subchapter. The display on a motor vehicle of a distinguishing license plate or permit issued to a handicapped or disabled person by and under the duly constituted authority of another state shall constitute a full and complete defense in any action for a handicapped parking infraction. If the identity of the person who parked the vehicle in violation of this section cannot be readily determined, the owner or person in whose name the vehicle is registered shall be held prima facie responsible for such violation and shall be guilty and subject to the penalty provided for in this subchapter.

(C) In the case of a privately owned off-street parking facility, the owner or person in lawful possession of such facility shall inform the city of a violation of this section prior to taking any action pursuant to this section.

(Prior Code, § 3-324) Penalty, see § 72.99

## § 72.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 70.99.

(B) The violation of any offense listed in the table below shall be punished by a fine as listed for such offense in such table. The city may conduct studies on a periodic basis to consider adjustments to the fines provided for under this section and contained in the table below.

|                                       |      |
|---------------------------------------|------|
| Blocking alley, driveway or sidewalk  | \$25 |
| Improper parking (general)            | \$25 |
| No parking 2:00 a.m. to 6:00 a.m.     | \$25 |
| Off-street (September 15 to March 15) | \$5  |
| Parking left of curb                  | \$25 |

|                                                 |      |
|-------------------------------------------------|------|
| Parking of detached trailers                    | \$5  |
| Parking over 48 hours                           | \$25 |
| Parking within 15 feet of fire hydrant          | \$25 |
| Parking within 20 feet of fire station driveway | \$25 |
| Posted no parking                               | \$25 |

(Ord. 792, passed 6-13-2023)



## CHAPTER 73: RECREATIONAL VEHICLES

### Section

#### *Bicycles*

- 73.001 Operation
- 73.002 Lights

#### *Motorcycles*

- 73.015 Operation
- 73.016 Lights

#### *Snowmobiles*

- 73.030 Registration; equipment
- 73.031 Unlawful operation
- 73.032 Unlawful acts
- 73.033 Operation on public lands
- 73.034 Enforcement

#### *All-Terrain Vehicles and Utility-Type Vehicles*

- 73.045 Definitions
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- 73.047 Lights
- 73.048 Equipment
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#### *Mini-Bikes*

- 73.065 Unlawful operation
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### *Mopeds*

- 73.080 Operation generally
- 73.081 Use of traffic lanes
- 73.082 Equipment
  
- 73.999 Penalty

## **BICYCLES**

### **§ 73.001 OPERATION.**

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

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

(C) Persons riding bicycles shall observe all traffic signs and stop at all stop signs.

(D) 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.

(E) 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:

(1) Overtaking and passing another bicycle or vehicle proceeding in the same direction;

(2) Preparing for a left turn onto a private road or driveway or at an intersection;

(3) Reasonably necessary to avoid conditions that make it unsafe to continue along the right-hand curb or right-hand edge of the roadway, including fixed or moving objects, stopped or moving vehicles, bicycles, pedestrians or animals or surface hazards;

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

(5) Lawfully operating a bicycle on the paved shoulders of a highway included in the state highway system as provided in Neb. Rev. Stat. § 60-6,142.

(F) Any person who operates a bicycle upon a roadway with a posted speed limit of 35 mph 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 right-hand curb or right-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, such person shall clearly signal his or her intention and yield the right-of-way to all other vehicles.

(G) No person shall park a bicycle on any sidewalk unless a bicycle stand is located on said sidewalk.

(H) No person shall operate a bicycle on the sidewalks within the Business District.  
(Prior Code, § 3-401) Penalty, see § 73.999

***Statutory reference:***

*Similar provisions, see Neb. Rev. Stat. §§ 60-6,315, 60-6,317 and 60-6,318*

**§ 73.002 LIGHTS.**

No bicycle shall be permitted on any street or other public roadway from sunset to sunrise without a headlight firmly attached to such bicycle, visible under normal atmospheric conditions from the front thereof for not less than 500 feet indicating the approach or presence of such bicycle, and operated with said headlight properly lighted, or a yellow or red light reflector attached to and visible under normal atmospheric conditions from distances between 100 feet and 600 feet to the rear when directly in front of lawful lower beams of headlights on a motor vehicle. The headlight shall emit a clear, white light.  
(Prior Code, § 3-402) Penalty, see § 73.999

***MOTORCYCLES***

**§ 73.015 OPERATION.**

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

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

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

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

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

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

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

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

(I) Motorcycles shall not be operated more than two abreast in a single lane.

(J) Divisions (G) and (H) above shall not apply to police officers in the performance of their official duties.

(Prior Code, § 3-405) Penalty, see § 73.999

***Statutory reference:***

*Similar provisions, see Neb. Rev. Stat. §§ 60-6,306 through 60-6,308*

**§ 73.016 LIGHTS.**

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

(Prior Code, § 3-406) Penalty, see § 73.999

***SNOWMOBILES*****§ 73.030 REGISTRATION; EQUIPMENT.**

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

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

(Prior Code, § 3-407) Penalty, see § 73.999

***Statutory reference:***

*Similar provisions, see Neb. Rev. Stat. § 60-6,335*

**§ 73.031 UNLAWFUL OPERATION.**

It shall be unlawful for any person to operate a snowmobile upon any street or highway within the corporate limits of the city; provided, that snowmobiles may be operated within the city when, due to severe weather conditions, they provide the only practical method of safe vehicular travel. When such conditions do exist, the snowmobile shall be operated only in a manner and at a speed that is reasonable or proper under the surrounding circumstances.

(Prior Code, § 3-408) Penalty, see § 73.999

**§ 73.032 UNLAWFUL ACTS.**

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

(A) Within the city unless weather conditions are such that it provides the only practicable method of safe vehicular travel, or said snowmobile is engaged in responding to an emergency;

(B) At a rate of speed greater than reasonable or proper under the surrounding circumstances;

(C) In a careless, reckless or negligent manner so as to endanger person or property;

(D) Without a lighted headlight and taillight when such would be required by conditions;

(E) In any tree nursery or planting in a manner which damages or destroys growing stock; and

(F) Upon any private lands without first having obtained permission of the owner, lessee or operator of such lands.

(Prior Code, § 3-409) Penalty, see § 73.999

***Statutory reference:***

*Similar provisions, see Neb. Rev. Stat. § 60-6,337*

**§ 73.033 OPERATION ON PUBLIC LANDS.**

Snowmobiles shall be prohibited upon the public lands owned by the city except where allowed by resolution of the City Council.

(Prior Code, § 3-410) Penalty, see § 73.999

***Statutory reference:***

*Similar provisions, see Neb. Rev. Stat. § 60-6,338*

**§ 73.034 ENFORCEMENT.**

Any law enforcement officer, including a conservation officer, may enforce the provisions relating to snowmobiles.

(Prior Code, § 3-411)

***Statutory reference:***

*Similar provisions, see Neb. Rev. Stat. § 60-6,343*

***ALL-TERRAIN VEHICLES AND UTILITY-TYPE VEHICLES***

**§ 73.045 DEFINITIONS.**

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

***ALL-TERRAIN VEHICLE (ATV).*** Any motorized off-highway vehicle which:

- (1) Is 50 inches or less in width;
- (2) Has a dry weight of 1,200 pounds or less;
- (3) Travels on three or more non-highway tires; and

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

**STREET or HIGHWAY.** The entire width between the boundary limits of any street, road, avenue, boulevard or way which is publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

**UTILITY-TYPE VEHICLE (UTV).**

(1) Any motorized off-highway vehicle which:

- (a) Is 74 inches in width or less;
- (b) Is not more than 180 inches in length, including the bumper;
- (c) Has a dry weight of 2,000 pounds or less; and
- (d) Travels on four or more non-highway tires.

(2) **UTILITY-TYPE VEHICLE** does not include a golf cart or a low-speed vehicle.

(Prior Code, § 3-412) (Ord. 614, passed 2-8-2011; Ord. 671, passed 3-10-2015)

**Statutory reference:**

*Similar provisions, see Neb. Rev. Stat. §§ 60-624 and 60-6,355*

**§ 73.046 OPERATION; RESTRICTIONS.**

(A) An ATV and a UTV may be operated on streets and highways within the corporate limits of the city only if the operator and the vehicle comply with the provisions of this section.

(B) (1) An ATV or a UTV may be operated only between the hours of sunrise and sunset and shall not be operated at a speed in excess of 30 mph.

(2) When in operation as authorized herein, the headlight and taillight of the ATV or UTV shall be on and the vehicle shall be equipped with a bicycle safety flag which extends not less than five feet above ground attached to the rear of such vehicle.

(3) The flag shall be triangular in shape with an area of not less than 30 square inches and shall be day-glow in color.

(C) Any person operating an ATV or a UTV as authorized in division (A) above shall have:

(1) A valid Class O operator's license or a farm permit as provided in Neb. Rev. Stat. § 60-4,126; and

(2) Liability insurance coverage for the ATV or a UTV while operating the vehicle on a street or highway. The person operating the vehicle shall provide proof of such insurance coverage to any peace officer requesting such proof within five days of such a request.

(D) ATVs and UTVs may be operated without complying with divisions (B) and (C) above on streets and highways in parades which have been authorized by the state or any department, board, commission or political subdivision of the state.

(E) (1) An ATV or a UTV shall not be operated on any controlled-access highway with more than two marked traffic lanes, and the crossing of any controlled-access highway with more than two marked traffic lanes shall not be permitted.

(2) Divisions (A) through (C) and (F) of this section authorize and apply to operation of an ATV or a UTV only on a street or highway other than a controlled-access highway with more than two marked traffic lanes.

(F) Subject to division (E) above, the crossing of a street or highway shall be permitted by an ATV or a UTV without complying with divisions (B) and (C) above only if:

(1) The crossing is made at an angle of approximately 90 degrees to the direction of the street or highway and at a place where no obstruction prevents a quick and safe crossing;

(2) The vehicle is brought to a complete stop before crossing the shoulder or roadway of the street or highway;

(3) The operator yields the right-of-way to all oncoming traffic that constitutes an immediate potential hazard;

(4) In crossing a divided highway, the crossing is made only at an intersection of such highway with another highway; and

(5) Both the headlight and taillight of the vehicle are on when the crossing is made.

(G) No passengers shall be allowed in the cargo area of an ATV or a UTV.  
(Prior Code, § 3-413) (Ord. 614, passed 2-8-2011) Penalty, see § 73.999

***Statutory reference:***

*Similar provisions, see Neb. Rev. Stat. § 60-6,356*



**§ 73.047 LIGHTS.**

Every ATV and UTV shall display a lighted headlight and taillight during the period of time from sunset to sunrise and at any time when visibility is reduced due to insufficient light or unfavorable atmospheric conditions.

(Prior Code, § 3-414) (Ord. 614, passed 2-8-2011)

***Statutory reference:***

*Similar provisions, see Neb. Rev. Stat. § 60-6,357*

**§ 73.048 EQUIPMENT.**

Every ATV and UTV shall be equipped with a brake system maintained in good operating condition; an adequate muffler system in good working condition; and a U.S. Forest Service-qualified spark arrester.

(Prior Code, § 3-415) (Ord. 614, passed 2-8-2011)

***Statutory reference:***

*Similar provisions, see Neb. Rev. Stat. § 60-6,358*

**§ 73.049 MODIFICATION PROHIBITED.**

No person shall equip the exhaust system of an ATV or a UTV with a cutout, bypass or similar device, operate an ATV or a UTV with an exhaust system so modified or operate an ATV or a UTV with the spark arrester removed or modified except for use in closed-course competition events.

(Prior Code, § 3-416) (Ord. 614, passed 2-8-2011) Penalty, see § 73.999

***Statutory reference:***

*Similar provisions, see Neb. Rev. Stat. § 60-6,359*

**§ 73.050 COMPETITIVE EVENTS; EXEMPTIONS.**

ATVs and UTVs participating in competitive events may be exempted from §§ 73.047 through 73.049 at the discretion of the State Director of Motor Vehicles.

(Prior Code, § 3-417) (Ord. 614, passed 2-8-2011)

***Statutory reference:***

*Similar provisions, see Neb. Rev. Stat. § 60-6,360*

**§ 73.051 ACCIDENTS; REPORT REQUIRED.**

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 ATV or UTV involved in the accident shall give notice of the accident in the same manner as provided in Neb. Rev. Stat. § 60-699.

(Prior Code, § 3-418) (Ord. 614, passed 2-8-2011)

***Statutory reference:***

*Similar provisions, see Neb. Rev. Stat. § 60-6,361*

**§ 73.052 ENFORCEMENT.**

Any law enforcement officer of the state or of any political subdivision, including conservation officers of the Game and Parks Commission, shall be charged with the enforcement of the provisions of this subchapter.

(Prior Code, § 3-420) (Ord. 614, passed 2-8-2011)

***MINI-BIKES*****§ 73.065 UNLAWFUL OPERATION.**

It is unlawful for any mini-bike or similar two-, three- or four-wheeled miniature vehicle whose visibility, power and equipment are inadequate for mixing with normal vehicular traffic upon the streets and highways to be operated on any such street or highway. For the purpose of this section, ***MINI-BIKE*** shall mean a two-wheeled motor vehicle which has a total wheel and tire diameter of less than 14 inches, an engine-rated capacity of less than 45 cubic centimeters displacement or a seat height less than 25 inches from the ground, or any other two-wheeled motor vehicle primarily designed by the manufacturer for off-road use only.

(Prior Code, § 3-421) Penalty, see § 73.999

***Statutory reference:***

*Similar provisions, see Neb. Rev. Stat. §§ 60,6,352, 60-6,353 and 60-2107*

**§ 73.066 TRAFFIC LAWS INAPPLICABLE.**

The provisions of Neb. Rev. Stat. Ch. 60, art. 1, 3, 4, 5 and Ch. 77 shall not be applicable to the owners and operators of any mini-bike.

(Prior Code, § 3-422)

**§ 73.067 EMERGENCIES AND PARADES.**

Mini-bikes shall be exempt from the provisions of this subchapter during any public emergency or while being used in parades by regularly organized units of any recognized charitable, social, educational or community service organization.

(Prior Code, § 3-423)

***Statutory reference:***

*Similar provisions, see Neb. Rev. Stat. § 60-6,348*

**§ 73.068 OPERATION ON PUBLIC LANDS.**

Mini-bikes shall be prohibited upon the public lands owned by the city except where allowed by resolution of the City Council.

(Prior Code, § 3-424) Penalty, see § 73.999

***Statutory reference:***

*Similar provisions, see Neb. Rev. Stat. § 60-678*

***MOPEDS*****§ 73.080 OPERATION GENERALLY.**

(A) Any person who operates a moped shall ride only upon a permanent, regular seat attached thereto and shall not carry any other person, nor shall any other person ride on a moped unless it is designed by the manufacturer to carry more than one person.

(B) Any person shall ride a moped only while sitting astride the seat, facing forward. Further, no person shall operate a moped while carrying any package, bundle or other article which prevents him or her from keeping both hands on the handlebars. No operator shall carry any person, nor shall any person ride, in a position that will interfere with the operation and control of the moped or the view of the operator. No person who rides upon a moped shall attach himself or herself or the moped to any other vehicle on a roadway.

(Prior Code, § 3-425) Penalty, see § 73.999

**§ 73.081 USE OF TRAFFIC LANES.**

A moped shall be entitled to full use of a traffic lane of any street or highway with an authorized speed limit of 45 mph or less, and no vehicle shall be operated in such a manner as to deprive any moped

of the full use of such lane. This section shall not apply to mopeds or motorcycles operated two abreast in a single lane. No person shall operate a moped between lanes of traffic or between adjacent lines or rows of vehicles. Mopeds shall not be operated more than two abreast in a single lane. Any person who operates a moped on a roadway with an authorized speed limit of more than 45 mph shall ride as near to the right side of the roadway as practicable and shall not ride more than single file.

(Prior Code, § 3-426) Penalty, see § 73.999

#### **§ 73.082 EQUIPMENT.**

Any moped which carries a passenger shall be equipped with footrests for such passenger. No person shall operate any moped with handlebars more than 15 inches above the mounting point of the handlebars.

(Prior Code, § 3-427) Penalty, see § 73.999

#### **§ 73.999 PENALTY.**

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99.

(B) Any person convicted of violating any rule or regulation dealing with snowmobiles shall be punished by a fine of not more than \$500.

(Prior Code, § 3-411)

(C) Any violation of §§ 73.046 through 73.051 which is also a violation under Neb. Rev. Stat. Ch. 60 may be punished under the penalty provisions of such chapter.

(Prior Code, § 3-419)

(Ord. 614, passed 2-8-2011)

***Statutory reference:***

*Similar provisions, see Neb. Rev. Stat. §§ 60-6,343 and 60-6,362*

## CHAPTER 74: TRAFFIC SCHEDULES

### Schedule

- I. Speed limits
- II. Weight restrictions

### SCHEDULE I. SPEED LIMITS.

No person shall operate a motor vehicle on any street, alley or other place at a rate of speed greater than 20 mph within the Central Business District as designated on the official zoning map, and 25 mph on any other street within the city; provided, that the speed limits on the following streets shall be as follows:

| <i>Street</i>   | <i>Location</i>                               | <i>Speed Limit</i> |
|-----------------|-----------------------------------------------|--------------------|
|                 | All streets within the city park              | 10 mph             |
|                 | All non-hard surfaced streets within the city | 10 mph             |
| 264th Street    | From E. Meigs Street to W. Maple Road         | 45 mph             |
| E. Meigs Street | East of S. Center to 261st Circle             | 45 mph             |
| Gardiner Street | West of West Street                           | 10 mph             |
| N. West Street  | North of Reichmuth Road to 276th Street       | 40 mph             |
| Reichmuth Road  | West of 288th Street to 300th Street          | 55 mph             |
| Reichmuth Road  | West to 288th Street                          | 40 mph             |
| S. Center       | South of Meigs Street to W. Maple Road        | 45 mph             |
| W. Maple Road   | From 264th Street to 270th Street             | 45 mph             |

(Prior Code, § 3-118) (Ord. 559, passed 3-11-2008; Ord. 752, passed 6-8-2021) Penalty, see § 70.99



**SCHEDULE II. WEIGHT RESTRICTIONS.**

No vehicle weighing in excess of 12,000 pounds shall travel on or over the following streets.

| <i>Street</i>     | <i>Location</i>                                                                                                                | <i>Exception</i>                                                                                                                    |
|-------------------|--------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------|
| Meigs Streets     | Beginning at the junction of Meigs Street and Center Street and ending at the western city limits                              | Such restriction shall not apply to vehicles making deliveries of goods or services to persons or businesses within the city limits |
| North West Street | Beginning at the junction of Ida Street and North West Street and ending at the junction of North West Street and State Street |                                                                                                                                     |

(Prior Code, § 3-140) Penalty, see § 70.99





## **TITLE IX: GENERAL REGULATIONS**

### **Chapter**

- 90. LEISURE AND RECREATION**
- 91. NUISANCES**
- 92. ANIMALS**
- 93. FIRE PREVENTION AND PROTECTION**



## **CHAPTER 90: LEISURE AND RECREATION**

### **Section**

#### ***Parks and Recreational Facilities***

- 90.01 Operation
- 90.02 Injury to property
- 90.03 Hours; camping rules
- 90.04 Trails and pedestrian bridge

#### ***Municipal Swimming Pool***

- 90.15 Operation and funding
- 90.16 Admission charge
- 90.17 Rentals
- 90.18 Rules and regulations

#### ***Library***

- 90.30 Funding
- 90.31 Library Board; general powers and duties
- 90.32 Books
- 90.33 Rules and regulations
- 90.34 Damaged and lost books
- 90.35 Cost of use
- 90.36 Annual report
- 90.37 Improper book removal

## ***PARKS AND RECREATIONAL FACILITIES***

### **§ 90.01 OPERATION.**

(A) The city owns and operates the city parks and other recreational areas through the City Council, which shall have the authority to adopt rules and regulations for the efficient management of the city parks and other recreational areas of the city.

(B) There may exist a Parks and Recreation Advisory Committee, to be governed as follows.

(1) *Creation and composition.* The Parks and Recreation Advisory Committee shall consist of at most five members and at least three members who will be appointed by the Mayor by and with the consent of the City Council.

(2) *Appointment and terms of members; compensation.* Each member shall serve for period of three years from and after the date of his or her appointment; provided that the initial terms shall be shortened in order to provide for staggered terms with one term ending at the end of the first year, two terms ending at the end of the second year and two terms ending at the end of the third year. No member shall be a member of the City Council. All members of the Parks and Recreation Advisory Committee shall serve as such without compensation.

(3) *Organization; quorum; meetings; records.* At the first meeting in each calendar year, members of the Parks and Recreation Advisory Committee shall elect one of their own members as chairperson. The Committee shall adopt all necessary rules providing for regular and special meetings and for the conduct of its business. All proceedings shall have minutes taken; the minutes shall be submitted to the City Clerk and copies given to the Mayor and City Council. The Committee shall comply with all requirements of the Nebraska Open Meetings Act, including but not limited to the Act's requirements of advance published notice of meetings, meetings open to the public, advanced available agendas, roll call votes, closed sessions and minutes of meetings.

(4) *Powers and duties.* The City Parks and Recreation Advisory Committee shall consider all matters concerning the city's parks and recreational facilities referred to it by the Mayor, City Council, the City Administrator or the Public Works Superintendent. The Committee shall review the matters referred to it and make such studies based on the referred matters as it may deem necessary and appropriate and shall tender recommendations to the originator of the referral. The matters may include, but are not limited to, matters concerning future parkland acquisition and development, rules, and regulations for use of the parks and recreational areas, and maintenance and operational considerations. Each year, on or before June 1, the Parks and Recreation Advisory Committee shall submit to the Mayor and City Council a report on the status of the city's parks and recreational areas. The Committee shall have no authority to enter into financial obligations or expend funds of any kind, but the City Council, as it may deem necessary and appropriate, may provide funds for use by the Committee. The Parks and Recreation Advisory Committee does not constitute a Board of Park Commissioners or a Board of Park and Recreation Commissioners pursuant to Neb. Rev. Stat. § 17-952 nor does the Committee have the powers or duties granted by said statute.

(Ord. 798, passed 12-12-2023)

## **§ 90.02 INJURY TO PROPERTY.**

It shall be unlawful for any person to maliciously or willfully cut down, injure or destroy any tree, plant or shrub in any city park or recreational facility. 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 any city park or recreational area. No person shall commit any waste on or litter the city parks or other public grounds.

Penalty, see § 10.99

***Statutory reference:***

*Littering of public and private property, see Neb. Rev. Stat. § 28-523*

**§ 90.03 HOURS; CAMPING RULES.**

(A) All public parks within the corporate limits of the city shall be closed daily to the public between the hours of 11:00 p.m. of one day and 6:00 a.m. of the following day. It shall be unlawful for any person to enter upon, remain in, loiter, wander, stroll, loaf, play in or in any manner utilize the public parks in the city during such hours. Persons utilizing the camping facilities in the park, having paid all applicable fees, are exempt from the regulations in this division (A).

(B) Camping in the city park is a privilege afforded to the citizens by the city and is subject to strict compliance with the following rules.

(1) Use of sites is on a first come, first served basis through the online reservation system or walk-up access. Sites reserved online will be marked as reserved.

(2) One camper unit is allowed per site.

(3) No tents shall be allowed except that one tent will be allowed with paid camper unit for children under the age of 18.

(4) Campers must register within one hour of arriving. Campers who reserved a spot online must submit payment within one hour of arriving.

(5) Registration fee is \$10 per night, per site.

(6) To register in person, fill out the provided envelope and attach the tag to the post at the site being occupied.

(7) All campers and vehicles must display valid license plates and be registered in accordance with applicable state law.

(8) No open fires.

(9) All pets must be kept on a leash and cleaned up after.

(10) Quiet hours are in effect from 10:00 p.m. through 7:00 a.m.

(11) Camping or occupying sites is permitted for a maximum of seven days, unless otherwise approved in writing by the City Clerk.

(12) Campers or visitors found in violation of these rules may be evicted without refund. Campers will be allowed 24 hours to vacate and exit the premises after being provided with written notice of such violation. After such time, police escort may result in the event the site has not yet been vacated.

(13) Failure to exit the premises after the written notice set forth in division (B)(12) above, failure to pay the registration fee under division (B)(6) above or occupying a camping site longer than seven days under division (B)(11) above could result in the violator being deemed guilty of a misdemeanor and resulting fines pursuant to § 10.99.

(14) All other city park rules apply.

(15) Direct any questions to City Hall at (402) 359-2251, Monday through Friday, 9:00 a.m. to 5:00 p.m. or online at valleyne.org.

(Prior Code, § 1-1103) (Ord. 699, passed 5-9-2017; Ord. 728, passed 12-10-2019; Ord. 729, passed 12-10-2019; Ord. 750, passed 6-8-2021) Penalty, see § 10.99

***Statutory reference:***

*Similar provisions, see Neb. Rev. Stat. § 17-949*

**§ 90.04 TRAILS AND PEDESTRIAN BRIDGE.**

(A) *Trail hours and use.* The trails and pedestrian bridge shall be closed from sunset to sunrise each day. Trail users must follow all state bicycle laws and trail guidelines for safety. Use of the trail at any time is at the user's own risk, and they must take precautions during every use.

(B) *Authorized trail users.* Trails are multi-use in nature with various acceptable shared activities and users. Authorized trail users include:

- (1) Walkers;
- (2) Joggers;
- (3) Runners;
- (4) Skateboards and rollerblades;

- (5) Pet owners, with their licensed animal(s) on a leash; and
- (6) Bicyclists (includes the use of all e-bikes and e-scooters).

(C) *Unauthorized trail users.* Unauthorized trail uses include:

- (1) Gas, natural gas or electric powered motor vehicles;
- (2) Motorcycles;
- (3) Utility vehicles;
- (4) Go-carts;
- (5) ATVs and UTVs;
- (6) Snowmobiles; and
- (7) Any other type of motorized vehicle used as transportation.

(D) *Pets.* Pets are allowed on the trail; however, every pet must be properly licensed and leashed at all times. Pet owners are responsible for any pet behavior relating to damage or harm to other animals or users. Owners are responsible for any waste made by their pets.

(E) *Trail etiquette.*

- (1) Show courtesy to all other trail users.
- (2) Use the right side of the trail unless otherwise designated.
- (3) Always pass on the left, with an audible warning to the user(s) being passed.
- (4) Listen for audible signals and allow faster trail users to pass safely.

(F) *Alcohol.* Alcohol is not allowed at any time.

(G) *Contact.* Questions may be directed to City Hall at (402) 359-2251 or through the “Contact Us” form on the city website or app. Office hours are Monday through Friday, 9:00 a.m. to 5:00 p.m. (Prior Code, § 1-1108) (Ord. 777, passed 7-12-2022)

***MUNICIPAL SWIMMING POOL*****§ 90.15 OPERATION AND FUNDING.**

The city owns and manages the city swimming pool through the City Council, which shall have the power and authority to hire and supervise the swimming pool manager and such employees as may be deemed necessary. The Council shall pass such rules and regulations for the operation of the swimming pool as may be proper for its efficient operation.

(Prior Code, § 1-1104)

*Statutory reference:*

*Similar provisions, see Neb. Rev. Stat. §§ 17-948, 17-951 and 17-952*

**§ 90.16 ADMISSION CHARGE.**

The City Council may, for the purpose of defraying the expenses involved in maintaining, improving, managing and beautifying the swimming pool, set reasonable admission charges for use of the city swimming pool. The charges shall be on file at the office of the City Clerk and shall also be posted in a conspicuous place at the swimming pool for public inspection. Such rates may be structured for classes of persons in a reasonable manner; provided, that nothing herein shall be construed to permit or allow discrimination on the basis of race, creed, color or national origin in the classification of persons for admission charges.

(Prior Code, § 1-1105)

*Statutory reference:*

*Similar provisions, see Neb. Rev. Stat. § 17-949*

**§ 90.17 RENTALS.**

The City Council shall have the authority to rent the city swimming pool to such organizations and other persons as it may see fit in its discretion. The Council shall prescribe rules and regulations for such rentals and shall require an appropriate number of qualified lifeguards to be in attendance during the rental period. Such fees and other costs shall be on file at the office of the City Clerk and posted in a conspicuous place at the swimming pool.

(Prior Code, § 1-1106)

*Statutory reference:*

*Similar provisions, see Neb. Rev. Stat. § 7-949*



**§ 90.18 RULES AND REGULATIONS.**

The City Council shall have the power and authority to enact bylaws, rules and regulations for the protection of those using the swimming pool and for the efficient management thereof. Suitable penalties may be provided for the violation of such bylaws, rules and regulations.

(Prior Code, § 1-1107)

***Statutory reference:***

*Similar provisions, see Neb. Rev. Stat. § 7-949*

***LIBRARY*****§ 90.30 FUNDING.**

(A) (1) If the City Council has established a public library free of charge for the use of the inhabitants of the city or contracted for the use of a public library already established, the Council may levy a tax of not more than \$0.105 on each \$100 upon the taxable value of all the taxable property in the city annually to be levied and collected in like manner as other taxes in the city. The levy shall be subject to Neb. Rev. Stat. §§ 77-3442 and 77-3443. The amount collected from such levy shall be known as the Library Fund.

(Neb. Rev. Stat. § 51-201)

(2) The Fund shall also include all gifts, grants, deeds of conveyance, bequests or other valuable income-producing property and real estate from any source for the purpose of endowing the public library.

(B) All taxes levied or collected and all funds donated or in any way acquired for the erection, maintenance or support of the public library shall be kept for the use of the library separate and apart from all other funds of the city, shall be drawn upon and paid out by the City Treasurer upon vouchers signed by the President of the Library Board and authenticated by the secretary of the Board, and shall not be used or disbursed for any other purpose or in any other manner. The city may establish a public library sinking fund for major capital expenditures.

(Neb. Rev. Stat. § 51-209)

(C) Any money collected by the library shall be turned over at least monthly by the Librarian to the City Treasurer along with a report of the sources of the revenue.

**§ 90.31 LIBRARY BOARD; GENERAL POWERS AND DUTIES.**

(A) The Library Board shall have the power to make and adopt such bylaws, rules and regulations for its own guidance and for the government of the library and reading room as it may deem expedient, not inconsistent with Neb. Rev. Stat. §§ 51-201 through 51-219.  
(Neb. Rev. Stat. § 51-205)

(B) The Library Board shall have exclusive control of expenditures, of all money collected or donated to the credit of the Library Fund, of the renting and construction of any library building and of the supervision, care and custody of the grounds, rooms or buildings constructed, leased or set apart for that purpose.  
(Neb. Rev. Stat. § 51-207)

(C) The Library Board may erect, lease or occupy an appropriate building for the use of such a library and appoint a suitable librarian and assistants, fix the compensation of such appointees and remove such appointees at the pleasure of the Board. The governing body of the city shall approve any personnel administrative or compensation policy or procedure before implementation of such policy or procedure by the Library Board.

(D) The Library Board may 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. The Library Board may fix and impose, by general rules, penalties and forfeitures for trespasses upon or injury to the library grounds, rooms, books or other property, for failure to return any book or for violation of any bylaw, rule or regulation. The Board shall have and exercise such power as may be necessary to carry out the spirit and intent of Neb. Rev. Stat. §§ 51-201 through 51-219 in establishing and maintaining the library and reading room.  
(Neb. Rev. Stat. § 51-211)

(E) The city owns and manages the library through the Library Board, which shall consist of five residents of the city appointed by the City Council. Each member of the Board shall serve a four-year term of office. No member of the City Council shall serve as a member of the Library Board while serving a term of office on the Council. The members of the Board shall serve without compensation and may be required, at the discretion of the City Council, to give a bond in a sum set by resolution and conditioned upon the faithful performance of their duties.

(F) At the time of the Board's first meeting in June of each year, the members shall organize by selecting from their number a chairperson and secretary. No member of the Board may serve as both chairperson and secretary. It shall be the duty of the secretary to keep the full and correct minutes and records of all meetings and to file the same with the City Clerk, where they shall be available for public inspection and any reasonable time. A majority of the Board members shall constitute a quorum for the transaction of business. The Board shall meet at such times as the City Council may designate. Special meetings may be held upon the call of the chairperson or any three members of the Board.  
(Ord. 797, passed 11-14-2023)

**§ 90.32 BOOKS.**

The Library Board may authorize the sale, exchange or disposal of any surplus, damaged, defective, obsolete or duplicate books in the library. Records shall be kept of any such books so disposed of.  
(Prior Code, § 1-1203)

**§ 90.33 RULES AND REGULATIONS.**

The Library Board shall establish rules and regulations for the governing of the library for the preservation and efficient management thereof. The Board shall fix and impose penalties and forfeitures for injury to the library grounds, rooms, books or other property or for failure to return a book. All fees, penalties and forfeitures may be collected in civil action in the event of failure, neglect or refusal to pay the assessments.  
(Prior Code, § 1-1204)

**§ 90.34 DAMAGED AND LOST BOOKS.**

Any person who injures or fails to return any book taken from the library shall forfeit and pay to the library not less than the value of the book, in addition to any replacement cost and penalty which the Library Board may assess.  
(Prior Code, § 1-1206) Penalty, see § 10.99

**§ 90.35 COST OF USE.**

(A) Except as provided in division (B) below, the library and reading room shall be free of charge for the use of the inhabitants of the city, subject always to such reasonable regulations as the Library Board may adopt to render the library of the greatest use to the inhabitants. The Library 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.  
(Neb. Rev. Stat. § 51-212)

(B) The public library shall make its basic services available without charge to all residents of the city. The Board may fix and impose reasonable fees, not to exceed the library's actual cost, for nonbasic services.  
(Neb. Rev. Stat. § 51-211)

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

**BASIC SERVICES.** Include, but are not limited to, free loan of circulating print and nonprint materials from the local collection and general reference and information services.

**NONBASIC SERVICES.** Include, but are not limited to, use of:

- (a) Photocopying equipment;
- (b) Telephones, facsimile equipment and other telecommunications equipment;
- (c) Media equipment;
- (d) Personal computers; and
- (e) Videocassette recording and playing equipment.

(Neb. Rev. Stat. § 51-201.01)

#### **§ 90.36 ANNUAL REPORT.**

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

(Neb. Rev. Stat. § 51-213)

#### **§ 90.37 IMPROPER BOOK REMOVAL.**

It shall be unlawful for any person not authorized by the regulations made by the Library Board to take a book from the public library without the consent of the Librarian or an authorized employee of the library. Any person removing a book from the library without properly checking it out shall be deemed to be guilty of an offense.

Penalty, see § 10.99

## CHAPTER 91: NUISANCES

### Section

#### *General Provisions*

- 91.01 Definitions
- 91.02 Public nuisances declared
- 91.03 Abatement; notice of noncompliance; appeal
- 91.04 Appointment of hearing officer
- 91.05 Cost of work done; responsibility

#### *Abandoned Vehicles*

- 91.20 Abandoned vehicles prohibited
- 91.21 Enforcement
- 91.22 Notice
- 91.23 Disposition
- 91.24 Transfer of title
  
- 91.99 Penalty

### **GENERAL PROVISIONS**

#### **§ 91.01 DEFINITIONS.**

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

**LITTER.** Includes, but not be limited to:

- (1) Trash, rubbish, refuse, garbage, paper, rags and ashes;
- (2) Wood, plaster, cement, brick or stone building rubble;

(3) Grass, leaves and worthless vegetation;

(4) Offal and dead animals;

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

(6) Any motor vehicle not housed in a storage or other building that is not operable and currently licensed.

***UNSAFE BUILDING or UNSAFE STRUCTURE.*** Includes, but not be limited to any building, shed, fence or other human-made structure which is dangerous to the public health because of its condition and which may cause or aid in the spread of disease or injury to the health of its occupants or those of neighboring structures; 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; 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; because of its conditions or because of lack of doors or windows is available to and frequented by malefactors or disorderly persons who are not lawful occupants of such building or structure; any partially constructed building or structure which has lost or is unable to perform its intended function, or is cast off, discarded or abandoned; or as determined in the latest adopted edition of the International Building adopted by the city, as the same may from time to time be amended. It shall be the responsibility of the Building Inspector or Fire Chief to make a determination of the condition of any building or structure in the city or its extraterritorial jurisdiction whether it is an unsafe building or unsafe structure.

***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.) (toun), hemp plant (*Cannabis sativa*) and ragweed (*Ambrosiaceae*).

***WEEDS, GRASSES OR WORTHLESS VEGETATION.*** Any weed, grass, or worthless vegetation growth of more than 12 inches in height, or more than eight inches within the same calendar year, after the city has previously acted to remove weeds, grasses, or worthless vegetation exceeding 12 inches in height on the same lot or piece of ground.

(Ord. 815, passed 8-13-2024)

**§ 91.02 PUBLIC NUISANCES DECLARED.**

(A) (1) It is hereby declared to be a public nuisance to permit weeds, grasses or worthless vegetation to grow in excess of 12 inches within the corporate limits of the city and its extraterritorial zoning jurisdiction.

(2) It is hereby declared to be a public nuisance to permit weeds, grasses or worthless vegetation to grow in excess of eight inches within the corporate limits of the city and its extraterritorial zoning jurisdiction during any calendar year if, within the same calendar year, the city has previously acted to remove weeds, grasses, or worthless vegetation exceeding 12 inches in height on the same lot or piece of ground.

(B) It is hereby declared to be a public nuisance to permit the accumulation of litter on any property within the corporate limits of the city and its extraterritorial zoning jurisdiction.

(C) It is hereby declared to be a public nuisance for the owner of an unsafe building or unsafe structure to maintain, permit the existence of, or allow persons to occupy the same within the corporate limits of the city and its extraterritorial zoning jurisdiction.

(Ord. 815, passed 8-13-2024) Penalty, see § 91.99

**§ 91.03 ABATEMENT; NOTICE OF NONCOMPLIANCE; APPEAL.**

Notice to abate and remove such nuisance shall be given to each owner or owner's duly authorized agent and to the occupant, if any. Notice shall be given to the owner or owner's duly authorized agent and occupant by certified mail, return receipt requested or by personal service upon said owner, owner's duly authorized agent and occupant, if any. Within five days after receipt of such notice, the owner or occupant of the lot or piece of ground may request a hearing with the city to appeal the decision to abate or remove a nuisance by filing a written appeal with the office of the City Clerk. A hearing on the appeal shall be held within 14 days after the filing of the appeal and shall be conducted by the hearing officer subsequently appointed herein. The hearing officer shall render a decision on the appeal within five business days after the conclusion of the hearing. If the appeal fails, the city may have such work done. Within five days after receipt of such notice, if the owner or occupant of the lot or piece of ground does not request a hearing with the city or fails to comply with the order to abate and remove the nuisance, the city may have such work done.

(Ord. 815, passed 8-13-2024)

**§ 91.04 APPOINTMENT OF HEARING OFFICER.**

The City Administrator is hereby appointed as the hearing officer for any appeal taken by the owner or occupant under this subchapter.

(Ord. 815, passed 8-13-2024)

**§ 91.05 COST OF WORK DONE; RESPONSIBILITY.**

A statement of the cost of such work shall be forwarded to the City Council, and if unpaid for two months after such work is done, the city may levy the cost as a special assessment against the lot or real estate upon the lot or piece of ground so benefited or on which the building or structure is located, such special assessment shall be a lien on the real estate and collected in the manner provided for special assessments; or collect the cost from the owner of the lot or piece of ground so benefited or on which building or structure is located and enforce the collection by civil action in any court of competent jurisdiction.

(Ord. 815, passed 8-13-2024)

***ABANDONED VEHICLES*****§ 91.20 ABANDONED VEHICLES PROHIBITED.**

(A) No person, firm, partnership, association, corporation or organization of any kind shall abandon any vehicle, as defined by Neb. Rev. Stat. § 60-1901, within the city. A motor vehicle shall be deemed to be an abandoned vehicle if left unattended:

(1) With no number plates affixed thereto, for more than six hours on any public property;

(2) For more than 24 hours on any public property, except any portion thereof on which parking is legally permitted;

(3) For more than 48 hours, after the parking of such vehicle shall have become illegal if left on a portion of public property on which parking is legally permitted; and/or

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

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

(C) For the purpose of this section, ***PUBLIC PROPERTY*** shall mean:

(1) Any public right-of-way, street, highway, alley, park or other city-owned property; and



(2) Any privately owned property which is not included within the definition of public property.

(D) A vehicle in an enclosed building, appropriate storage pound or depository licensed by the city, or owned and being restored or repaired with satisfactory progress being shown by the controller of the real property where said vehicle is located, is specifically excluded from this section.

(E) This section shall not apply to the premises for which a permit to operate a junkyard has been obtained, nor shall it apply to any premises where a licensed motor vehicle dealer or a farm implement dealer conducts a business. It shall not apply to racing vehicles stored on licensed trailers.  
(Prior Code, § 3-201) Penalty, see § 91.99

### **§ 91.21 ENFORCEMENT.**

(A) The city police shall remove or cause to be removed any abandoned vehicle. Such vehicle shall be impounded until lawfully claimed or disposed of as provided in § 91.23; provided, that any such abandoned vehicle which is located on private property shall not be removed or impounded until the city police have given written notice of intent to remove said abandoned vehicle ten days prior thereto to the property owner upon whose property said abandoned vehicle is located. The city police may enter upon private property at all reasonable hours for the purpose of inspecting any abandoned vehicle, posting notice thereon and/or removing or impounding such vehicle.

(B) It shall be unlawful for any person to prevent the city police from entering on private property for the purpose of carrying out their duties. Neither the city nor the owner, lessee or occupant of the premises from which any abandoned vehicle shall be removed shall be liable for any loss or damage to such abandoned vehicle which occurs during its removal, while in the possession of the city, or as a result of any subsequent disposition.  
(Prior Code, § 3-202) Penalty, see § 91.99

### **§ 91.22 NOTICE.**

(A) Except for vehicles automatically becoming the property of the city as set forth in § 91.24, the Council shall make an inquiry concerning the last registered owners of such abandoned vehicles as follows:

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

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

(Prior Code, § 3-203)

### **§ 91.23 DISPOSITION.**

The city police shall sell said abandoned vehicle at public auction to the highest bidder within 60 days from the date that title to such abandoned vehicle is vested in the city as provided in § 91.24. Such sale and the time and place thereof shall be advertised for one week in a newspaper of general circulation in the city. Any proceeds from the sale of an abandoned vehicle, less any expenses incurred by the city, shall be held by the city without interest for the benefit of the owner of such abandoned vehicle for a period of two years. If not claimed within such two-year period, such proceeds shall be paid into the General Fund of the city.

(Prior Code, § 3-204)

### **§ 91.24 TRANSFER OF TITLE.**

If an abandoned vehicle at the time of abandonment has no numbered plates of the current year affixed and is of a wholesale value of \$250 or less, taking into consideration the vehicle's condition as determined by the City Council, title shall immediately vest in the city and the Council is not required to follow § 91.22. With respect to those abandoned vehicles governed by § 91.22, title to such vehicles, if unclaimed, shall vest in the city five days from the date the notice referred to therein is mailed or, if the last registered owner cannot be determined, when notice of that fact is received by the Council. Upon the sale of an abandoned vehicle at auction, the city shall furnish the purchaser with the requisite affidavit to provide to the County Clerk where the vehicle was last registered as proof that said vehicle was abandoned and became the property of the city prior to the sale.

(Prior Code, § 3-205)

***Statutory reference:***

*Similar provisions, see 247 NE ADC Ch. 3, § 003*

**§ 91.99 PENALTY.**

(A) Any owner or occupant of a lot or piece of ground or owner of the property on which the unsafe building or unsafe structure is located shall, upon conviction of violating §§ 91.01 through 91.05 be subject to a fine of \$100. Whenever in any action it is established that a nuisance exists, the court may, together with the fine or penalty imposed, enter an order of abatement as part of the judgment in the case. Each day's violation of this chapter after the expiration of the five days' notice as provided in § 91.02 shall be a separate offense.

(B) Any person who violates any of the prohibitions or provisions of this chapter shall be deemed guilty of a misdemeanor. Penalties for such violation shall not exceed \$500 and/or imprisonment for a time not to exceed three months, in the discretion of the court.  
(Ord. 815, passed 8-13-2024)



## CHAPTER 92: ANIMALS

### Section

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**GENERAL PROVISIONS****§ 92.01 DEFINITIONS.**

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

**ANIMAL.** Any vertebrate member of the animal kingdom other than an uncaptured wild creature.

**ANIMAL CONTROL OFFICER.** Any person authorized by law or employed or appointed for the purpose of aiding in the enforcement of this chapter or any other law or ordinance relating to the licensing, control, seizure or impoundment of animals.

**OWNER.**

(1) Any person who owns, possesses, keeps, harbors or has charge, custody or control of an animal or permits an animal to habitually remain or be lodged or fed within his or her house, store, building, enclosure, yard, lot, grounds or premises.

(2) **OWNER** does not include any veterinarian or kennel operator temporarily maintaining on his or her premises an animal owned by another person for not more than 30 days.

**RUN AT LARGE.** Not being under the actual control of the owner by means of:

(1) A leash, cord, chain or other suitable means of physical restraint which is securely fastened or tethered in a manner sufficient to keep the animal on the premises where tethered;

(2) A leash, cord, chain or other suitable means of physical restraint of six feet or less in length physically held by the owner;

(3) Being confined within a cage, receptacle, enclosed vehicle, fenced enclosure or shelter; or

(4) Being within the real property limits of the owner and in the owner's presence and under direct and effective voice or other control.

**§ 92.02 RUNNING AT LARGE; TETHERING.**

(A) It shall be unlawful for the owner of any cow, hog, horse, mule, sheep, goat, dog, chicken, turkey, goose or other animal except a cat to permit the animal to run at large at any time on any of the

public ways and property or the property of another in the city or to be tethered or staked out in such a manner so as to allow the animal to reach or pass into any public way or property or any property of another.

(B) The owner of a cat may permit the cat to run at large within the corporate limits subject to any restrictions or prohibitions otherwise imposed by the City Council.

(C) Any animal found running at large or tethered or staked out in violation of this section is a public nuisance and may be impounded or destroyed as provided in this chapter.

(D) Nothing in this section shall be construed to permit anyone to own an animal in the corporate limits of the city that is prohibited by the City Council.

Penalty, see § 92.99

***Statutory reference:***

*Authority to regulate, see Neb. Rev. Stat. §§ 17-526 and 17-547*

*Fine for permitting collarless dog to run at large, see Neb. Rev. Stat. § 54-607*

**§ 92.03 CRUELTY.**

It shall be unlawful for any person to cruelly, inhumanely or unnecessarily beat, injure, overwork or insufficiently shelter and feed any animals.

(Prior Code, § 2-310) (Ord. 55, passed 12-5-1978) Penalty, see § 92.99

**§ 92.04 KILLING, POISONING AND INJURING.**

It shall be unlawful for any person to kill, administer or cause to be administered poison of any sort to, or in any manner injure, maim or destroy or attempt to injure, maim or destroy any animal or to place any poison or poisoned food where it is accessible to an animal, except that:

(A) This section shall not apply to any law enforcement officer or animal control officer acting within his or her power and duty;

(B) This section shall not apply if the animal is vicious, dangerous or showing characteristics of rabies and cannot be captured without danger to the persons attempting to effect a capture of the animal; and

(C) Any owner of a dog that he or she wishes to be destroyed may place the dog in an animal pound or shelter or with a licensed veterinarian to be humanely destroyed and disposed of according to the provisions in this chapter or other provisions of law.

Penalty, see § 92.99

**§ 92.05 ABANDONMENT, NEGLECT AND CRUELTY.**

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

**ABANDON.** To leave any animal in one's care, whether as owner or custodian, for any length of time without making effective provision for its food, water or other care as is reasonably necessary for the animal's health.

**ANIMAL.** Any vertebrate member of the animal kingdom. **ANIMAL** does not include an uncaptured wild creature or a livestock animal as defined in this section.

**BOVINE.** A cow, an ox or a bison.

**CRUELLY MISTREAT.** To knowingly and intentionally kill, maim, disfigure, torture, beat, mutilate, burn, scald or otherwise inflict harm upon any animal.

**CRUELLY NEGLECT.** To fail to provide any animal in one's care, whether as owner or custodian, with food, water or other care as is reasonably necessary for the animal's health.

**HUMANE KILLING.** The destruction of an animal by a method which causes the animal a minimum of pain and suffering.

**LAW ENFORCEMENT OFFICER.** Any member of the State Patrol, any county or deputy sheriff, any member of the police force of the city or any other city or village or any other public official authorized by the city or any other city or village to enforce state or local animal control laws, rules, regulations or ordinances. **LAW ENFORCEMENT OFFICER** also includes a special investigator appointed as a deputy state sheriff as authorized pursuant to Neb. Rev. Stat. § 81-201 while acting within the authority of the Director of Agriculture.

**LIVESTOCK ANIMAL.** Any bovine, equine, swine, sheep, goats, domesticated cervine animals, ratite birds or poultry.

**OWNER or CUSTODIAN.** Any person owning, keeping, possessing, harboring or knowingly permitting an animal to remain on or about any premises owned or occupied by such person.

**POLICE ANIMAL.** A horse or dog owned or controlled by the state or any county, city or village for the purpose of assisting a law enforcement officer in the performance of his or her official enforcement duties.

(Neb. Rev. Stat. § 28-1008)



(B) *Enforcement powers; immunity.*

(1) A 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) It shall be the duty of a law enforcement officer who has reason to believe that an animal has been abandoned or is being cruelly neglected or cruelly mistreated to make prompt investigation of such violation. A law enforcement officer may, in lieu of making an arrest, issue a citation to the owner or custodian as prescribed in Neb. Rev. Stat. §§ 29-422 through 29-429.

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

(C) *Violation.*

(1) A person who intentionally, knowingly or recklessly abandons, cruelly neglects or cruelly mistreats an animal is guilty of an offense.

(2) A person commits harassment of a police animal if he or she knowingly and intentionally teases or harasses a police animal in order to distract, agitate or harm the police animal for the purpose of preventing such animal from performing its legitimate official duties.  
(Neb. Rev. Stat. § 28-1009)

Penalty, see § 92.99

***Statutory reference:***

*Authority to prohibit cruelty to animals, see Neb. Rev. Stat. § 17-138*

*Exemptions, see Neb. Rev. Stat. § 28-1013*

*Serious illness or injury to animal; death of animal; felony, see Neb. Rev. Stat. §§ 28-1008 and 28-1009*

**§ 92.06 LIVESTOCK BANNED WITHIN CITY; EXCEPTION FOR CHICKENS.**

It shall be unlawful for any person to keep or maintain within the corporate limits of the city any horse, mule, sheep, cow, goat, swine or other livestock or any poultry, including, but not limited to, turkeys, geese, ducks or other fowl, and except that chickens may be kept pursuant to the terms of § 92.07.

(Prior Code, § 2-501) (Ord. 739, passed 1-12-2021) Penalty, see § 92.99

**§ 92.07 KEEPING OF CHICKENS; LICENSE REQUIREMENTS; RESTRICTIONS.**

(A) It shall be unlawful for any person to own, keep or maintain within the corporate limits of the city any chicken without a valid license issued by the city pursuant to the following regulations:

- (1) Application shall be made to the City Clerk and shall be on a form furnished by the city;
- (2) The fee for such license shall be established by the city;
- (3) No license shall be assignable or transferable either as to licensee or location; and

(4) A license issued pursuant to this section may be administratively revoked for the violation by the licensee of any provision of this section or any other applicable provision of this code, state law or city ordinance, rule or regulation as determined by the City Police Department or the City Building Inspector.

(B) The requirements for the issuance of a license by the city to own, keep, harbor or have custody or control over chickens are as follows.

- (1) Chickens shall not be permitted on any multi-family lot.
- (2) No more than six chickens shall be permitted on any single-family lot.

(3) The chickens must be housed in a chicken facility maintained in compliance with all of the city's requirements as a condition of the license. The requirements for the chicken facility include:

(a) Must be in good repair, capable of being maintained in a clean and sanitary condition, free of vermin, obnoxious smells and substances;

(b) Shall not constitute a nuisance or disturb neighboring residents due to noise, odor or threats to public health;

(c) Shall prevent chickens from roaming at large and prevent entry by predators and members of the general public;

(d) Shall only be located in the rear yard of a lot, not in the front or side yards of a lot; and

(e) Shall be located so as to be at least 30 feet from any dwelling, street, public sidewalk, public building and park or recreational area; provided, however, that the chicken facility may be located within 30 feet of an alley.

(C) It shall be unlawful for any person to permit or allow any chicken to run or fly at large within the corporate limits of the city.

(D) It shall be unlawful for any person to own, keep, harbor or have under his, her or its care, custody or control any cock or rooster chicken. The unlawful keeping or harboring of cocks or roosters is hereby declared to be a public nuisance.

(E) Offal, manure and waste material shall not be permitted to accumulate nor be confined in any manner that is conducive to the breeding or attraction of flies, mosquitoes or other noxious insects or in any manner that endangers the public health or safety.

(F) The slaughtering or destruction of chickens within the corporate limits of the city shall be prohibited.

(Prior Code, § 2-506) (Ord. 739, passed 1-12-2021) Penalty, see § 92.99

#### **§ 92.08 INTERFERENCE WITH POLICE.**

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

(Prior Code, § 2-309) Penalty, see § 92.99

***Statutory reference:***

*Similar provisions, see Neb. Rev. Stat. § 28-906*

### ***DOGS***

#### **§ 92.20 DEFINITION.**

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

**OWNER.** Any person who shall harbor or permit any dog to be in or about his or her house, store or enclosure or to remain to be fed for ten days or more shall be deemed the **OWNER** and possessor of such dog and shall be deemed to be liable for all penalties herein prescribed.

(Prior Code, § 2-304)

***Statutory reference:***

*Similar provisions, see Neb. Rev. Stat. §§ 54-606 and 71-4401*

**§ 92.21 LICENSE.**

Any person who shall own, keep or harbor a dog over the age of four months within the city shall, within ten days after acquisition of the dog, obtain a license for each such dog annually by and before March 31. Such license fee shall be as established from time to time by resolution of the City Council. The tax shall be delinquent from and after March 31; provided, that the possessor of any dog brought into or harbored within the corporate limits subsequent to March 31 of any year shall be liable for the payment of the dog tax levied herein and such tax shall be delinquent if not paid within ten days thereafter. Licenses shall be issued by the City Clerk upon the payment of a license fee fixed by resolution of the City Council. Said license shall not be transferable, and no refund will be allowed in case of death, sale or other disposition of the licensed dog. The owner shall state at the time the application is made, upon printed forms provided for such purpose, his or her name and address and the name, breed, color and sex of each dog. When the license is applied for, the owner shall present a certificate showing that each dog has had a rabies shot pursuant to Neb. Rev. Stat. §§ 71-4401 through 71-4412, effective for the ensuing year of the license. No license or tag shall be issued until such certificate is shown.

(Prior Code, § 2-301) (Ord. 55, passed 12-5-1978)

***Statutory reference:***

*Similar provisions, see Neb. Rev. Stat. §§ 17-526, 54-603 and 71-4412*

**§ 92.22 LICENSE TAGS.**

(A) Upon payment of the license fee, the City Clerk shall issue to a dog owner a metallic tag for each dog so licensed. The tag shall be properly attached to the collar or harness of each dog so licensed and shall entitle the owner to keep or harbor the dog until March 31 following such licensing. All license fees and collections shall be immediately credited to the General Fund.

(B) It shall be the duty of the City Clerk to issue lifetime tags of a suitable design renewed annually. In the event that a tag is lost, and upon request of the owner, the Clerk shall issue a duplicate tag for a fee of \$1.

(Prior Code, § 2-302) (Ord. 720, passed 3-12-2019; Ord. 801, passed 12-12-2023)

***Statutory reference:***

*Similar provisions, see Neb. Rev. Stat. §§ 17-526 and 54-603*

**§ 92.23 WRONGFUL LICENSING.**

It shall be unlawful for the owner, keeper or harbinger of any dog to permit or allow such dog to wear any license, metallic tag or other city identification than that issued by the City Clerk for dogs.

(Prior Code, § 2-303) Penalty, see § 92.99

***Statutory reference:***

*Similar provisions, see Neb. Rev. Stat. §§ 17-526 and 54-603*

**§ 92.24 UNCOLLARED OR UNHARNESSED.**

(A) All dogs found running at large upon the streets and public grounds of the city without a collar or harness are hereby declared a public nuisance.

(B) Uncollared or unharnessed dogs found running at large by city personnel shall be destroyed or impounded at a dog boarding kennel as designated by the City Council.

(Prior Code, § 2-305) (Ord. 431, passed 7-10-2001)

***Statutory reference:***

*Similar provisions, see Neb. Rev. Stat. § 54-605*

**§ 92.25 RUNNING AT LARGE.**

(A) It shall be unlawful for the owner of any dog to allow it to run at large at any time within the corporate limits of the city. It shall be the duty of the city police to cause any dog found to be running at large within the city to be captured and impounded.

(B) For the purpose of this section, a dog found ***RUNNING AT LARGE*** shall mean it has been found off the premises of the owner and not under control of the owner or a responsible person, either by leash, cord, chain, wire, rope, cage or other suitable means of physical restraint.

(Prior Code, § 2-306) Penalty, see § 92.99

***Statutory reference:***

*Similar provisions, see Neb. Rev. Stat. §§ 17-526 and 54-607*

**§ 92.26 CAPTURE IMPOSSIBLE.**

The city police shall have the authority to kill any animals showing vicious tendencies or characteristics of rabies which make capture impossible because of the danger involved.

(Prior Code, § 2-307)

***Statutory reference:***

*Similar provisions, see Neb. Rev. Stat. § 17-526*

**§ 92.27 VICIOUS DOGS.**

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

***PIT BULL.***

(a) Bull Terrier breed of dogs;

(b) Staffordshire Bull Terrier breed of dogs; or

(c) American Pit Bull Terrier breed of dogs.

**UNCONFINED.** Such dog is not securely confined indoors or confined in a securely enclosed and locked pen or structure upon the premises of the person owning, harboring or having the care of such vicious dog. Such pen or structure must have secure sides and a secure top. If the pen or structure has no bottom secured to the sides, then the sides must be imbedded in the ground no less than two feet.

***VICIOUS DOG.***

(a) Any dog of a dangerous or ferocious disposition that habitually snaps or manifests a disposition to bite;

(b) Any dog with a propensity, tendency or disposition to attack, to cause injury or to otherwise endanger the safety of humans or domestic animals; or

(c) Any dog which attacks a human or a domestic animal on two or more occasions without provocation.

(B) No person owning or harboring or having the care of a vicious dog shall permit such dog to go unconfined on his or her premises.

(C) No person owning, harboring or having the care of a vicious dog shall suffer or permit such dog to go beyond his or her premises unless such dog is secured with a leash no longer than four feet in length. No person shall permit a vicious dog to be kept on a chain, rope or other type of leash outside its kennel or pen unless a person is in physical control of the leash. Such dogs may not be leashed to inanimate objects such as trees, posts, buildings and the like. In addition, all vicious dogs on a leash outside the animal's kennel must be muzzled by a muzzling device sufficient to prevent such dog from biting persons or other animals.

(D) No vicious dog may be kept on a porch, patio or in any part of a house or structure that would allow the dog to exit such building on its own volition. In addition, no such dog may be kept in a house or structure when the windows are open or when screened windows or screen doors are the only obstacles preventing the dog from exiting the structure.

(E) Every owner, keeper or harbinger of a vicious dog within the city shall display in a prominent place on his or her premises a sign easily readable by the public, bearing the words "vicious dog." In addition, a similar sign is required to be posted on the kennel or pen of such animal.

(F) (1) Every owner, keeper or harbinger of a vicious dog must provide to the City Clerk proof of public liability insurance in a single incident amount of \$50,000 per bodily injury to or death of any

person or persons or for damage to property owned by any person which may result from the owning, keeping or maintaining of such animal. Such insurance policy shall provide that no cancellation of the policy will be made unless ten days' written notice is first given to the City Clerk.

(2) If any vicious dog is allowed to run at large, the city police shall have the authority to put the dog to death.

(Prior Code, § 2-308) (Ord. 212, passed 7-12-1988; Ord. 431, passed 7-10-2001) Penalty, see § 92.99

#### **§ 92.28 REMOVAL OF COLLAR, HARNESS OR TAGS.**

It shall be unlawful for any person to remove, or cause to be removed, the collar, harness, metallic license tag or rabies tag from any dog without the consent of the owner of the dog.

Penalty, see § 92.99

#### **§ 92.29 LIABILITY OF OWNER.**

It shall be unlawful for the owner to allow a dog to injure or destroy any real or personal property of any description belonging to another person. The owner of the dog, in addition to the usual judgment upon conviction, may be made to be liable to the person injured in an amount equal to the value of the damage sustained.

Penalty, see § 92.99

##### ***Statutory reference:***

*Authority to guard against injuries or annoyances, see Neb. Rev. Stat. § 17-526*

*Statutory liability for damages, see Neb. Rev. Stat. §§ 54-601, 54-606 and 56-602*

#### **§ 92.30 BARKING AND CHASING; COMPLAINTS.**

(A) It shall be unlawful for the owner to allow a dog to annoy or disturb any neighborhood or person by loud, continued or frequent barking, howling or yelping or to habitually bark at or chase pedestrians, drivers or owners of horses or vehicles while they are on any public sidewalks, streets or alleys in the city.

(B) Upon the written complaint of two or more affected persons from different households, filed within any 30-day period with the City Clerk or animal control officer, that any dog owned by the person named in the complaint is an annoyance or disturbance, or otherwise violates the provisions of this section, the city police or animal control officer shall investigate the complaint and, if in his or her opinion the situation warrants, notify the owner to silence and restrain the dog.

(C) The provisions of this section shall not be construed to apply to any city animal shelter.

Penalty, see § 92.99

***Statutory reference:***

*Authority to guard against annoyances, see Neb. Rev. Stat. § 17-526*

**§ 92.31 IMPOUNDING.**

(A) It shall be the duty of designated city personnel to capture, secure and remove in a humane manner any dog requiring impoundment for violating any of the provisions of this chapter. Notice of impoundment of any animal, including any significant marks or identifications, shall be posted at City Hall within 24 hours after impoundment as public notification of such impoundment.

(B) Any dog may be reclaimed by its owner during the period of impoundment by payment of fees charged by the designated impound facility and any other fees set by resolution of the City Council. The owner shall then be required to comply with the licensing and rabies vaccination requirements within 72 hours after release. If any dog is not claimed at the end of three days after public notice has been given, the city shall acquire legal title to such unlicensed dog impounded for a period longer than three days after giving notice. If the city disposes of any dog, such disposition shall be accomplished by a duly licensed doctor of veterinary medicine at the expense of the city.

(Prior Code, § 2-315) (Ord. 178, passed 5-6-1986; Ord. 431, passed 7-10-2001)

***Statutory reference:***

*Similar provisions, see Neb. Rev. Stat. §§ 17-548 and 71-4408*

**§ 92.32 KENNELS.**

(A) *Definitions; fee.*

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

***KENNEL.*** Any premises on which three or more dogs at least four months old or more are maintained or kept.

(2) A fee of \$25 shall be paid each year to the City Clerk by the owner of a dog kennel. The licensing year shall be the same as that for individual dogs, and the owner shall be liable for the entire fee even though his or her premises qualifies as a kennel for only part of a licensing year. The owner shall not be required to pay a license fee for each dog in the kennel in addition to the kennel fee and no license certificate and tag shall be required for each dog in the kennel.

(Prior Code, § 2-401)



(B) *Permit required.*

(1) It shall be unlawful for any person to keep or permit to be kept any dog kennel upon any premises occupied by him or her or under his or her charge or control without having first obtained a kennel permit from the Council. Kennel permits may be issued by the Council upon written application, setting forth a description of the premises and location of the same and such other information as the Council may require.

(2) No kennel permit shall be issued for any premises until the Council has first determined upon actual viewing and inspection that the operation of such kennel will not constitute a violation of the provisions of this chapter. The holder of any kennel permit shall allow the inspection of such premises at any reasonable time by an authorized agent of the city to determine that the premises for which the permit is issued is maintained in a humane and sanitary manner. Such permit is subject to revocation if the premises are found to be maintained otherwise.

(3) The Council shall have power and authority to revoke any kennel permit at any time in its sole discretion by refunding the kennel permit fee to the holder thereof.

(4) The provisions of this section shall not apply to any animal shelter or animal hospital operated by a veterinarian licensed to practice in the State of Nebraska.

(Prior Code, § 2-402)

(Ord. 801, passed 12-12-2023)

Penalty, see § 92.99

**§ 92.99 PENALTY.**

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99.

(B) Whoever violates the provisions of § 92.27 shall be fined not more than \$500. In addition, any vicious dog which attacks a human being or another domestic animal may be ordered destroyed when, in the court's judgment, such vicious dog represents a continuing threat of serious harm to human beings or domestic animals. In addition, any person found guilty of violating § 92.27 shall pay all expenses, including shelter, food, veterinary expenses for identification or certification of the breed of the animal or boarding and veterinary expenses necessitated by the seizure of any dog for the protection of the public, and such other expenses as may be required for the destruction of any such dog.

(Prior Code, § 2-308) (Ord. 212, passed 7-12-1988; Ord. 431, passed 7-10-2001)



## **CHAPTER 93: FIRE PREVENTION AND PROTECTION**

### **Section**

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### ***GENERAL PROVISIONS***

#### **§ 93.01 FIRE PREVENTION CODE.**

The rules and regulations promulgated by the office of the State Fire Marshal relating to fire prevention are incorporated by reference into this code and made a part of this chapter as though spread at large herein, together with all subsequent amendments thereto. Three copies of the Fire Prevention Code shall be on file with the City Clerk and shall be available for public inspection during office hours. (Prior Code, § 7-101)

#### **§ 93.02 FIRE CODE ENFORCEMENT.**

It shall be the duty of all city officials to enforce the incorporated Fire Code provisions, and all infractions shall be reported immediately to the City Council. (Prior Code, § 7-102)

#### **§ 93.03 LAWFUL ENTRY.**

It shall be the duty of the owner, lessee or occupant of any building or structure, except the interiors of private dwellings, to allow the Fire Inspector, as designated by the City Council, to inspect the structure for purposes of ascertaining and enumerating all conditions therein that are likely to cause fire, or any other violations of the provisions of the city ordinances in regard to the possibility of fire hazard. (Prior Code, § 7-103)

#### **§ 93.04 VIOLATION NOTICE.**

It shall be the duty of the owner, lessee or occupant of any building or structure that was lawfully inspected as herein prescribed, and who receives written or verbal notice of a violation of any of the

provisions of the city ordinances, to correct the condition within five days of the date of receipt of such notice.

(Prior Code, § 7-104)

**§ 93.05 SMOKING IN PUBLIC PLACES.**

It shall be unlawful for any person to ignite a lighter, strike a match or indulge in the smoking of tobacco on or in any building or structure at which any public meeting is held to which the general public is entitled to be present.

(Prior Code, § 7-106) Penalty, see § 93.99

**§ 93.06 HOMEMADE STOVE; PROHIBITED FUELS.**

It shall be unlawful for any person to allow crank case drainings, oil or other flammable substances, other than wood, to be burned in a homemade stove.

(Prior Code, § 7-107) Penalty, see § 93.99

**§ 93.07 BURNING PROHIBITED; EXCEPTIONS; PERMITS.**

(A) It shall be unlawful to start or build or cause to start or build or to maintain any fire on public or private property; provided, however, that the provisions of this section shall not apply to the following:

(1) For recreational purposes or for outdoor cooking of food for human consumption on other than commercial premises if no nuisance or hazard is created;

(2) For essential agricultural operations in the growing of crops if no nuisance or traffic hazard is created;

(3) Fires set in the operation of smokeless flare stacks for the combustion of waste gases; provided, that emissions therefrom:

(a) Are not of a shade or density equal to or darker than that designated as No. 1 on the Ringelmann Chart or its equivalent; and

(b) Are not of such opacity as to obscure an observer's view to a degree equal to or greater than that designated as No. 1 on the Ringelmann Chart or equivalent.

(4) When a burn permit has been obtained from the City Clerk for:

(a) Destroying organic materials when the materials to be burned originate only from the site stated in the permit; or

(b) Training public or industrial firefighting personnel.

(B) No application for a burn permit to be issued by the city shall be accepted unless it is accompanied by a current and valid site-specific burn permit from City Suburban Fire District No. 5.

(C) An application for a burn permit from the city shall be made in the following manner.

(1) Application shall be made and filed on such form as shall be prescribed by the City Clerk.

(2) An application fee shall be paid to the City Clerk with the application. None of the application fee will be refunded. Said fee shall be as set by resolution by the City Council and kept on file in the office of the City Clerk.

(3) Burn permits shall be of two types, residential and commercial. A residential burn permit shall be issued when the site stated in the permit is a residential lot; all other burn permits shall be commercial burn permits.

(D) Any burn permit issued by the city shall be deemed to incorporate and include any conditions or restrictions imposed by the burn permit issued by City Suburban Fire District No. 5.  
(Prior Code, § 7-108) (Ord. 787, passed 4-11-2023) Penalty, see § 93.99

#### **§ 93.08 STOVES, FURNACES AND CHIMNEYS.**

(A) All furnaces, stoves and other heating devices shall be installed at a proper distance from combustible materials and portions of the building. Any combustible materials or portions of the building that are dangerously close to such heating devices shall be protected by noncombustible material.

(B) This section shall apply both to existing structures and those which may hereafter be erected.  
(Prior Code, § 7-109)

#### **§ 93.09 OPEN BURNING BAN; WAIVER.**

(A) There shall be an open burning ban on all bonfires, outdoor rubbish fires and fires for the purpose of clearing land.

(B) The Fire Chief may waive an open burning ban under division (A) above for an area under the City Fire Department's jurisdiction by issuing an open burning permit to a person requesting permission

to conduct open burning. The permit issued by the Fire Chief to a person desiring to conduct open burning shall be in writing, signed by the Fire Chief and on a form provided by the State Fire Marshal.

(C) The Fire Chief may waive the open burning ban in the City Fire Department's jurisdiction when conditions are acceptable to the Chief. Anyone intending to burn in that jurisdiction when the open burning ban has been waived shall notify the Fire Chief of his or her intention to burn prior to starting the burn.

(D) The Fire Chief may adopt standards listing the conditions acceptable for issuing a permit to conduct open burning under division (B) above.

(E) The Fire Department may charge a fee not to exceed \$10 for each such permit issued. This fee shall be remitted to the City Council for inclusion in the general funds allocated to the Fire Department. These funds shall not reduce the tax requirements for the Fire Department. No such fee shall be collected from any state or political subdivision to which such a permit is issued to conduct open burning under division (B) above in the course of that state's or political subdivision's official duties.

(Neb. Rev. Stat. § 81-520.01) Penalty, see § 93.99

#### **§ 93.10 BUILDING REPAIR; NONCOMBUSTIBLE MATERIAL REQUIRED.**

(A) *Permitted repairs; application, permit.* It shall be unlawful for any person to repair, alter or add to any building where the repair is less than 50% of the building unless the person shall first submit an application to the City Administrator to make such repairs, alterations or to add to any building and shall state on the application that the material used will be noncombustible and approved by the Building Inspector. Repairs in the form of patching and other minor repairs shall not require a permit.

(Prior Code, § 7-111)

(B) *Removal required.* In the event that any wooden or combustible building or structure, or any noncombustible building is damaged to the extent of 50% or more of its value, exclusive of the foundation, it shall not be repaired or rebuilt but shall be taken down and removed within 15 days from the date of such fire or other casualty.

(Prior Code, § 7-112)

(C) *Removal or repair required.*

(1) In the event that a building becomes damaged by fire, wind, flood, vandalism or any other cause to the extent of less than 50% of its value, exclusive of the foundation, it shall be the duty of the owner, lessee or occupant to remove or repair the building in accordance with the provisions of this chapter.

(2) It shall be unlawful for any person to allow a building to stand in such damaged or decayed condition. Any such building shall be removed or repaired within 30 days after receiving notice to do so by the City Council.

(Prior Code, § 7-113)

Penalty, see § 93.99

**Statutory reference:**

*Similar provisions, see Neb. Rev. Stat. § 17-550*

### **§ 93.11 LUMBER YARDS; COMBUSTIBLE MATERIALS.**

It shall be unlawful for any person to locate, establish or maintain any lumber yard or place for the piling, storing, keeping or selling lumber, or to keep any lime, lath, shingles, hay, straw or other combustible materials on any lot or parcel of ground, unless the same are securely kept in a building constructed of brick, stone, concrete or other noncombustible material; provided, that the foregoing shall not apply to lumberyards now established and in use.

(Prior Code, § 7-114) Penalty, see § 93.99

**Statutory reference:**

*Similar provisions, see Neb. Rev. Stat. § 17-549*

### **§ 93.12 RAPID ENTRY KEY LOCKBOX.**

(A) Commercial or industrial structures protected by an automatic alarm system or automatic suppression system, or such structures that are secured in a manner that restricts access during an emergency, shall be equipped with an approved KnoxBox brand key lockbox at or near the main entrance or such other location required by the City Fire Department.

(B) All newly constructed structures subject to this section shall have the approved KnoxBox brand key lockbox installed and operational prior to the issuance of an occupancy permit.

(C) All structures in existence on the effective date of this section and subject to this section shall have three years from the effective date of this section to have a KnoxBox brand key lockbox installed and operational.

(D) When a property is accessed through a locked fence, a locked gate or cross arm that impedes ingress through required fire lanes by means of a key or swipe card, it shall be equipped with a KnoxBox brand key lockbox at a location approved by the City Fire Department or shall be equipped with a security padlock utilizing a key code approved by the City Fire Department.

(E) The owner or operator of a structure required to have a KnoxBox brand key lockbox shall at all times keep in the lockbox the following:



- (1) Labeled keys to locked points of entry, whether in interior or exterior of such buildings;
  - (2) Labeled keys to any locked mechanical rooms;
  - (3) Labeled keys to any fenced or secured areas;
  - (4) Labeled keys to any other areas that may be required by the City Fire Department; and
  - (5) A card containing the names of emergency contact persons and phone numbers for each such person.
- (F) Owner-occupied one- and two-family dwellings may install a KnoxBox brand key lockbox but shall not be required to do so.  
(Prior Code, § 7-115) (Ord. 783, passed 11-8-2022)

## ***FIREWORKS***

### **§ 93.25 PURPOSE.**

The sale of any fireworks increases the risk of danger to public health and safety. The city, however, recognizes the historic role of fireworks as a means of celebration within the United States and the state and therefore allows the sale of consumer fireworks upon compliance with the following regulations, which are enacted to protect public health and safety.  
(Prior Code, § 7-301) (Ord. 600, passed 12-28-2009; Ord. 617, passed 2-8-2011)

### **§ 93.26 DEFINITIONS.**

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

***COMMUNITY BETTERMENT.*** Taking actions which generally better or enhance the community of the city, such as:

- (1) The acquisition, improvement and maintenance of parks and recreational facilities, public equipment and other items for community use and enjoyment or to be used by the city in service to the community;
- (2) The recruitment and attraction of new businesses and jobs to the city community;

- (3) Athletic programs for the community; and
- (4) Other acquisitions, services or programs of general benefit to the city community.

**CONSUMER FIREWORKS.** As defined by Neb. Rev. Stat. § 28-1241, as amended.

**CONTRACTOR.** A corporation, organization or individual having a valid license or permit from the state for the retail sale of consumer fireworks which has a contract with a not-for-profit corporation or organization to sell consumer fireworks within the city and which not-for-profit corporation or organization shall use the net proceeds from the sale of such consumer fireworks for community betterment in the city.

**FIREWORKS.** Any composition or device designed for the purpose of producing a visible or audible effect by combustion, deflagration or detonation and which meets the definition of consumer or special fireworks set forth by the United States Department of Transportation in 49 C.F.R.

**FIREWORKS SEASON.** Cumulatively, the periods during which consumer fireworks may be sold at retail during any given year, namely June 24 through July 5 inclusive.

**NET PROCEEDS.** Gross sales less the cost of fireworks, application and permit fees, rental or lease expense, advertising and similar costs of operation of the fireworks stand. Volunteer salespersons shall be used and any remuneration paid or given to persons performing services in connection with the sale of fireworks shall not be deemed a cost of operation.

(Prior Code, § 7-302) (Ord. 600, passed 12-28-2009; Ord. 617, passed 2-8-2011; Ord. 620, passed 4-12-2011)

### **§ 93.27 FIREWORKS SALES PERMIT REQUIRED.**

(A) It shall be unlawful for any person or entity to sell, offer for sale or hold for sale any fireworks in the city unless and until such person or entity shall have first obtained a permit therefor from the City Council and shall have complied with this subchapter in all respects. Such a permit shall be valid for only one fireworks season, and the issuance of a permit for one particular fireworks season does not create any expectation of or property interest in the issuance of a permit for another fireworks season. Each separate location for the sale of fireworks shall be required to have a separate permit from the city.

(B) In instances where a not-for-profit corporation or organization has contracted with a contractor for the retail sale of fireworks at a particular location, the permit from the city shall list both the not-for-profit corporation or organization and the contractor as the permit holders at such location. A contractor shall be required to have a separate permit for the retail sale of fireworks from the State Fire Marshal for each location in the city at which it proposes to sell fireworks.

(Prior Code, § 7-303) (Ord. 617, passed 2-8-2011; Ord. 620, passed 4-12-2011) Penalty, see § 93.99

**§ 93.28 APPLICATION PROCEDURE.**

(A) Application for a fireworks sales permit shall be made in the following manner:

(1) Application shall be made on such form as shall be prescribed by the City Clerk and shall be filed with the Clerk only from January 1 through January 31 of the year for which the permit is sought.

(2) Only the following organizations, associations or entities shall be eligible for a permit:

(a) Nonprofit organizations and associations using volunteer salespersons and which will use the net proceeds from the sale of fireworks for community betterment purposes within the city; and

(b) Contractors, as such term is defined in § 93.26.

(3) The application shall include all of the following:

(a) A site and floor plan, drawn to scale in a manner acceptable to the City Building Inspector, showing location of the stand or tent, setback from rights-of-way, distance to nearest building or structure, placement of fire extinguishers, all entrances and exits, dock storage areas, pedestrian traffic flow, parking areas and vehicular traffic flow and nature of occupants of nearest buildings;

(b) A sign plan showing the location and size of all planned signage. A temporary sign permit shall be obtained separately, if required;

(c) Detailed information on the tent or stand to be erected on the site;

(d) Detailed information regarding the plan for storage of all fireworks during both open and closed hours;

(e) If the applicant has held a permit in any of the three preceding years, it must file with its application a written statement of the income and expenses from the sale of its fireworks within the city for each of such years, together with a statement of its community betterment expenditures made from the net proceeds from the sale of fireworks in each said year;

(f) The applicant shall state in detail the nature of the community betterment purpose for which the net proceeds from the current year's sale of fireworks will be utilized if the permit is granted;

(g) A signed statement from the owner of the property upon which the sales will be conducted, granting the applicant permission to so utilize the property;

(h) An application fee of \$50 shall be paid to the City Clerk with the application. None of the application fee will be refunded; and

(i) If the applicant is a contractor, the following information shall be supplied: the full name, address, phone number and e-mail address of the contractor; and a copy of the signed contract with the not-for-profit corporation or organization.

(B) After the application filing period, the City Clerk shall review the applications and submit recommended point tallies on the same to the City Council. The City Building Inspector shall review the applications and, if necessary, consult with other city departments and forward general recommendations on the applications to the City Clerk and to the City Council regarding issues relevant to the applications. Applications will be evaluated on the following criteria point system.

(1) Each year all applications will start out with a total of 20 points.

(2) Applications shall be automatically disqualified if they are received after January 31 or if the applicant is a prior-year permit holder that has displayed and/or sold or attempted to sell illegal fireworks or has otherwise violated the law regarding the operation of its fireworks stand.

(3) Applications that are not disqualified will be reviewed by the City Clerk and will lose points according to the following schedule:

| <i>Infraction</i>                                                                            | <i>Point Deduction</i> |
|----------------------------------------------------------------------------------------------|------------------------|
| Concerns with proposed location based on recommendation from city departments                | 5                      |
| Lack of sufficient detail or inadequacy regarding previous years income and expenditures     | 5                      |
| Lack of sufficient detail or inadequacy regarding proposed community betterment expenditures | 5                      |
| Missing information regarding the fireworks sales application                                | 2                      |
| Missing information regarding the sign plan                                                  | 2                      |
| Missing information regarding the site plan                                                  | 2                      |
| Missing information regarding the storage of fireworks                                       | 2                      |
| Missing information regarding the tent or stand to be used                                   | 2                      |

(C) In the event of a tie or ties after ranking, first preference shall be given to those eligible applicants that identify community betterment acquisitions or services programs which will benefit the city as a whole. Those that benefit only particular areas or neighborhoods of the city shall have second preference. If all other application requirements are met, special consideration will be given to applicants agreeing to relocate and operate a fireworks stand.

(D) After the application filing period and after the City Clerk's submission of recommendations, the City Council shall review all applications and by resolution either approve, approve with conditions or deny each such application.

(E) Prior to issuance of the permit, the applicant shall pay to the city a permit fee of \$250 and shall supply to the City Clerk a copy of a certificate of insurance issued by an insurance company in good standing, authorized to do business in the state, providing the applicant with combined liability coverage for bodily, injury and property damage in a minimum amount of \$300,000 per occurrence and \$1,000,000 in aggregate coverage and naming the city as an additional insured.

(F) The permit may be obtained at the office of the City Clerk only after an inspection of the fireworks stand or place of sale by the City Building Inspector to determine if such stand or place of sale conforms to all city laws, building codes, electrical codes, fire safety codes and land use regulations. The applicant shall request the city to make such inspection not later than ten days prior to the opening day of the particular period of the fireworks season, and such inspection shall be made by the city within a reasonable time after the request

(G) Permits will be valid only for the period specified in this subchapter for the particular fireworks sales season and will automatically terminate on the specified ending date. A permit shall allow sales at only one location in the city. Permit holders shall not have any property right to or expectation of receiving a permit or operating a fireworks stand in the city in any future year or period.

(H) The City Council may revoke a permit if it determines that the permit holder has violated this code or any of the terms or conditions of the permit. Such revocation shall be effective immediately. (Prior Code, § 7-304) (Ord. 617, passed 2-8-2011; Ord. 620, passed 4-12-2011)

***Statutory reference:***

*Similar provisions, see Neb. Rev. Stat. §§ 28-1237, 28-1239.01, 28-1243 and 28-1249*

### **§ 93.29 NUMBER OF PERMITS LIMITED.**

Permits for the sale of fireworks shall be limited to two in number for a fireworks season, this number being the maximum number of permits that may normally be safely regulated by the city. (Prior Code, § 7-305) (Ord. 617, passed 2-8-2011)

***Statutory reference:***

*Similar provisions, see Neb. Rev. Stat. §§ 28-1237, 28-1239.01, 28-1243 and 28-1249*

### **§ 93.30 SALES REGULATIONS.**

Persons holding a permit to sell fireworks shall comply with the following regulations.

(A) Permit holders may sell only consumer fireworks.

(B) Permit holders may sell consumer fireworks only during the fireworks season. Within the fireworks season, consumer fireworks may be sold only between the hours of 8:00 a.m. and 10:00 p.m.

(C) Permit holders shall, during such times in which consumer fireworks are being sold, have an adult in charge of its stand or retail outlet and shall display therein the required permit in a conspicuous manner and place.

(D) Permit holders shall at all times comply with all regulations in this subchapter or elsewhere in this code and with state and federal laws.

(E) Permit holders shall at no time sell any fireworks to any person under 12 years of age.

(F) Any persons actually selling or offering for sale any fireworks shall be at least 16 years of age.

(G) The permit holder shall issue a fireworks use safety pamphlet, approved by the city, to each person purchasing any fireworks.

(H) The permit holder shall maintain sufficient security personnel on the site of the sales facility at all times when fireworks are stored on the site while the sales facility is closed. Between the salespersons on the site while the facility is open and the security personnel on the site while the sales facility is closed, the site shall be supervised and monitored 24 hours per day.

(I) The permit holder shall obtain all licenses or permits required by the state.  
(Prior Code, § 7-306) (Ord. 617, passed 2-8-2011)

***Statutory reference:***

*Similar provisions, see Neb. Rev. Stat. §§ 28-1237, 28-1239.01, 28-1243 and 28-1249*

### **§ 93.31 LOCATION AND SITE REGULATIONS.**

(A) In addition to all other requirements and regulations of the city, all temporary fireworks stands or places of sale of fireworks shall be located and set back at least 25 feet from the nearest public right-of-way and be separated from any permanent structure by a minimum of 50 feet.

(B) Parking for the sales facility shall be provided on a surface approved by the City Building Inspector.

(C) Any structure in which fireworks are sold and to which pedestrian traffic is allowed shall have a minimum of two points of ingress/egress located so that each point serves approximately one-half of the structure. Both ingress/egress locations shall be unobstructed at all times that the facility is open.  
(Prior Code, § 7-307) (Ord. 617, passed 2-8-2011)

***Statutory reference:***

*Similar provisions, see Neb. Rev. Stat. §§ 28-1237, 28-1239.01, 28-1243 and 28-1249*

**§ 93.32 PROXIMITY TO CERTAIN BUSINESSES OR ACTIVITIES.**

(A) Stands and areas where fireworks are to be sold shall be located at least 300 feet from any gasoline or liquid propane gas dispensing station or repair shop using flammable materials and at least 20 feet from any other establishment selling fireworks. Such distance shall be measured from the closest point where fireworks are sold or stored to the closest point where gasoline, liquid propane gas or combustible materials are dispensed or stored above ground or from the closest point where other fireworks are sold or stored, as the case may be.

(B) Stands and areas where fireworks are to be sold shall be located at least 50 feet from any childcare center, school (any governmental or privately supported place or institution of education or physical instruction) or playground associated with any daycare center or school. Such distance shall be measured from the closest point where fireworks are sold or stored to the closest point of the daycare center, school or playground. Fireworks shall not be sold in an area zoned residential or in any zoning district which does not permit retail sales.

(Prior Code, § 7-308) (Ord. 617, passed 2-8-2011; Ord. 620, passed 4-12-2011)

***Statutory reference:***

*Similar provisions, see Neb. Rev. Stat. §§ 28-1237, 28-1239.01, 28-1243 and 28-1249*

**§ 93.33 SCREENING.**

All stands and places for the sale of fireworks shall screen all supplies sold and stored so as to prevent other fireworks from being tossed or thrown into such supplies.

(Prior Code, § 7-309) (Ord. 617, passed 2-8-2011)

***Statutory reference:***

*Similar provisions, see Neb. Rev. Stat. §§ 28-1237, 28-1239.01, 28-1243 and 28-1249*

**§ 93.34 FIRE SAFETY.**

Fire extinguishers and “No Smoking” signs shall be placed on the site as required by the city’s fire code regulations on retail display and sale of fireworks. The permit holder shall comply with the rules for retail sales of consumer fireworks contained in that most recent edition of the National Fire Protection Association (“NFPA”) Standard 1124, Chapter 7, which has been adopted by the State Fire Marshal. In the event of conflict between a provision of NFPA 1124, Chapter 7, and another rule in this code, the stricter or more restrictive rule shall apply. A copy of the NFPA 1124, Chapter 7, shall be maintained in the office of the City Clerk for public review.

(Prior Code, § 7-310) (Ord. 617, passed 2-8-2011)

***Statutory reference:***

*Similar provisions, see Neb. Rev. Stat. §§ 28-1237, 28-1239.01, 28-1243 and 28-1249*

**§ 93.35 REMOVAL.**

Immediately after the fireworks sale season, the permit holder shall clean the area in and around any stand where fireworks were sold and remove any portable tent or stand from its temporary location. Such work shall be completed within three days of the closing of the particular period of the fireworks season. (Prior Code, § 7-311) (Ord. 617, passed 2-8-2011)

***Statutory reference:***

*Similar provisions, see Neb. Rev. Stat. §§ 28-1237, 28-1239.01, 28-1243 and 28-1249*

**§ 93.36 REPORT.**

Each permit holder shall, on or before December 1 of the year for which the permit is held, file with the City Clerk a written statement of the income and expenses from the sale of its fireworks within the city for such year, together with a detailed statement of its community betterment expenditures made from the net proceeds from the sale of fireworks in such year.

(Prior Code, § 7-312) (Ord. 617, passed 2-8-2011)

***Statutory reference:***

*Similar provisions, see Neb. Rev. Stat. §§ 28-1237, 28-1239.01, 28-1243 and 28-1249*

***HAZARDOUS MATERIALS AND EXPLOSIVES*****§ 93.50 POISONOUS OR FLAMMABLE GAS.**

(A) Any person, firm or corporation desiring to store or keep in the city any form of poisonous or flammable gas or liquefied petroleum gas in excess of 100 gallons or to add to, enlarge or replace any facility used for the storage of such gases must first get permission from the City Council. The Council shall require the name of the gas, the place of storage and the amount of gas stored. If permission is granted, the City Council shall prescribe such rules, regulations and precautionary actions as may be deemed necessary.

(B) Permit requirements for the initial construction or location of storage facilities shall not apply to those facilities in existence on the effective date of this section; provided, that any such present use that is discontinued for a period of 60 days shall not be revived without a permit.

(Prior Code, § 7-105)

***Statutory reference:***

*Similar provisions, see Neb. Rev. Stat. § 17-549*



**§ 93.51 EXPLOSIVE MATERIAL; STORAGE.**

Dynamite and other explosives shall be stored in a proper receptacle made of concrete, metal or stone, which shall be closed at all times except when actually in use. Such receptacle shall not be located in any room where there is a flame or flammable materials.

(Prior Code, § 7-201)

**§ 93.52 EXPLOSIVE MATERIAL; BULLETS.**

Cartridges, shells and percussion caps shall be kept in their original containers away from flame, flammable materials and high explosives.

(Prior Code, § 7-202)

**§ 93.53 EXPLOSIVE MATERIAL; BLASTING PERMITS.**

Any person wishing to discharge high explosives must first secure a permit from the City Council and shall discharge such explosives in conformance with such directives and precautions as may be prescribed under the direction and supervision of the Council. In no case shall any person perform blasting operations unless operating under the direct supervision of a person in possession of a valid user's permit issued by the State Patrol.

(Prior Code, § 7-203)

***Statutory reference:***

*Similar provisions, see Neb. Rev. Stat. § 17-556*

**§ 93.54 EXPLOSIVE MATERIAL; REGISTRATION.**

Any person keeping or storing dynamite, nitroglycerin, gun powder or other high explosives in any quantity shall register such information as the City Council may require with the City Clerk, who shall forward such information to the local fire official.

(Prior Code, § 7-204)

**§ 93.99 PENALTY.**

(A) Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this chapter, whether set forth at full length herein or incorporated by reference, shall be deemed guilty of a misdemeanor and fined in a sum of not more than \$500. Each day's maintenance of the same shall constitute a separate offense.

(Prior Code, § 7-401)

(B) Any person or entity who shall violate or refuse to comply with the enforcement of § 93.07 shall be deemed guilty of a misdemeanor and fined as follows. For a violation related to a residential burn permit and commercial burn permit, a fine shall be levied in a sum of not more than \$500.

(Prior Code, § 7-108) (Ord. 787, passed 4-11-2023)

***Statutory reference:***

*Similar provisions, see Neb. Rev. Stat. § 81-520.01*

## **TITLE XI: BUSINESS LICENSING**

### **Chapter**

- 110. BUSINESS LICENSING**
- 111. ALCOHOLIC BEVERAGES**
- 112. SALVAGE YARDS**
- 113. SELF-SERVE MOTOR FUEL DISPENSING STATIONS**
- 114. AMUSEMENTS AND LEISURE**
- 115. MOBILE FOOD VENDORS**
- 116. RAILROAD COMPANIES**



## **CHAPTER 110: BUSINESS LICENSING**

### **Section**

#### ***Occupation Taxes***

- 110.01 Levies authorized
- 110.02 Collection dates
- 110.03 Certificates
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#### ***Nonresident Sales***

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- 110.35 Licensing, registration, insurance and fees
- 110.36 Exceptions
  
- 110.99 Penalty

### ***OCCUPATION TAXES***

#### **§ 110.01 LEVIES AUTHORIZED.**

(A) The city shall have power to raise revenue by levying and collecting a license tax on any occupation or business within the limits of the city and regulate such occupation or business by ordinance. Any occupation tax imposed pursuant to this section shall make a reasonable classification of businesses, users of space or kinds of transactions for purposes of imposing such tax, except that no occupation tax shall be imposed on any transaction which is subject to tax under Neb. Rev. Stat. §§ 53-160, 66-489, 66-489.02, 66-4,140, 66-4,145, 66-4,146, 77-2602 or 77-4008 or which is exempt

from tax under Neb. Rev. Stat. § 77-2704.24. The occupation tax shall be imposed in the manner provided in Neb. Rev. Stat. § 18-1208, except that Neb. Rev. Stat. § 18-1208 does not apply to an occupation tax subject to Neb. Rev. Stat. § 86-704. All such taxes shall be uniform in respect to the classes upon which they are imposed. All scientific and literary lectures and entertainments shall be exempt from such taxation, as well as concerts and other musical entertainments given exclusively by the citizens of the city.

(Neb. Rev. Stat. § 17-525)

(B) The City Council shall have authority by ordinance to impose an occupation tax of not more than \$5 per annum on each fire insurance corporation, company or association, doing business in the city, for the use, support and benefit of volunteer Fire Departments, regularly organized under the laws of the state regulating the same. The City Clerk shall collect with diligence the occupation tax so imposed. Upon the receipt of the tax, the Clerk shall pay over the proceeds thereof to the City Treasurer who shall credit the same to a fund to be known as special occupation tax fund for benefit of the volunteer Fire Department. Upon proper claim filed by the Chief of the Fire Department and allowed by the City Council, the Treasurer shall pay over the proceeds of the tax in the fund from time to time for the use of the Fire Department, as hereinbefore provided.

(Neb. Rev. Stat. § 35-106)

(C) Notwithstanding any ordinance or charter power to the contrary, the city shall not impose an occupation tax on the business of any person, firm or corporation licensed under the State Liquor Control Act, being Neb. Rev. Stat. §§ 53-101 et seq. and doing business within the corporate limits of the city in any sum which exceeds two times the amount of the license fee required to be paid under the Act to obtain such license.

(Neb. Rev. Stat. § 53-132)

***Statutory reference:***

*Occupation taxes generating more than \$300,000; imposition or increase; election required, see Neb. Rev. Stat. § 18-1208*

**§ 110.02 COLLECTION DATES.**

Unless provided otherwise or levied daily, any occupation taxes imposed by the City Council shall be due and payable on May 1 of each year, except that any occupation taxes collected from Class C liquor licensees shall be due and payable on November 1 of each year. Upon payment of an occupation tax by any person to the City Clerk, the Clerk shall give a receipt, properly dated, specifying the person paying the tax and the amount paid. Any revenue collected shall be deposited into the General Fund by the City Treasurer except as otherwise specifically provided. The 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.

**§ 110.03 CERTIFICATES.**

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

**§ 110.04 FAILURE TO PAY.**

If any person, company or corporation fails or neglects to pay the occupation taxes as provided in this chapter on the day they become due and payable, the city shall then proceed by civil suit to collect the amount due. All delinquent taxes shall bear interest at the rate of 1 % per month until paid.

**§ 110.05 REGISTRATION FEES.**

The annual fees for registration of certain contractors and workers are as follows.

|                               |      |
|-------------------------------|------|
| Apprentice plumber            | \$5  |
| Arborist                      | \$25 |
| Electrical apprentice         | \$5  |
| Electrical contractor         | \$25 |
| Electrical journeyman         | \$10 |
| Fire alarm installer          | \$10 |
| General contractor            | \$25 |
| Journeyman plumber            | \$10 |
| Lawn sprinkler installer      | \$25 |
| Master plumber                | \$25 |
| Mechanical contractor         | \$25 |
| Mechanical journeyman         | \$10 |
| Water service and drain layer | \$25 |

(Ord. 790, passed 5-9-2023)

***NONRESIDENT SALES*****§ 110.20 REGULATION.**

(A) All nonresident individuals or businesses going door to door with the intent to sell any goods, service, product or insurance shall, before doing business within the city, make application for and be issued a license. This registration and licensing is to prevent the sale of fraudulent, dangerous and unhealthful goods and services, to protect the public by maintaining records of the products sold and the persons and companies responsible for such sales, to designate a place of trade if on public property and for the purpose of raising revenue.

(B) (1) Application for a license shall be made to the City Clerk upon blank forms supplied by the city, which shall contain all the necessary information and documents required for the protection of the residents of the city. Any person or persons granted a license shall be subject to any fees, occupation taxes and other rules and regulations which the City Council deems appropriate for the purposes stated herein.

(2) Any license so granted shall be subject to revocation in the event that the information provided is inaccurate or misleading.

(Prior Code, § 4-301)

**§ 110.21 HOURS OF SOLICITATION.**

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

(Prior Code, § 4-302) Penalty, see § 110.99

**§ 110.22 EXCEPTIONS.**

Nothing herein shall be construed to apply to any person selling produce raised within the county, to wholesale salespeople soliciting merchants directly, to residential route salespersons or to persons canvassing residents within the city for religious, political or other noncommercial purposes.

(Prior Code, § 4-303)



***GENERAL CONTRACTORS***

**§ 110.35 LICENSING, REGISTRATION, INSURANCE AND FEES.**

(A) No person shall engage in the business of general contracting within the city's corporate limits or extraterritorial jurisdiction unless he or she shall have first registered with the City Building Inspector.

(B) Engaging in the business of general contracting consists of contracting for a certain price, fee, percentage or other compensation with the owner or tenant of any property to build, construct, alter, repair, remodel or demolish any building or structure upon such property or any portion thereof for which a building permit is required. Engaging in the business of general contracting does not encompass the performance of any work within a licensed trade pursuant to a city trade license or registration pursuant to this code and does not encompass any subcontractor performing work under a contract with a general contractor registered with the city.

(C) Registration with the City Building Inspector shall require:

- (1) Completion of a general contractor registration application form as provided by the city;
- (2) Submission of a current certificate of insurance which provides coverage for bodily injury and property damage in a minimum amount of \$300,000; and
- (3) Payment of the registration fee as provided in § 110.05.

(D) Each license shall be current from the date of issuance, up to and including the next December 31, unless sooner revoked, and shall be renewed before its expiration date by submission of the required application form, documentation and fee.

(Prior Code, § 8-610)

**§ 110.36 EXCEPTIONS.**

Any work by a homeowner shall be excepted from the license and registration requirements of this subchapter if such work is performed by a homeowner on a single-family dwelling which he or she owns and in which he or she resides; provided, however, that such work by homeowner shall still be subject to all other applicable provisions and requirements of this code.

(Prior Code, § 8-611)

**§ 110.99 PENALTY.**

Any person, firm, association or corporation violating any of the provisions of this chapter for which no other penalty is imposed shall, upon conviction, be deemed guilty of a misdemeanor and be fined in a sum of not more than \$500 for each offense. Each day's maintenance of the same shall constitute a separate offense.

(Prior Code, § 4-1101)

## **CHAPTER 111: ALCOHOLIC BEVERAGES**

### **Section**

#### ***General Provisions***

- 111.01 Definitions
- 111.02 Sale or gift to minor or mentally incompetent person prohibited
- 111.03 Consumption in public places or places open to the public; restrictions
- 111.04 Removal of intoxicated persons from public or quasi-public property

#### ***Licenses Required***

- 111.15 Manufacture, sale, delivery and possession; general prohibitions; exceptions
- 111.16 Retail licensing standards
- 111.17 Licenses; city powers and duties
- 111.18 License renewal; city powers and duties
- 111.19 Catering licenses
- 111.20 Licensed premises; inspections
- 111.21 Display of license
- 111.22 Citizen complaints
- 111.23 Form for citizen complaints

#### ***Retail Establishments***

- 111.35 Sanitary conditions
- 111.36 Hours of sale
- 111.37 Credit sales prohibited
- 111.38 Spiking beer
- 111.39 Change of premises
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- 111.41 Sale for resale
- 111.42 Transportation of liquor by retail licensees
- 111.43 No delivery after closing hours
- 111.44 Restrictions on conduct of other business
- 111.45 Conduct prohibited on licensed premises
- 111.46 Advertisements and sales

***GENERAL PROVISIONS*****§ 111.01 DEFINITIONS.**

For purposes of this chapter, the definitions found in Neb. Rev. Stat. §§ 53-103.01 through 53-103.42 shall be used.

**§ 111.02 SALE OR GIFT TO MINOR OR MENTALLY INCOMPETENT PERSON PROHIBITED.**

No person shall sell, furnish, give away, dispose of, exchange or deliver, or permit the sale, gift or procuring of any alcoholic liquors, to or for any minor or to any person who is mentally incompetent. (Neb. Rev. Stat. § 53-180) Penalty, see § 10.99

**§ 111.03 CONSUMPTION IN PUBLIC PLACES OR PLACES OPEN TO THE PUBLIC; RESTRICTIONS.**

(A) Except when the State Liquor Control Commission has issued a license as provided in Neb. Rev. Stat. § 53-186(2) or as provided in Neb. Rev. Stat. § 60-6,211.08, it is unlawful for any person to consume alcoholic liquor upon property owned or controlled by the state or any governmental subdivision thereof unless authorized by the governing bodies having jurisdiction over such property. (Neb. Rev. Stat. § 53-186)

(B) It is unlawful for any person owning, operating, managing or conducting any bottle club, dance hall, restaurant, café or club or any place open to the general public to permit or allow any person to consume alcoholic liquor upon the premises except as permitted by a license issued for such premises pursuant to Neb. Rev. Stat. § 53-106.01. It is unlawful for any person to consume alcoholic liquor in any dance hall, restaurant, café or club or any place open to the general public except as permitted by a license issued for such premises pursuant to the Act. This division (B) does not apply to a retail licensee while lawfully engaged in the catering of alcoholic beverages or to limousines or buses operated under Neb. Rev. Stat. § 60-6,211.08. (Neb. Rev. Stat. § 53-186.01) Penalty, see § 10.99

**§ 111.04 REMOVAL OF INTOXICATED PERSONS FROM PUBLIC OR QUASI-PUBLIC PROPERTY.**

(A) Any law enforcement officer with the power to arrest for traffic violations may take a person who is intoxicated and in the judgment of the officer dangerous to himself, herself or others, or who is

otherwise incapacitated, from any public or quasi-public property. An officer removing an intoxicated person from public or quasi-public property shall make a reasonable effort to take the intoxicated person to his or her home or to place the person in any hospital, clinic or mental health substance use treatment center, or with a medical doctor as may be necessary to preserve life or to prevent injury. The effort at placement shall be deemed reasonable if the officer contacts such facilities or doctor which have previously represented a willingness to accept and treat such individuals and which regularly do accept such individuals. If these efforts are unsuccessful or are not feasible, the officer may then place the intoxicated person in civil protective custody, except that civil protective custody shall be used only as long as is necessary to preserve life or to prevent injury, and under no circumstances longer than 24 hours.

(B) The placement of the person in civil protective custody shall be recorded at the facility or jail at which he or she is delivered and communicated to his or her family or next of kin, if they can be located, or to the person designated by the person taken into civil protective custody.

(C) The law enforcement officer who acts in compliance with this section shall be deemed to be acting in the course of his or her official duty and shall not be criminally or civilly liable for these actions.

(D) The taking of an individual into civil protective custody under this section shall not be considered an arrest. No entry or other record shall be made to indicate that the person has been arrested or charged with a crime.

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

***MENTAL HEALTH SUBSTANCE USE TREATMENT CENTER.*** Has the same meaning as in Neb. Rev. Stat. § 71-423.

***PUBLIC PROPERTY.*** Any public right-of-way, street, highway, alley, park or other state, county or city-owned property.

***QUASI-PUBLIC PROPERTY.*** Private or publicly owned property utilized for proprietary or business uses which invites patronage by the public or which invites public ingress and egress. (Neb. Rev. Stat. § 53-1,121) Penalty, see § 10.99

***LICENSES REQUIRED*****§ 111.15 MANUFACTURE, SALE, DELIVERY AND POSSESSION; GENERAL PROHIBITIONS; EXCEPTIONS.**

(A) No person shall manufacture, bottle, blend, sell, barter, transport, deliver, furnish or possess any alcoholic liquor for beverage purposes except as specifically provided in this chapter and the State Liquor Control Act.

(B) Nothing in this chapter shall prevent:

(1) The possession of alcoholic liquor legally obtained as provided in this chapter or the Act for the personal use of the possessor and his or her family or guests;

(2) The making of wine, cider or other alcoholic liquor by a person from fruits, vegetables or grains, or the product thereof, by simple fermentation and without distillation, if made solely for the use of the maker and his or her family and guests;

(3) Any duly licensed practicing physician or dentist from possessing or using alcoholic liquor in the strict practice of his or her profession, any hospital or other institution caring for the sick and diseased persons from possessing and using alcoholic liquor for the treatment of bona fide patients of that hospital or other institution, or any drug store employing a licensed pharmacist from possessing or using alcoholic liquor in the compounding of prescriptions of licensed physicians;

(4) The possession and dispensation of alcoholic liquor by an authorized representative of any religion on the premises of a place of worship, for the purpose of conducting any bona fide religious rite, ritual or ceremony;

(5) Persons who are 16 years old or older from carrying alcoholic liquor from licensed establishments when they are accompanied by a person not a minor;

(6) Persons who are 16 years old or older from handling alcoholic liquor containers and alcoholic liquor in the course of their employment;

(7) Persons who are 16 years old or older from removing and disposing of alcoholic liquor containers for the convenience of the employer and customers in the course of their employment;

(8) Persons who are 16 years old or older from completing a transaction for the sale of alcoholic liquor in the course of their employment if they are not handling or serving alcoholic liquor; or

(9) Persons who are 19 years old or older from serving or selling alcoholic liquor in the course of their employment.

(Neb. Rev. Stat. § 53-168.06) Penalty, see § 10.99

#### **§ 111.16 RETAIL LICENSING STANDARDS.**

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

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

(B) 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;

(C) Zoning restrictions;

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

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

(F) Existing liquor licenses, the class of such licenses and the distance and time of travel to such licenses;

(G) The nature and needs of the neighborhood or community where the proposed premises is located as well as its projected growth; and

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

(Prior Code, § 4-203)

***Statutory reference:***

*Similar provisions, see Neb. Rev. Stat. § 53-134*

**§ 111.17 LICENSES; CITY POWERS AND DUTIES.**

(A) The City Council is authorized to regulate by ordinance, not inconsistent with the State Liquor Control Act, the business of all retail, bottle club, craft brewery and microdistillery licensees carried on within the corporate limits of the city.

(Neb. Rev. Stat. § 53-134.03)

(B) During the period of 45 days after the date of receipt by mail or electronic delivery from the State Liquor Control Commission notice and a copy of an application for a new license to sell alcoholic liquor at retail, a craft brewery license or a microdistillery license, the City Council may make and submit to the Commission recommendations relative to the granting or refusal to grant the license to the applicant.

(Neb. Rev. Stat. § 53-131)

(C) The City Council, with respect to licenses within the corporate limits of the city, has the following powers, functions and duties with respect to retail, bottle club, craft brewery and microdistillery licenses:

(1) To cancel or revoke for cause retail, craft brewery or microdistillery licenses to sell or dispense alcoholic liquor or bottle club licenses issued to persons for premises within its jurisdiction, subject to the right of appeal to the State Liquor Control Commission;

(2) To enter or to authorize any law enforcement officer to enter at any time upon any premises licensed under the State Liquor Control Act to determine whether any provision of the Act, any rule or regulation adopted and promulgated pursuant to the Act, or any ordinance, resolution, rule or regulation adopted by the City Council has been or is being violated, and at that time examine the premises of the licensee in connection with such determination. Any law enforcement officer who determines that any provision of the Act, any rule or regulation adopted and promulgated pursuant to the Act, or any ordinance, resolution, rule or regulation adopted by the local governing body has been or is being violated shall report such violation in writing to the Executive Director of the Commission:

(a) Within 30 days after determining that such violation has occurred;

(b) Within 30 days after the conclusion of an ongoing police investigation; or

(c) Within 30 days after the verdict in a prosecution related to such an ongoing police investigation if the prosecuting attorney determines that reporting such violation prior to the verdict would jeopardize such prosecution, whichever is later.

(3) To receive a signed complaint from any citizen within its jurisdiction that any provision of the Act, any rule or regulation adopted and promulgated pursuant to the Act, or any ordinance, resolution, rule or regulation relating to alcoholic liquor has been or is being violated and to act upon these complaints in the manner provided in the Act;



(4) To receive retail, bottle club, craft brewery and microdistillery license fees as provided in Neb. Rev. Stat. §§ 53-124 and 53-124.01 and pay the same, after the license has been delivered to the applicant, to the City Treasurer;

(5) To examine or cause to be examined any applicant or any retail, bottle club, craft brewery or microdistillery licensee upon whom notice of cancellation or revocation has been served as provided in the Act, to examine or cause to be examined the books and records of any applicant or licensee, except as otherwise provided for bottle club licensees under state law, and to hear testimony and to take proof for its information in the performance of its duties. For purposes of obtaining any of the information desired, the City Council may authorize its agent or attorney to act on its behalf;

(6) To cancel or revoke on its own motion any license if, upon the same notice and hearing as provided in § 111.22, it determines that the licensee has violated any of the provisions of the State Liquor Control Act or any valid and subsisting ordinance, resolution, rule or regulation duly enacted, adopted and promulgated relating to alcoholic liquor. The order of cancellation or revocation may be appealed to the Commission within 30 days after the date of the order by filing a notice of appeal with the Commission. The Commission shall handle the appeal in the manner provided for hearing on an application in Neb. Rev. Stat. § 53-133;

(7) Upon receipt from the Commission of the notice and copy of application as provided in Neb. Rev. Stat. § 53-131, to fix a time and place for a hearing at which the City Council shall receive evidence, either orally or by affidavit from the applicant and any other person, bearing upon the propriety of the issuance of a license. Notice of the time and place of the hearing shall be published in a legal newspaper in or of general circulation in the city, one time not less than seven and not more than 14 days before the time of the hearing. The notice shall include, but not be limited to, a statement that all persons desiring to give evidence before the City Council in support of or in protest against the issuance of the license may do so at the time of the hearing. The hearing shall be held not more than 45 days after the date of receipt of the notice from the Commission, and after the hearing the City Council shall cause to be recorded in the minute record of its proceedings a resolution recommending either issuance or refusal of the license. The City Clerk shall mail to the Commission by first class mail, postage prepaid, a copy of the resolution which shall state the cost of the published notice, except that failure to comply with this provision shall not void any license issued by the Commission. If the Commission refuses to issue such a license, the cost of publication of notice shall be paid by the Commission from the security for costs;

(8) To review and authorize an application by a retail, bottle club, craft brewery, farm winery or microdistillery licensee for a temporary expansion of its licensed premises within the jurisdiction of the local governing body to an immediately adjacent area owned or leased by the licensee or to an immediately adjacent street, parking lot or alley, not to exceed 50 days for calendar year 2020 and, for each calendar year thereafter, not to exceed 15 days per calendar year, as provided in Neb. Rev. Stat. §§ 53-123.12 and 53-129; and

(9) To review and authorize an application by a craft brewery, farm winery or microdistillery licensee that holds a promotional farmers market special designated license for a permit to use such promotional farmers market special designated license to sell or dispense alcoholic liquor, which the holder is licensed to produce, at a farmers market within the jurisdiction of the local governing body as provided in Neb. Rev. Stat. § 53-124.17. The local governing body shall electronically notify the Commission within five days after authorization of any permit pursuant to this division (C).  
(Neb. Rev. Stat. § 53-134)

(D) (1) When the State Liquor Control Commission mails or delivers to the City Clerk a retail, craft brewery or microdistillery license issued or renewed by the Commission, the Clerk shall deliver the license to the licensee upon receipt from the licensee of proof of payment of:

(a) The license fee if by the terms of Neb. Rev. Stat. § 53-124 the fee is payable to the City Treasurer;

(b) Any fee for publication of notice of hearing before the City Council upon the application for the license;

(c) The fee for publication of notice of renewal, if applicable, as provided in Neb. Rev. Stat. § 53-135.01; and

(d) Occupation taxes, if any, imposed by the city, except that Class J retail licensees shall not be subject to occupation taxes.

(2) Notwithstanding any ordinance or charter power to the contrary, the city shall not impose an occupation tax on the business of any person, firm or corporation licensed under the State Liquor Control Act and doing business within the corporate limits of the city in any sum which exceeds two times the amount of the license fee required to be paid under the Act to obtain that license.  
(Neb. Rev. Stat. § 53-132)

#### **§ 111.18 LICENSE RENEWAL; CITY POWERS AND DUTIES.**

(A) A retail or bottle club license issued by the State Liquor Control Commission and outstanding may be automatically renewed by the Commission in the absence of a written request by the City Council to require the licensee to submit an application for renewal. Any licensed retail premises located in an area which is annexed to the city shall file a formal application for a license, and while the application is pending, the licensee may continue all license privileges until the original license expires or is canceled or revoked. If that license expires within 60 days following the annexation date of the area, the license may be renewed by order of the Commission for not more than one year.  
(Neb. Rev. Stat. § 53-135)

(B) The City Clerk shall cause to be published in a legal newspaper in or of general circulation in the city, one time between January 10 and January 30 of each year, individual notice in the form prescribed by law of the right of automatic renewal of each retail liquor and beer license within the city, except that notice of the right of automatic renewal of Class C licenses shall be published between the dates of July 10 and July 30 of each year. If written protests to the issuance of automatic renewal of a license are filed in the office of the City Clerk by three or more residents of the city on or before February 10, or August 10 for Class C licenses, the City Council shall hold a hearing to determine whether continuation of the license should be allowed. Upon the conclusion of any hearing required by this section, the City Council may request a licensee to submit an application as provided in Neb. Rev. Stat. § 53-135.

(Neb. Rev. Stat. § 53-135.01)

### **§ 111.19 CATERING LICENSES.**

(A) The holder of a license to sell alcoholic liquor at retail issued under Neb. Rev. Stat. § 53-124, a craft brewery license, a microdistillery license or a farm winery license may obtain an annual catering license by filing an application and license fee with the State Liquor Control Commission.

(B) Upon receipt from the Commission of the notice and a copy of the application as provided in Neb. Rev. Stat. § 53-124.12, the City Council shall process the application in the same manner as provided in § 111.17.

(C) The City Council, with respect to catering licensees within its corporate limits, may cancel a catering license for cause for the remainder of the period for which that catering license is issued. Any person whose catering license is canceled may appeal to the district court.

(D) The City Council may impose an occupation tax on the business of a catering licensee doing business within the liquor license jurisdiction of the City Council. The tax may not exceed double the license fee for a catering license.

(Neb. Rev. Stat. § 53-124.12)

### **§ 111.20 LICENSED PREMISES; INSPECTIONS.**

(A) The City Council shall cause frequent inspection to be made on the premises of all retail licensees and bottle club licensees. If it is found that any such licensee is violating any provision of this chapter, the State Liquor Control Act or the rules and regulations of the State Liquor Control Commission, or is failing to observe in good faith the purposes of this chapter or the Act, the license may be suspended, canceled or revoked after the licensee is given an opportunity to be heard in his or her defense.

(B) The City Council may inspect a charter bus providing service under a certificate of public convenience and necessity granted by the Public Service Commission when the owner or operator of the charter allows the consumption of alcoholic liquor in the charter bus by an individual who is 21 years of age or older so long as the inspection is performed when the bus has stopped for the purpose of allowing passengers to embark or disembark.

(Neb. Rev. Stat. § 53-116.01)

#### **§ 111.21 DISPLAY OF LICENSE.**

Every licensee under Neb. Rev. Stat. § 53-148 shall cause his or her license to be framed and hung in plain view in a conspicuous place on the licensed premises.

(Neb. Rev. Stat. § 53-148) Penalty, see § 10.99

#### **§ 111.22 CITIZEN COMPLAINTS.**

Any five residents of the city shall have the right to file a complaint with the City Council stating that any retail licensee or bottle club licensee subject to the jurisdiction of the City Council has been or is violating Neb. Rev. Stat. § 53-134. The complaint shall be in writing in the form prescribed by the City Council and shall be signed and sworn to by the parties complaining. The complaint shall state the particular provision, rule or regulation believed to have been violated and the facts in detail upon which belief is based. If the City Council is satisfied that the complaint substantially charges a violation and that from the facts alleged there is reasonable cause for that belief, it shall set the matter for hearing within ten days from the date of the filing of the complaint and shall serve notice upon the licensee of the time and place of the hearing and of the particular charge in the complaint. The complaint shall in all cases be disposed of by the City Council within 30 days from the date the complaint was filed by resolution thereof, which resolution shall be deemed the final order for purposes of appeal to the State Liquor Control Commission as provided in Neb. Rev. Stat. § 53-1,115.

(Neb. Rev. Stat. § 53-134.04)

#### **§ 111.23 FORM FOR CITIZEN COMPLAINTS.**

The following form is hereby prescribed for the use of residents of this city desiring to complain to the Mayor and the City Council that any licensee is violating any provision of the State Liquor Control Act, being Neb. Rev. Stat. §§ 53-101 et seq., regulations prescribed by the State Liquor Control Commission or any provision of this chapter.

To the Mayor and City Council of the City of Valley, Nebraska.

The undersigned respectfully state:

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

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

\_\_\_\_\_ the Nebraska Liquor Control Act.

\_\_\_\_\_ the regulations prescribed by the Nebraska Liquor Control Commission.

\_\_\_\_\_ the Municipal Code of the City of Valley, Nebraska.

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

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
(Name) (Name)

\_\_\_\_\_  
(Name) (Name)

\_\_\_\_\_  
(Name)

STATE OF NEBRASKA )  
 ) ss.  
COUNTY OF DOUGLAS )

Subscribed in my presence and sworn to before me by \_\_\_\_\_,  
\_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_ and \_\_\_\_\_, this \_\_\_\_\_ day of  
\_\_\_\_\_, 20 \_\_\_\_\_.

\_\_\_\_\_  
Notary Public

My commission expires \_\_\_\_\_.

(Prior Code, § 4-208)

**Statutory reference:**

*Similar provisions, see Neb. Rev. Stat. § 53-134.04*

***RETAIL ESTABLISHMENTS*****§ 111.35 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. The licensed premises shall be subject to any health inspections the City 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 sanitary conditions shall be made at all hearings concerning the application for or renewal of a liquor license.

Penalty, see § 10.99

***Statutory reference:***

*Authority to regulate licensed premises, see Neb. Rev. Stat. § 53-134.03*

*State sanitary rules and regulations authorized, see Neb. Rev. Stat. § 53-118*

**§ 111.36 HOURS OF SALE.**

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

***OFF-SALE.*** Alcoholic beverages sold at retail in the original container for consumption off the premises of the licensed establishment.

***ON-SALE.*** Alcoholic beverages sold by the drink for consumption on the premises of the licensed establishment.

(B) It shall be lawful for any licensed person or his or her agents to sell any alcoholic beverages within the city except during the hours provided herein.

| <b><i>Hours of Sale</i></b>                               |                        |
|-----------------------------------------------------------|------------------------|
| <b><i>Alcoholic Liquors (including beer and wine)</i></b> |                        |
| Daily                                                     |                        |
| On- and off-sale                                          | 6:00 a.m. to 2:00 a.m. |

(C) No person(s) shall consume any alcoholic beverages on licensed premises for a period of time longer than 15 minutes after the time fixed herein for stopping the sale of alcoholic beverages on said premises.

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

(Prior Code, § 4-205) (Ord. 774, passed 4-12-2022)

***Statutory reference:***

*Similar provisions, see Neb. Rev. Stat. § 53-179*

**§ 111.37 CREDIT SALES PROHIBITED.**

(A) No person shall sell or furnish alcoholic liquor at retail to any person on credit, on a passbook, on an order on a store, in exchange for any goods, wares or merchandise, or in payment for any services rendered, and if any person extends credit for any such purpose, the debt thereby attempted to be created shall not be recoverable at law.

(B) Nothing in this section shall prevent the following:

(1) Any club holding a Class C license from permitting checks or statements for alcoholic liquor to be signed by members or bona fide guests of members and charged to the account of such members or guests in accordance with the bylaws of such club;

(2) Any hotel or restaurant holding a retail license from permitting checks or statements for liquor to be signed by regular guests residing at such hotel or eating at such restaurant and charged to the accounts of such guests; or

(3) Any licensed retailer engaged in the sale of wine or distilled spirits from issuing tasting cards to customers.

(Neb. Rev. Stat. § 53-183) Penalty, see § 10.99

**§ 111.38 SPIKING BEER.**

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

(Prior Code, § 4-215) Penalty, see § 10.99

**§ 111.39 CHANGE OF PREMISES.**

Any retailer licensee desiring to transfer his or her license from one premises to another shall file a written request for permission to do so with the City Clerk and shall also file with said Clerk a sworn statement showing that the premises to which removal is to be made complies in all respects with the

requirements of Neb. Rev. Stat. § 53-129. The City Clerk shall present said application and statement to the next meeting of the Mayor and City Council, who shall by resolution approve or disapprove the transfer. If they approve the transfer, such approval shall be endorsed on the license by the Mayor and attested by the City Clerk.

(Prior Code, § 4-216)

#### **§ 111.40 GAMBLING.**

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

(Prior Code, § 4-217) Penalty, see § 10.99

#### **§ 111.41 SALE FOR RESALE.**

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

(Prior Code, § 4-218) Penalty, see § 10.99

#### **§ 111.42 TRANSPORTATION OF LIQUOR BY RETAIL LICENSEES.**

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

(Prior Code, § 4-219) Penalty, see § 10.99

#### **§ 111.43 NO DELIVERY AFTER CLOSING HOURS.**

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

(Prior Code, § 4-220) Penalty, see § 10.99



**§ 111.44 RESTRICTIONS ON CONDUCT OF OTHER BUSINESS.**

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

(Prior Code, § 4-221)

**§ 111.45 CONDUCT PROHIBITED ON LICENSED PREMISES.**

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

(Prior Code, § 4-222)

**§ 111.46 ADVERTISEMENTS AND SALES.**

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

(Prior Code, § 4-223) Penalty, see § 10.99



## CHAPTER 112: SALVAGE YARDS

### Section

- 112.01 Definitions
- 112.02 License required
- 112.03 License application; contract
- 112.04 Investigation
- 112.05 License fee
- 112.06 Period of license; renewal procedure
- 112.07 License not transferable
- 112.08 General operating requirements
- 112.09 Nuisance
- 112.10 Annual inspection
- 112.11 Revocation and suspension
- 112.12 Hearing on granting, denial, renewal or revocation of license
- 112.13 Exclusions and exemptions; fences
- 112.14 Zoning ordinances
  
- 112.99 Penalty

### § 112.01 DEFINITIONS.

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

***AUTOMOBILE SALVAGE AND USED PARTS BUSINESS.*** Any lot, portion of a lot or tract of land, or any building or other premises where:

- (1) Dismantling, demolition or salvage operations of automobiles, trucks, semi-trailers or other vehicles or parts thereof are carried on;
- (2) Parts and accessories are removed from used, wrecked or abandoned automobiles, trucks, semi-trailers or other vehicles or where parts or accessories therefrom are stored; or
- (3) Salvage operations of such wrecked, abandoned or used automobiles, trucks, semi-trailers or other vehicles are carried on.

***BUSINESS PREMISES*** or ***PREMISES***. The area used as a salvage yard, scrap processing operation yard or auto salvage yard as described in the license or application for license for such business.

***INSPECTOR***. The City Building Inspector or his or her authorized representative.

***NON-OPERATING***. Any item of salvage as defined in this chapter which, without alteration or repair, cannot be immediately moved as intended when designed and constructed.

***PERSON***. Any person, firm, partnership, association, corporation, company or organization of any kind.

***SALVAGE***. Scrap copper, wood, brass, rope, rags, batteries, paper or rubber; dismantled, non-operating or wrecked automobiles; trucks, trailers, equipment, machinery, mobile homes, tractors and farm machinery, or other vehicles or parts thereof; or iron, steel and any scrap ferrous or non-ferrous materials.

***SALVAGE YARD OR SCRAP PROCESSING OPERATION.***

(1) An establishment or place of business maintained or operated wholly or partially for storing, keeping, receiving, reusing, processing, wrecking, dismantling, recycling, re-melting, collecting, dealing, buying or selling salvage. A business having facilities for processing and re-melting iron, steel or non-ferrous scrap and whose principal product is scrap iron and steel or non-ferrous scrap for re-melting purposes shall be excluded from this definition.

(2) An establishment or place of business may hold salvage for not more than 90 days without being considered a ***SALVAGE YARD OR SCRAP PROCESSING OPERATION*** when:

(a) The salvage is unaltered and is impounded by legal authority; or

(b) The salvage is repaired to a non-salvage state within a 90-day period.

***SALVAGE YARD OR SCRAP PROCESSING OPERATOR***. Any person engaged in the business of owning or operating a salvage yard or scrap processing operation.  
(Prior Code, § 4-501)

**§ 112.02 LICENSE REQUIRED.**

It shall be unlawful for any person to engage in or carry on the business of a salvage yard or scrap processing operation, or conduct, operate or maintain a salvage yard or scrap processing operation within

the city or within its extraterritorial jurisdiction without first having obtained a written license for the operation of such business.

(Prior Code, § 4-502) Penalty, see § 112.99

### **§ 112.03 LICENSE APPLICATION; CONTRACT.**

(A) Application for a license under this chapter shall be in writing upon a form provided for that purpose by the City Clerk.

(B) The application shall be sworn to by the applicant and shall set forth:

(1) The name and address of the applicant;

(2) The exact location of the existing establishment or of the proposed establishment, as the case may be;

(3) The exact nature of the business conducted or to be conducted, as the case may be;

(4) Where the business is conducted;

(5) Evidence of compliance with the zoning laws; if not established, shall be conducted inside of a building or outside a building, or partly within or partly without a building; and

(6) The dimension and character of the building.

(Prior Code, § 4-503)

### **§ 112.04 INVESTIGATION.**

The Inspector may cause investigations to be made by the necessary city departments to determine whether any salvage yard or scrap processing operation will be in compliance with all requirements of this chapter and all other city ordinances and regulations and shall have the authority to enter the applicant's premises at reasonable times to determine if he or she is in compliance with the terms of this chapter.

(Prior Code, § 4-504)

### **§ 112.05 LICENSE FEE.**

The Inspector shall collect \$25 with each license application to help defray the cost of investigation and enforcement of this chapter, which sum shall be nonrefundable.

(Prior Code, § 4-505)

**§ 112.06 PERIOD OF LICENSE; RENEWAL PROCEDURE.**

(A) Unless otherwise provided by the City Council, any license or renewal license issued hereunder shall be effective as of the date of its issuance and shall expire on August 31 each year.

(B) An applicant for a renewal license shall file with the City Clerk a written application, together with two copies of the application and information about applicant's demeanor and about the conduct and operation of his or her licensed business during the preceding license period, as is reasonably necessary to enable the City Council to determine the applicant's eligibility for a renewal license.

(Prior Code, § 4-506)

**§ 112.07 LICENSE NOT TRANSFERABLE.**

No license issued under this chapter shall be transferred or assigned or used by any person other than the one to whom it was issued, and no salvage dealer's license shall be used at any location other than the one described in the application upon which it was issued.

(Prior Code, § 4-507) Penalty, see § 112.99

**§ 112.08 GENERAL OPERATING REQUIREMENTS.**

The following general operating requirements shall apply to that portion of every premises required to be licensed under this chapter which is not in an enclosed building.

(A) The license issued pursuant to this chapter shall be plainly displayed on the business premises.

(B) The salvage yard or scrap processing operation, together with the items kept therein, shall at all times be maintained in a safe and sanitary condition, including, but not limited to, the following.

(1) Weeds and vegetation on the premises, other than trees, shrubs and vines, shall be kept at a height of not more than 12 inches.

(2) No refuse of any kind shall be kept on the premises, unless such refuse is salvage, as defined herein and is in use in the licensed business.

(3) The enumeration of the above shall not be to the exclusion of all other acts or things necessary to maintain the salvage yard or auto salvage yard in a reasonable sanitary condition.

(C) No salvage shall be allowed to rest upon or protrude over any public street, walkway or other public property, and no salvage or refuse shall be allowed to be scattered or blown off the business premises.

(D) Salvage, as defined herein, shall be arranged so as to permit easy access to all such salvage for firefighting purposes.

(E) No salvage or other materials shall be burned on the premises in the open, except in accordance with the applicable laws governing burning.

(F) Regulations in regard to fencing and screening are as follows.

(1) The area on the premises where salvage is kept or stored shall be enclosed, except for entrances and exits, with a vertical wall or fence of a minimum height of eight feet measured from ground level. The wall or fence shall not contain any posters or advertising except one sign of the licensee not exceeding 100 square feet. The fences on the sides which do not face a public street, roadway or adjacent residential property may be of chain link fence.

(2) The fence of the licensed premises which faces a public street, roadway or adjacent residential property shall be screened from public view where possible.

(3) Materials for use in screening of the licensed premises may consist of plant material, fence or a combination of plant material and fence. Plant material for use in screening shall consist of trees and shrubs. All plant material used for screening shall be of a size and quantity to obscure the salvage contained on the licensed premises from the view of the public within five years. Plant material shall be primarily of coniferous varieties to provide year-round screening.

(4) Fencing material shall consist of wood, metal or other material commonly used in the building trade and shall be of one natural color.

(5) All screening shall be placed and located on the licensed premises in a manner that will provide adequate visibility of traffic from all driveways, streets and roads.

(G) (1) Any person who shall engage in the automobile salvage and used parts business shall keep a book in which shall be legibly written in ink in the English language at the time of purchase of any used, wrecked or abandoned automobile or major parts or accessories readily identifiable by serial numbers or other distinctive markings or characteristics:

(a) An accurate, detailed description of the same;

(b) The quantity purchased;

(c) The amount paid;

(d) The date and time purchased; and

(e) The name, address and identity of the person selling such automobiles, parts and accessories.

(2) Such record need not be kept, however, if a certificate of title or other legal instrument evidencing title in the seller is obtained at the time such purchase is made. The record book required by this section, as well as any used, wrecked or abandoned automobiles, parts or accessories, shall be open to the inspection of the Inspector or his or her designated agent at all reasonable times.

(H) The licensee shall, at reasonable times, remove from the premises all salvage not usable or saleable and shall also store all flammable material so as to reduce the fire hazard as much as possible and in conformity with the lawful orders of the Fire Inspector made from time to time.  
(Prior Code, § 4-508)

### **§ 112.09 NUISANCE.**

(A) All salvage yards or scrap processing operations as defined herein within the corporate limits of the city or within its extraterritorial jurisdiction who operate without the license required herein are declared to be a nuisance, and it shall be unlawful for any person to operate or permit the same to remain at any place within the corporate limits of the city or its extraterritorial jurisdiction.

(B) The city may apply to the county district court for an injunction to abate such nuisance and for such other relief as may be necessary, if proper.  
(Prior Code, § 4-509) Penalty, see § 112.99

### **§ 112.10 ANNUAL INSPECTION.**

The Inspector or his or her authorized agent shall cause all businesses licensed under this chapter to be inspected at least once a year to determine whether such businesses are being operated in a lawful manner and in accordance with this chapter and all other applicable provisions of law.  
(Prior Code, § 4-511)

### **§ 112.11 REVOCATION AND SUSPENSION.**

The Inspector or his or her authorized agent may recommend to the City Council that the license may be revoked, denied or suspended, as he or she determines after due and diligent investigation that:

(A) The licensee has failed to comply with this chapter or any provision of law applicable to the premises, equipment or operation of the licensed business;

(B) The licensee has obtained his or her license through fraud or misstatement;

(C) The licensed business is being conducted in a manner detrimental to the health, safety or general welfare of the public, or is a nuisance, or is being operated in any unlawful manner; or



(D) The licensed business is no longer being operated by the licensee.  
(Prior Code, § 4-512)

#### **§ 112.12 HEARING ON GRANTING, DENIAL, RENEWAL OR REVOCATION OF LICENSE.**

(A) Any person aggrieved by an order of the Inspector granting, denying, renewing or revoking a license for a proposed or existing business subject to the provisions of this chapter may file a written request for a hearing before the City Council within ten days after issuance of such order. The City Clerk shall give notice of public hearing upon this request to be held in not less than 30 days after service of the notice on the person requesting the hearing.

(B) The City Clerk may also give notice of the hearing to other persons directly interested in the order in question. At such hearing, the City Council shall determine whether the granting, denial, renewal or revocation of the license was in accordance with the provisions of this chapter and shall issue written findings of fact, conclusions of law and an order to carry out its findings and conclusions. These findings of fact, conclusions of law and order shall be filed with the City Clerk and served by the City Council upon all parties appearing or represented at said hearing.  
(Prior Code, § 4-513)

#### **§ 112.13 EXCLUSIONS AND EXEMPTIONS; FENCES.**

(A) The provisions of this chapter shall not apply to used cars, trucks and machines in operating condition which may be displayed in a neat and orderly manner on premises for which a permit has been granted on any lot, portion of a lot or tract of land or any building or other premises used only to temporarily store and protect automobiles, trucks, semi-trailers or other vehicles towed from the scene of a traffic violation, accident or breakdown at the direction of a law enforcement officer or other owner or operator of the vehicle, until the vehicle is reclaimed or disposed of by the owner.

(B) (1) In any event, lots, portions of lots, tracts of land or other premises otherwise exempt from the provision of this chapter shall be fenced with a fence not less than eight feet in height from ground level with a solid fence or a chain link fence with inserted slats so as to screen the same from public view.

(2) Such fencing materials may consist of wood, metal or other material commonly used in the building trade and, if within the corporate limits of the city or its extraterritorial jurisdiction, shall comply with the municipal code for fences.  
(Prior Code, § 4-514)

**§ 112.14 ZONING ORDINANCES.**

Nothing in this chapter shall be deemed or construed to repeal, abrogate or modify any zoning law or any provision thereof in effect in the city or within its extraterritorial jurisdiction.  
(Prior Code, § 4-515)

**§ 112.99 PENALTY.**

Whenever a nuisance exists, the city may proceed by a suit in equity to enjoin and abate the same in the manner provided by law. Whenever, in any action, it is established that a nuisance exists, the Court may, along with the fine or penalty imposed, enter an order of abatement as part of the judgment in the case. Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this chapter, set forth at full length herein or incorporated by reference, shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$500 for each such offense. A new violation shall be deemed to have been committed every 24 hours of such failure to comply. In addition to the penalty contained herein, the city may seek relief through abatement proceedings.  
(Prior Code, § 4-510)

## CHAPTER 113: SELF-SERVICE MOTOR FUEL DISPENSING STATIONS

### Section

- 113.01 Definition
- 113.02 NFPA standards adopted
- 113.03 Approved self-service equipment
- 113.04 Attendant required
- 113.05 Emergency controls
- 113.06 Operation instructions; posting
- 113.07 Visible dispensing required
- 113.08 Warning sign

### § 113.01 DEFINITION.

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

***SELF-SERVICE MOTOR FUEL DISPENSING STATIONS.*** The portion of property where flammable and combustible liquids used as motor fuels are stored and subsequently dispensed from fixed equipment into the fuel tanks of motor vehicles by persons other than a service station attendant, and the term shall include any facility available for the sale of other retail products.  
(Prior Code, § 4-701)

### § 113.02 NFPA STANDARDS ADOPTED.

(A) The operation of all self-service motor vehicle fuel dispensing stations, including all use, sales, storage, transportation and installation of flammable and combustible gases, shall be in conformity with:

(1) The provisions of standards of the National Fire Protection Association for the storage and handling of flammable gases, known as Pamphlet No. 30, dated 1981, which are hereby included and made part of this section by this reference, having the same force and effect as if physically set out herein; and

(2) The statutes of the state.

(B) Self-service motor fuel dispensing stations shall be permitted; provided, that they comply with all provisions hereinafter set forth.

(Prior Code, § 4-702)

### **§ 113.03 APPROVED SELF-SERVICE EQUIPMENT.**

(A) *Approved self-service dispensers.* Only those special dispensing devices and remote controlled types, or equivalent, approved by Underwriters Laboratories shall be permitted at self-service stations.

(Prior Code, § 4-703)

(B) *Approved self-service nozzles.* Hose nozzle valves used at self-service stations shall be automatic-closing type with a latch-open device, or equivalent, approved by Underwriters Laboratories.

(Prior Code, § 4-704)

### **§ 113.04 ATTENDANT REQUIRED.**

(A) *Responsibilities.* All self-service stations shall have at least one qualified attendant on duty while the station is open to the public. During all times when gasoline, gasohol or diesel fuel is being dispensed, the attendant's primary function shall be to supervise, observe and control the dispensing of said fuels. It shall be the responsibility of the attendant to prevent the dispensing of gasoline, gasohol or diesel fuel into portable containers unless the container is constructed of metal or is approved by the office of the State Fire Marshal, has a tight closure with screwed or spring cover and is fitted with a spout or so designed that the contents can be poured without spilling. It shall also be the responsibility of the attendant to control sources of ignition such as, but not limited to, requiring that the motors of all equipment being fueled be shut off during the fueling operation and to immediately handle accidental spills and fire extinguishers if needed.

(Prior Code, § 4-705)

(B) *Supervision and control.* At self-service stations where a remote controlled dispensing device is being used, the attendant shall be required to remain within arm's length distance of the remote control console and shall have visual contact with fuel dispensers at all times while gasoline, gasohol or diesel fuels are being dispensed.

(Prior Code, § 4-706)

### **§ 113.05 EMERGENCY CONTROLS.**

(A) A main power shut-off or switches shall be installed at a location not more than 15 feet from the attendant's principal control location and not more than 100 feet from the dispensers and shall be accessible at all times.

(B) A fixed fire extinguisher system which complies with the provisions of the NFPA. Pamphlet No. 17 and is suitable for the extinguishment of flammable liquid fire shall be installed at each self-service station. Said system shall utilize any dry chemical or its equivalent approved by the State Fire Marshal, be capable of covering the entire area where gasoline, gasohol or diesel fuels are being dispensed and be capable of being activated by the attendant.

(C) Each service station shall be provided with at least one portable fire extinguisher having a minimum classification of five to eight B:C, located so that an extinguisher will be within 75 feet of each dispenser.

(D) A functional method of communicating with the Fire Department shall be located not more than 15 feet from the attendant's principal control station.  
(Prior Code, § 4-707)

#### **§ 113.06 OPERATION INSTRUCTIONS; POSTING.**

The instructions for the operation of each dispenser shall be conspicuously posted on either the dispenser or the dispenser island. Conspicuous and legible weather-resistant signs prohibiting smoking shall be posted on either the dispenser or the dispenser island and shall be visible from both sides of the dispenser island.  
(Prior Code, § 4-708)

#### **§ 113.07 VISIBLE DISPENSING REQUIRED.**

The dispensing operation shall at all times be in clear view of the attendant, and the placing or allowing of any foreign obstacle to come between the dispensing operation and the attendant so as to obstruct the attendant's view is prohibited.  
(Prior Code, § 4-709) Penalty, see § 10.99

#### **§ 113.08 WARNING SIGN.**

On each and every dispenser island shall be conspicuously posted the following words of warning:

|                                                                                                                                                              |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>WARNING - IT IS UNLAWFUL TO DISPENSE GASOLINE<br/>INTO ANY PORTABLE CONTAINER UNLESS THE CONTAINER<br/>IS APPROVED BY THE NEBRASKA STATE FIRE MARSHAL</p> |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------|

(Prior Code, § 4-710)



## CHAPTER 114: AMUSEMENTS AND LEISURE

### Section

#### *Games of Chance and/or Lotteries*

- 114.01 Definitions
- 114.02 Occupation tax
- 114.03 Prohibited; license required
- 114.04 License application
- 114.05 License fee
- 114.06 Display of license
- 114.07 Exemption
- 114.08 Lottery sales outlet locations

#### ***GAMES OF CHANCE AND/OR LOTTERIES***

##### **§ 114.01 DEFINITIONS.**

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

***DISTRIBUTOR.*** Any person who engages in the business of selling, leasing or delivering possession or custody of gambling devices for consideration to a person engaged in the occupation of conducting games of chance and/or lotteries.

***GAMBLING DEVICE.*** Any and all machines or devices used by a person engaged in the occupation of conducting games of chance and/or lotteries.

***GAMES OF CHANCE AND/OR LOTTERIES.*** Forms of gambling authorized by the state pursuant to Article III, § 24 of the State Constitution.

***PERSONS ENGAGED IN THE OCCUPATION OF CONDUCTING GAMES OF CHANCE AND/OR LOTTERIES.*** Any person who operates, owns or is the lessee of a place of business where

any games of chance and/or lottery activities are conducted, whether or not any other type of business is conducted on the premises; or any person who either directly controls or manages the games of chance and/or lotteries or owns any machine or device used to engage in the occupation of games of chance and/or lotteries but does not sell, lease or deliver possession or custody of such a device to other persons.

(Prior Code, § 4-901)

#### **§ 114.02 OCCUPATION TAX.**

An occupation tax is hereby imposed on each person engaged in the occupation of conducting games of chance and/or lottery activities within the city, and every such person shall pay the tax in the amount and manner specified in § 110.01.

(Prior Code, § 4-902)

#### **§ 114.03 PROHIBITED; LICENSE REQUIRED.**

It shall be unlawful for any person to engage in the occupation of conducting games of chance or lottery activities without first obtaining a license to do so.

(Prior Code, § 4-903) Penalty, see § 10.99

#### **§ 114.04 LICENSE APPLICATION.**

(A) Every person desiring a license required by the provisions of this subchapter shall make application to the City Clerk.

(B) Accompanying each application shall be:

(1) A sworn statement by each designated supervising member that such member will be responsible for compliance with rules and regulations for each occasion of games of chance and/or lotteries which he or she supervises; and

(2) A sworn statement by the member designated as responsible for the proper utilization of gross receipts that no commission, fee, rent, seller profits, compensation, reward or recompense will be paid to any person or organization not sanctioned by the laws of the state and the city; and that all profits will be spent for a lawful purpose.

(Prior Code, § 4-904)



**§ 114.05 LICENSE FEE.**

The license fee for engaging in the occupation of conducting games of chance and/or lotteries within the city shall be \$10 for each location wherein such activities are conducted.  
(Prior Code, § 4-905)

**§ 114.06 DISPLAY OF LICENSE.**

Every license issued under the provisions of this division shall be conspicuously displayed at the place where the game of chance and/or lottery activity is conducted at all times during the conduct thereof.  
(Prior Code, § 4-906)

**§ 114.07 EXEMPTION.**

Nonprofit organizations that desire to participate in games of chance and/or lotteries that are in compliance with Neb. Rev. Stat. §§ 9-510 and 90511 are exempt from the provisions of this subchapter.  
(Prior Code, § 4-907)

**§ 114.08 LOTTERY SALES OUTLET LOCATIONS.**

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

(B) Any individual, sole proprietorship, partnership or corporation which seeks to have its location approved as an authorized sales outlet location shall:

(1) Not have been convicted of, forfeited bond upon a charge of, or pleaded guilty to forgery, larceny, extortion, conspiracy to defraud, willful failure to make required payments or reports to a governmental agency at any level; filing false reports with any such agency; or any similar offense or offenses or any crime, whether felony or misdemeanor, involving gambling activity or moral turpitude;

(2) Not have had a gaming license revoked or cancelled under the State Bingo Act, being Neb. Rev. Stat. §§ 9-201 et seq., the State Pickle Card Lottery Act, being Neb. Rev. Stat. §§ 9-301 et seq., the State Lottery and Raffle Act, being Neb. Rev. Stat. §§ 9-401 et seq. or the State County and City Lottery Act, being Neb. Rev. Stat. §§ 93-601 et seq.; and

(3) Be fit, willing and able to properly provide the service proposed in conformance with all provisions and requirements of the State County and City Lottery Act and the rules and regulations adopted and promulgated pursuant to the Act.

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

(D) The City Council shall notify the Department of Revenue of all approved lottery locations within 30 days of approval.  
(Prior Code, § 4-908)

## CHAPTER 115: MOBILE FOOD VENDORS

### Section

- 115.01 Definitions
- 115.02 Lawful operation
- 115.03 Application for license
- 115.04 Regulations
- 115.05 License renewal
- 115.06 License revocation or suspension

### § 115.01 DEFINITIONS.

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

**FOOD.** Any raw, cooked or processed edible substance, beverage, ingredient, ice or water used or intended for use or for sale, in whole or in part, for human consumption.

**MOBILE FOOD VENDOR.** A person who, by traveling from place to place upon the public ways, sells or offer for sale food from public or private property to consumers for immediate delivery and consumption upon purchase. The following activities are excluded from such definition, and alone, do not subject a vendor to being covered by such definition: the sale or offer for sale of farm products produced or raised by such a vendor from land occupied and cultivated by him or her; or the sale or offer for sale of food by a caterer.

**PERMANENT FOOD ESTABLISHMENT.** A fixed building which a person occupies on a continual basis and from which such person sells or offers to sell food for immediate delivery and consumption upon purchase. Such term shall not include a location where a mobile food vendor sells or offers to sell food.

(Prior Code, § 4-1001) (Ord. 717, passed 11-13-2018)

### § 115.02 LAWFUL OPERATION.

It shall be unlawful for any person to operate as a mobile food vendor within the city unless such person complies with the requirements and regulations of this chapter, including holding a valid and

active mobile food vendor license issued by the City Clerk pursuant to this chapter; except that a mobile food vendor may operate at Valley Days or other similar events sponsored by or approved by the city without obtaining a mobile food vendor license if such vendor has obtained written consent from the city to operate at such event. Any such mobile food vendor shall be subject to all regulations contained in this chapter.

(Prior Code, § 4-1002) (Ord. 717, passed 11-13-2018) Penalty, see § 10.99

### **§ 115.03 APPLICATION FOR LICENSE.**

(A) An applicant for a license shall file with the City Clerk a signed application on a form to be furnished by the City Clerk, which shall contain the following information:

- (1) The applicant's business name, address, telephone number and email address, if any;
- (2) If the applicant is a business entity of any kind, the names of all officers and managers of such entity;
- (3) If food is to be sold from any motor vehicle, the vehicle license numbers and descriptions of such vehicle, the names of all persons authorized and expected to drive such vehicle and a copy of a valid and currently existing policy of liability insurance for such motor vehicle;
- (4) Documentation from the County Health Department showing its approval of the applicant's sale of food;
- (5) A copy of the state sales tax permit or proof of an applicable sales tax exemption;
- (6) A copy of the applicant's policy or policies of commercial general liability insurance; and
- (7) Such other documentation as the City Clerk may require and as requested in the application.

(B) Upon receipt of a completed application, the City Clerk shall make or cause to be made any inquiry or investigation that may be necessary in order to determine whether the applicant is in compliance with all applicable laws. The City Clerk may request and take into consideration the recommendations of other affected departments of the city.

(C) After receipt of the completed application and a nonrefundable application fee in the amount of \$50, the City Clerk shall either approve or deny the application.

(Prior Code, § 4-1003) (Ord. 717, passed 11-13-2018)

**§ 115.04 REGULATIONS.**

Mobile food vendors shall comply with the following regulations.

(A) A mobile food vendor shall not operate from a location within 50 feet of the main entrance of a permanent food establishment during the hours that food is sold within such establishment unless such permanent food establishment has provided written consent.

(B) A mobile food vendor may operate from a motor vehicle at a location in a city right-of-way open to traffic or parking but only from a motor vehicle parked in a location where a motor vehicle is authorized to park by law, signage or city permit.

(C) A mobile food vendor shall not operate from a location which would involve customers to be waited on or served while standing in a portion of a street being traversed by motor vehicle traffic.

(D) A mobile food vendor who operates from a location on property other than a city right-of-way shall first obtain and possess and be able to exhibit upon request each of the following:

- (1) Written consent of the owner of the property; and
- (2) Any required temporary use permit to be issued by the city.

(E) A mobile food vendor shall not operate from city park property unless it possesses written consent of the city.

(F) A mobile food vendor shall not operate from a school property unless it possesses written consent of the school district.

(G) A mobile food vendor shall not operate from a location authorized for a street show, festival, parade, block party or similar event, or within 200 feet of any boundary of such authorized area, unless the vendor possesses the written consent of the event permittee to operate from that location.

(H) A mobile food vendor shall possess and be able to exhibit its license, all required County Health Department permits, a state sales tax permit or proof of sales tax exemption and any other written consents or documentation required under this chapter, at all times during which the mobile food vendor is operating.

(I) Any city official may order a mobile food vendor to move from or leave a specific location if the operation of the vendor at that location causes an obstruction to vehicular or pedestrian traffic or otherwise endangers the health, safety or welfare of the public. If such order is refused, a city official of the Public Works Department or the Police Department may authorize that the vehicle be towed.

(J) An individual representative of the mobile food vendor must remain with the motor vehicle, trailer or auxiliary equipment at all times.

(K) A mobile food vendor may operate seven days a week but only from 7:00 a.m. to 11:00 p.m. It shall be unlawful for a mobile food vendor to operate at any other times.

(L) A mobile food vendor shall maintain in operable condition all fire suppression equipment or devices as required by local, state or federal law.

(M) It shall be unlawful for a mobile food vendor to sell or offer to sell alcohol in any form.

(N) A mobile food vendor shall provide trash receptacles and shall properly dispose of all trash and litter within 20 feet of its location, but such trash shall not be disposed of in public trash containers on city right-of-way or city property.

(O) A mobile food vendor shall comply with all city ordinances regarding noise.  
(Prior Code, § 4-1004) (Ord. 717, passed 11-13-2018) Penalty, see § 10.99

#### **§ 115.05 LICENSE RENEWAL.**

A license issued shall expire on December 31 of each year unless renewed for the following year. An applicant shall renew a license for the following year by filing with the City Clerk a statement updating or confirming the information provided in the immediately preceding application. The statement shall be on a form to be furnished by the City Clerk. At the time of filing of such statement, a renewal fee of \$50 shall be due to the city.

(Prior Code, § 4-1005) (Ord. 717, passed 11-13-2018)

#### **§ 115.06 LICENSE REVOCATION OR SUSPENSION.**

(A) A license issued may be revoked or suspended by the City Clerk for any of the following reasons:

- (1) Any fraud, misrepresentation or false statements contained in the application;
- (2) Any fraud, misrepresentation or false statements made in connection with the sale of food;
- (3) Any violation of this chapter or any applicable laws; and

(4) Conduct of business 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.

(B) To revoke or suspend a license issued, the City Clerk shall provide written notice to the license holder stating the revocation or suspension action taken, the grounds for such action and the availability of an appeal. Such notice shall be served personally upon the license holder or sent by regular U.S. mail to the license holder's address as stated in its application.

(C) A license holder aggrieved by the decision of the City Clerk under this section may file an appeal with the City Council.

(D) A license holder whose license has been revoked under this section may not reapply for a new license for a period of six months after the effective date of the revocation.

(Prior Code, § 4-1006) (Ord. 717, passed 11-13-2018) Penalty, see § 10.99





## CHAPTER 116: RAILROAD COMPANIES

### Section

#### 116.01 Obstruction view at crossing prohibited

#### **§ 116.01 OBSTRUCTION VIEW AT CROSSING PROHIBITED.**

(A) It shall be unlawful for any railroad company to obstruct or obscure the traveling public's view by storing or parking any railroad car on a railroad track within 500 feet of the crossing of any such railroad track and a public road within the corporate limits of the city; provided, however, that in no instance shall any person who is authorized to control the movement of such railroad car or cars within such distance be prevented from reasonably conducting his or her business.

(B) Any company, its officers, agents, or employees, or any other person subject to division (A) of this section who fails, neglects, or refuses to promptly comply with this section shall be guilty of a misdemeanor, but shall be fined not more than \$200 for each offense. Each day of such neglect, refusal, or failure shall constitute a separate offense.

(Prior Code, § 4-602) Penalty, see § 10.99

***Statutory reference:***

*Similar provisions, see Neb. Rev. Stat. § 74-1323*



## **TITLE XIII: GENERAL OFFENSES**

### **Chapter**

#### **130. GENERAL OFFENSES**

#### **131. CONTROL OF MINORS**



## **CHAPTER 130: GENERAL OFFENSES**

### **Section**

#### ***Property Offenses***

- 130.001 Malicious destruction of property
- 130.002 Trespassing
- 130.003 Injury to trees
- 130.004 Posting
- 130.005 Lawn debris, snow, garbage and the like

#### ***Offenses Against Public Order***

- 130.020 Disorderly conduct
- 130.021 Street games
- 130.022 Obstruction of public ways
- 130.023 Obstructing water flow
- 130.024 Disturbing the peace
- 130.025 Disturbing an assembly
- 130.026 Control of excessive noise

#### ***Offenses Against Public Justice and Administration***

- 130.040 Impersonating a peace officer
- 130.041 Refusing to aid a peace officer
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#### ***Offenses Against Public Health and Safety***

- 130.055 Appliances in yard
- 130.056 Prohibited fences
- 130.057 Littering
- 130.058 Fireworks generally
- 130.059 Drinking on public property; open beverage container
- 130.060 Discharge of firearms, bow and arrows
- 130.061 Discharge of slingshots, BB guns, blow guns, air rifles, paintball guns or similar instruments

*Offenses Against Public Morals*

|         |                  |
|---------|------------------|
| 130.075 | Public indecency |
| 130.076 | Window peeping   |
| 130.077 | Stalking         |
| 130.999 | Penalty          |

**PROPERTY OFFENSES****§ 130.001 MALICIOUS DESTRUCTION OF PROPERTY.**

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

(Prior Code, § 2-106) Penalty, see § 130.999

**§ 130.002 TRESPASSING.**

It shall be unlawful for any person to trespass upon any private grounds within the city or to break, cut or injure any tree, shrub, plant, flower or grass growing thereon, or without the consent of the owner or occupant to enter upon an improved lot or grounds occupied for residence purposes and to loiter about the same.

(Prior Code, § 2-107) Penalty, see § 130.999

***Statutory reference:***

*Similar provisions, see Neb. Rev. Stat. §§ 28-520 and 28-521*

**§ 130.003 INJURY TO TREES.**

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 City Council to do so, and the written permit of the City Council in accordance with their decision to allow such an action shall constitute the only lawful authority on the part of the company to do so.

Penalty, see § 130.999

**§ 130.004 POSTING.**

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

Penalty, see § 130.999

**§ 130.005 LAWN DEBRIS, SNOW, GARBAGE AND THE LIKE.**

It shall be unlawful to throw, blow, place, discard or sweep any weeds, grass, leaves, snow, dirt, paper, nails, pieces of glass, refuse, garbage, waste, rubbish or refuse matter of any kind onto any street, alley, park or other public grounds or, without permission, upon the property of another person in the city.

(Prior Code, § 2-128) (Ord. 271, passed 8-13-1991; Ord. 356, passed 12-10-1996; Ord. 486, passed 2-10-2004) Penalty, see § 130.999

***OFFENSES AGAINST PUBLIC ORDER***

**§ 130.020 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 or using obscene or profane language in the streets or other public places or otherwise violating the public peace by indecent or disorderly conduct or lewd or lascivious behavior.

Penalty, see § 130.999

***Statutory reference:***

*Authority to prevent disorderly conduct, see Neb. Rev. Stat. § 17-129*

*Authority to regulate noise, riots and routs, see Neb. Rev. Stat. § 17-556*

**§ 130.021 STREET GAMES.**

It shall be unlawful for any person to play catch, bat a ball or 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 City Council from ordering from time to time certain streets and public places blocked off for the purpose of providing a safe area to engage in such exercise and sport.

Penalty, see § 130.999

***Statutory reference:***

*Additional authority, see Neb. Rev. Stat. §§ 17-555 and 17-557*

*Authority to regulate excavation and obstruction of streets, see Neb. Rev. Stat. § 17-142*

**§ 130.022 OBSTRUCTION OF PUBLIC WAYS.**

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

Penalty, see § 130.999

***Statutory reference:***

*Additional authority, see Neb. Rev. Stat. §§ 17-555 and 17-557*

*Authority to regulate excavation and obstruction of streets, see Neb. Rev. Stat. § 17-142*

*Penalties for injuring or obstructing roads, see Neb. Rev. Stat. §§ 39-301 and 39-302*

**§ 130.023 OBSTRUCTING WATER FLOW.**

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

Penalty, see § 130.999

***Statutory reference:***

*Authority to abate nuisances, see Neb. Rev. Stat. § 17-555*

*Authority to prevent water obstruction, see Neb. Rev. Stat. § 17-920*

**§ 130.024 DISTURBING THE PEACE.**

It shall be unlawful for any person intentionally to disturb the peace and quiet of any person, family or neighborhood.

(Neb. Rev. Stat. § 28-1322) Penalty, see § 130.999

**§ 130.025 DISTURBING AN ASSEMBLY.**

It shall be unlawful for any person to disturb, interrupt or interfere with any lawful assembly of people, whether religious or otherwise, by loud and unnecessary noise, threatening behavior or indecent



and shocking behavior. Any person or persons so disturbing an assembly shall be deemed to be guilty of a misdemeanor and fined in accord with state statute.

(Prior Code, § 2-103) Penalty, see § 130.999

**§ 130.026 CONTROL OF EXCESSIVE NOISE.**

It shall be unlawful for any person to make, continue to be made or to cause to be made any excessive, loud, unnecessary or unusual noise or any noise which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others, including, but not limited to, noise associated with the operation of industrial equipment, heavy machinery, jackhammers or other construction equipment, between the hours of 7:00 p.m. and 7:00 a.m.; provided, however, that the following activities shall be exempt from this section:

(A) Noise of safety signals, warning devices or emergency relief valves;

(B) Transient noises from moving sources, including automobiles, trucks, airplanes and railroads operating in the ordinary and legal course;

(C) Occasional outdoor events, provided such events are conducted pursuant to written permission received by the appropriate department or agency; such events may not occur on a recurring schedule;

(D) Dewatering pumps;

(E) Any activities conducted in case of urgent necessity in the interest of public health and safety; provided, however, that in the event such activities are not conducted by the city or an agent thereof, such activities will require the written consent from the city, which consent may be granted for a period not to exceed three days while the emergency continues and said written consent may be renewed for period of three days or less while the emergency continues.

(Prior Code, § 2-104) (Ord. 737, passed 4-14-2020) Penalty, see § 130.999

***OFFENSES AGAINST PUBLIC JUSTICE AND ADMINISTRATION***

**§ 130.040 IMPERSONATING A PEACE OFFICER.**

It shall be unlawful for any person to falsely pretend to be a peace officer and perform any act in that pretended capacity.

(Neb. Rev. Stat. § 28-610) Penalty, see § 130.999

**§ 130.041 REFUSING TO AID A PEACE OFFICER.**

It shall be unlawful for any person, upon a request by a person known to him or her to be a peace officer, unreasonably to refuse or fail to aid the peace officer in:

(A) Apprehending any person charged with or convicted of any offense against any of the laws of this state or city;

(B) Securing the offender when apprehended; or

(C) Conveying the offender to the jail of the county or this city.  
(Neb. Rev. Stat. § 28-903) Penalty, see § 130.999

**§ 130.042 OBSTRUCTING A PEACE OFFICER.**

(A) A person commits the offense of obstructing a peace officer when, by using or threatening to use violence, force, physical interference or obstacle, he or she intentionally obstructs, impairs or hinders:

(1) The enforcement of the penal law or the preservation of the peace by a peace officer or judge acting under color of his or her official authority; or

(2) A police animal assisting a peace officer acting pursuant to the peace officer's official authority.

(B) For purposes of this section, **POLICE ANIMAL** means a horse or dog owned or controlled by the state or any county, city or village for the purpose of assisting a peace officer acting pursuant to his or her official authority.

(Neb. Rev. Stat. § 28-906) Penalty, see § 130.999

***OFFENSES AGAINST PUBLIC HEALTH AND SAFETY*****§ 130.055 APPLIANCES IN YARD.**

It shall be unlawful for any person to permit a refrigerator, icebox, freezer or any other dangerous appliance to be in the open and accessible to children whether on private or public property unless the person first removes all doors and makes the same reasonably safe.

Penalty, see § 130.999

***Statutory reference:***

*Authority to prohibit nuisances within zoning jurisdiction, see Neb. Rev. Stat. § 18-1720*

**§ 130.056 PROHIBITED FENCES.**

It shall be unlawful for any person to erect, or cause to be erected, and maintain any barbed wire or electric fence within the corporate limits, where the fence abuts a public sidewalk, street or alley.

Penalty, see § 130.999

***Statutory reference:***

*Restrictions on barbed wire fences, see Neb. Rev. Stat. § 39-307*

**§ 130.057 LITTERING.**

(A) Any person who deposits, throws, discards or otherwise disposes of any litter on any public or private property or in any waters commits the offense of littering unless:

(1) The property is an area designated by law for the disposal of that type of material and the person is authorized by the proper public authority to so use the property; or

(2) The litter is placed in a receptacle or container installed on the property for that purpose.

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

***LITTER.*** Includes all waste material susceptible of being dropped, deposited, discarded or otherwise disposed of by any person upon any property in the state, but does not include wastes of primary processes of farming or manufacturing.

***WASTE MATERIAL.*** Any material appearing in a place or in a context not associated with that material's function or origin.

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

(Neb. Rev. Stat. § 28-523) Penalty, see § 130.999

**§ 130.058 FIREWORKS GENERALLY.**

(A) It shall be unlawful for any person within the city to possess, sell, offer for sale, hold for sale, bring into the city, use or discharge any fireworks, except for the following:

(1) Consumer fireworks, as defined by Neb. Rev. Stat. § 28-1241;

(2) Any display fireworks purchased by a person licensed to purchase such fireworks and purchased from a licensed distributor;

(3) Any display fireworks purchased by the holder of a display permit issued pursuant to Neb. Rev. Stat. § 28-1239.01;

(4) Any fireworks brought into this state for storage by a licensed distributor and held for sale outside of this state;

(5) Any fireworks furnished for agricultural purposes pursuant to written authorization from the State Fire Marshal to any holder of a distributor's license; or

(6) Toy cap pistols or toy caps, each of which does not contain more than twenty-five hundredths of a grain of explosive material.

(B) For the purpose of this section, ***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 consumer or special fireworks set forth by the United States Department of Transportation in 49 C.F.R.

(C) The use or discharge of consumer fireworks under division (A)(1) above shall be subject to the following rules.

(1) The possession, use or discharge of consumer fireworks shall comply with the laws of the state.

(2) Notwithstanding other rules, consumer fireworks may be used or discharged only on June 25 through July 4 and December 28 through December 30, inclusive, between the hours of 8:00 a.m. and 10:00 p.m. on those days and from 8:00 a.m. on December 31 through 12:30 a.m. on January 1.

(3) Consumer fireworks may only be possessed, used or discharged by a person 16 years of age or older; provided, that a person 12 years of age or older and less than 16 years of age may possess, use or discharge consumer fireworks but only when in the immediate presence of and under the direct supervision of an adult 19 years of age or older.

(D) The sale of fireworks shall be regulated by Ch. 93.  
(Prior Code, § 2-127) Penalty, see § 130.999

### **§ 130.059 DRINKING ON PUBLIC PROPERTY; OPEN BEVERAGE CONTAINER.**

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

***ALCOHOLIC BEVERAGE.***

(a) Beer, ale, porter, stout and other similar fermented beverages, including sake or similar products, of any name or description, containing 0.5% or more of alcohol by volume, brewed or produced from malt, wholly or in part, or from any substitute therefor;

(b) Wine of not less than 0.5% alcohol by volume;

(c) Distilled spirits, which is that substance known as ethyl alcohol, ethanol or spirits of wine in any form, including all dilutions and mixtures thereof from whatever source or by whatever process produced; and

(d) ***ALCOHOLIC BEVERAGE*** does not include trace amounts not readily consumable as a beverage.

***HIGHWAY.*** A road or street including the entire area within the right-of-way.

***LIMOUSINE.*** A luxury vehicle used to provide prearranged passenger transportation on a dedicated basis at a premium fare that has a seating capacity of at least five and no more than 14 persons behind the driver with a physical partition separating the driver seat from the passenger compartment. ***LIMOUSINE*** does not include taxicabs, hotel or airport buses or shuttles or buses.

***OPEN ALCOHOLIC BEVERAGE CONTAINER.*** Except as provided in Neb. Rev. Stat. §§ 53-123.04(3) and 53-123.11(1)(c), any bottle, can or other receptacle:

(a) That contains any amount of alcoholic beverage; and

(b) 1. That is open or has a broken seal; or

2. The contents of which are partially removed.

***PASSENGER AREA.*** The area designed to seat the driver and passengers while the motor vehicle is in operation and any area that is readily accessible to the driver or a passenger while in their seating positions, including any compartments in the area. ***PASSENGER AREA*** does not include the area behind the last upright seat of the motor vehicle if the area is not normally occupied by the driver or a passenger and the motor vehicle is not equipped with a trunk.

(B) Except as otherwise provided in this section, it is unlawful for any person in the passenger area of a motor vehicle to possess an open alcoholic beverage container while the motor vehicle is located in a public parking area or on any highway in this city.

(C) Except as provided in § 111.03 or division (D) below, it is unlawful for any person to consume an alcoholic beverage:

- (1) In a public parking area or on any highway in this city; or
- (2) Inside a motor vehicle while in a public parking area or on any highway in this city.

(D) This section does not apply to persons who are passengers of, but not drivers of, a limousine or bus being used in a charter or special party service as defined by rules and regulations adopted and promulgated by the State Public Service Commission and subject to NAC, Ch. 75, art. 3. Such passengers may possess open alcoholic beverage containers and may consume alcoholic beverages while such limousine or bus is in a public parking area or on any highway in this city if:

- (1) The driver of the limousine or bus is prohibited from consuming alcoholic liquor; and

(2) Alcoholic liquor is not present in any area that is readily accessible to the driver while in the driver's seat, including any compartments in such area.

(Neb. Rev. Stat. § 60-6,211.08) Penalty, see § 130.999

#### **§ 130.060 DISCHARGE OF FIREARMS, BOWS AND ARROWS.**

It shall be unlawful for any person to discharge any firearm, an arrow from a bow, or any other firearm or weapon using any form of compressed gas as a propellant; provided, however, that nothing herein shall be construed to apply to:

- (A) Discharge of a firearm by an officer of the law in performance of his or her official duties;

(B) Shooting galleries or other private shooting ranges within buildings or other structures approved by the Mayor and City Council;

(C) Officially sanctioned public celebrations if the person so discharging firearms, paintball guns or arrows from a bow have written permission from the City Council;

- (D) Discharge of blank cartridges in theatrical performances or sporting events;

- (E) Firing of salutes by honor guard and military funerals or memorials;

(F) The discharge of an arrow from a bow or a firearm in connection with trap or target shooting on private property under the following conditions:

- (1) No trap or target shooting shall occur within 500 feet of the property lines unless projectiles are directed in such direction so as to not cross the property lines; and

- (2) All projectiles must remain within the boundaries of the parcel upon which it was discharged.

(G) The discharge of a bow and arrow in connection with seasonal hunting on private property under the following conditions:

(1) No hunting shall occur within 500 feet of the property lines unless projectiles are directed in such direction so as to not cross the property lines;

(2) Each individual participating must abide by all laws of the state; and

(3) All projectiles must remain within the boundaries of the parcel upon which it was discharged.

(Ord. 825, passed 11-12-2024) Penalty, see § 130.999

**§ 130.061 DISCHARGE OF SLINGSHOTS, BB GUNS, BLOW GUNS, AIR RIFLES, PAINTBALL GUNS OR SIMILAR INSTRUMENTS.**

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

(Ord. 825, passed 11-12-2024) Penalty, see § 130.999

***OFFENSES AGAINST PUBLIC MORALS***

**§ 130.075 PUBLIC INDECENCY.**

(A) A person, 18 years of age or over, commits the offense of public indecency if such person performs or procures, or assists any other person to perform, in a public place and where the conduct may reasonably be expected to be viewed by members of the public:

(1) An act of sexual penetration as defined in Neb. Rev. Stat. § 28-318;

(2) An exposure of the genitals of the body done with intent to affront or alarm any person;

or

(3) A lewd fondling or caressing of the body of another person of the same or opposite sex.

(B) It shall not be a violation of this section for an individual to breast-feed a child in a public place.  
(Neb. Rev. Stat. § 28-806) Penalty, see § 130.999

#### **§ 130.076 WINDOW PEEPING.**

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

(Prior Code, § 2-108) Penalty, see § 130.999

#### **§ 130.077 STALKING.**

(A) Any person who willfully and maliciously harasses another person with the intent to terrify, threaten or intimidate commits the offense of stalking.

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

***COURSE OF CONDUCT.*** A pattern of conduct composed of a series of acts of following, detaining, restraining the personal liberty of or stalking the person or repetitiously telephoning him or her.

***HARASS.*** To engage in a knowing and willful course of conduct directed at a specific person which seriously terrifies, threatens or intimidates the person and which serves no legitimate purpose.  
(Prior Code, § 2-109) Penalty, see § 130.999

#### **§ 130.999 PENALTY.**

Anyone violating any of the terms and conditions of this chapter shall be deemed guilty of a misdemeanor and shall be fined in a sum not more than \$500 for each offense. Each day's maintenance of the same shall constitute a separate offense.

(Prior Code, § 2-801)



## **CHAPTER 131: CONTROL OF MINORS**

### **Section**

#### ***General Provisions***

- 131.01 Purpose
- 131.02 Parental responsibility
- 131.03 Remedy cumulative
- 131.04 Appeal
- 131.05 Annual reports by Mayor

#### ***Substance Offenses***

- 131.20 Possession of tobacco by minors
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- 131.35 Curfew hours
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### ***GENERAL PROVISIONS***

#### **§ 131.01 PURPOSE.**

(A) Gang activity, criminal mischief and juvenile delinquency have become an increasing reality of life within the city. Such activity exposes the community to criminal conduct, lessens the citizens' sense of safety and well-being and generally erodes the quality of life our citizens have the right to expect and enjoy. The activities of youths aged 18 and under can and should be controlled by their parents

and/or legal guardians. Unless such parental responsibility is encouraged and ultimately exercised, criminal activity and incidents of juvenile mischief will continue unabated.

(B) By reason of the foregoing facts, it is the recommendation of the Mayor that the powers delegated by this section are urgently required for the general welfare, health, safety and security of the city and the citizens thereof.

(Prior Code, § 2-701)

### **§ 131.02 PARENTAL RESPONSIBILITY.**

Every parent or legal guardian who, by any act, omission or threats contributes to or induces or endeavors to induce his or her dependent child or ward to violate any requirements of this code or a state statute concerning illegal acts shall be subject to a civil penalty. For the purposes of this section, a parent or legal guardian of any person under the age of 18 years shall have the duty to exercise reasonable care, supervision, protection and control over his or her minor child or ward.

(Prior Code, § 2-702) Penalty, see § 131.99

### **§ 131.03 REMEDY CUMULATIVE.**

The remedies provided in this section are in addition to the remedies and penalties under this code and all other laws of this state.

(Prior Code, § 2-704)

### **§ 131.04 APPEAL.**

A parent or guardian may appeal the civil penalty provided for herein by filing a written notice with the City Council within 20 calendar days of the date upon which the parent or guardian receives notice of such civil penalty. A hearing shall be held, for which the City Council shall establish the procedures. Said procedures shall contain requirements for providing the parent or guardian with notice of the hearing and an appropriate time for preparation for the same and shall not be inconsistent with any of the terms set forth in this section.

(Prior Code, § 2-705)

### **§ 131.05 ANNUAL REPORTS BY MAYOR.**

The Mayor shall be responsible for providing a written report to the City Council on or about one year from the date this section is approved and adopted by the City Council. The report prepared pursuant to this section shall include, but not necessarily be limited to: the number of individuals the Mayor has determined to be in violation of this section; the nature of penalties invoked for each such

violation; the opinion of the Mayor regarding the effectiveness of the various forms of civil penalties and alternate penalties in encouraging parental responsibility; and any observation or improvements in this section which, in the opinion of the Mayor, would improve the link between parental responsibility and proper conduct by a child or ward.

(Prior Code, § 2-706)

### ***SUBSTANCE OFFENSES***

#### **§ 131.20 POSSESSION OF TOBACCO BY MINORS.**

(A) Except as provided herein, it shall be unlawful for any person under the age of 21 years to possess any tobacco products.

(B) Exceptions: It shall not be unlawful for any person under the age of 21 years to:

(1) Sell or handle any unopened container of tobacco products in the course of his or her employment by a tobacco licensee; or

(2) Possess or purchase tobacco products while under the direct supervision of an adult to enforce or test compliance statutes, laws or ordinances governing the sale of tobacco products, having provided written parental consent to participate in such enforcement or compliance testing.

(C) For the purpose of this section, ***TOBACCO PRODUCTS*** shall be defined as any substance containing tobacco leaf, including, but not limited to, cigarettes, cigars, pipe tobacco, snuff, chewing tobacco or dipping tobacco.

(Prior Code, § 2-125) (Ord. 753, passed 6-8-2021) Penalty, see § 131.99

#### **§ 131.21 SALE OF TOBACCO TO MINORS.**

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

***BUSINESS.*** Any sole proprietorship, joint venture, corporation or other business entity, including retail establishments where goods or services are sold.

***MINOR.*** Any person under 21 years of age.

***PERSON.*** Any individual, partnership, cooperative association, private corporation, personal representative, receiver, trustee, assignee or other legal entity.

***SELF-SERVICE MERCHANDISING.*** Any open display of tobacco or tobacco products and point-of-sale tobacco-related promotional products to which customers have access without the assistance or intervention of an employee.

***TOBACCO PRODUCT.*** Any tobacco cigarette or cigar, pipe tobacco, smokeless tobacco, chewing tobacco or any other form of tobacco which may be utilized by smoking, chewing, inhaling or other means of ingestion.

***TOBACCO RETAILER.*** Any person or entity operating a store, stand, booth, concession or other place which sells tobacco or tobacco products to customers for consumption or use, whether utilized primarily for the sale of tobacco or tobacco products or in which the sale of tobacco or tobacco products is incidental.

***TOBACCO VENDING MACHINE.*** Any electronic or mechanical device utilizing the insertion of money, whether coin or paper currency or other things of value, which dispenses or releases tobacco or tobacco products.

***VENDOR-ASSISTED ACCESS.*** Access to tobacco or tobacco products wherein customers do not have direct access to take possession of such without assistance from a store employee.

(B) It shall be unlawful for any person or organization within the city:

(1) To sell, permit to be sold, or offer for sale tobacco or tobacco products to any person by means other than vendor-assisted access;

(2) To display tobacco or tobacco products in a manner allowing customers access to tobacco or tobacco products without vendor assistance;

(3) To give away, hand out or otherwise distribute free samples of cigarettes or other tobacco products, or coupons that can be redeemed for free samples of cigarettes or other tobacco products; or

(4) To sell tobacco products in any form except in original factory-wrapped packages.

(C) (1) This section shall not apply to tobacco vending machines regulated by state law, tobacco retail stores or to any business, retailer or establishment which is licensed by the State Liquor Control Commission for a dispensing license and required to be posted preventing any minors from access to the premises, nor shall this subchapter apply to other forms of sale or distribution which are specifically allowed by federal or state law.

(2) This exception shall not apply to the sale of tobacco or tobacco products by vending machine or other similar distribution method which is not regulated by the Liquor Control Commission or by other state or federal laws.

(Prior Code, § 2-126) (Ord. 753, passed 6-8-2021) Penalty, see § 131.99

***CURFEW*****§ 131.35 CURFEW HOURS.**

It shall be unlawful for any person under the age of 18 years to loiter, idle, wander, stroll, play or be in or upon the public streets, public places and public buildings, places of amusement and entertainment, vacant buildings or lots or otherwise operate any bicycle or other vehicle in, upon, over or through the streets or other public places of the city between the hours of 10:30 p.m. of any day, Sunday through Thursday until the hour of 5:00 a.m. of the next day and between the hours of 12:30 a.m. on Friday or Saturday until the hour of 5:00 a.m. unless such person is accompanied by a parent, guardian or other adult person having the legal care and custody of said minor person or unless the minor person is upon an emergency errand or legitimate business, directed by his or her parents, guardian or legal custodian, except as hereinafter provided.

(Prior Code, § 2-201) (Ord. 571, passed 11-11-2008) Penalty, see § 131.99

**§ 131.36 CURFEW HOURS EXTENDED.**

Nothing herein contained shall prohibit said minor persons from attending special school functions or adult-supervised entertainment conducted by any school, church or fraternal organization continuing beyond the curfew hours as set out in § 131.35. In all such cases, the hours herein prohibited shall be extended for those minors attending said special social function or entertainment one hour after the closing of said special function.

(Prior Code, § 2-202) (Ord. 571, passed 11-11-2008) Penalty, see § 131.99

**§ 131.37 VIOLATION; PARENTAL LIABILITY.**

It shall be unlawful for any parent, guardian or other adult person having the care and custody of minors under the age of 18 years to allow or permit said minor persons to do any of the acts or things prohibited by §§ 131.35 or 131.36.

(Prior Code, § 2-203) (Ord. 571, passed 11-11-2008) Penalty, see § 131.99

**§ 131.38 ENFORCEMENT; POLICE AUTHORIZATION.**

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

(Prior Code, § 2-204) (Ord. 571, passed 11-11-2008) Penalty, see § 131.99

**§ 131.99 PENALTY.**

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99.

(B) (1) Any parent or guardian, except where the state or local unit of government is a guardian, who violates the provisions of § 131.01 through 131.05 shall be liable for a civil penalty. For violations of § 131.01 through 131.05, the Mayor or his or her designee, who shall be an employee of the city, shall levy a civil penalty according to the following schedule. The Chief of Police shall forthwith notify the Mayor or his or her designee of the name of the minor child or ward, the fact that the minor child or ward has been charged with and convicted and/or adjudicated of violating any state statute or city ordinance within the corporate limits of the city, and any other information of a non-confidential nature which is requested pursuant to policies and procedures approved by the City Council. The sequential violations provided herein shall be applicable to any and all violations occurring within any consecutive 48-month period of time:

- (a) First violation: civil penalty not to exceed \$200;
- (b) Second violation: civil penalty not to exceed \$250;
- (c) Third violation: civil penalty not to exceed \$500; and
- (d) Fourth and subsequent violations: civil penalty not to exceed \$1,000.

(2) The Mayor or his or her designee may, upon the request of the responsible parent or guardian, provide alternate methods for satisfying the civil penalty described above. Those alternates are as follows:

(a) The Mayor or his or her designee may provide that the responsible parent or guardian and the child or ward may satisfy the civil penalty provided for herein by performing community service. Projects constituting acceptable community service shall be identified in the sole discretion of the Mayor. Satisfaction of the civil penalty shall be at the rate of the current federal minimum wage rounded to the next highest dollar. More than one parent, guardian and child or ward may participate in the community service provided for herein, and in such event, each person's participation shall be determined on a cumulative basis for the purpose of satisfying the civil penalty.

(b) As an alternative to division (B)(2)(a) above, the responsible parent or guardian may be allowed to attend and complete an approved parenting class. Any such class shall be designated in the sole discretion of the Mayor. Utilizing the parenting class alternative shall be allowed only in those instances involving either a first or second violation of this section. However, in the event of a third offense, mandatory attendance at a parenting class shall be required in addition to the monetary penalty set forth above. The Mayor shall require that proof be submitted which, in the Mayor's determination, demonstrates an acceptable record of attendance and completion of said parenting class.

(3) The Mayor shall be authorized to implement procedures and policies not inconsistent with this section upon the City Council's approval of such policies and procedures by resolution.  
(Prior Code, § 2-703)

(C) Persons convicted of violating the provisions of § 131.20 shall be punished by a monetary fine of not less than \$35 and not more than \$100.  
(Prior Code, § 2-125)

(D) Any violation of the provisions of §§ 131.35 through 131.38 shall constitute a misdemeanor and shall be punishable by a warning for the first offense and a fine of \$50 for the second offense. A third and any subsequent violation shall constitute a violation of §§ 131.35 through 131.38, and a complaint shall be filed against the parent(s) of said child for violation of such sections.  
(Prior Code, § 2-205)  
(Ord. 753, passed 6-8-2021)





## **TITLE XV: LAND USAGE**

### **Chapter**

- 150. BUILDING REGULATIONS**
- 151. FACTORY-BUILT HOUSING**
- 152. TRAILER COURTS**
- 153. PUBLIC WAYS AND PROPERTY**
- 154. TREES**
- 155. MUNICIPAL PLANNING**



## **CHAPTER 150: BUILDING REGULATIONS**

### **Section**

#### ***Building Permits and Regulations***

- 150.001 Requirement
- 150.002 Limitation
- 150.003 Duplicate to County Assessor
- 150.004 Excavations and exposures; barricades and lights
- 150.005 Fences
- 150.006 Satellite dish antennas

#### ***Moving of Buildings***

- 150.020 Regulations
- 150.021 Deposit
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- 150.035 Definition
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- 150.039 Costs; assessed to property or collected in civil action
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***Building Codes and Standards***

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***BUILDING PERMITS AND REGULATIONS*****§ 150.001 REQUIREMENT.**

(A) Any person desiring to commence or proceed to erect, construct, repair, enlarge, demolish or relocate any building or dwelling, or cause the same to be done, shall file with the City Clerk an application for a building permit. The application shall be in writing on a form furnished by the City Clerk. 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.

(B) The application, plans and specifications so filed with the City Clerk shall be checked and examined by the Building Inspector, and if they are found to be in conformity with the requirements of this subchapter and all other ordinances applicable thereto, the Building Inspector shall authorize the City Clerk to issue the applicant a permit upon the payment of the permit fee set by resolution of the City Council; provided, that no permit shall be needed for roof repair or driveway construction. Whenever there is a discrepancy between permit application procedures contained herein and those contained in any building code adopted by reference, the provisions contained herein shall govern.

(C) (1) At the time of application for a building permit, a deposit shall be made to the city according to the following building permit deposit fee schedule.

|                                                                                  |         |
|----------------------------------------------------------------------------------|---------|
| Commercial addition, remodel or accessory building valued at \$25,000 or greater | \$1,000 |
| New commercial building or new residential building                              | \$1,000 |

|                                                                                   |       |
|-----------------------------------------------------------------------------------|-------|
| Residential remodel, addition or accessory building valued at \$25,000 or greater | \$500 |
|-----------------------------------------------------------------------------------|-------|

(2) Such deposit shall be refunded to the remitter upon completion and approval of a final inspection and adherence to the conditions of the building permit deposit agreement.  
(Prior Code, § 8-105) (Ord. 703, passed 10-10-2017)

**Statutory reference:**

*Similar provisions, see Neb. Rev. Stat. §§ 17-130 through 17-132, 17-550 and 17-1001*

**§ 150.002 LIMITATION.**

If the work for which a permit has been issued shall not have begun within six months of the date thereof, or if the construction is discontinued for a period of six months, the permit shall be void. Before work can be resumed, a new permit shall be obtained in the same manner and form as an original permit. Penalty, see § 150.999

**§ 150.003 DUPLICATE TO COUNTY ASSESSOR.**

Whenever a building permit is issued for the erection, alteration or repair of any building within the city's corporate limits or extraterritorial zoning jurisdiction, if the improvement is \$2,500 or more, a duplicate of the permit shall be issued to the County Assessor.  
(Neb. Rev. Stat. § 18-1743)

**§ 150.004 EXCAVATIONS AND EXPOSURES; BARRICADES AND LIGHTS.**

Any owner, tenant or lessee causing the construction, demolition or moving of any building or improvement within the city shall protect all excavations, exposures, open basements, building materials and debris by suitable barricades or guards by day and by warning lights at night. The failure, neglect or refusal of the owner, tenant or lessee to erect and maintain such protections shall constitute a violation of this section, and the Building Inspector or other city law enforcement authority may stop all work upon the buildings and improvements until suitable protections are erected and maintained in the required manner.  
Penalty, see § 150.999

**§ 150.005 FENCES.**

(A) *Definition.* For the purpose of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning.

**FENCE.** A structure without a roof, erected for a means of protection, confinement or aesthetic value of materials such as wood, wire and metal, masonry or other materials approved by the Building Inspector.

(Prior Code, § 8-301)

(B) *Permit required.* Before the installation of any fence within the zoning jurisdiction of the city when the property is used for residential purposes, the installer and/or owner of the property lawfully in possession of the land to be fenced shall first obtain a permit from the City Clerk. Fences shall be governed by § 7-11 of the zoning ordinance.

(Prior Code, § 8-302)

(Ord. 646, passed 5-14-2013)

#### **§ 150.006 SATELLITE DISH ANTENNAS.**

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

**DISH.** The part of a satellite signal-receiving antenna, characteristically shaped like a saucer or dish.

**DISH-TYPE SATELLITE SIGNAL-RECEIVING ANTENNAS or EARTH STATIONS or GROUND STATIONS.** One or a combination of two or more of the following:

(a) A signal-receiving device (antenna, dish antenna or dish-type antenna), the purpose of which is to receive communication or other signals from satellites in earth orbit and other extraterrestrial sources;

(b) A low-noise amplifier (LNA) which is situated at the focal point of the receiving component, the purpose of which is to magnify, store, transfer and/or transmit electronic or light signals; and

(c) A coaxial cable, the purpose of which is to carry or transmit said signals to a receiver.

**GROUNDING ROD.** A metal pole permanently positioned in the earth to serve as an electrical conductor through which electrical current may safely pass and dissipate.

**RECEIVER.** A television set or radio receiver.  
(Prior Code, § 8-401)

(B) *Permit required.* No person, firm, partnership, corporation, trust or other legal entity shall construct an earth station without a permit nor shall construction commence before a permit is issued in accordance with division (C) below.

(Prior Code, § 8-402)

(C) *Application for permit.*

(1) The owner, or occupant with written permission from the owner, of any lot, premises or parcel of land within the city who desires to construct an earth station on said lot, premises or land parcel must first submit a written application upon a form provided and approved by the Building Inspector, stating the following:

- (a) The name and address of the applicant;
- (b) The name and address of the owner of the real estate;
- (c) The name and address of the person to be permitted to construct the proposed earth station;
- (d) The exact location and dimensions of all buildings and structures; and
- (e) The legal description of the lot, premises or land parcel.

(2) The applicant must also provide:

- (a) A plot plan showing the exact location and dimensions of the proposed earth station;
- (b) Construction plans and specifications; and
- (c) Documentation of the possession of any license or permit required by any federal, state or local agency pertaining to the ownership, construction or operations of an earth station.

(3) The applicant shall submit with each application a permit fee in the sum of \$5. Such fee shall cover the costs of reviewing the construction plans and specifications, inspecting the final construction and processing the application.

(4) After submission of all of the aforementioned information and documentation to the Building Inspector, and upon his or her approval of the same, the Building Inspector shall issue a permit for construction of an earth station.

(Prior Code, § 8-403)

(D) *Location of ground-mounted earth station.*

(1) No earth station shall be erected in any front or side yard but shall be permitted only in the rear of the residence or main structure.

(2) No earth station, including its concrete base slab or other substructure, shall be constructed less than five feet from any property line or easement, except when the earth station is installed in an area zoned other than first or second residential, and in that event, the dish may orbit within zero feet of the lot line.

(3) No earth station shall be linked, physically or electronically, to a receiver which is not located on the same lot, premises or parcel of land as the earth station.

(4) An earth station shall not exceed a grade height of 15 feet, unless constructed on or attached to a building.

(5) Wiring between an earth station and a receiver shall be placed at least four inches beneath the surface of the ground in rigid conduit; provided, however, that direct burial cable may be used if the maximum voltage never exceeds 90 volts. All electrical installations are subject to inspection and must meet existing electrical codes.

(6) Such earth station shall be designed to withstand a wind force of 75 mph.

(7) Any driving motor shall be limited to 110V maximum power design and be encased in protective guards.

(8) An earth station must be bonded to a grounding rod.

(9) Not more than one earth station shall be installed per lot, premises or parcel of land in residential districts.

(Prior Code, § 8-404)

(E) *Electro-magnetic interference.* Earth stations shall be filtered and/or shielded so as to prevent emission of radio frequency energy that would cause any harmful interference with radio and/or television broadcasting or reception. In the event that harmful interference is caused subsequent to the granting of a conditional use permit, the operator of the earth station shall promptly take steps to eliminate the harmful interference, including moving the earth station, shielding the same and, if necessary, removing it.

(Prior Code, § 8-405)



***MOVING OF BUILDINGS***

**§ 150.020 REGULATIONS.**

(A) It shall be unlawful for any person, firm or corporation to move any building or structure within the city without a written permit to do so. Application may be made to the City Clerk and shall include the present and future location of the building to be moved, the proposed route, the equipment to be used and such other information as the City Council may require. The application shall be accompanied by a certificate issued by the County Treasurer to the effect that all the provisions regulating the moving of buildings have been complied with on the part of the owner of the real estate upon which the building is presently located.

(B) The City Clerk shall refer the application to the City Council or its designee for approval of the proposed route over which the building is to be moved. Upon approval, the City Clerk shall issue the permit; provided, that a good and sufficient corporate surety bond, check or cash in an amount set by motion of the City Council and conditioned upon moving the building without doing damage to any private or city property is filed with the City Clerk prior to the granting of any permit.

(C) No moving permit shall be required to move a building that is ten feet wide or less, and 20 feet long or less, and when in a position to move, 15 feet high or less.

(D) In the event it will be necessary for any licensed building mover to interfere with the telephone or telegraph poles and wires or a gas line, the company or companies owning, using or operating the poles, wires or line shall, upon proper notice of at least 24 hours, be present and assist by disconnecting the poles, wires or line relative to the building moving operation. All expense of the disconnection, removal or related work shall be paid in advance by the licensee unless the disconnection or work is furnished on different terms as provided in the company's franchise.

(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 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.

Penalty, see § 150.999

***Statutory reference:***

*Authority to regulate moving of buildings, see Neb. Rev. Stat. § 17-142*

**§ 150.021 DEPOSIT.**

At such time as the building moving has been completed, the Building Inspector or other designated official shall inspect the premises and report to the City Clerk as to the extent of damages, if any,

resulting from the relocation and whether any city laws have been violated during the operation. Upon a satisfactory report from the Building Inspector or other designated official, the City Clerk shall return the corporate surety bond, cash or check deposited by the applicant. In the event the basement, foundation or portion thereof is not properly filled, covered or in a clean and sanitary condition, the City Council may apply the money deposited for the purpose of defraying the expense of correcting the conditions. If the expense of correcting the hazardous condition is greater than the amount of the deposit set by the City Council, the City Council may recover the excess expense by civil suit or otherwise as prescribed by law.

**§ 150.022 FEE, LIABILITY INSURANCE.**

(A) Any person seeking issuance of a permit hereunder shall file an application for such permit with the City Clerk. Upon approval of the City Council, the City Clerk shall then issue the permit.

(B) The application shall be made in writing upon a form provided by the City Clerk and shall set forth:

(1) A description of the building proposed to be moved, giving street number, construction materials, dimensions, number of rooms and condition of exterior and interior;

(2) A legal description of the lot from which the building is to be moved, giving the lot, block and tract number, if located in the city;

(3) A legal description of the lot to which the proposed such building is to be removed, giving lot, block and tract number, if located in the city;

(4) The portion of the lot to be occupied by the building when moved;

(5) The highways, streets and alleys over, along or across which the building is proposed to be moved;

(6) Proposed moving date and hours; and

(7) Any additional information which the City Council shall find necessary to a fair determination of whether a permit should be issued.

(C) The application shall be accompanied by the following papers.

(1) *Tax certificate.* The owner of the building to be moved shall file with the application sufficient evidence that the building and lot from which it is to be removed are free of any entanglements and that all taxes and any city charges against the same are paid in full.

(2) *Certificate of ownership or entitlement.* The applicant, if other than the owner, shall file with the application a written statement of bill of sale signed by the owner or other sufficient evidence that he or she is entitled to move the building.

(3) *Liability policy.* The applicant shall file with the application a certificate of insurance providing coverage for both personal injury and property damage which might occur during the moving of said building. The minimum amount of coverage shall be \$10,000 for property damage and \$10,000 for personal injury. The City Council may require coverage in greater amounts if deemed necessary.

(4) *Fee.* The application shall be accompanied by a permit fee in the amount of \$25, which shall be paid over by the City Clerk to the City Treasurer, who shall credit it to the General Fund. (Prior Code, § 8-203)

### **§ 150.023 DUTIES OF PERMITTEE.**

Every permittee under this subchapter shall:

(A) Move a building only over streets designated for such use in the written permit;

(B) Notify the City Clerk in writing of a desired change in moving date and hours as proposed in the application;

(C) Notify the City Clerk in writing of any and all damage done to property belonging to the city within 24 hours after the damage or injury has occurred;

(D) Cause red lights to be displayed during night hours on every side of the building while standing on the street, in such a manner as to warn the public of the obstruction, and shall at all times erect and maintain barricades across the streets in such a manner as to protect the public from damage or injury by reason of the removal of the building;

(E) Remove the building from the city streets after four days of such occupancy, unless an extension is granted by the Mayor and the City Council;

(F) Comply with the building code, the fire zone, any zoning ordinances now existing or hereinafter adopted and all other applicable ordinances and laws, if any, upon relocating the building in the city;

(G) Within ten days from the removal of the building, the permittee shall remove all rubbish and materials and fill all excavations to existing grade at the original site so that the premises are left in a safe and sanitary condition; and

(H) See that the sewer line is plugged with a concrete stopper, the water shut off and the meter returned to the city water office. Permittee shall notify the gas and electric service companies to remove their services.

(Prior Code, § 8-205)

#### **§ 150.024 NO GENERAL LICENSE.**

There shall be no general license or permit issued to anyone to move buildings at will or generally within the city.

(Prior Code, § 8-206)

### ***UNSAFE BUILDINGS***

#### **§ 150.035 DEFINITION.**

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

***DANGEROUS STRUCTURE*** or ***UNSAFE STRUCTURE***. Includes:

(1) Any building, shed, fence or other human-made structure which is dangerous to the public health because of its condition and which may cause or aid in the spread of disease or injury to the health of its occupants or those of neighboring structures;

(2) Any building, shed, fence or other human-made structure which, because of faulty construction, age, lack of proper repair or any other cause, is especially liable to fire and constitutes or creates a fire hazard;

(3) Any building, shed, fence or other human-made structure which, because of faulty construction, age, lack of proper repair or any other cause, is liable to cause injury or damage by collapsing or by a collapse of any part of such structure; and

(4) Any building, shed, fence or other human-made structure which, because of its condition or because of lack of doors or windows readily admits birds and animals or is an attraction for children or other persons to enter.

(Ord. 794, passed 8-8-2023)

***Statutory reference:***

*Similar provisions, see Neb. Rev. Stat. §§ 18-1720, 18-1722 and 18-1722.01*

**§ 150.036 PROHIBITIONS.**

It shall be unlawful to maintain or permit the existence of any dangerous structure in the city, and it shall be unlawful for the owner, occupant or person in custody of any dangerous structure 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. Any such unsafe structure in the city is hereby declared to be a nuisance. (Ord. 794, passed 8-8-2023) Penalty, see § 150.999

***Statutory reference:***

*Similar provisions, see Neb. Rev. Stat. §§ 18-1720, 18-1722 and 18-1722.01*

**§ 150.037 DETERMINATION; NOTICE.**

(A) Whenever the Building Inspector or Fire Chief shall be of the opinion that any building or structure in the city is a dangerous structure, he or she shall file a written statement to this effect with the City Council. The City Council shall thereupon pass a resolution outlining the violations, authorizing and directing the Building Inspector to place a sign on the dangerous structure City Clerk to:

(1) File a copy of such resolution in the office of the County Register of Deeds;

(2) Serve written notice upon the owner and upon the occupant thereof, if any, by certified mail or by personal service; and

(3) Post written notice at the premises.

(B) Such notice shall be in writing and shall include the following:

(1) The legal description/address of property;

(2) A statement of violation/violations;

(3) An order that such structure is to be repaired/demolished/removed within reasonable time or the city will proceed to do so;

(4) Description of owner's right to appeal; and

(5) A statement of the city's right to levy the costs as a special assessment on the real estate upon which the dangerous structure exists, which special assessment shall be a lien on the real estate, and the city's right to recover the costs in a civil action.

(Ord. 794, passed 8-8-2023)

**§ 150.038 HEARING AND APPEAL.**

(A) Upon receiving the notice to repair or demolish the building, its owner may, in writing to the City Clerk and within 20 days from the date the notice was served, appeal the decision and request a hearing before the Board of Appeals to present reasons why the building should not be repaired or demolished. The Board of Appeals shall grant such hearing within 20 days from the date of receiving the request.

(B) A written notice of the Board's decision following the hearing shall be sent to the property owner by certified mail. If the Board rejects the appeal, the owner shall have five days from the sending of the decision to begin repair or demolition and removal. If the owner has not begun work after the five-day period, the city 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.

(Ord. 794, passed 8-8-2023)

***Statutory reference:***

*Similar provisions, see Neb. Rev. Stat. §§ 18-1720, 18-1722 and 18-1722.01*

**§ 150.039 COSTS; ASSESSED TO PROPERTY OR COLLECTED IN CIVIL ACTION.**

(A) If any owner of any building or structure fails, neglects or refuses to comply with notice by or on behalf of the city to repair, rehabilitate or demolish and remove a building or structure which is unsafe and a public nuisance, the city may proceed with the work specified in the notice to the property owner.

(B) A statement of the cost of such work shall be forwarded to the City Council, which may:

(1) Levy the cost as a special assessment against the lot or real estate upon which the building or structure is located, such special assessment being a lien on the real estate and collected in the manner provided for special assessments; or

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

(Ord. 794, passed 8-8-2023)

***Statutory reference:***

*Similar provisions, see Neb. Rev. Stat. §§ 18-1720, 18-1722, 18-1722.01 and 77-1725.01*

**§ 150.040 STANDARDS FOR REPAIR, VACATION OR DEMOLITION.**

The following standards shall be followed in substance by the Building Inspector on ordering repair, vacation or demolition.

(A) *Conditions for repair.* If the dangerous or unsafe building or structure can reasonably be repaired so that it will no longer exist in violation of the terms of this subchapter, it shall be ordered repaired.

(B) *Conditions for vacation.* If the dangerous or unsafe building or structure is in such condition as to make it dangerous or unsafe to the health, morals, safety or general welfare of its occupants, it shall be ordered to be vacated.

(C) *Conditions for demolition.*

(1) In any case where a dangerous or unsafe building or structure is 50% damaged or decayed, or deteriorated from its replacement value or structure and cannot reasonably be repaired, it shall be demolished.

(2) In all cases where a building or structure cannot be repaired so that it will no longer exist in violation of the terms of this subchapter, it shall be demolished.

(3) In all cases where a dangerous or unsafe building or structure is a fire hazard existing or erected in violation of the terms of this subchapter or of any other provisions of this code or of state statutes, it shall be demolished.

(Ord. 794, passed 8-8-2023)

#### **§ 150.041 IMMEDIATE HAZARD.**

(A) (1) In the even the unsafe structure constitutes an immediate hazard to the life or safety of any persons and must be demolished to protect their health or safety, the Building Inspector shall report such facts to the City Council, who shall follow the procedures set forth in state statutes.

(2) The city, by and through the City Council, may immediately contract for the immediate demolition of the unsafe or dangerous structure without requiring bids.

(B) A statement of the cost of such emergency vacation and demolition of an unsafe or dangerous building shall be forwarded to the City Council, which may:

(1) Levy the cost as a special assessment against the lot or real estate upon which the building or structure is located, such special assessment being a lien on the real estate and collected in the manner provided for special assessments; or

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

(Ord. 794, passed 8-8-2023)

***BUILDING INSPECTOR*****§ 150.055 POWER AND AUTHORITY.**

(A) The Building Inspector shall be the city official who shall have the duty of enforcing all city building and housing regulations, if any. He or she shall inspect all buildings repaired, altered, built or moved in the city as often as necessary to ensure compliance with all city ordinances. He or she shall have the power and authority to order, at the direction of the City Council, all work stopped on any construction, alteration or relocation which violates any provisions prescribed in any city building and housing regulations. He or she shall, at the direction of the City Council, issue permission to continue any construction, alteration or relocation when the City Council is satisfied that no provision will be violated.

(B) If the stop order is an oral one, it shall be followed by a written stop order within one hour. This written order may be served by any city police officer. In the event that the city has building and housing regulations, and the Mayor fails to appoint a Building Inspector, the chief city law enforcement officer shall be the Building Inspector ex officio.

**§ 150.056 RIGHT OF ENTRY.**

It shall be unlawful for any person to refuse to allow the Building Inspector entry into any building or structure where the work of construction, alteration, repair or relocation is taking place, for the purpose of making official inspections at any reasonable hour.

Penalty, see § 150.999

**§ 150.057 TIME OF INSPECTION.**

The Building Inspector, upon notification from the permit holder or his or her agent, shall make the following inspections of the building or structure and shall either approve that portion of the construction as completed or shall notify the permit holder or his or her agent that the work fails to comply with the requirements of the city code: Foundation inspection shall be made after trenches are excavated and the necessary forms erected; frame inspection shall be made after the roof, framing, fire-blocking and backing is in place and all pipes, chimneys and vents are complete; and final inspection shall be made after the building is completed and ready for occupancy. It shall be unlawful for any person to do work or cause work to be done beyond the point indicated in each successive inspection without the written approval of the Building Inspector.

Penalty, see § 150.999



**§ 150.058 APPEAL FROM DECISION.**

In the event it is claimed that the true intent and meaning of any city building or housing regulation has been wrongly interpreted by the Building Inspector, that the time allowed for compliance with any order of the Building Inspector is too short, or that conditions peculiar to a particular building make it unreasonably difficult to meet the literal requirements prescribed by the regulation and by the Building Inspector, the owner, his or her agent or the occupant may file a notice of appeal within ten days after the decision or order of the Building Inspector has been made. The City Council shall hear all appeals and shall have the power and authority, when appealed to, to modify the decision or order of the Building Inspector. Such a decision shall be final, subject only to any remedy which the aggrieved person may have at law or equity. Applications for review shall be in writing and shall state the reasons why the variance should be made. A variance shall be granted only where it is evident that reasonable safety and sanitation is assured and may include conditions not generally specified by the building or housing regulation to achieve that end. A copy of any variance so granted shall be sent to both the Building Inspector and the applicant.

***BUILDING CODES AND STANDARDS*****§ 150.070 BUILDING CODE.**

To provide certain standards, provisions and requirements for establishing the minimum regulations governing the conditions and maintenance of all property, buildings and structures by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use, to provide for the condemnation of buildings and structures unfit for human occupancy and use and the demolition of such structures and to provide for the issuance of permits and collection of fees therefor, each and all of the regulations, provisions, conditions and terms of the International Building Code, 2012 edition, as published by the International Code Council, Inc. are hereby adopted and incorporated by reference as though printed in full herein. Three copies of said Code shall be on file at the office of the City Clerk, available for public inspection during office hours. The provisions of the International Building Code shall be controlling throughout the city and throughout its zoning jurisdiction.  
(Prior Code, § 8-601) (Ord. 684, passed 2-9-2016)

**§ 150.071 ELECTRICAL CODE AND ELECTRICIAN LICENSES.**

(A) *National Electrical Code adopted by reference.* To provide certain 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, 2023 edition, as recommended and published by the National Fire Protection Association and printed in book or pamphlet

form, is hereby incorporated by reference as though printed in full herein, insofar as said Code does not conflict with the statutes of the state. Three copies of the Code shall be on file at the office of the City Clerk, available for public inspection during office hours. The provisions of the National Electrical Code shall be controlling throughout the city and throughout its zoning jurisdiction.  
(Prior Code, § 8-602)

(B) *Electricians, fire alarm installers; license.*

(1) No person shall perform electrical work or install fire alarm systems under the State Electrical Act, being Neb. Rev. Stat. §§ 81-2101 et seq. within the city's corporate limits or extraterritorial jurisdiction without first having registered with the City Building Inspector.

(2) Registration with the City Building Inspector shall require:

(a) Completion of an electrician's registration application form as provided by the city;

(b) Submission of a copy of the person's current electrician's or fire alarm installer's license from the State Electrical Board;

(c) For master electricians, submission of a current certificate of insurance which provides coverage for bodily injury and property damage in a minimum amount of \$300,000; and

(d) Payment of the fee as provided in § 110.05.

(3) Each license shall be valid from the date of issuance up to and including the next December 31, unless sooner revoked, and shall be renewed before the expiration date thereof by submitting the required application form, state license, certificate of insurance and fee.

(Prior Code, § 8-615)

(Ord. 576, passed 2-10-2009; Ord. 634, passed 3-13-2012; Ord. 663, passed 9-9-2014; Ord. 673, passed 3-10-2015; Ord. 820, passed 9-10-2024)

**§ 150.072 PLUMBING CODE AND PLUMBER LICENSES.**

(A) *International Plumbing Code adopted by reference.* To provide certain standards, provisions and requirements for regulating the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of plumbing systems and providing for the issuance of permits and collection of fees therefor, each and all of the regulations, provisions, conditions and terms of the International Plumbing Code, 2012 edition, published by the International Code Council, are hereby adopted and incorporated by reference as though printed in full herein. Three copies of said Code shall be on file at the office of the City Clerk, available for public

inspection during office hours. The provisions of the International Plumbing Code shall be controlling throughout the city and throughout its zoning jurisdiction.

(Prior Code, § 8-603)

*(B) Master plumbers; license.*

(1) No person shall engage in the business of plumbing as a master plumber within the city's corporate limits or extraterritorial jurisdiction unless he or she is the holder of a current and valid master plumber's license and has registered with the City Building Inspector. In the case of any firm having more than one person engaging in plumbing, only one of such persons shall be required to qualify as a master plumber; and in the case of a legally constituted corporation, only one executive officer, who is liable to service of regular processes, shall be required to qualify as a master plumber.

(2) Registration with the City Building Inspector shall require:

(a) Completion of a master plumber's registration application form as provided by the city;

(b) Submission of documentation that the applicant has four years' experience as a journeyman plumber and that the applicant has passed a master plumber examination given by a recognized national testing agency with a score of 75% or higher, or submission of a copy of the applicant's current and valid City of Omaha, City of Bellevue, City of Fremont or City of Council Bluffs master plumber's license;

(c) Submission of a current certificate of insurance which provides coverage for bodily injury and property damage in a minimum amount of \$300,000; and

(d) Payment of the fee as provided in § 110.05.

(3) Each license shall be valid from the date of issuance up to and including the next December 31, unless sooner revoked, and shall be renewed before the expiration date thereof by submitting the required application form, master plumber's license, certificate of insurance and fee.

(Prior Code, § 8-612)

*(C) Journeyman plumbers; license.*

(1) No person shall perform any plumbing work as a journeyman plumber within the city's corporate limits or extraterritorial jurisdiction unless he or she is the holder of a current and valid journeyman plumber's license and has registered with the City Building Inspector.

(2) Registration with the City Building Inspector shall require:

(a) Completion of a journeyman plumber's registration application form as provided by the city;

(b) Submission of documentation that the applicant has four years' experience as an apprentice plumber and that the applicant has passed a journeyman plumber's examination given by a recognized national testing agency with a score of 75% or higher, or submission of a copy of the applicant's current and valid City of Omaha, City of Bellevue, City of Fremont or City of Council Bluffs journeyman plumber's license; and

(c) Payment of the fee as provided in § 110.05.

(3) Each license shall be valid from the date of issuance up to and including the next December 31, unless sooner revoked, and shall be renewed before the expiration date thereof by submitting the required application form, journeyman plumber's license, certificate of insurance and fee.  
(Prior Code, § 8-613)

*(D) Apprentice plumbers; license.*

(1) No person shall perform any plumbing work as an apprentice plumber within the city's corporate limits or extraterritorial jurisdiction without first having obtained from the City Building Inspector an apprentice plumber's license.

(2) An apprentice plumber's license shall be issued to an applicant by the City Building Inspector upon fulfillment of the following:

(a) Completion of an apprentice plumber's license application form provided by the city;

(b) Submission of a copy of the applicant's written indentured apprenticeship agreement through a certified apprenticeship program which provides for training through employment and classroom-related instruction; and

(c) Payment of the fee as provided in § 110.05.

(3) An apprentice plumber's license shall authorize the licensee to perform plumbing work while on the job with and under the direct supervision of a licensed journeyman or master plumber, except that a fourth year apprentice may work by himself or herself on service and repair work. For the purpose of this section, **SERVICE AND REPAIR WORK** shall include only the following:

(a) The cleaning of stoppages in drains, soil, waste or vent pipes;

(b) The repair of leaks in pipes and valves when such repairs do not involve or require the rearrangement of valves or pipes and the total distance of the pipe to be replaced is less than 15 feet;

(c) The replacement of such fixtures as water closets, lavatories, water heaters, garbage disposers, dishwashers and kitchen sinks, when such replacement does not require the rearrangement

of water, waste and venting piping; provided, that an apprentice may set fixtures in a new house or building or on a remodel job;

(d) The replacement or repair of faucets, traps and supplies on existing fixtures; and

(e) The replacement of sill cocks, pressure reducing valves, backflow preventers and similar devices.

(4) An apprentice plumber's license shall be valid from the date of issuance up to and including the next December 31, unless sooner revoked, and shall be renewed before the expiration date thereof by submitting the required application form, documentation and fee.

(5) No master plumber shall employ any apprentice plumber who is not licensed by the City Building Inspector. No more than three licensed apprentice plumbers may be supervised by a master or journeyman plumber.

(Prior Code, § 8-614)

(Ord. 685, passed 2-9-2016)

#### **§ 150.073 MECHANICAL CODE AND CONTRACTOR LICENSES.**

(A) *International Mechanical Code adopted by reference.* To provide certain standards, provisions and requirements for regulating the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of mechanical systems and providing for the issuance of permits and collection of fees therefor, each and all of the regulations, provisions, conditions and terms of the International Mechanical Code, 2012 edition, published by the International Code Council, are hereby adopted and incorporated by reference as though printed in full herein. Three copies of the Code, shall be on file at the office of the City Clerk, available for public inspection during office hours. The provisions of the International Mechanical Code shall be controlling throughout the city and throughout its zoning jurisdiction.

(Prior Code, § 8-604)

(B) *Mechanical contractors and journeymen; license.* No person shall install, repair, manufacture, replace, fit or change any air conditioning/air distribution system, any furnace, restaurant appliance hood and its duct system or any other exhaust or intake ventilating system within the city's corporate limits or extraterritorial jurisdiction without first having obtained a mechanical contractor's license or a mechanical journeyman's license from the City Building Inspector.

(Prior Code, § 8-616)

(Ord. 686, passed 2-9-2016)

**§ 150.074 EXISTING BUILDING CODE.**

To provide certain standards, provisions and requirements for the control of buildings and structures as herein provided, each and all of the regulations, provisions, penalties, conditions and terms of said International Existing Building Code, as published by the International Code Council, Inc., are hereby referred to, adopted and made a part hereof as if fully set out herein. Three copies of said Code shall be on file at the office of the City Clerk, available for public inspection during office hours. The provisions of the International Existing Building Code shall be controlling throughout the city and throughout its zoning jurisdiction.

(Prior Code, § 8-605) (Ord. 687, passed 2-9-2016)

**§ 150.075 RESIDENTIAL CODE AND ADDITIONAL STANDARDS.**

(A) *International Residential Code adopted by reference.* To provide certain standards, provisions and requirements for regulating the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of one- and two-family dwellings and providing for the issuance of permits and collection of fees therefor, each and all of the regulations, provisions, conditions and terms of the International Residential Code, 2012 edition, published by the International Code Council, are hereby adopted and incorporated by reference as though printed in full herein. Three copies of the Code shall be on file at the office of the City Clerk, available for public inspection during office hours. The provisions of the International Residential Code shall be controlling throughout the city and throughout its zoning jurisdiction.

(Prior Code, § 8-606)

(B) *Additional standards; footings.* The purpose of this section is to provide an additional minimum standard for the structural design and materials used to construct footings as provided for in the 2003 edition of the International Residential Code, and amendments thereto, as recommended and published by the International Code Council. Wood foundations and pole design buildings are allowed, but not within the residential zoning areas of the city nor within the platted residential areas within the city's extraterritorial jurisdiction. In the areas where wood foundations and pole design buildings are prohibited, footings shall be concrete, solid masonry, reinforced concrete or steel grillages. For the purpose of this section, the term **POLE DESIGN BUILDING** is defined as it appears in AWPI, Pole Building Design 2005.

(Prior Code, § 8-608)

(C) *Footing requirements for accessory buildings.* Any one-story wood or metal frame building not used for human occupancy with a floor area up to 240 square feet may have a floating slab foundation or walls supported on a wood foundation plate. Any building from 240 square feet to 720 square feet: a footing one foot wide, one foot deep from grade with two #4 rebar running full length of footing and #4 rebar placed approximately every four feet into floor slab.

(Prior Code, § 8-609)

(Ord. 688, passed 2-9-2016)

**§ 150.076 PROPERTY MAINTENANCE CODE.**

To provide certain standards, provisions and requirements for the control of buildings and structures as herein provided, each and all of the regulations, provisions, penalties, conditions and terms of the International Property Maintenance Code, 2012 edition, published by the International Code Council, Inc., are hereby referred to, adopted and made a part hereof as if fully set out herein. Three copies of the Code shall be on file at the office of the City Clerk, available for public inspection during office hours. The provisions of the International Property Maintenance Code shall be controlling throughout the city and throughout its zoning jurisdiction.

(Prior Code, § 8-607) (Ord. 689, passed 2-9-2016)

**§ 150.077 ENERGY CONSERVATION CODE.**

(A) To regulate and govern energy efficient building envelopes and installation of energy efficient mechanical, lighting and power systems and to provide for the issuance of permits and collection of fees therefor, the International Energy Conservation Code, 2009 edition, as published by the International Code Council, be and is hereby adopted as the Energy Conservation Code of the city; and each and all of the regulations, provisions, penalties, conditions and terms of said Energy Conservation Code, three copies of which are on file in the office of the City Clerk, are hereby referred to, adopted and made a part hereof as if fully set out herein, with the following revisions.

(1) In Section 101.1, insert “City of Valley.”

(2) In Section 108.4, insert “less than \$100.00 or more than \$500.00.”

(B) In the event of a conflict between the provisions of the International Energy Conservation Code and any existing city municipal ordinance that has not been specifically repealed, then the provisions of the municipal code shall survive.

(Prior Code, § 8-617) (Ord. 635, passed 4-10-2012)

**§ 150.999 PENALTY.**

Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this chapter, whether set forth at full length herein or incorporated by reference, shall be deemed guilty of a misdemeanor and fined in a sum of not more than \$500. Each day’s maintenance of the same shall constitute a separate offense.

(Prior Code, § 8-901)





## **CHAPTER 151: FACTORY-BUILT HOUSING**

### **Section**

- 151.01 Purpose
- 151.02 Scope
- 151.03 Definitions
- 151.04 Materials and methods of construction
- 151.05 Tests of assemblies
- 151.06 Connections
- 151.07 Allowances for non-incorporated pipes, conduits and electrical wiring
- 151.08 Permits, fees and approval of plans
- 151.09 Certificate of inspection
- 151.10 Field erection
- 151.11 Appeal procedure

### **§ 151.01 PURPOSE.**

The purpose of this chapter is to control the quality of factory-built housing installed within the corporate limits and within the jurisdictional area outside the corporate limits of the city by adopting minimum standards for quality and use of construction materials, quality and methods of fabrication and by establishing standards for inspection.

(Prior Code, § 4-801)

### **§ 151.02 SCOPE.**

This chapter shall apply to any factory-built housing, as defined herein, installed within the corporate limits and within the jurisdictional area of the city. Except as specifically provided herein, quality and use of construction materials and quality and methods of fabrication shall be in conformity with the provisions of this code as if the house were being conventionally built on site.

(Prior Code, § 4-802)

**§ 151.03 DEFINITIONS.**

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

**DWELLING UNIT.** One or more rooms arranged for the use of one or more individuals living together as a single housekeeping unit with cooking, living, sanitary and sleeping facilities.

**FABRICATION.** To construct, build or assemble standardized parts by putting together floors, side walls, interior partitions, ceilings, roofs or any parts or portions thereof as assembled units (including all parts and portions of electrical, plumbing, heating and air conditioning systems and mechanical equipment included therein), before incorporating them into one completed structure as a factory-built house.

**FABRICATOR.** An individual, firm or corporation fabricating factory-built houses.

**FACTORY-BUILT HOUSING.** One family dwelling unit not to exceed one story in height, which is either wholly or partially fabricated at an off-site location to be wholly or partially assembled on site, but not to include mobile homes.

**FAMILY.** An individual or two or more persons related by blood, marriage or law; or a group of persons who need not be related, living together in a dwelling unit.

**INSTALLATION.** The assembly of a factory-built house on site and the process of affixing the structure to land, a foundation or footings.

**SITE.** The entire tract, subdivision or parcel of land on which a factory-built house is installed.  
(Prior Code, § 4-803)

**§ 151.04 MATERIALS AND METHODS OF CONSTRUCTION.**

The City Building Inspector shall have the authority to approve materials, methods of construction and arrangement of materials for use under this chapter. Before any such material, or any such method of construction, or any such arrangement of materials, shall be approved, reasonable tests as required by the Building Inspector shall have been made and found by him or her to be safe and in conformity with the provisions of this code. Such tests shall be made in accordance with current standards of the American Society for Testing and Materials. All expenses for such tests shall be made by the applicant, and security for payment of the cost thereof may be required.  
(Prior Code, § 4-804)

**§ 151.05 TESTS OF ASSEMBLIES.**

(A) *Durability tests.* The Building Inspector may require reasonable special tests to be made on assemblies to determine their durability and weather resistance.

(B) *Insulation.* Factory-built houses shall be so insulated that the coefficient of heat transmission (U) shall not exceed 0.25 BTU per hour per square foot of surface area per degree of Fahrenheit difference in temperature between the air on the two sides for ceilings, sidewalks and floors, except that where there is a heated basement, no special provision for insulation of floor between this space and the first or ground story shall be required.

(Prior Code, § 4-805)

**§ 151.06 CONNECTIONS.**

(A) *Design.* Bolts or other devices designed to connect fabricated assemblies to be used in factory-built houses shall be capable of developing the strength of members connected and to resist wind loads as specified in the National Building Code, as amended, recommended by the American Insurance Association.

(B) *Roof connections.* Connections consisting of bolts or other devices between roofs and the supporting walls shall be capable of withstanding an uplift equal to not less than ten pounds per square foot of horizontally projected roof area, in addition to withstanding the other stresses specified in the National Building Code, as amended, recommended by the American Insurance Association.

(C) *Weatherproofing.* Individual units or sections of fabricated assemblies, either floor, wall, ceiling or roof, shall be so connected that joints shall be weatherproof and windproof. Said joints shall be properly caulked in an approved manner and covered on the weather side with approved battens or other approved weather covering.

(Prior Code, § 4-806)

**§ 151.07 ALLOWANCES FOR NON-INCORPORATED PIPES, CONDUITS AND ELECTRICAL WIRING.**

(A) *Structural design.* In the structural design of an assembly, due allowance shall be made for any material to be removed for the installation of pipes, conduits, electrical wiring or other equipment at a place other than the factory or which has been installed but not inspected at the factory.

(B) *Tests.* Panels which are required to be tested shall be tested after all chases and cavities for such equipment have been cut.

(C) *Additional cutting.* No additional material shall be removed from any fabricated assembly during construction, other than as provided in this section, unless specifically approved by the Building Inspector.

(Prior Code, § 4-807)

#### **§ 151.08 PERMITS, FEES AND APPROVAL OF PLANS.**

It shall be unlawful for any fabricator to begin fabricating a factory-built house for use within the corporate limits or jurisdictional area of the city until such fabricator, person, firm or corporation shall have filed plans and specifications, including details for electrical, plumbing, heating, air conditioning and distributions systems, together with an application and fees for a permit thereunder in the same manner and amount as any owner, his or her agent or a contractor building the same house on site and the permit and copy of said plans and specifications bearing said permit number and stamped approved by the Building Inspector shall have been received by the fabricator.

(Prior Code, § 4-808) Penalty, see § 10.99

#### **§ 151.09 CERTIFICATE OF INSPECTION.**

(A) *Materials.* Materials and the assembly thereof as a factory-built house shall be inspected to determine compliance with this chapter. Every material or fabricated assembly shall be labeled with stickers, affixed by the Building Inspector or an approved certifying agency, bearing the permit number under which it was fabricated, certifying compliance with the approved plans and specifications and the provisions of this code.

(B) *Shop inspections.* During the process of fabrication, all assembling of materials which are inaccessible for inspection in each fabricated panel or unit after completion shall be inspected for compliance with this chapter before being covered, by checking to make sure it complies with the approved copy of the plans and specifications.

(C) *Certificate.* A certificate of compliance shall be furnished with every factory-built house. Such certificate shall certify that it has been inspected and approved and complies with the copy of the plans, specifications or description of work and the provisions of this code.

(D) *Certifying agency.* To be acceptable, every certificate of compliance shall be made by the Building Inspector under the provisions of this code when the place of fabrication is within the corporate limits or jurisdictional area of the city. In the event the place of fabrication is outside the corporate limits or jurisdictional area of the city, the certificate of compliance may be made by the above authority or by an agency approved by the City Council. All compensation of such inspection and certifying services conducted outside the corporate limits or jurisdictional limits shall be paid by the person, firm or corporation manufacturing said factory-built house. Failure on the part of any approved certifying agency

to make the required inspections, or the making by any approved certifying agency of false or improper certificates, or false or improper labeling of fabricated assemblies, shall be cause for cancellation of approval of such agency by the City Council and shall, in addition, render such agency subject to forfeiture of its penalty bond or liable to prosecution for failure of compliance with this chapter. All approved certifying agencies shall maintain a penalty bond in the sum of \$10,000, payable to the city.

(E) *Continuous inspection.* If continuous inspection is required for certain materials where construction takes place on the site, it shall also be required where the same materials are used in factory-built housing. In such event, the fabricator of such factory-built house shall pay to the City Clerk the cost of such inspections made by the Building Inspector. Such continuous inspections will not be required during fabrication if the approved certifying agency provides such continuous inspection and certifies compliance with the approved plans and specifications.

(F) *Intermittent inspection.* The fabricator shall permit the right of entry and be required to pay for seven trips per year by the City Building Inspector to allow him or her to make unscheduled plant inspections of the work in progress relating to any factory-built house to be installed within the corporate limits or jurisdictional area of the city.

(Prior Code, § 4-809)

#### **§ 151.10 FIELD ERECTION.**

Placement of a factory-built house on the building site shall be inspected by the City Building Inspector to determine compliance with this chapter, and said Inspector shall require that anything not in compliance with the requirements of this code be immediately removed from the premises.

(Prior Code, § 4-810)

#### **§ 151.11 APPEAL PROCEDURE.**

Any person, firm or corporation feeling aggrieved by any order or decision of the Building Inspector concerning the construction of a building under the provisions of this code and controlled by this chapter may appeal to the Board of Adjustment.

(Prior Code, § 4-811)



## CHAPTER 152: TRAILER COURTS

### Section

- 152.01 Definitions
- 152.02 Permit required
- 152.03 Maintenance
- 152.04 Inspections
- 152.05 Liability of owner
- 152.06 Management
- 152.07 Revocation of permit
- 152.08 Prohibited location
- 152.09 Prohibited parking
- 152.10 Regulations
- 152.11 Alterations and additions
- 152.12 Water supply
- 152.13 Plumbing, electrical and building codes
- 152.14 Temporary storage
- 152.15 Certificate of occupancy

### § 152.01 DEFINITIONS.

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

***FIRE PREVENTION AUTHORITY.*** The Volunteer Fire Department.

***PERMIT.*** A written permit issued by the City Clerk, permitting the trailer court to operate under this code and any regulations promulgated thereunder.

***STREET.*** Any public street, avenue, road, alley or highway located in the city and established for the use of vehicles, the boundaries of which are hereby determined to be the outer boundaries of said street, avenue, road or alley, platted and dedicated as shown by the official records of the city and the county and as shown on the official records in the office of the County Clerk as official streets, avenues, roads or alleys within the corporate limits.

**TRAILER COACH** or **TRAILER**. Any vehicle or structure so designed and constructed in such manner as will permit occupancy thereof as sleeping quarters for one or more persons, or the conduct of any business or profession, occupation or trade or use as a selling or advertising device; and so designed that it is or may be mounted on wheels and used as a conveyance on highways or city streets, propelled or drawn by its own or other motive power, excepting a device used exclusively upon stationary rails or tracks.

**TRAILER COURT**. Any park, trailer park, trailer court, court, camp, site, lot, parcel or tract of land designed, maintained or intended for the purpose of supplying a location or accommodations for any trailer coach and upon which any trailer coach is parked, and shall include all buildings used or intended for use as part of the equipment thereof whether or not a charge is made for the use of the trailer camp and its facilities. **TRAILER CAMP** shall not include automobile or trailer sales lots on which unoccupied trailers are parked for purposes of inspection and sale.

**TRAILER SPACE**. A plot of ground within a trailer court designated for the accommodation of one trailer coach.

**TRAVEL TRAILER, CAMPER** and **CONVERTED BUS**. Any portable structure or vehicle supported upon its own axle(s), used or so constructed as to permit its being used as a conveyance upon the public streets or highways and duly licensable as such and constructed in such a manner as will permit occupancy thereof as a dwelling or sleeping place for one or more persons for a limited or temporary time or basically designed for travel or camping purposes, propelled or drawn by its own or other motive power.

(Prior Code, § 4-401)

## **§ 152.02 PERMIT REQUIRED.**

(A) It shall be unlawful for any person to construct, maintain, operate or alter any trailer court within the corporate limits unless he or she holds a valid permit for the specific trailer court. All applications for permits shall be made to the County Clerk, who shall issue a permit upon compliance by the applicant with provisions of this code relative to trailer courts. No permit shall be transferable. Every person holding such a permit shall give notice in writing to the City Clerk within 72 hours after having sold, transferred, given away or otherwise disposed of any interest in or control of any trailer court. Such notice shall include the name and address of the person succeeding to the ownership or control of such trailer court.

(B) Applications for permits shall be in writing, signed by the applicant, accompanied by an affidavit of the applicant as to the truth of the application and shall contain the following:

- (1) The name and address of the applicant;



(2) The location and legal description of the trailer court;

(3) A complete plan of the trailer court, showing compliance with all applicable provisions of this code and regulations promulgated thereunder; and

(4) Such further information as may be requested by the Board of Health to enable it to determine that the proposed trailer court will comply with legal requirements.

(Prior Code, § 4-402) Penalty, see § 10.99

### **§ 152.03 MAINTENANCE.**

All trailer courts shall be maintained under the management and supervision of the owner or person in control of the premises on which the same is located, or of a duly authorized representative of such owner, who shall be personally responsible for the maintenance of such trailer court in accordance with all sanitary and fire protection rules and regulations of the city and the state.

(Prior Code, § 4-403)

### **§ 152.04 INSPECTIONS.**

All trailer courts shall be under the supervision of the Board of Health, which shall make and provide for inspections at reasonable times and shall recommend to the City Council such additional rules and regulations as may be deemed advisable or necessary for the sanitation, safety and proper maintenance of said trailer courts.

(Prior Code, § 4-404)

### **§ 152.05 LIABILITY OF OWNER.**

The operator of a trailer court shall be primarily liable for all utility service bills charged against each trailer house and shall make monthly remittances to the city for such bills.

(Prior Code, § 4-405)

### **§ 152.06 MANAGEMENT.**

(A) Every trailer court shall have an office building in which shall be located the office of the person in charge of said court. A copy of the license shall be posted therein, and the court register shall at all times be kept in said office.

(B) It is hereby made the duty of the attendant or person in charge, together with the licensee, to:

(1) Keep at all times a register of all occupants of each trailer space, which shall be open at all times to inspection by officers of the city, showing for all such occupants: names and addresses; dates of entrance and departure; license numbers of all trailers and other towed automobiles; states issuing such licenses; and evidence of payment of all required license fees and property and/or personal taxes;

(2) Maintain the court in a clean, orderly and sanitary condition at all times;

(3) Report to the Director of Health all cases of persons or animals affected or suspected of being affected with any communicable disease; and

(4) Prohibit the use of any trailer by a greater number of occupants than that which it is designated to accommodate.

(Prior Code, § 4-406)

#### **§ 152.07 REVOCATION OF PERMIT.**

(A) A permit to establish and maintain a trailer court may be revoked by the City Council for cause at any time for a violation of the provisions of this code or of the rules and regulations relating to trailers, or for any other cause or conduct reasonably deemed by the Council as sufficient cause for revocation of such permit. Before any such revocation, the city shall cause to be served on the operator of such trailer court a notice to appear and show cause on a specified day and at a specified time why his or her permit for such trailer court should not be revoked. Such notice to show cause may be served by mailing the same by U.S. mail to the address of the operator given in his or her application in such permit, with sufficient postage affixed thereto.

(B) The operator of the trailer court involved shall be given reasonable opportunity to be heard at the time fixed for his or her appearance to show cause, and no permit for such trailer court shall be revoked until the operator involved has been heard at the designated time if he or she desires to be heard.  
(Prior Code, § 4-407)

#### **§ 152.08 PROHIBITED LOCATION.**

After the effective date hereof, except as otherwise provided, it shall be unlawful for any person to park a trailer or trailer coach within the corporate limits for purposes of using said trailer as a dwelling or sleeping place for one or more persons or the conduct of any business or profession, occupation or trade, or use as a selling or advertising device, except in a designated and approved trailer court for which a permit has been issued and is currently valid.

(Prior Code, § 4-408) Penalty, see § 10.99

**§ 152.09 PROHIBITED PARKING.**

It shall be unlawful for any person to park any trailer coach, travel trailer, camper or converted bus on any street, avenue, road, alley or highway within the corporate limits for a period of time in excess of two hours, and then only between the hours of sunrise and sunset and subject to any other and further prohibitions, regulations or limitations imposed by the traffic and parking regulations as any resolution of the City Council may provide relating thereto.

(Prior Code, § 4-409) Penalty, see § 10.99

**§ 152.10 REGULATIONS.**

(A) Trailer courts shall be located on well-drained sites and shall be so located that drainage will not endanger any water supply. All such trailer courts shall be in areas free from marshes, swamps or other potential breeding places for insects or rodents. The area of the trailer court shall be large enough to accommodate the following:

(1) The designated number of trailer court spaces;

(2) Necessary streets and roadways;

(3) Parking areas for motor vehicles; and

(4) Service areas and playgrounds for trailer courts in which independent trailer coaches only are parked.

(B) (1) The number of trailers to be accommodated in any trailer court shall not exceed the number obtained by dividing the total square foot area of the trailer court site by 2,600. Each trailer space shall be clearly defined and laid out in such a manner that a minimum of 20 feet of space exists between any two trailers or ten feet between any trailer and any building, except that a maximum 100 square foot storage shed, meeting all state fire codes, may be placed a minimum of three feet from any trailer, other building or structure.

(2) No trailer shall be less than five feet from any adjacent property of the trailer court. Each trailer space shall abut on a driveway with unobstructed access to a public street.

(3) No trailer court shall be licensed unless it is large enough to accommodate a minimum of 15 trailers.

(C) It shall be illegal to park a trailer coach less than two feet from any street or highway right-of-way or so that any part of such trailer will obstruct any roadway or walkway.

(D) It shall be illegal to allow any trailer coach to remain in a trailer court while being occupied for dwelling or sleeping purposes unless a trailer space is available.

(E) Access roads shall be provided to each trailer space. Each access road shall be continuous, shall connect with a street or highway and shall have a minimum width of 20 feet.

(F) Parking areas shall be provided for motor vehicles. Such areas shall have motor vehicle parking spaces in a number equal to or in excess of the number of trailer coach spaces provided.

(G) Playground areas, when required, shall be provided and shall be restricted to such use. These areas shall be protected from the main highway and from parking areas. A minimum of 100 square feet per coach space shall be made available in one or more places for such playground areas.

(H) Sufficient concrete or asphalt sidewalks shall be provided to ensure that each trailer space is served by at least one such sidewalk. In all cases there must be at least one such sidewalk constructed so that a hard-surfaced entry connects either the parking space provided or the access road with each trailer space.

(Prior Code, § 4-410)

#### **§ 152.11 ALTERATIONS AND ADDITIONS.**

(A) No permanent enclosed additions of any kind shall be built onto nor become a part of any trailer coach. Skirting of coaches is required within 30 days after locating such coach in the court, but such skirting shall not attach the trailer permanently to the ground, provide a harborage for rodents or create a fire hazard.

(B) Jacks or stabilizers shall be placed under the frame of each trailer to prevent movement on the springs while it is parked and occupied. Four anchors shall be provided for each trailer space. Each trailer shall be anchored as soon as possible after being situated on its space.

(Prior Code, § 4-411)

#### **§ 152.12 WATER SUPPLY.**

An adequate supply of pure water shall be furnished through a pipe distribution system connected directly with a city water main, with supply outlets located at every trailer space.

(Prior Code, § 4-412)

**§ 152.13 PLUMBING, ELECTRICAL AND BUILDING CODES.**

All plumbing, electrical, building and other work on or at any court shall be in accordance with the laws of the city regulating such work.

(Prior Code, § 4-413)

**§ 152.14 TEMPORARY STORAGE.**

It shall be lawful for any person to store or otherwise keep on any premises travel trailers or campers, propelled or drawn by their own or other motive power, upon any area; provided, that said trailer or camper be stored as near as possible to the rear of the premises. It further shall be lawful for any person to keep and maintain a travel trailer or camper, propelled or drawn by its own or other motive power, upon any premises to be used for occupancy as dwelling or sleeping space for any period not to exceed two weeks in duration. Any travel trailer or camper, propelled or drawn by its own or other motive power, so temporarily placed shall be placed upon said premises or portion thereof as far away as possible from the street abutting said premises.

(Prior Code, § 4-414)

**§ 152.15 CERTIFICATE OF OCCUPANCY.**

(A) It shall be unlawful for any owner or manager of any trailer court within the city to permit the occupation of a trailer home by any occupant until a certificate of occupancy has been issued by the Building Inspector.

(B) The owner or manager of the trailer court or the prospective occupant shall make application for such certificate to the City Clerk and shall pay a fee of \$75.

(C) The City Building Inspector shall inspect such trailer and trailer site and determine that the trailer and trailer site comply with the provisions of the building code and the zoning ordinances then in effect in the city.

(D) A certificate of occupancy, when issued, shall describe the premises and the use proposed to be made by the applicant and shall state that such proposed use complies with the applicable codes of the city.

(Prior Code, § 4-415) Penalty, see § 10.99



## CHAPTER 153: PUBLIC WAYS AND PROPERTY

### Section

#### *City Property*

- 153.001 Streets, alleys, walks, malls and other improvements
- 153.002 Maintenance and control
- 153.003 Regulation of snow, ice and other encroachments
- 153.004 Poles, wires and pipe lines
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#### *Sale and Acquisition of Property; Public Works*

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***CITY PROPERTY*****§ 153.001 STREETS, ALLEYS, WALKS, MALLS AND OTHER IMPROVEMENTS.**

The City Council may grade, partially or to an established grade, change grade, curb, recurb, gutter, regutter, pave, gravel, regravell, macadamize, remacadamize, widen or narrow streets or roadways, resurface or re-lay existing pavement, or otherwise improve any streets, alleys, public grounds, public ways, entirely or partially, and streets which divide the city corporate area and the area adjoining the city; construct or reconstruct pedestrian walks, plazas, malls, landscaping, outdoor sprinkler systems, fountains, decorative water ponds, lighting systems and permanent facilities; and construct sidewalks and improve the sidewalk space. These projects may be funded at public cost or by the levy of special assessments on the property especially benefited in proportion to such benefits, except as provided in Neb. Rev. Stat. §§ 19-2428 through 19-2431. The City Council may by ordinance create improvement districts, to be consecutively numbered, which may include two or more connecting or intersecting streets, alleys or public ways and may include two or more types of the improvements authorized under this section in a single district in one proceeding. All of the improvements which are to be funded by a



levy of special assessment on the property especially benefited shall be ordered as provided in Neb. Rev. Stat. §§ 17-510 through 17-512, except as otherwise provided in Neb. Rev. Stat. § 17-509.

(Neb. Rev. Stat. § 17-509)

***Statutory reference:***

*Other provisions on improvements, assessments and bonds, see Neb. Rev. Stat. §§ 17-513 through 17-524, 18-1751, 19-2401 and 19-2408 through 19-2415*

**§ 153.002 MAINTENANCE AND CONTROL.**

The City Council shall have the care, supervision and control of all public highways, bridges, streets, alleys, public squares and commons within the city and shall cause the same to be kept open and in repair and free from nuisances.

(Neb. Rev. Stat. § 17-567)

**§ 153.003 REGULATION OF SNOW, ICE AND OTHER ENCROACHMENTS.**

(A) The city shall have power to prevent and remove all encroachments, including snow, ice, mud or other obstructions, into and upon all sidewalks, streets, avenues, alleys and other city property.

(Neb. Rev. Stat. § 17-557)

(B) If the abutting property owner refuses or neglects, after five days' notice by publication or, in place thereof, personal service of such notice, to remove all encroachments from sidewalks, as provided in division (A) above, the city through the proper officers may cause such encroachments to be removed, and the cost of removal shall be paid out of the Street Fund. The City Council shall assess the cost of the notice and removal of the encroachment against the abutting property as a special assessment. The special assessment shall be known as a special sidewalk assessment and, together with the cost of notice, shall be levied and collected as a special assessment in addition to the general revenue taxes and shall be subject to the same penalties as other special assessments and shall draw interest from the date of the assessment. Upon payment of the assessment, the assessment shall be credited to the Street Fund.

(Neb. Rev. Stat. § 17-557.01)

**§ 153.004 POLES, WIRES AND PIPE LINES.**

(A) Poles, wires, conduits, gas mains, pipe lines and other appurtenances of public service companies shall be located or erected over, upon or under the streets, alleys and common grounds of the city. Application for location of such appurtenances shall be made to the City Council in writing. Approval by the Council shall be issued in writing. Any public service company granted a right-of-way for the erection and maintenance of poles, wires, conduits, gas mains, pipe lines or other appurtenances shall at all times erect and locate their appurtenances at such places and in such manner as shall be designated by the Council.

(B) All poles, wires, conduits, gas mains, pipe lines and other appurtenances shall be removed or relocated by the companies at their own expense when requested to do so by the Council. Any such removal or relocation shall be ordered by resolution of the Council and the City Clerk shall notify any and all companies affected. The companies shall, within 24 hours after receiving notice, at their own expense, cause the poles, wires, conduits, gas mains, pipe lines or other appurtenances to be removed or relocated. The Council shall designate another location as closely as possible where the appurtenances may be reset or placed.

(C) All poles, wires, conduits, gas mains, pipe lines or other appurtenances shall be reset, placed or erected in such a manner that they will not interfere with the water system; the sewerage system; any poles, wires, conduits, mains, lines or other appurtenances of any public utility; any adjacent buildings; or travel on the public ways and property. Whenever possible, all poles, wires, conduits, gas mains, pipe lines and appurtenances shall be confined to the alleys of the city.

#### **§ 153.005 DANGEROUS STAIRWAYS AND ENTRANCES.**

It shall be unlawful for any person to construct or maintain any stairway, open cellarway, open basement way or open entrance thereto in or adjacent to any sidewalk, pavement or street and any such entrance is hereby declared to be a public nuisance, except that all existing stairways, open cellarways, open basement ways or open entrances thereto in or adjacent to sidewalks, pavements or streets may be permitted to remain from and after the adoption of this prohibition if the person owning or using the opening in the sidewalk, pavement or street satisfies the Street Superintendent that the opening is properly protected by a balustrade, or coping of durable material, and furnishes the city with a bond in the amount set by the City Council for the benefit of any person who might suffer an injury or damage by reason of the use of the stairway, cellarway, basement way or entrance.

Penalty, see § 153.999

#### **§ 153.006 GUTTERING AND EAVE SPOUTS.**

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

Penalty, see § 153.999

**§ 153.007 PROHIBITED OBSTRUCTIONS.**

(A) It shall be unlawful for any person to obstruct or encumber, by fences, gates, buildings, structures or otherwise, any of the streets, alleys or sidewalks.

(B) The public ways and property shall be considered to be obstructed when the owner or occupant of the adjacent property permits or suffers to remain on any premises owned or controlled by him or her any hedge, shrubbery, bush or similar growth within two feet adjacent to the lot line, whether there is a sidewalk abutting or adjoining the premises or not. It shall be the duty of owners and occupants to at all times keep trimmed and pruned all such similar growth.

(C) Trees and shrubs growing upon the lot line partially on public ground and partially upon the abutting property, or wholly upon the abutting property, and interfering with the use, making or construction of any public improvement or so that the roots thereof interfere with any utility wire or pipe shall be deemed an obstruction. Such trees and shrubs and their roots may be removed by the city at the expense of the owner of the property upon which the trees or shrubs are partially or wholly located if the owner fails or neglects, after notice, to do so.

(D) When any obstruction described in this section is determined to exist, the city may proceed against the owner or occupant of the property adjacent to the sidewalk space.

Penalty, see § 153.999

**§ 153.008 OVERHANGING BRANCHES.**

(A) The owner or occupant of any lot, piece or parcel of ground abutting or adjacent to any street or sidewalk over which there extend the branches of trees shall at all times keep the branches or limbs thereof trimmed to the height of at least eight feet above the surface of the walk and at least 14 feet above the surface of the street or to the heights otherwise specified by the City Council.

(B) Whenever the branches or limbs of any tree extend over streets or sidewalks contrary to such provisions so as to interfere with the lighting of the street from street lights or with the convenience of the public using the street or sidewalk, the city may proceed against the owner or occupant of the property abutting or adjacent to the street or sidewalk.

Penalty, see § 153.999

**§ 153.009 CUTTING INTO PAVING, CURB OR SIDEWALK.**

(A) It shall be unlawful for any person to cut into any paving, curb or sidewalk for the purpose of constructing a driveway or any other purpose whatsoever without first having obtained a written permit from the City Council. Before any person obtains a permit, he or she shall inform the City Clerk of the

place where such cutting is to be done, and it shall be the duty of the Street Superintendent to inspect the proposed place of entry into the paving, sidewalk or curb.

(B) When cutting into any paving, curb or sidewalk, it shall be the duty of the party to comply with such rules and regulations as may be prescribed by the Council or the City Engineer. When the applicant is ready to close the opening made, he or she shall inform the Street Superintendent, who shall supervise and inspect the materials used and the work done in closing the opening.

(C) It shall be discretionary with the Council to order the Street Superintendent, under the supervision and inspection of the City Engineer or the committee of the Council on the streets and alleys, to do the cutting and closing of the paving, curb or sidewalk and charge the costs thereof to the party who obtained the permit. The Council may consent to the cutting and closing of the paving, curb or sidewalk by the party holding the permit.

(D) Before any permit is issued by the Council, the applicant for the permit shall deposit with the City Treasurer a sum set by resolution of the Council for all paving, curb or sidewalk to be cut. Such sum shall be set on a per square foot cost of construction basis. The deposit shall be retained by the city for the purpose of replacing the paving, curb or sidewalk in the event the work is done by the city. If the Board elects to require the applicant to replace the paving, curb or sidewalk, the deposit shall be retained by the city until the work is completed to the satisfaction of the Street Superintendent or of the committee of the Council on streets and alleys.

(E) In addition to making the deposit, the applicant shall, before any permit is issued, execute a bond to the city with a good and sufficient surety to be approved by the Council in a sum set by resolution.

Penalty, see § 153.999

#### **§ 153.010 HEAVY EQUIPMENT.**

(A) It shall be unlawful for any person to move or operate heavy equipment across any curb, gutter, bridge, culvert, sidewalk, crosswalk or crossing on any unpaved street without first having protected such curb, gutter, bridge, culvert, sidewalks, crosswalk or crossing with heavy plank sufficient in strength to warrant against the breaking or damaging of such curb, gutter, bridge, culvert, sidewalk, crosswalk or crossing.

(B) Except as provided in Title VII, it shall be unlawful to run, drive, move, operate or convey over or across any paved street a vehicle, machine or implement with sharp discs or sharp wheels that bear upon the pavement; with wheels having cutting edges; with wheels having lugs, any protruding parts or bolts thereon that extend beyond a plain tire so as to cut, mark, mar, indent or otherwise injure or damage any pavement, gutter or curb, except 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.

Penalty, see § 153.999

***SALE AND ACQUISITION OF PROPERTY; PUBLIC WORKS*****§ 153.025 SALE AND CONVEYANCE; REAL PROPERTY.**

(A) Except as provided in division (G) below, the power of the city to convey any real property owned by it, including land used for park purposes and public squares, except real property used in the operation of public utilities, shall be exercised by resolution, directing the sale at public auction or by sealed bid of that property and the manner and terms of such sales, except that the property shall not be sold at public auction or by sealed bid when:

- (1) The property is being sold in compliance with the requirements of federal or state grants or programs;
- (2) The property is being conveyed to another public agency; or
- (3) The property consists of streets and alleys.

(B) The City Council may establish a minimum price for real property at which bidding shall begin or shall serve as a minimum for a sealed bid.

(C) After the passage of the resolution directing the sale, notice of all proposed sales of property described in division (A) above and the terms of such sales shall be published once each week for three consecutive weeks in a legal newspaper published in or of general circulation in the city.

(D) (1) If within 30 days after the third publication of the notice a remonstrance petition against the sale:

- (a) Conforms to Neb. Rev. Stat. § 32-628;
- (b) Is signed by registered voters of the city equal in number to 30% of the registered voters of the city voting at the last regular city election held therein; and
- (c) Is filed with the City Council, that property shall not then, nor within one year thereafter, be sold. If the date for filing the petition falls upon a Saturday, Sunday or legal holiday, the signatures shall be collected within the 30-day period, but the filing shall be considered timely if filed or postmarked on or before the next business day.

(2) Upon the receipt of the remonstrance, the City Council, with the aid and assistance of the Election Commissioner or County Clerk, shall determine the validity and sufficiency of signatures on the petition. The City Council shall deliver the petition to the Election Commissioner or County Clerk by hand carrier, by use of law enforcement officials or by certified mail, return receipt requested.

(3) Upon receipt of the petition, the Election Commissioner or County Clerk shall issue to the City Council a written receipt that the petition is in the custody of the Election Commissioner or County Clerk. The Election Commissioner or County Clerk shall compare the signature of each person signing the petition with the voter registration records to determine if each signer was a registered voter on or before the date on which the petition was filed with the City Council. The Election Commissioner or County Clerk shall also compare the signer's printed name, street and number or voting precinct, and city or post office address with the voter registration records to determine whether the signer was a registered voter. The signature and address shall be presumed to be valid only if the Election Commissioner or County Clerk determines that the printed name, street and number or voting precinct, and city or post office address match the registration records and that the registration was received on or before the date on which the petition was filed with the City Council. The determinations of the Election Commissioner or County Clerk may be rebutted by any credible evidence which the City Council finds sufficient. The express purpose of the comparison of names and addresses with the voter registration records, in addition to helping to determine the validity of the petition, the sufficiency of the petition and the qualifications of the signer, shall be to prevent fraud, deception and misrepresentation in the petition process.

(4) Upon completion of the comparison of names and addresses with the voter registration records, the Election Commissioner or County Clerk shall prepare in writing a certification under seal setting forth the name and address of each signer found not to be a registered voter and the signature page number and line number where the name is found, and if the reason for the invalidity of the signature or address is other than the nonregistration of the signer, the Election Commissioner or County Clerk shall set forth the reason for the invalidity of the signature. If the Election Commissioner or County Clerk determines that a signer has affixed his or her signature more than once to the remonstrance and that only one person is registered by that name, the Election Commissioner or County Clerk shall prepare in writing a certification under seal setting forth the name of the duplicate signature and shall count only the earliest dated signature.

(5) The Election Commissioner or County Clerk shall certify to the City Council the number of valid signatures necessary to constitute a valid remonstrance. The Election Commissioner or County Clerk shall deliver the remonstrance and the certifications to the City Council within 40 days after the receipt of the remonstrance from the City Council. The delivery shall be by hand carrier, by use of law enforcement officials or by certified mail, return receipt requested. Not more than 20 signatures on one signature page shall be counted.

(6) The City Council shall, within 30 days after the receipt of the remonstrance and certifications from the Election Commissioner or County Clerk, hold a public hearing to review the remonstrance and certifications and receive testimony regarding them. The City Council shall, following the hearing, vote on whether or not the remonstrance is valid and shall uphold the remonstrance if sufficient valid signatures have been received.

(E) Real estate now owned or hereafter owned by the city may be conveyed without consideration to the state for state armory sites or, if acquired for state armory sites, shall be conveyed strictly in accordance with the conditions of Neb. Rev. Stat. §§ 18-1001 through 18-1006.

(F) Following passage of the resolution directing a sale, publishing of the notice of the proposed sale and passing of the 30-day right-of-remonstrance period, the property shall then be sold. The sale shall be confirmed by passage of an ordinance stating the name of the purchaser and terms of the sale. (Neb. Rev. Stat. § 17-503)

(G) Divisions (A) through (F) above shall not apply to the sale of real property if the authorizing resolution directs the sale of real property, the total fair market value of which is less than \$5,000. Following passage of the resolution directing the sale of the property, notice of the sale shall be posted in three prominent places within the city for a period of not less than seven days prior to the sale of the property. The notice shall give a general description of the property offered for sale and state the terms and conditions of sale. Confirmation of the sale by passage of an ordinance may be required. (Neb. Rev. Stat. § 17-503.01)

#### **§ 153.026 SALE AND CONVEYANCE; PERSONAL PROPERTY.**

(A) The power of the city to convey any personal property owned by it shall be exercised by resolution directing the sale and the manner and terms of the sale. Following passage of the resolution directing the sale of the property, notice of the sale shall be posted in three prominent places within the city for a period of not less than seven days prior to the sale of the property. If the fair market value of the property is greater than \$5,000, notice of the sale shall also be published once in a legal newspaper in or of general circulation in the city at least seven days prior to the sale of the property. The notice shall give a general description of the property offered for sale and state the terms and conditions of sale.

(B) Personal property may be conveyed notwithstanding the procedure in division (A) above when:

(1) Such property is being sold in compliance with the requirements of federal or state grants or programs; or

(2) Such property is being conveyed to another public agency.  
(Neb. Rev. Stat. § 17-503.02)

#### **§ 153.027 ACQUISITION OR CONSTRUCTION OF PUBLIC BUILDINGS; ELECTION REQUIREMENTS.**

(A) The city is authorized and empowered to purchase, accept by gift or devise, purchase real estate upon which to erect, and erect a building or buildings for an auditorium, fire station, city building or community house for housing city enterprises and social and recreation purposes, and other public

buildings, including the construction of buildings authorized to be constructed by Neb. Rev. Stat. Ch. 72, art. 14, and including construction of buildings to be leased in whole or in part by the city to any other political or governmental subdivision of the state authorized by law to lease such buildings, and maintain, manage and operate the same for the benefit of the inhabitants of the city.

(B) Except as provided in division (C) below, before any such purchase can be made or building erected, the question shall be submitted to the electors of the city at a general city election or at an election duly called for that purpose, or as set forth in division (D) below, and be adopted by a majority of the electors voting on such question.

(Neb. Rev. Stat. § 17-953)

(C) If the funds to be used to finance the purchase or construction of a building pursuant to this section are available other than through a bond issue, then either:

(1) Notice of the proposed purchase or construction shall be published in a newspaper of general circulation in the city, and no election shall be required to approve the purchase or construction unless within 30 days after the publication of the notice, a remonstrance petition against the purchase or construction is signed by registered voters of the city equal in number to 15% of the registered voters of the city voting at the last regular city election held therein and is filed with the City Council. If the date for filing the petition falls upon a Saturday, Sunday or legal holiday, the signatures shall be collected within the 30-day period, but the filing shall be considered timely if filed or postmarked on or before the next business day. If a petition with the necessary number of qualified signatures is timely filed, the question shall be submitted to the voters of the city at a general city election or a special election duly called for that purpose. If the purchase or construction is not approved, the property involved shall not then, nor within one year following the election, be purchased or constructed; or

(2) The City Council may proceed without providing the notice and right of remonstrance required in division (C)(1) above if the property can be purchased below the fair market value as determined by an appraisal, there is a willing seller, and the purchase price is less than \$25,000. The purchase shall be approved by the City Council after notice and public hearing as provided in § 153.029. (Neb. Rev. Stat. § 17-953.01)

(D) (1) The Mayor and City Council adopting the proposition to make such purchase or erect such building or buildings for the purposes set forth in division (A) above shall have the power to borrow money and pledge the property and credit of the city upon its negotiable bonds. No such bonds shall be issued until after the same have been authorized by a majority vote of the electors voting on the proposition of their issuance, at a general city election or at a special election called for the submission of such proposition. The question of such purchase or erection of such a building or buildings, as set forth in division (A) above, and the question of the issuance of the negotiable bonds referred to in this division (D) may be submitted as one question at a general city or special election if so ordered by resolution or ordinance.



(2) Notice of the time and place of the election shall be given by publication in some legal newspaper printed in or of general circulation in the city three successive weeks immediately prior thereto.

(3) No such election for the issuance of such bonds shall be called until a petition therefor signed by at least 10% of the legal voters of the city has been presented to the City Council. The number of voters voting at the last regular city election prior to the presenting of the petition shall be deemed the number of votes in the city for the purpose of determining the sufficiency of the petition.

(4) The question of bond issues for such purpose in the city when defeated shall not be resubmitted for six months from and after the date of such election.

(5) When the building to be constructed is to be used by the state or its agency or agencies under a lease authorized by Neb. Rev. Stat. Ch. 72, art. 14, or the building is to be leased by any other political or governmental subdivision of the state, when the combined area of the building to be leased by the state or its agency or agencies and the political or governmental subdivision of the state is more than 50% of the area of the building, and when such sum does not exceed \$2,000,000, then no such vote of the electors will be required.

(Neb. Rev. Stat. § 17-954)

#### **§ 153.028 ACQUISITION OF REAL PROPERTY; APPRAISAL.**

Notwithstanding any other provision of law, the city shall not purchase, lease-purchase or acquire for consideration real property having an estimated value of \$100,000 or more unless an appraisal of such property has been performed by a certified real property appraiser.

(Neb. Rev. Stat. § 13-403)

#### **§ 153.029 ACQUISITION OF REAL PROPERTY; PUBLIC MEETING; ACCESS FOR RECREATIONAL USE.**

(A) The city shall acquire an interest in real property by purchase or eminent domain only after the City Council has authorized the acquisition by action taken in a public meeting after notice and public hearing.

(B) The city shall provide to the public a right of access for recreational use to real property acquired for public recreational purposes. Such access shall be at designated access points and shall be equal to the right of access for recreational use held by adjacent landowners. The right of access granted to the public for recreational use shall meet or exceed such right held by a private landowner adjacent to the real property.

(Neb. Rev. Stat. § 18-1755)

***SIDEWALKS*****§ 153.040 REQUIREMENT TO KEEP CLEAN.**

It shall be unlawful for the occupant of any lot or lots or the owner of any vacant lot or lots within the corporate limits to allow snow, sleet, mud, ice or other substance to accumulate on the sidewalks or to permit any snow, sleet, ice, mud or other substance to remain upon the sidewalk. Unless the City Council has provided otherwise, all sidewalks within the Business District shall be cleaned within five hours after the cessation of a storm, unless the storm or fall of snow shall have taken place during the night, in which case the sidewalk shall be cleaned before 9:00 a.m. the following day, and sidewalks within the residential areas of the city shall be cleaned within 24 hours after the cessation of the storm. Penalty, see § 153.999

**§ 153.041 NEW SIDEWALK; NOTICE.**

(A) The City Council may by resolution order the construction of a sidewalk on any lot or piece of ground within the city. Notice of the City Council's intention to construct said sidewalk shall be given by the City Clerk by publication of notice one time in a legal newspaper of general circulation in the city. A copy of said notice shall be personally served upon the occupant in possession of such property or, when personal service is not possible, said notice shall be sent by first class mail to such premises ten days prior to the commencement of construction. Such service shall include a form of return evidencing personal service or mailing as herein required.

(B) The notice required in this section shall be prepared by the City Attorney in accordance with the provisions of this section. Said notice shall notify the owner of the premises of the passage of the resolution ordering him or her to construct or cause to be constructed a sidewalk within 30 days after the date of publication, and further, that if he or she fails to construct the sidewalk or cause the same to be done within the time allowed, the city will cause the sidewalk to be constructed, and the cost thereof shall be levied and assessed as a special tax against the premises; provided, that the notice shall contain the official estimate of the cost of said construction and no special assessment in excess of this estimate shall be assessed against the property.

(C) 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 such property, send to the last known address of the nonresident property owner by certified mail, return receipt requested, a copy of any notice required by law to be published. The last known address shall be that address listed on the current tax rolls at the time such required notice was first published.

(Prior Code, § 5-302)

***Statutory reference:***

*Similar provisions, see Neb. Rev. Stat. §§ 17-552 and 17-523*

**§ 153.042 REPAIRING SIDEWALK; NOTICE.**

Whenever the Street Superintendent shall deem it necessary that any sidewalk shall be repaired, or it shall be required by the City Council, the Committee on Streets and Walks or the Street Superintendent, the owner of the lot or piece of land along and contiguous to which such sidewalk is situated shall be notified to repair the same within two weeks from and after the giving of such notice. Oral notice to the owner shall be deemed sufficient. If the owner is not found by the Street Superintendent, then a written notice left in the house situated on such lot or piece of ground, or posted upon said premises, shall be sufficient and the two weeks shall begin to run from the leaving or posting of such notice as the case may be.

(Prior Code, § 5-303)

**§ 153.043 RECONSTRUCTION SIDEWALK; NOTICE.**

Whenever the City Council shall deem it necessary that an old sidewalk shall be replaced or reconstructed, it shall order the same to be done and the Street Superintendent shall give notice in the manner and form provided in § 153.042 to replace or reconstruct the same within 30 days from and after such notice.

(Prior Code, § 5-304)

**§ 153.044 FAILURE TO CONSTRUCT, RECONSTRUCT OR REPAIR.**

If any such owner shall neglect or refuse, or shall have failed, after notice has been given as provided in this chapter, to construct, repair, replace or reconstruct any sidewalk within the time limit in the notice given in such case and whose duty it is made by this chapter to construct, repair or rebuild such walks, the Street Superintendent or other officer empowered herein to act shall proceed at once to have such sidewalks constructed, repaired, rebuilt or reconstructed, as the case may be, without further notice to such owner, and the expense of such work shall be assessed to such lot or piece of land and collected as provided by law.

(Prior Code, § 5-305)

**§ 153.045 CONSTRUCTION AT OWNER'S INITIATIVE.**

(A) Any person desiring to construct or cause to be constructed any sidewalk shall do so only as provided in this section. It shall be unlawful for any person to construct any sidewalk without first having obtained a permit.

(B) The owner shall make application in writing for a permit and file such application in the office of the City Clerk. The permit shall give a description of the lot or piece of land along which the sidewalk

is to be constructed. The Street Superintendent shall issue the desired permit unless good cause appears why the permit should be denied, except that if it is desired to construct the sidewalk at any other than the regularly prescribed location, grade or elevation, the Street Superintendent shall submit the application to the City Council for determination as to whether the permit should be granted or denied. It shall be unlawful for any person to construct, or cause to be constructed, such sidewalk at any other location, grade or elevation than so designated by the city. All sidewalks shall be built and constructed on the established grade or elevation, and if there is no established grade, then on the grade or elevation indicated by the Street Superintendent.

Penalty, see § 153.999

#### **§ 153.046 CONSTRUCTION AND REPAIR AT CITY DIRECTION.**

(A) (1) The Mayor and City Council may construct and repair sidewalks or cause the construction and repair of sidewalks in such manner as the Mayor and City Council deem necessary and assess the expense of such construction or repairs on the property in front of which such construction or repairs are made, after having given notice:

(a) By publication in one issue of a legal newspaper of general circulation in the city; and

(b) By either causing a written notice to be served upon the occupant in possession of the property involved or to be posted upon such premises ten days prior to the commencement of such construction or repair.

(2) The powers conferred under this section are in addition to those provided in Neb. Rev. Stat. §§ 17-509 through 17-521 and may be exercised without creating an improvement district.

(3) If the owner of any property abutting any street or avenue or part thereof fails to construct or repair any sidewalk in front of the owner's property within the time and in the manner as directed and requested by the Mayor and City Council, after having received due notice to do so, the Mayor and City Council may cause the sidewalk to be constructed or repaired and may assess the cost of such construction or repairs against the property.

(Neb. Rev. Stat. § 17-522)

(B) All sidewalks shall be constructed and repaired in conformity with such plans and specifications as may be approved by the City Council.

(C) Assessments made under the provisions of this section shall be made and assessed in the following manner:

(1) Such assessment shall be made by the City Council at a special meeting, by a resolution, taking into account the benefits derived or injuries sustained in consequence of such improvements, and

the amount charged against the same, which, with the vote, shall be recorded in the minutes. Notice of the time of holding such meeting and the purpose for which it is to be held shall be published in a legal newspaper in or of general circulation in the city at least four weeks before the same shall be held or, in lieu thereof, personal service may be made upon persons owning or occupying property to be assessed; and

(2) All such assessments shall be known as special assessments for improvements and shall be levied and collected as a separate tax, in addition to the taxes for general revenue purposes, and shall be placed on the tax roll for collection, subject to the same penalties and collected in like manner as other city taxes.

(Neb. Rev. Stat. § 17-524)

***Statutory reference:***

*Authority to improve through sidewalk district, see Neb. Rev. Stat. §§ 19-2417 through 19-2419*

**§ 153.047 CONSTRUCTION BY PETITION.**

(A) If the owners of record representing more than 60% of the front footage of the directly abutting property subject to assessment for sidewalk improvements petition the City Council to make such improvements, the City Council shall proceed as though such construction had been ordered by it. Upon the petition of any freeholder who is an abutting owner in fee simple of property subject to assessment for sidewalk improvements, the City Council may order permanent sidewalks built in accordance with this chapter upon the freeholder's making, executing and delivering to the city an agreement to the effect that the petitioning freeholder will pay the engineering service fee; all other incidental construction costs, until paid, shall be a perpetual lien upon the real estate along which the freeholder desires such sidewalk to be constructed and the petitioner gives and grants to the city the right to assess and levy the costs of such construction against the freeholder's real estate abutting the sidewalk improvement and promises to pay such costs with interest. The total cost of such improvement shall be levied, allocated, financed and specially assessed as provided by law.

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

(Prior Code, § 5-306)

***STREETS AND ALLEYS*****§ 153.060 OPENING, WIDENING, IMPROVING OR VACATING.**

(A) (1) The city shall have power to open, widen or otherwise improve or vacate any street, avenue, alley or lane within the limits of the city and also to create, open and improve any new street, avenue, alley or lane. All damages sustained by the citizens of the city, or by the owners of the property therein, shall be ascertained in that manner as shall be provided by ordinance.

(2) Whenever any street, avenue, alley or lane is vacated, the same shall revert to the owners of the abutting real estate, one-half on each side thereof, and become a part of that property, unless the city reserves title in the ordinance vacating such street or alley. If title is retained by the city, such property may be sold, conveyed, exchanged or leased upon such terms and conditions as shall be deemed in the best interests of the city.

(3) When a portion of a street, avenue, alley or lane is vacated only on one side of the center thereof, the title to the land shall vest in the owner of the abutting property and become a part of that property, unless the city reserves title in the ordinance vacating a portion of such street or alley. If title is retained by the city, such property may be sold, conveyed, exchanged or leased upon such terms and conditions as shall be deemed in the best interests of the city.

(4) When the city vacates all or any portion of a street, avenue, alley or lane, the city shall, within 30 days after the effective date of the vacation, file a certified copy of the vacating ordinance with the Register of Deeds for the county in which the vacated property is located to be indexed against all affected lots.

(5) The title to property vacated pursuant to this section shall be subject to the following:

(a) There is reserved to the city the right to maintain, operate, repair and renew public utilities existing at the time title to the property is vacated there; and

(b) There is reserved to the city, any public utilities and any cable television systems the right to maintain, repair, renew and operate water mains, gas mains, pole lines, conduits, electrical transmission lines, sound and signal transmission lines, and other similar services and equipment and appurtenances, including lateral connections or branch lines, above, on or below the surface of the ground that are existing as valid easements at the time title to the property is vacated for the purposes of serving the general public or the abutting properties and to enter upon the premises to accomplish such purposes at any and all reasonable times.

(Neb. Rev. Stat. § 17-558)

(B) The city shall have power to create, open, widen or extend any street, avenue, alley, off-street parking area or other public way, or annul, vacate or discontinue the same.  
(Neb. Rev. Stat. § 17-559)

#### § 153.061 VACATING PUBLIC WAYS; PROCEDURE.

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

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

(B) Whenever the City Council decides that it would be in the best interests of the city to vacate a street, avenue, alley, lane or similar public way, the City Council shall comply with the following procedure.

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

(2) *Consent; waiver.* The City Council may have all the abutting property owners sign a form stating that they consent to the action being taken by the City Council and waive their right of access. The signing of this form shall have no effect on claims for special damages by the abutting property owners but shall create the presumption that the City Council's action was proper. If the abutting property owners do not sign the consent/waiver form, the City Council may still proceed with vacating the street, avenue, alley, lane or similar public way under the authority granted by Neb. Rev. Stat. §§ 17-558 and 17-559.

(3) *Ordinance.* The City Council shall pass an ordinance that includes essentially the following provisions:

(a) A declaration that the action is expedient for the public good or in the best interests of the city;

- (b) A statement that the city will have an easement for maintaining all utilities; and
- (c) A method or procedure for ascertaining special damages to abutting property owners.

(C) The Mayor shall appoint three or five or seven disinterested residents of the city to a special commission to ascertain the amount of special damages that the abutting property owners are entitled to receive and which resulted from the City Council vacating the street, avenue, alley, lane or similar public way. The appointees of the special commission shall be approved by the City Council. Only special damages shall be awarded to the abutting property owners.

(D) In determining the amount of compensation to award the abutting property owners as special damages, the commission shall use the following rule: An abutting property owner is entitled to recover as compensation the difference between the value of the property immediately before and immediately after the vacating of the street, avenue, alley, lane or similar public way. If no difference in value exists, the abutting property owner is entitled to no compensation.

#### **§ 153.062 CROSSINGS.**

The City Council may order and cause to be constructed, under the supervision of the Street Superintendent, those street, avenue and alley crossings as the City Council deems necessary. When a petition for the construction of any such crossings is filed by an interested resident in the office of the City Clerk, the City Clerk shall refer the application to the Street Superintendent, who shall investigate and make a recommendation to the City Council. Action by the City Council on the application, whether the application is approved or rejected, shall be considered final.

#### **§ 153.063 NAMES AND NUMBERS.**

The City Council may at any time by ordinance rename any street or provide a name for any new street. Buildings used for residence or business purposes and located along those streets shall retain those numbers as the City Council may require. It shall be the duty of the Street Superintendent, upon the erection of any new building, to assign the proper numbers to the building and give notice to the owner and occupant of the same.

Penalty, see § 153.999

#### **§ 153.064 PREMISES IDENTIFICATION.**

(A) Each property owner shall maintain suitable numbers marking the property's street address, which shall be visible and legible from the street or road fronting the property. This identification will help to improve response times of police, fire and rescue by making it easier to find the right location.



The address numbers should contrast with their background and be a minimum of four inches high and one-half inch wide.

(B) If the residence is located too far back from the street or road for the address numbers to be readily seen, then the numbers must be:

- (1) Larger;
- (2) Posted in such a way that they can be read from the street or road;
- (3) Posted at or near the edge of the street or road; or
- (4) Painted on the curb.

(Prior Code, § 5-202)

#### **§ 153.065 EXCAVATIONS; PERMIT; BOND.**

(A) *Permit required; procedure.* It is hereby declared to be unlawful for any person, whether or not operating under a franchise or contract, to excavate the surface or the ground beneath the surface of any street, avenue or alley without making a written application for a permit from the Building Inspector and the payment of a fee associated therewith. The applicant for a permit shall specify in the application the location, extent and character of the work proposed to be done and the time when it is to be done.

(B) *Permit terms; time limit.* Permits issued pursuant to this chapter shall be numbered consecutively and each shall be valid for a period of ten days. No work shall be done under any such permit after the expiration of such ten days. Each permit shall contain the name of the party authorized to use the same, the time limit within which the same may be used and the location and nature of the work to be done.

(C) *Pavement breaking by sawing.* It is unlawful for any person to break paving except by sawing to a depth of at least two inches; provided, however, sawing is not required if the paving is partially granite or if permission is obtained from the Street Superintendent to break by means other than sawing.

(D) *Refilling by city; charges.*

(1) Where any permit is issued for excavating in any street, avenue or alley (excluding that area commonly called the parkway, being that area between the curb line and the lot line), all work of replacing paving, filling trenches or holes and tamping in the same shall be done by the Public Works Department or its representatives.

(2) The charges for replacing concrete or brick paving where cuts have been made for installing sewer, water, gas or conduits of any nature, whether telephone, electric or otherwise, and for filling in

excavations in unpaved streets, avenues and alleys and tamping the same with a mechanical tamper shall be set by resolution of the City Council and kept on file in the office of the City Clerk.

(3) Tunneling or undercutting is not permitted, and if such does occur, the holder of the permit shall be penalized on a square foot basis on all tunneling or undercutting.

(4) When it is necessary to remove material unfit for filling trenches and substitute suitable material, there shall be an extra charge based on the time required for the removal and replacement of such material.

(E) *Refilling measurement.* All excavations regulated by this chapter shall be measured by the Street Superintendent before filling. Such measurements shall be reported to the City Clerk, who shall check such figures with the minimum charge. Where excavations are larger than set forth according to the minimum charge, the City Clerk shall collect for such excavations according to the schedule as set forth in division (D) above.

(F) *Refilling parkway area.*

(1) Where any permit is obtained for the excavating in any street, avenue or alley, which includes the parkway (being that area between the curb line and the lot line), all work of replacing any paving, filling any trenches or holes, tamping and reseeding in such parkway shall be done by the plumber or other person having the permit. Replacement of the parkway excavation shall be done in a workmanlike manner so that the area excavated shall be returned substantially to its previous condition. This shall include the repaving or replacing of sidewalk, reseeding or resodding and appropriate tamping, all as may be necessary, to restore such parkway to its previous condition.

(2) Such parkway area between curb line and lot line is the property of the city, and the plumber or other excavator when working in such area shall comply with all applicable provisions of this code and all appropriate ordinances, resolutions and rules governing the use of streets, avenues and alleys and particularly shall comply with division (G) below.

(G) *Permit requirements, notice.* Permits pursuant to this chapter shall be issued only to bonded and/or insured persons. Back charges shall be paid immediately and no permit shall be issued to anyone who has an unpaid charge hereunder. The holder of each permit shall notify the Public Works Department not later than 1:00 p.m. every Friday of any excavations that have been inspected and are ready to fill. The holder of each permit shall light and maintain until the following Monday all excavations not reported by 1:00 p.m. Friday. Such person shall provide, at his or her own expense, substantial barricades with his or her name clearly marked thereon. These barricades shall be Type II of the federal *Manual on Uniform Traffic Control Devices* for streets and highways. In addition to the barricades, sufficient lights shall be used to protect the public.

(H) *Inspections.* The Building Inspector shall make such inspections as are necessary to determine whether the work performed by any plumber pursuant to this section is in accordance with the

requirements of the same. If the Building Inspector determines that the replacement of any parkway excavation is not performed in compliance herewith, he or she shall immediately notify said plumber to correct the deficiency. If the plumber shall fail to do so, the Public Works Department shall make a report in writing, which shall be placed on the agenda for the consideration of the Mayor and Council.

(I) *Bond required.* Every person engaged in excavating the streets, avenues, alleys or other public places of the city for the purpose of laying, removing or repairing gas mains or pipes is hereby required to file with the City Clerk and have approved by the Mayor and Council a bond, payable to the city, with two or more good and sufficient sureties or reputable surety company as surety in the sum of \$5,000, conditioned that such person will indemnify and keep harmless the city from any liability for damages or injuries to persons or property arising from any negligence or mismanagement in doing or protecting such work, and that such person will restore the streets, sidewalks and pavements over all pipes laid or repaired, and fill all excavations made by him or her so as to leave such streets, avenues, alleys and public places in their original condition so far as practicable, and keep and maintain the same in good order to the satisfaction of the Public Works Department for a period of 90 days thereafter. Such bond shall be for the period ending on April 1 following and shall be renewable annually on or before April 1. The regulations contained in this section are in addition to those contained elsewhere in this chapter and shall not be construed to modify, alter, waive or repeal any other provision of this chapter.

(J) *Unprotected, dangerous.* No person shall excavate on any lot or part of a lot contiguous to any sidewalk and leave the same open and exposed in such a manner as to endanger the safety of any person passing along any street, avenue or sidewalks therein or adjacent thereto.

(Prior Code, § 5-204) Penalty, see § 153.999

***Statutory reference:***

*Similar provisions, see Neb. Rev. Stat. § 17-567*

**§ 153.066 DRIVING STAKES.**

It shall be unlawful for any person to drive any peg or stake of any kind into the pavement in any street or alley without first procuring the written consent of the Street Superintendent.

Penalty, see § 153.999

**§ 153.067 MIXING CONCRETE.**

It shall be unlawful for any person to mix any concrete or plastering material directly on the street pavement for any reason whatsoever.

Penalty, see § 153.999

**§ 153.068 HARMFUL LIQUIDS.**

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

Penalty, see § 153.999

**§ 153.069 DISCHARGING WATER.**

It shall be unlawful for any person to discharge or cause to be discharged any stormwater, surface water, ground water, roof runoff, surface drainage or unpolluted industrial waters into or onto any street or alley of the city from October 1 of any year through April 1 of the following year.

(Prior Code, § 5-221) (Ord. 305, passed 11-9-1993) Penalty, see § 153.999

**§ 153.070 CONSTRUCTION OF PRIVATE DRIVE.**

(A) *Application for construction of private drive.* Before any person, firm or corporation constructs a private drive onto any public street or alley, an application shall first be made to the Building Inspector.

(Prior Code, § 5-401)

(B) *Application requirements.* All driveway applications shall contain the following information:

(1) The addition, block and lot which the driveway is to serve;

(2) The location of the proposed driveway with reference to adjacent lot lines; and

(3) The width of the driveway and type of street surface to which the driveway will connect.

(Prior Code, § 5-402)

(C) *Issuance of permit.* In the event that the Building Inspector determines that such application is in due and proper form and that the same complies with this chapter, he or she shall issue a permit for construction of such requested driveway.

(Prior Code, § 5-403)

**§ 153.071 CONSTRUCTION ASSESSMENT.**

(A) To defray the costs and expenses of street improvements as may be authorized by law, the City Council shall have power and authority to levy and collect special taxes and assessments upon the lots and pieces of ground adjacent to, abutting upon or especially benefiting from the street, avenue, alley or sidewalk in whole or in part opened, widened, curbed, guttered, graded, paved, repaired,

graveled, macadamized, parked, extended, constructed or otherwise improved or repaired. The City Council, sitting as the Board of Equalization, shall review all such improvements in accordance with the procedure provided by law.

(B) All special assessments shall be made by the City Council at a regular or special meeting by resolution, taking into account the benefits derived or injuries sustained in consequence of such improvements and the amount charged against the same. The vote shall be recorded in the minutes. Notice of the time of holding such meeting and the purpose for which it is to be held shall be published in a legal newspaper published in or of general circulation in the city at least four weeks before the same shall be held. In lieu of such aforementioned notice, personal service may be had upon the persons owning or occupying the property to be assessed. Such assessments shall be known as special assessments for improvements and, with the cost of notice, shall be levied and collected as a special tax in addition to the taxes for general revenue purposes. Said assessments shall be subject to the same penalties and collected in like manner as other municipal taxes and shall be certified by the City Clerk to the County Clerk forthwith after the date of levy for collection by the County Treasurer unless otherwise specified.

(C) After it has become delinquent, said assessment shall draw interest at the legal interest rate per annum. In the event the property owner is a nonresident of the county in which the property lies, the city shall, before levying any special assessment against that property, send a copy of any notice required by law to be published by means of certified mail, return receipt requested, to the last known address of the nonresident property owner. The last known address shall be that address listed on the current tax rolls at the time such required notice was first published.

(Prior Code, § 5-212)

***Statutory reference:***

*Similar provisions, see Neb. Rev. Stat. §§ 17-511, 17-524, 19-2428 through 19-2431 and 45-104.01*

**§ 153.072 IMPROVEMENT DISTRICTS; OBJECTIONS.**

(A) Whenever the City Council shall deem it necessary to make any improvements allowed by statute, it shall, by ordinance, create a paving, graveling or other improvement district or districts, and after the passage, approval and publication or posting of such ordinance shall publish notice of the creation of any such district for six days in a legal newspaper of the city, if a daily newspaper, or for two consecutive weeks if the same be a weekly newspaper.

(B) If the owners of record representing more than 50% of the front footage of the property directly abutting on any street or alley to be improved shall file written objections to the creation of such district(s) with the City Clerk within 20 days after the first publication of said notice, said improvements shall not be made as provided in said ordinance but it shall be repealed. If said objections are not filed against the district in the time and manner aforesaid, the City Council shall forthwith cause such work to be done or such improvement to be made and shall contract therefor and levy assessments on the lots

and parcels of land abutting on or adjacent to such street or alley especially benefited in such district in proportion to such benefits to pay the cost of such improvement.

(Prior Code, § 5-213)

***Statutory reference:***

*Similar provisions, see Neb. Rev. Stat. § 17-511*

**§ 153.073 IMPROVEMENT OF STREETS ON CORPORATE LIMITS.**

The Mayor and City Council shall have the power to improve any street or part thereof which divides the city corporate area and the land adjoining the city. When creating an improvement district, including land adjacent to the city, the Council shall have power to assess, to the extent of special benefits, the costs of such improvements upon the properties found especially benefited thereby.

(Prior Code, § 5-214)

***Statutory reference:***

*Similar provisions, see Neb. Rev. Stat. § 17-509*

**§ 153.074 IMPROVEMENT OF MAIN THOROUGHFARES.**

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

(Prior Code, § 5-215)

***Statutory reference:***

*Similar provisions, see Neb. Rev. Stat. § 17-512*

**§ 153.075 PETITION FOR IMPROVEMENTS.**

Whenever a petition signed by the owners of record title representing more than 60% of the front footage of the property directly abutting upon any street, alley, public way or public grounds proposed to be improved shall be presented and filed with the City Clerk, the City Council shall by ordinance create a paving, graveling or other improvement district, and shall cause such work to be done or such improvement to be made, and shall contract therefor, and levy assessments on the lots and parcels of land abutting on or adjacent to such street or alley especially benefited in such district in proportion to such benefits, to pay the cost of such improvement. The City Council shall have the discretion to deny the formation of the proposed district when the area has not previously been improved with a water system,

sewer system and grading of streets. If the City Council should deny a requested improvement district formation, it shall state the grounds for such denial in a written letter to interested parties.

(Prior Code, § 5-216)

***Statutory reference:***

*Similar provisions, see Neb. Rev. Stat. § 17-510*

**§ 153.076 DEFERRAL FROM SPECIAL ASSESSMENTS.**

(A) Whenever the City Council creates an improvement district which includes land adjacent to the city within an agricultural use zone and is used exclusively for agricultural use, the owners of record of such adjacent land may apply for a deferral from special assessments. For the purpose of this section, the terms **AGRICULTURAL USE** and **AGRICULTURAL USE ZONE** shall have the meaning specified in Neb. Rev. Stat. § 77-1343.

(B) Any owner of record eligible for the deferral granted by this section shall make application to the City Council within 90 days after creation of an improvement district. Any owner of record who makes application for the deferral provided by this section shall notify the County Register of Deeds of such application in writing prior to approval by the City Council. The Council shall approve the application of any owner of record, upon determination that the property is within an agricultural use zone and is used exclusively for agricultural use, and the owner has met the requirements of this section.

(C) The deferral provided for in this section shall be terminated upon any of the following events:

(1) Notification by the owner of record to the City Council to remove such deferral;

(2) Sale or transfer to a new owner who does not make a new application within 60 days of the sale or transfer, except as provided in division (C)(3) below;

(3) Transfer by reason of death of a former owner to a new owner who does not make application within 125 days of the transfer;

(4) Use of land is no longer agricultural; or

(5) Change of zoning to other than an agricultural zone.

(D) Whenever property which has received a deferral pursuant to this section becomes disqualified for such deferral, the owner of record of such property shall pay to the city an amount equal to:

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

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

(E) In cases where the deferral provided by this section is terminated as the result of a sale or transfer described in divisions (C)(2) or (C)(3) above, the lien for assessments and interest shall attach as of the day preceding such sale or transfer.

(Prior Code, § 5-217)

**Statutory reference:**

*Similar provisions, see Neb. Rev. Stat. §§ 19-2428 through 19-2431*

**§ 153.999 PENALTY.**

(A) Any and all persons violating any of the provisions of this chapter for which penalty is not therein provided shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined in a sum of not more than \$500 for each offense. Each day's maintenance of the same shall constitute a separate offense.

(Prior Code, § 5-501)

(B) Any person who shall fail, neglect or refuse to comply with or shall violate any requirements or provisions of § 153.065 shall be deemed guilty of a misdemeanor. He or she shall be charged a double fee for the permit, and the minimum fee for the type of pavement being replaced shall be doubled.

(Prior Code, § 5-204)

(C) Any person who shall violate any provision of § 153.069 shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$100 for each offense. A new violation shall be deemed to have been committed every 24 hours that such pumping shall occur.

(Prior Code, § 5-221)

(D) Any person, firm or corporation violating the terms of § 153.070, and who constructs a driveway onto a city street or alley without first securing a permit therefor, shall be deemed guilty of a misdemeanor and shall be fined in a sum not to exceed \$500. Each day's maintenance of the same shall constitute a separate offense.

(Prior Code, § 5-404)

(Ord. 305, passed 11-9-1993)

**Statutory reference:**

*Similar provisions, see Neb. Rev. Stat. § 17-567*



## CHAPTER 154: TREES

### Section

- 154.01 Tree Board
- 154.02 Definitions
- 154.03 Street tree species to be planted
- 154.04 Spacing of street tree plantings and required distances and clearances for planting
- 154.05 Utilities
- 154.06 Public tree care
- 154.07 Consent of property owner
- 154.08 Tree topping
- 154.09 Hazardous, dead or diseased tree removal; private property
- 154.10 Pruning; clearance
- 154.11 Public community forest; abuse of trees prohibited
- 154.12 Removal of stumps
- 154.13 Damage and compensation
- 154.14 Arborist's license

### § 154.01 TREE BOARD.

*(A) Creation and establishment of Tree Board; members and terms; administration and operation; quorum.*

(1) There is hereby created and established a Tree Board for the city, which shall consist of five members. Such members shall be appointed by the Mayor with the approval of the City Council. The term of each Tree Board member shall be three years. In the event that a vacancy shall occur during the term of any member, a successor shall be appointed by the Mayor with the approval of the City Council for the unexpired term.

(2) The Tree Board shall choose its own officers, make its own rules and regulations and keep a minute book of its proceedings. The rules and regulations, or any revisions or amendments thereto, shall not be effective without approval of the City Council.

(3) A majority of the members of the Tree Board shall constitute a quorum for the transaction of business.

(B) *Compensation.* Members of the Tree Board shall serve without compensation.

(C) *Duties and responsibilities.*

(1) It shall be the responsibility of the Tree Board to study, investigate, counsel and develop and/or update annually and administer a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of trees and shrubs in parks, along streets and in other public areas. Such plan shall be presented annually to the City Council and, upon its acceptance and approval, shall constitute the official comprehensive city tree plan. The Tree Board, when requested by the Council, shall consider, investigate, make findings, report and recommend upon any special matter of question coming within the scope of its work.

(2) It shall be the responsibility of the Tree Board to review city ordinances pertaining to the city's urban forest as necessary and present proposed changes to City Council for consideration.

(3) It shall be the responsibility of the Tree Board to grant, review or revoke arborist licenses.

(D) *Interference with Tree Board.* It shall be unlawful for any person to prevent, delay or interfere with the Tree Board or any of its agents while they are engaging in and about the examining, planting, cultivating, mulching, pruning, spraying, injecting or removing of any street trees, park trees or trees on private grounds, as authorized in this chapter.

(E) *Review by City Council.* The City Council shall have the right to review the conduct, acts and decisions of the Tree Board. Any person may appeal any ruling or order of the Board to the Council. Such appeal must be in writing and must be filed with the City Clerk, who shall place the appeal on the agenda for the next regular meeting for consideration. The Council shall decide the appeal and such decision shall be final.

(Ord. 790, passed 5-9-2023) Penalty, see § 10.99

## § 154.02 DEFINITIONS.

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

**PARK TREES.** 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.

**PRIVATE COMMUNITY FOREST.** All trees within city boundaries but not owned by the city.

**PRIVATE TREES.** Trees, shrubs, bushes and all other woody vegetation on land privately owned.

**PUBLIC COMMUNITY FOREST.** All street and park trees owned by the city as a total resource.

**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 with the city.

**URBAN FOREST.** All woody vegetation, both public and private, within city boundaries as a total resource.

(Ord. 790, passed 5-9-2023)

### **§ 154.03 STREET TREE SPECIES TO BE PLANTED.**

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

(Ord. 790, passed 5-9-2023) Penalty, see § 10.99

### **§ 154.04 SPACING OF STREET TREE PLANTINGS AND REQUIRED DISTANCES AND CLEARANCES FOR PLANTING.**

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

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

(C) No street tree shall be planted closer than 35 feet to any street corner, measured from the point of nearest intersecting curb or curb lines.

(D) No street tree shall be planted closer than ten feet to any fire hydrant.

(Ord. 790, passed 5-9-2023) Penalty, see § 10.99

**§ 154.05 UTILITIES.**

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

(Ord. 790, passed 5-9-2023) Penalty, see § 10.99

**§ 154.06 PUBLIC TREE CARE.**

The city shall have the right to plant, subject to § 154.07, 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 ensure public safety or to preserve or enhance the symmetry and beauty of such public grounds. All costs of such elective tree care shall be borne by the city.

(Ord. 790, passed 5-9-2023)

**§ 154.07 CONSENT OF PROPERTY OWNER.**

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

(Ord. 790, passed 5-9-2023)

**§ 154.08 TREE TOPPING.**

(A) It shall be unlawful as a normal practice for any person, firm or city department to top any street tree, park tree or other tree on public property. Tree topping on private property is strongly discouraged.

(B) For the purpose of this section, ***TOPPING*** is defined as the reduction of tree size by cutting live branches and leaders to stubs, without regard to long-term tree health or structural integrity.

(C) 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 chapter at the determination of the Tree Board.

(Ord. 790, passed 5-9-2023) Penalty, see § 10.99

**§ 154.09 HAZARDOUS, DEAD OR DISEASED TREE REMOVAL; PRIVATE PROPERTY.**

(A) All trees, or any parts of trees, which are in a diseased, dying, dead or structurally weakened condition are declared to be a public nuisance and shall be removed by the property owner from the

private property on which they are located. For the purpose of carrying out the provisions of this section, the Tree Board shall have the authority to enter on private property to inspect the trees thereon. Unless an immediate danger is suspected to exist, the city shall provide 24-hour advanced reasonable notice of entry to the property owner or resident. In the event that the trees are diseased, dying, dead or structurally weakened, notice shall be given to the owner of the property by mail or personal service. Such notice shall allow the owner 60 days to remove the tree or trees unless an immediate threat to public safety is identified, in which case a shorter period of time for compliance may be demanded.

(B) In the event that the owner is a nonresident, notice shall be made by publication in a newspaper of general circulation or by certified mail if the name and address are known. The person charged with the removal may enter into an agreement with the city that such work be accomplished by the city, or city contractor, and the expense shall be declared to be a lien upon such property from the time the same becomes due until paid. If the owner fails, neglects or refuses to enter into such an agreement or to remove the trees, the Tree Board may enter upon the property and proceed to direct the removal of the trees; the cost thereof shall be chargeable to the property owner. If the owner fails to reimburse the city after being properly billed, the costs shall be assessed against the property and certified by the City Clerk to the County Treasurer to be collected in the manner prescribed by law.

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

(Ord. 790, passed 5-9-2023)

#### **§ 154.10 PRUNING; CLEARANCE.**

(A) The owner, agent or occupant of any land abutting a sidewalk, street or alley shall keep the trees located within the section of the sidewalk or street right-of-way or alley so abutting trimmed, pruned and sprayed in such manner as will remove any hazard to life or property and preserve or promote the health and vigor of the trees and shall water and otherwise care for the trees to maintain them in a healthy, vigorous, growing condition; provided, however, that the Tree Board may direct pesticide be applied to these trees for insect or disease control at city expense when doing so is considered in the public interest.

(B) A clearance of 14 feet must be maintained over streets and alleys.

(C) A clearance of eight feet must be maintained over sidewalks.

(D) No property owner or occupant shall permit the limbs, branches and/or foliage of any tree or shrub upon such property to obstruct the light from any streetlamp or obstruct the view of any street intersection.

(Ord. 790, passed 5-9-2023) Penalty, see § 10.99

**§ 154.11 PUBLIC COMMUNITY FOREST; ABUSE OF TREES PROHIBITED.**

(A) *Abuse of trees prohibited.* Unless specifically authorized by the city, no person shall intentionally damage, cut, carve, graffiti, transplant or remove any tree belonging to the city; attach any rope, wire, nails, advertising posters or other contrivance to any such tree; allow any gaseous, liquid or solid substance which is harmful to such trees to come in contact with them; or set fire or permit any fire to burn when such fire or the heat thereof will injure any portion of any such tree.

(B) *Protection of tree roots.* Unless specifically authorized by the city, no person shall deposit, place, store or maintain, upon any public place of the city, any stone, brick, sand, concrete or other materials which may impede the free passage of water, air and fertilizer to the roots of any tree growing therein, except by written permit of the city.

(Ord. 790, passed 5-9-2023) Penalty, see § 10.99

**§ 154.12 REMOVAL OF STUMPS.**

All stumps of street and park trees shall be removed to a minimum depth of 12 inches below the surface of the ground.

(Ord. 790, passed 5-9-2023)

**§ 154.13 DAMAGE AND COMPENSATION.**

(A) Any person who shall injure, damage (including by excessive pruning, topping or improper pruning techniques) or destroy any tree situated upon the public right-of-way or other public place shall repair said damage to the satisfaction of the Tree Board.

(B) If the Tree Board deems the tree to be beyond repair, the responsible party shall compensate the city for the lost monetary value of the tree to the satisfaction of the Tree Board. Tree values shall be in accordance with the most recent edition of *The Guide for Plant Appraisal*. Such compensation may include tree replacement of adequate value.

(Ord. 790, passed 5-9-2023)

**§ 154.14 ARBORIST'S LICENSE.**

(A) It shall be unlawful for any person or firm to engage in the business or occupation of pruning, treating or removing any trees within the city's urban forest without first applying for and procuring a license. The license fee and renewal fee shall each be \$25. No license shall be required of any city employee doing such work in the pursuit of their public service endeavors. Before any license shall be issued, each applicant shall first file with the City Clerk evidence of possession of liability insurance in

the minimum amounts of \$100,000 for bodily injury and \$300,000 for property damage, indemnifying the city or any person injured or damaged resulting from the pursuit of such endeavors as herein described.

(B) The applicant for an arborist's license required by the provisions of this chapter shall meet the following qualifications:

(1) Be at least 18 years of age;

(2) Provide evidence of currently holding at least one of the following credentials:

(a) International Society of Arboriculture: certified arborist or Board-certified master arborist;

(b) State Arborist Association; certified arborist;

(c) City of Omaha arborist license first class; or

(d) City of Omaha arborist license, second class.

(3) If an arborist intends to apply pesticides, an arborist must provide evidence of currently holding a State Department of Agriculture commercial pesticide applicator license for ornamentals.

(C) Every arborist license issued under the provisions of this chapter shall be valid from the date of issuance up to and including the next December 31, unless sooner revoked, and shall be renewed before the expiration date thereof by submitting the required application form, qualifying credentials, certificate of insurance, and fee.

(D) The Tree Board may revoke the license or certificate of compliance of any arborist, or of any firm, partnership or corporation, found using improper methods as herein defined, or who in any other way digresses from good arboriculture practice.

(Ord. 790, passed 5-9-2023) Penalty, see § 10.99





## **CHAPTER 155: MUNICIPAL PLANNING**

### **Section**

#### ***Municipal Limits***

- 155.01 “Municipal limits” defined
- 155.02 Original plats

#### ***Zoning and Subdivisions***

- 155.15 Zoning ordinance adopted
- 155.16 Zoning map
- 155.17 Comprehensive plan
- 155.18 Future land use map
- 155.19 Subdivision regulations

#### ***Municipal Plan Review Fees***

- 155.30 Intent
- 155.31 Fees
  
- 155.99 Penalty

### ***MUNICIPAL LIMITS***

#### **§ 155.01 “MUNICIPAL LIMITS” DEFINED.**

All additions, lots, lands, subdivisions and parcels of ground included within the official municipal map and plat on file at the office of the County Register of Deeds having been by act or ordinance of the City Council or by law duly annexed to or made a part of this city, or by the act, authority, acquiescence, consent, platting and dedication of their respective owners, created either as the original townsite or as additions to the city, are hereby declared to be within the corporate limits of the city. Lawfully constituted additions or changes in said municipal limits shall be indicated upon said map and

plat by the City Engineer after such addition or change has been completed in accordance with the ordinances of this city and the laws of the state.

(Prior Code, § 9-101)

#### **§ 155.02 ORIGINAL PLATS.**

Each and every plat, lot, block, addition, subdivision, outlot and parcel of ground included within the corporate limits of the city and not vacated of record prior to the enactment of this chapter, including the original plat of the city, is hereby accepted, approved and confirmed as valid; and each and every one of said lots, blocks, additions, subdivisions and outlots as heretofore platted and recorded in the office of the County Register of Deeds and not heretofore vacated, and all other parcels of ground included within said corporate limits, are hereby declared to be within said city and an integral part thereof.

(Prior Code, § 9-102)

### ***ZONING AND SUBDIVISIONS***

#### **§ 155.15 ZONING ORDINANCE ADOPTED.**

The city's zoning ordinance, dated 2017 and prepared by Marvin Planning Consultants, be and the same hereby is adopted as the official zoning ordinance of the city. Three copies of the zoning ordinance shall be kept on file in the office of the City Clerk.

(Prior Code, § 9-201) (Ord. 709, passed 2-13-2018)

#### **§ 155.16 ZONING MAP.**

An official zoning map was developed and is maintained in accordance with § 3.02 of the zoning ordinance. A copy of the map shall be kept on file in the office of the City Clerk. Amendments to the map are made on a regular basis to incorporate changes to the zoning designations of land and changes to the boundaries and zoning jurisdiction of the city due to the subdivision and annexation of land.

(Prior Code, § 9-202)

#### **§ 155.17 COMPREHENSIVE PLAN.**

The comprehensive development plan update 2017 to 2042 for the city, dated 2017 and prepared by Marvin Planning Consultants, be and the same is hereby adopted as the official comprehensive

development plan of the city. Three copies of the comprehensive development plan update 2017 to 2042 shall be kept on file in the office of the City Clerk.

(Prior Code, § 9-203) (Ord. 708, passed 2-13-2018)

#### **§ 155.18 FUTURE LAND USE MAP.**

A future land use map was developed and is maintained in accordance with the comprehensive plan of the city, establishing the location, size, shape and boundaries of the current and future land uses approved by the City Council for the guidance of future development as provided. A copy of the same shall be kept on file in the office of the City Clerk. Amendments to the map are made on a regular basis to incorporate changes to the zoning designations of land and changes to the boundaries and zoning jurisdiction of the city due to the subdivision and annexation of land; therefore, such map will be readopted on an annual basis.

(Prior Code, § 9-204)

#### **§ 155.19 SUBDIVISION REGULATIONS.**

To provide for harmonious development of the city and its environs; for the integration of new subdivision streets with other existing or planned streets or with other features of the comprehensive plan; for adequate, open spaces for traffic, recreation, light 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 ensure conformance of subdivision plans with capital improvements programs of the city; and to secure equitable handling of all subdivision plans by providing uniform procedures and standards for observance by subdividers, the Planning Commission and the City Council, the subdivision regulations for the city, as prepared by Marvin Planning Consultants and reviewed by the City Engineer and the city and reviewed and recommended for adoption by the City Planning Commission, are hereby adopted as the official subdivision ordinance of the city.

(Prior Code, § 9-205) (Ord. 721, passed 6-11-2019)

### ***MUNICIPAL PLAN REVIEW FEES***

#### **§ 155.30 INTENT.**

It is the intent of this subchapter to provide for the collection of fees for review of preliminary plats, review of final plats, review of lot splits and plan review and administrative review fees. The fees required by this subchapter shall be collected by the City Clerk at the times stipulated herein.

(Prior Code, § 9-301)

**§ 155.31 FEES.**

The following are the municipal plan review fees to be charged by the city.

(A) *Preliminary plats*. The review fee shall equal the total costs and expenses incurred by the city and its consultants to review and approve the preliminary plat. Costs and expenses shall include engineering, legal, fiscal, administrative and other associated services. The total review fee shall be calculated by the city, submitted to the applicant and paid by him or her prior to official city approval of the preliminary plat.

(B) *Final plats*. The review fee shall equal the total costs and expenses incurred by the city and its consultants to review and approve the final plat. Costs and expenses shall include engineering, legal, fiscal, administrative and other associated services. The total review fee shall be calculated by the city, submitted to the applicant and paid by him or her prior to official city approval of the final plat.

(C) *Lot splits, administrative plats and lot line adjustments*. The review fee shall equal the total costs and expenses incurred by the city and its consultants to review and approve the lot split, administrative plat, or lot line adjustment. Costs and expenses shall include engineering, legal, fiscal, administrative and other associated services. The total review fee shall be calculated by the city, submitted to the applicant and paid by him or her prior to official city approval of the lot split, administrative plat or lot line adjustment.

(D) *Review of construction plans*. The review fee shall equal the total costs and expenses incurred by the city and its consultants to review and approve the construction plans. Costs and expenses shall include engineering, legal, fiscal, administrative and other associated services. The total review fee shall be calculated by the city, submitted to the applicant and paid by him or her prior to official city approval of the construction plans.

(Prior Code, § 9-302)

**§ 155.99 PENALTY.**

Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this chapter, whether set forth at full length herein or incorporated by reference, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in a sum of not more than \$500 for each offense. A new violation shall be deemed to have been committed every 24 hours of such failure to comply.

(Prior Code, § 9-401)

## **TABLE OF SPECIAL ORDINANCES**

Table

- I. STREET VACATIONS**
- II. ZONING MAP CHANGES**
- III. FRANCHISES**



**TABLE I: STREET VACATIONS**

| <i>Ord. No.</i> | <i>Date Passed</i> | <i>Description</i>                                                                                                                                                                             |
|-----------------|--------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 791             | 6-13-2023          | Vacating a portion of the existing right-of-way of Cottonwood Drive, located in the northeast quarter of the northwest quarter in Section 6, Township 14 north, Range 10 east of the Sixth PM. |
| 800             | 12-12-2023         | Vacating a portion of the existing right-of-way of Meigs Street, located in the northeast quarter of the northeast quarter in Section 6, Township 15 north, Range 10 east of the Sixth PM.     |





**TABLE II: ZONING MAP CHANGES**

| <i>Ord. No.</i> | <i>Date Passed</i> | <i>Description</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|-----------------|--------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 795             | 8-15-2023          | Rezoning Lots 24 through 43, inclusive, Still Water Lake, a subdivision, as surveyed, platted and recorded, shall be rezoned to R-3. Rezoning Lots 44-49, inclusive, and Outlot C, Still Water Lake, a subdivision, as surveyed, platted and recorded, shall be rezoned to CMD; said CMD to be attached to the underlying C-3 District.                                                                                                                                                |
| 812             | 6-11-2024          | Amending the future land use map as it relates to part of the northeast quarter of Section 6, Township 15 north, Range 10 east of the 6th PM.                                                                                                                                                                                                                                                                                                                                          |
| 814             | 7-9-2024           | Rezoning Lots 1 through 14, inclusive, Valley Landing, a subdivision, as surveyed, platted and recorded in the county to C-1 General Commercial District. Rezoning Lots 15 through 16 inclusive, and Outlot A, Valley Landing, a subdivision, as surveyed, platted and recorded in the county to R-2 Medium-High Density Residential District.                                                                                                                                         |
| 824             | 11-12-2024         | Rezoning Lot 1, Catalina, a subdivision as surveyed, platted and recorded in the county to C-3 Highway Commercial. Rezoning Lots 4 through 15, inclusive, Outlots A - C, inclusive, Catalina, a subdivision as surveyed, platted and recorded in the county to R-3 Lakefront Residential. Rezoning Lots 2 and 3, Lots 16 through 72, inclusive, and Outlot D, Catalina, a subdivision as surveyed, platted and recorded in the county to R-2 Medium-High Density Residential District. |



**TABLE III: FRANCHISES**

| <i>Ord. No.</i> | <i>Date Passed</i> | <i>Description</i>                                                                                |
|-----------------|--------------------|---------------------------------------------------------------------------------------------------|
| 810             | 5-14-2024          | Granting Black Hills Nebraska Gas, LLC (Black Hills Energy) a natural gas franchise for 25 years. |



## **PARALLEL REFERENCES**

References to Nebraska Revised Statutes  
References to Prior Code  
References to Ordinances



## REFERENCES TO NEBRASKA REVISED STATUTES

| <i>Neb. RS Cites</i>  | <i>Code Section</i> |
|-----------------------|---------------------|
| 7-949                 | 90.17; 90.18        |
| 10-101 through 10-143 | 34.09               |
| 10-606 through 10-612 | 34.09               |
| 11-101                | 31.02               |
| 11-104                | 31.01               |
| 11-105                | 31.01               |
| 11-109                | 31.01               |
| 11-110                | 31.01               |
| 11-111                | 31.01               |
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## RESOLUTION NO. 2025 – \_\_\_\_

WHEREAS, the City of Valley, Nebraska recognizes that a properly functioning Public Water System is necessary to the health and welfare of the citizens of the CITY; and

WHEREAS, the Mayor and CITY Council have determined that portions of the CITY Public Water System are in need of significant repair and improvement; and

WHEREAS, funding for the cost of the repair and improvement of portions of the CITY Public Water Systems has been obtained by loan from the Nebraska Department of Environment and Energy, subject to certain requirements and obligations; and

WHEREAS, a Loan Agreement No. D311666 (the “Loan Agreement”) was entered into by and between the City of Valley and the Nebraska Department of Environment and Energy (“the NDEE”) and a promissory note (the “Note”) was issued by the City of Valley to the NDEE, all on February 16, 2022; and

WHEREAS, Resolution No. 2022-01 dated January 11, 2022 authorized and directed the Mayor and the City Clerk to execute all necessary documents in order to effectuate the Loan, including but not limited to the Loan Agreement and the Note; and

WHEREAS, Amendment No. 1 to the Loan Agreement for Loan was entered into by and between the City of Valley and the Nebraska Department of Environment and Energy on January 19, 2023; and

WHEREAS, it is in the City’s best interests to enter into Amendment No. 2, amending the Loan Agreement for Loan (Project No. D311666) by and between the NDEE and the Municipality dated February 16, 2022, and amended January 19, 2023.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and CITY Council of the City of Valley, Nebraska that they should execute Amendment No. 02 to the Loan Agreement between the Nebraska Department of Environment and Energy and the City of Valley, Nebraska designated as Project No. D311666, a copy of Loan Agreement No. 02 is attached hereto and incorporated herein by this reference.

BE IT FURTHER RESOLVED, Cindy Grove, Mayor, is hereby directed to execute the Agreement and all other documents necessary to facilitate Amendment No. 02 to the Loan Agreement; and

BE IT FURTHER RESOLVED THAT Christie Donnermeyer, Clerk, be authorized and directed to sign all necessary documents, to furnish such assurances to the State of Nebraska as may be required by law or regulations, and to receive payment on behalf of the applicant.

PASSED AND APPROVED THIS 14<sup>TH</sup> DAY OF January, 2025.

CITY OF VALLEY, DOUGLAS COUNTY, NEBRASKA

---

Cindy Grove, Mayor

ATTEST:

---

Christie Donnermeyer, City Clerk

---

**AMENDMENT NO. 02**

**To**

**LOAN AGREEMENT  
(Governmental Borrower)**

**Between**

**NEBRASKA DEPARTMENT OF ENVIRONMENT AND ENERGY**

**and**

**CITY OF VALLEY, NEBRASKA**

**NDEE PROJECT NO. D311666**

**DATED AS OF \_\_\_\_\_**

---

**DRAFT COPY FOR REVIEW.**

**PLEASE SEE EMAIL FOR MORE INFORMATION.**

**ATTACHMENT E & ATTACHMENT F ARE NEEDED BEFORE  
THE  
LOAN CAN BE SIGNED.**

**THIS DOCUMENT IS LOCKED, BUT COMMENTS CAN BE MADE  
USING “REVIEW” RIBBON AND “NEW COMMENT” OPTIONS IN  
WORD.**

**AMENDMENT NO. 02  
LOAN CONTRACT BETWEEN  
NEBRASKA DEPARTMENT OF ENVIRONMENT AND ENERGY  
AND  
CITY OF VALLEY, NEBRASKA  
PROJECT NO. D311666**

This Amendment No. 02 to the Loan Agreement, is entered into by and between the State of Nebraska, acting by and through the Nebraska Department of Environment and Energy (hereinafter "NDEE") and the City of Valley, Nebraska, (hereinafter "Borrower").

1. The Loan Agreement for Loan (Project No. D311666) (hereinafter "Loan Agreement") between the NDEE and the Municipality dated February 16, 2022, and amended January 19, 2023, and signed by Jim Macy, Director of the NDEE, and Cindy Grove, Mayor of the City of Valley, is hereby acknowledged and incorporated by this reference as if fully set out herein.
2. Pursuant to Section 6.04 of the Loan Agreement, the parties hereby amend the following:

Section 2.01. Amount of the Loan. Subject to all of the terms, provisions and conditions of this Loan Agreement, and subject to the availability of State and Federal funds, the NDEE will loan an amount not to exceed seven million, nine hundred and thirty-five thousand, twenty dollars (\$7,935,020) to the Borrower to pay a portion of the Project Costs in Attachment B hereto.

(a) Loan Forgiveness.

- (1) The total award of all Loan Forgiveness cannot exceed seventy-five percent of the total amount of eligible Project Costs.
- (2) NDEE DWSRF BIL Emerging Contaminants Loan Forgiveness. This Loan Agreement includes DWSRF Loan Forgiveness of up to 52.48% of the eligible Project Costs, up to a ceiling of four million, one hundred sixty-four thousand, two hundred and ninety-eight dollars (\$4,164,298).
- (3) All Loan Forgiveness shall be effective only upon the completion of the Project in accordance with this Loan Agreement, including compliance with the requirements of the DWSRF, as determined by the NDEE and Initiation of Operation. The amount of such Loan Forgiveness shall be stated on the final Attachment A repayment schedule prepared by the NDEE following disbursement of the full Loan Amount and Initiation of Operation.

The final actual amount of the Loan and any Loan Forgiveness may be reduced without revision of any other terms, provisions, or conditions of this Loan Agreement, other than adjustment by the NDEE to the final repayment schedule in Attachment A hereto, to reflect reductions in the estimated or actual total Project Costs as impacted by opening of bids for construction, change orders, final actual costs, and prepayments.

to be replaced with:

Section 2.01. Amount of the Loan. Subject to all of the terms, provisions and conditions of this Loan Agreement, and subject to the availability of State and Federal funds, the NDEE will loan an amount not to exceed **fourteen million, nine hundred thirty-five thousand, twenty dollars (\$14,935,020)** to the Borrower to pay a portion of the Project Costs in Attachment B hereto.

(a) Loan Forgiveness.

- (1) The total award of all Loan Forgiveness cannot exceed seventy-five percent of the total amount of eligible Project Costs.

- (2) **NDEE DWSRF BIL Emerging Contaminants Loan Forgiveness. This Loan Agreement includes DWSRF Loan Forgiveness of up to 52.48% on the initial seven million, nine hundred thirty-five thousand, twenty dollars (\$7,935,020) of eligible Project Costs, up to a ceiling of four million, one hundred sixty-four thousand, two hundred ninety-eight dollars (\$4,164,298) and an additional forgiveness amount is capped at fifty thousand dollars (\$50,000) on the remaining seven million dollars (\$7,000,000) (EPA, 2023, "Reallotment of Fiscal Year 2022 Drinking Water State Revolving Fund Bipartisan Infrastructure Law Funds"). The maximum total Loan Forgiveness is not to exceed four million, two hundred fourteen thousand, two hundred ninety-eight dollars (\$4,214,298).**
- (3) All Loan Forgiveness shall be effective only upon the completion of the Project in accordance with this Loan Agreement, including compliance with the requirements of the DWSRF, as determined by the NDEE and Initiation of Operation. The amount of such Loan Forgiveness shall be stated on the final Attachment A repayment schedule prepared by the NDEE following disbursement of the full Loan Amount and Initiation of Operation.

The final actual amount of the Loan and any Loan Forgiveness may be reduced without revision of any other terms, provisions, or conditions of this Loan Agreement, other than adjustment by the NDEE to the final repayment schedule in Attachment A hereto, to reflect reductions in the estimated or actual total Project Costs as impacted by opening of bids for construction, change orders, final actual costs, and prepayments.

And;

Section 2.03. Interest Rate. The interest rate on this Loan is determined by the NDEE pursuant to Regulations and the Intended Use Plan and is applied to outstanding principal. The interest rate on this Loan is 0.0% per annum (calculated on the basis of a year equaling 360 days made up of 12 months of 30 days each) to be paid as set out in Attachment A.

Section 2.04. Administrative Fee. The administrative rate on this Loan is determined by the NDEE pursuant to Regulations and the Intended Use Plan and is applied to outstanding principal. The Borrower shall pay to the NDEE, or at the direction of the NDEE, to NIFA or the Trustee, an annual administrative fee of 0.0% per annum to be paid in semiannual installments on June 15 and December 15.

to be replaced with:

Section 2.03. Interest Rate. The interest rate on this Loan is determined by the NDEE pursuant to Regulations and the Intended Use Plan and is applied to outstanding principal. **The interest rate on this Loan is 0.0% per annum (calculated on the basis of a year equaling 360 days made up of 12 months of 30 days each) on the initial seven million, nine hundred thirty-five thousand, twenty dollars (\$7,935,020), and 0.6% on the remaining seven million dollars (\$7,000,000) resulting in a combined rate of 0.28% to be paid as set out in Attachment A.**

Section 2.04. Administrative Fee. The administrative rate on this Loan is determined by the NDEE pursuant to Regulations and the Intended Use Plan and is applied to outstanding principal. The Borrower shall pay to the NDEE, or at the direction of the NDEE, to NIFA or the Trustee, **an annual administrative fee of 0.0% per annum on the initial seven million, nine hundred thirty-five thousand, twenty dollars (\$7,935,020), and 0.6% on the remaining seven million dollars (\$7,000,000) resulting in a combined rate of 0.28% to be paid in semiannual installments on June 15 and December 15.**

And;

Section 2.10. Other Conditions and Terms.

- (o) Wage Rate Requirements. Davis-Bacon prevailing wage requirements will apply to the construction, alteration, and repair of a public building or public work, or building or work carried out in whole or in

part with assistance made available by this Loan Agreement. For wages that require a Davis-Bacon prevailing wage, the Borrower certifies compliance with the following:

to be replaced with:

Section 2.10. Other Conditions and Terms.

- (o) Wage Rate Requirements. **By accepting this award, the Borrower acknowledges and agrees to the terms and conditions provided in the <https://www.epa.gov/grants/contract-provisions-davis-bacon-and-related-acts>.**

Davis-Bacon prevailing wage requirements will apply to the construction, alteration, and repair of a public building or public work, or building or work carried out in whole or in part with assistance made available by this Loan Agreement. For wages that require a Davis-Bacon prevailing wage, the Borrower certifies compliance with the following:

3. Pursuant to Section 6.04 of the Loan Agreement, the parties hereby incorporate and, in accordance with the terms and conditions set forth in Amendment No. 02 to the Loan Agreement, substitute the following attachments attached hereto:
  - a. ATTACHMENT A, LOAN REPAYMENT SCHEDULE;
  - b. ATTACHMENT B, PROJECT COSTS;
  - c. ATTACHMENT C, FINANCIAL CAPABILITY;
  - d. ATTACHMENT E, FORM OF OPINION OF BORROWER'S COUNSEL;
  - e. ATTACHMENT F, PROMISSORY NOTE; and
  - f. ATTACHMENT I, ADDITIONAL DOCUMENTS AND ATTACHMENT I.01.
4. Except as specifically modified herein, all terms and conditions of the original Loan Agreement remain in full force and effect.
5. Electronic Signature – The NDEE and the Borrower hereby approve the usage of electronic signatures pursuant to Neb. Rev. Stat. §86-611 and Nebraska Administrative Code, Title 437, Digital Signatures Act.
6. The amendment or modification made herein shall become effective on the latter of the two dates signed.

IN WITNESS THEREOF, the parties hereto have caused this Amendment No. 02 to the Loan Agreement to be executed and delivered as of the date set forth below.

CITY OF VALLEY, NEBRASKA

NEBRASKA DEPARTMENT OF  
ENVIRONMENT AND ENERGY

|                                                                                                                 |                                 |
|-----------------------------------------------------------------------------------------------------------------|---------------------------------|
| By _____<br>(signature)                                                                                         | By _____<br>(signature)         |
| Title _____<br>Mayor                                                                                            | Title _____<br>Interim Director |
| <b>DRAFT: PLEASE DO NOT SIGN THIS SECTION. THIS SECTION<br/>WILL BE SIGNED ELECTRONICALLY THROUGH DOCUSIGN.</b> |                                 |
| Date _____                                                                                                      | Date _____                      |



## **ATTACHMENT A**

### **LOAN REPAYMENT SCHEDULE**

Payments are due on June 15 and December 15 of each year. Interest and Administrative fees shall accrue at the applicable rate as established by Section 2.03 and Section 2.04 of this Loan Agreement and repayments of such accrued interest and administrative fees will be repaid after the effective date of this Loan Agreement. A commencement of principal repayment is estimated to start on December 15, 2024 (as established by Section 2.02 of this Loan Agreement wherein repayment must begin within one (1) year from the date of Initiation of Operation, but no later than three (3) years from the date of the Loan, whichever occurs first).

Amounts due will be invoiced on or about May 15 and November 15 of each year for each six-month payment period ending on the set interest payment date. Interest and Administrative fee accruing on principal amounts drawn after the invoicing date are to be included with the next invoice.

The Amortization Schedule included in Attachment A is a projected schedule based upon estimated principal repayment start and full distribution of funds and is subject to change pending date of Initiation of Operation and final principal amount disbursed. Interest and Administrative fees accruing before the first principal repayment that is not reflected on the following draft amortization schedule will be billed and paid in accordance with the NDEE's procedures.

Following the receipt of Initiation of Operation date and the final disbursement of Loan proceeds to the Borrower, a revised final Attachment A shall be prepared by the NDEE to establish the final debt service schedule based upon the following parameters set forth below. Such revised final Attachment A thereafter shall be deemed to be incorporated herein by reference and made a part hereof and shall supersede and replace the projected Attachment A.

The final Loan Repayment Schedule shall be calculated by the NDEE based on the following parameters:

- (1) Final principal amount of Loan;
- (2) Amount of Loan Forgiveness, if any;
- (3) Interest rate as set forth in Section 2.03;
- (4) Administrative fee rate as set forth in Section 2.04;
- (5) Installments of principal, interest, and fees on each June 15 and December 15 payment date shall:
  - a. Begin no later than one year after the Initiation of Operation, or three years from the effective date of this Loan Agreement, whichever occurs first; and
  - b. End on the last repayment which must be paid no later than thirty (30) years from the date of either (i) one year after the Initiation of Operation, or (ii) three years from the effective date of this Loan agreement, whichever occurs first; and
  - c. Amortization of principal to achieve level payments of principal and interest (not taking into account the administrative fee payment pursuant to Section 2.04).

# ATTACHMENT A

## PROJECTED AMORTIZATION SCHEDULE

**TOTAL PRINCIPAL:** \$ 10,720,722  
**LOAN FORGIVENESS:** \$ 4,214,298  
**TOTAL SRF ASSISTANCE:** \$ 14,935,020

**INTEREST RATE (%):** 0.28  
**ADMIN FEE (%):** 0.28  
**TERM (YEARS):** 30

| Principal Payment | Principal           | Principal Payment   | Interest            | Admin Fee           | Total Payment          | Remaining Principal |
|-------------------|---------------------|---------------------|---------------------|---------------------|------------------------|---------------------|
| 6/15/2025         | \$ 10,720,722.00    | \$ 171,404.22       | \$ 15,009.01        | \$ 15,009.01        | \$ 201,422.24          | \$ 10,549,317.78    |
| 12/15/2025        | \$ 10,549,317.78    | \$ 171,644.18       | \$ 14,769.04        | \$ 14,769.04        | \$ 201,182.27          | \$ 10,377,673.60    |
| 6/15/2026         | \$ 10,377,673.60    | \$ 171,884.49       | \$ 14,528.74        | \$ 14,528.74        | \$ 200,941.97          | \$ 10,205,789.11    |
| 12/15/2026        | \$ 10,205,789.11    | \$ 172,125.12       | \$ 14,288.10        | \$ 14,288.10        | \$ 200,701.33          | \$ 10,033,663.99    |
| 6/15/2027         | \$ 10,033,663.99    | \$ 172,366.10       | \$ 14,047.13        | \$ 14,047.13        | \$ 200,460.36          | \$ 9,861,297.89     |
| 12/15/2027        | \$ 9,861,297.89     | \$ 172,607.41       | \$ 13,805.82        | \$ 13,805.82        | \$ 200,219.05          | \$ 9,688,690.48     |
| 6/15/2028         | \$ 9,688,690.48     | \$ 172,849.06       | \$ 13,564.17        | \$ 13,564.17        | \$ 199,977.40          | \$ 9,515,841.42     |
| 12/15/2028        | \$ 9,515,841.42     | \$ 173,091.05       | \$ 13,322.18        | \$ 13,322.18        | \$ 199,735.41          | \$ 9,342,750.37     |
| 6/15/2029         | \$ 9,342,750.37     | \$ 173,333.38       | \$ 13,079.85        | \$ 13,079.85        | \$ 199,493.08          | \$ 9,169,416.99     |
| 12/15/2029        | \$ 9,169,416.99     | \$ 173,576.04       | \$ 12,837.18        | \$ 12,837.18        | \$ 199,250.41          | \$ 8,995,840.94     |
| 6/15/2030         | \$ 8,995,840.94     | \$ 173,819.05       | \$ 12,594.18        | \$ 12,594.18        | \$ 199,007.41          | \$ 8,822,021.89     |
| 12/15/2030        | \$ 8,822,021.89     | \$ 174,062.40       | \$ 12,350.83        | \$ 12,350.83        | \$ 198,764.06          | \$ 8,647,959.49     |
| 6/15/2031         | \$ 8,647,959.49     | \$ 174,306.09       | \$ 12,107.14        | \$ 12,107.14        | \$ 198,520.37          | \$ 8,473,653.41     |
| 12/15/2031        | \$ 8,473,653.41     | \$ 174,550.11       | \$ 11,863.11        | \$ 11,863.11        | \$ 198,276.34          | \$ 8,299,103.29     |
| 6/15/2032         | \$ 8,299,103.29     | \$ 174,794.48       | \$ 11,618.74        | \$ 11,618.74        | \$ 198,031.97          | \$ 8,124,308.81     |
| 12/15/2032        | \$ 8,124,308.81     | \$ 175,039.20       | \$ 11,374.03        | \$ 11,374.03        | \$ 197,787.26          | \$ 7,949,269.61     |
| 6/15/2033         | \$ 7,949,269.61     | \$ 175,284.25       | \$ 11,128.98        | \$ 11,128.98        | \$ 197,542.21          | \$ 7,773,985.36     |
| 12/15/2033        | \$ 7,773,985.36     | \$ 175,529.65       | \$ 10,883.58        | \$ 10,883.58        | \$ 197,296.81          | \$ 7,598,455.71     |
| 6/15/2034         | \$ 7,598,455.71     | \$ 175,775.39       | \$ 10,637.84        | \$ 10,637.84        | \$ 197,051.07          | \$ 7,422,680.32     |
| 12/15/2034        | \$ 7,422,680.32     | \$ 176,021.48       | \$ 10,391.75        | \$ 10,391.75        | \$ 196,804.98          | \$ 7,246,658.85     |
| 6/15/2035         | \$ 7,246,658.85     | \$ 176,267.91       | \$ 10,145.32        | \$ 10,145.32        | \$ 196,558.55          | \$ 7,070,390.94     |
| 12/15/2035        | \$ 7,070,390.94     | \$ 176,514.68       | \$ 9,898.55         | \$ 9,898.55         | \$ 196,311.78          | \$ 6,893,876.26     |
| 6/15/2036         | \$ 6,893,876.26     | \$ 176,761.80       | \$ 9,651.43         | \$ 9,651.43         | \$ 196,064.66          | \$ 6,717,114.46     |
| 12/15/2036        | \$ 6,717,114.46     | \$ 177,009.27       | \$ 9,403.96         | \$ 9,403.96         | \$ 195,817.19          | \$ 6,540,105.19     |
| 6/15/2037         | \$ 6,540,105.19     | \$ 177,257.08       | \$ 9,156.15         | \$ 9,156.15         | \$ 195,569.38          | \$ 6,362,848.11     |
| 12/15/2037        | \$ 6,362,848.11     | \$ 177,505.24       | \$ 8,907.99         | \$ 8,907.99         | \$ 195,321.22          | \$ 6,185,342.87     |
| 6/15/2038         | \$ 6,185,342.87     | \$ 177,753.75       | \$ 8,659.48         | \$ 8,659.48         | \$ 195,072.71          | \$ 6,007,589.12     |
| 12/15/2038        | \$ 6,007,589.12     | \$ 178,002.60       | \$ 8,410.62         | \$ 8,410.62         | \$ 194,823.85          | \$ 5,829,586.51     |
| 6/15/2039         | \$ 5,829,586.51     | \$ 178,251.81       | \$ 8,161.42         | \$ 8,161.42         | \$ 194,574.65          | \$ 5,651,334.71     |
| 12/15/2039        | \$ 5,651,334.71     | \$ 178,501.36       | \$ 7,911.87         | \$ 7,911.87         | \$ 194,325.10          | \$ 5,472,833.35     |
| 6/15/2040         | \$ 5,472,833.35     | \$ 178,751.26       | \$ 7,661.97         | \$ 7,661.97         | \$ 194,075.20          | \$ 5,294,082.09     |
| 12/15/2040        | \$ 5,294,082.09     | \$ 179,001.51       | \$ 7,411.71         | \$ 7,411.71         | \$ 193,824.94          | \$ 5,115,080.57     |
| 6/15/2041         | \$ 5,115,080.57     | \$ 179,252.12       | \$ 7,161.11         | \$ 7,161.11         | \$ 193,574.34          | \$ 4,935,828.46     |
| 12/15/2041        | \$ 4,935,828.46     | \$ 179,503.07       | \$ 6,910.16         | \$ 6,910.16         | \$ 193,323.39          | \$ 4,756,325.39     |
| 6/15/2042         | \$ 4,756,325.39     | \$ 179,754.37       | \$ 6,658.86         | \$ 6,658.86         | \$ 193,072.08          | \$ 4,576,571.01     |
| 12/15/2042        | \$ 4,576,571.01     | \$ 180,006.03       | \$ 6,407.20         | \$ 6,407.20         | \$ 192,820.43          | \$ 4,396,564.98     |
| 6/15/2043         | \$ 4,396,564.98     | \$ 180,258.04       | \$ 6,155.19         | \$ 6,155.19         | \$ 192,568.42          | \$ 4,216,306.95     |
| 12/15/2043        | \$ 4,216,306.95     | \$ 180,510.40       | \$ 5,902.83         | \$ 5,902.83         | \$ 192,316.06          | \$ 4,035,796.55     |
| 6/15/2044         | \$ 4,035,796.55     | \$ 180,763.11       | \$ 5,650.12         | \$ 5,650.12         | \$ 192,063.34          | \$ 3,855,033.44     |
| 12/15/2044        | \$ 3,855,033.44     | \$ 181,016.18       | \$ 5,397.05         | \$ 5,397.05         | \$ 191,810.28          | \$ 3,674,017.25     |
| 6/15/2045         | \$ 3,674,017.25     | \$ 181,269.60       | \$ 5,143.62         | \$ 5,143.62         | \$ 191,556.85          | \$ 3,492,747.65     |
| 12/15/2045        | \$ 3,492,747.65     | \$ 181,523.38       | \$ 4,889.85         | \$ 4,889.85         | \$ 191,303.08          | \$ 3,311,224.27     |
| 6/15/2046         | \$ 3,311,224.27     | \$ 181,777.51       | \$ 4,635.71         | \$ 4,635.71         | \$ 191,048.94          | \$ 3,129,446.75     |
| 12/15/2046        | \$ 3,129,446.75     | \$ 182,032.00       | \$ 4,381.23         | \$ 4,381.23         | \$ 190,794.45          | \$ 2,947,414.75     |
| 6/15/2047         | \$ 2,947,414.75     | \$ 182,286.85       | \$ 4,126.38         | \$ 4,126.38         | \$ 190,539.61          | \$ 2,765,127.90     |
| 12/15/2047        | \$ 2,765,127.90     | \$ 182,542.05       | \$ 3,871.18         | \$ 3,871.18         | \$ 190,284.41          | \$ 2,582,585.85     |
| 6/15/2048         | \$ 2,582,585.85     | \$ 182,797.61       | \$ 3,615.62         | \$ 3,615.62         | \$ 190,028.85          | \$ 2,399,788.24     |
| 12/15/2048        | \$ 2,399,788.24     | \$ 183,053.53       | \$ 3,359.70         | \$ 3,359.70         | \$ 189,772.93          | \$ 2,216,734.72     |
| 6/15/2049         | \$ 2,216,734.72     | \$ 183,309.80       | \$ 3,103.43         | \$ 3,103.43         | \$ 189,516.66          | \$ 2,033,424.92     |
| 12/15/2049        | \$ 2,033,424.92     | \$ 183,566.43       | \$ 2,846.79         | \$ 2,846.79         | \$ 189,260.02          | \$ 1,849,858.48     |
| 6/15/2050         | \$ 1,849,858.48     | \$ 183,823.43       | \$ 2,589.80         | \$ 2,589.80         | \$ 189,003.03          | \$ 1,666,035.06     |
| 12/15/2050        | \$ 1,666,035.06     | \$ 184,080.78       | \$ 2,332.45         | \$ 2,332.45         | \$ 188,745.68          | \$ 1,481,954.28     |
| 6/15/2051         | \$ 1,481,954.28     | \$ 184,338.49       | \$ 2,074.74         | \$ 2,074.74         | \$ 188,487.96          | \$ 1,297,615.79     |
| 12/15/2051        | \$ 1,297,615.79     | \$ 184,596.57       | \$ 1,816.66         | \$ 1,816.66         | \$ 188,229.89          | \$ 1,113,019.22     |
| 6/15/2052         | \$ 1,113,019.22     | \$ 184,855.00       | \$ 1,558.23         | \$ 1,558.23         | \$ 187,971.46          | \$ 928,164.22       |
| 12/15/2052        | \$ 928,164.22       | \$ 185,113.80       | \$ 1,299.43         | \$ 1,299.43         | \$ 187,712.66          | \$ 743,050.42       |
| 6/15/2053         | \$ 743,050.42       | \$ 185,372.96       | \$ 1,040.27         | \$ 1,040.27         | \$ 187,453.50          | \$ 557,677.46       |
| 12/15/2053        | \$ 557,677.46       | \$ 185,632.48       | \$ 780.75           | \$ 780.75           | \$ 187,194.98          | \$ 372,044.98       |
| 6/15/2054         | \$ 372,044.98       | \$ 185,892.37       | \$ 520.86           | \$ 520.86           | \$ 186,934.09          | \$ 186,152.61       |
| 12/15/2054        | \$ 186,152.61       | \$ 186,152.61       | \$ 260.61           | \$ 260.61           | \$ 186,673.84          | \$ 0.00             |
| <b>TOTAL:</b>     | <b>\$10,720,722</b> | <b>\$464,071.72</b> | <b>\$464,071.72</b> | <b>\$464,071.72</b> | <b>\$11,648,865.43</b> |                     |

## ATTACHMENT B

### PROJECT COSTS

| <u>COST CLASSIFICATION</u>                           | <u>ESTIMATED TOTAL COST</u> |
|------------------------------------------------------|-----------------------------|
| 1) Administrative and legal expenses                 | \$ 32,500                   |
| 2) Land, structures, right-of-ways, appraisals, etc. | \$ -                        |
| 3) Relocation expenses and payments                  | \$ -                        |
| 4) Architectural and engineering fees                | \$ 692,000                  |
| 5) Project inspection fees                           | \$ 692,000                  |
| 6) Site work, demolition and removal                 | \$ 17,000                   |
| 7) Construction                                      | \$ 10,653,670               |
| 8) Equipment                                         | \$ 4,230,000                |
| 9) Miscellaneous                                     | \$ 609,800                  |
| <b>10) SUBTOTAL</b> (sum of lines 1-9)               | <b>\$ 16,926,970</b>        |
| 11) Contingencies                                    | \$ 1,506,133                |
| <b>12) SUBTOTAL</b> (sum of lines 10-11)             | <b>\$ 18,433,103</b>        |
| Less project (program) income                        | \$ 3,498,083                |
| <b>TOTAL PROJECT COSTS</b> (line 12 minus 13)        | <b>\$ 14,935,020</b>        |
| <u>SOURCE OF FUNDS</u>                               |                             |
| NDEE DWSRF Loan (Principal)                          | \$ 10,720,722               |
| NDEE DWSRF Emerging Contaminant Loan Forgiveness     | \$ 4,214,298                |
| <b>TOTAL PROJECT ASSISTANCE</b>                      | <b>\$ 14,935,020</b>        |

*Funds shall be made only to owners of eligible systems for eligible projects pursuant to the Safe Drinking Water Act.*

***Should the water treatment plant phase not proceed in lieu of the City pursuing an interconnection project with the Metropolitan Utilities District of Omaha the forgiveness percentage/funding may be reduced according to the final cost of the completed project phases. This may occur as certain project phases (e.g., supply wells) are not eligible for emerging contaminant loan forgiveness.***

### OUTLAY SCHEDULE

|                      | <u>2023 - 2024</u><br><u>REIMBURSED</u> | <u>2025</u><br><u>ESTIMATED OUTLAY</u> |
|----------------------|-----------------------------------------|----------------------------------------|
| January              | \$ -                                    | \$ -                                   |
| February             | \$ -                                    | \$ 320,655                             |
| March                | \$ -                                    | \$ 552,854                             |
| April                | \$ -                                    | \$ 2,335,500                           |
| May                  | \$ -                                    | \$ 810,853                             |
| June                 | \$ -                                    | \$ 1,149,936                           |
| July                 | \$ -                                    | \$ 961,966                             |
| August               | \$ -                                    | \$ 578,654                             |
| September            | \$ -                                    | \$ 869,824                             |
| October              | \$ -                                    | \$ 2,113,131                           |
| November             | \$ -                                    | \$ 528,283                             |
| December             | \$ -                                    | \$ 276,427                             |
| <b>ANNUAL TOTAL:</b> | <b>\$ 4,436,937</b>                     | <b>\$ 10,498,083</b>                   |
| <b>TOTAL OUTLAY:</b> |                                         | <b>\$ 14,935,020</b>                   |

## ATTACHMENT C

### FINANCIAL CAPABILITY

#### CITY OF VALLEY, NEBRASKA DWSRF Project No. D311666

City of Valley has requested to amend the DWSRF funding assistance to \$14,935,020 (fourteen million, nine hundred thirty-five thousand, twenty dollars) to finance public water works improvements.

An abbreviated financial analysis is presented. The documents reviewed and used to complete this analysis are:

1. Audit reports of the City of Valley, for the years 2021, through 2023.
2. Water/Wastewater Pre-application for Federal/State Assistance
3. Miscellaneous correspondence from City of Valley in project file.

Table 1  
Proprietary (Water and Wastewater Utilities) Fund Account Summary

| Year Ended Sept 30 | Revenue<br>(includes interest income) | Expenses<br>(excludes depreciation) | Revenue Minus<br>Expenses |
|--------------------|---------------------------------------|-------------------------------------|---------------------------|
| 2021               | \$1,683,228                           | \$1,349,953                         | \$333,275                 |
| 2022               | \$2,097,786                           | \$1,610,252                         | \$487,534                 |
| 2023               | \$2,056,685                           | \$1,335,321                         | \$721,364                 |

The City of Valley as reported on the State of Nebraska's Public Auditor's website for state fiscal year 2023 has \$6,375,000 in general obligation bonds issued for utilities and \$ 358,135 in notes payable. The utility systems ran an operating surplus in 2021 through 2023 as shown in Table 1.

1. Notes Payable.

| The City has entered into a Note Payable with the Nebraska Department of Environmental Quality (NDEQ) for a loan of \$748,709, of which \$185,578 was forgiven, leaving a remaining original balance due of \$562,131. |                  |                  |                    |                               |                    |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------|------------------|--------------------|-------------------------------|--------------------|
| The loan as of September 30, 2023, consisted of the following:                                                                                                                                                         |                  |                  |                    |                               |                    |
| Description                                                                                                                                                                                                            | Interest<br>Rate | Maturity<br>Date | Balance<br>9/30/22 | Net Additions<br>(Reductions) | Balance<br>9/30/23 |
| Note Payable - NDEQ                                                                                                                                                                                                    | 2.00%            | 6/15/2034        | \$ 385,575         | \$ (27,440)                   | \$ 358,135         |
| Total                                                                                                                                                                                                                  |                  |                  | \$ 385,575         | \$ (27,440)                   | \$ 358,135         |

## 2. Note Payable Long-term Obligation.

The scheduled annual principal and interest payments under the note as of September 30, 2023, are the following:

| Year Ending<br>September 30, | Note Payable Liability |                  |                   |
|------------------------------|------------------------|------------------|-------------------|
|                              | Principal              | Interest         | Total             |
| 2024                         | \$ 27,992              | \$ 7,023         | \$ 35,015         |
| 2025                         | 28,555                 | 6,461            | 35,016            |
| 2026                         | 29,129                 | 5,887            | 35,016            |
| 2027                         | 29,714                 | 5,301            | 35,015            |
| 2028                         | 30,311                 | 4,704            | 35,015            |
| 2029-2035                    | 212,434                | 15,166           | 227,600           |
| Total                        | <u>\$ 358,135</u>      | <u>\$ 44,542</u> | <u>\$ 402,677</u> |

### Analysis of the Water Utility:

The City of Valley manages their water utility. The City is eligible for a second amendment, to the initial 30-year DWSRF loan, at a per annum combined interest rate of 0.28 percent plus an annual 0.28 percent combined administrative fee on the outstanding principal amount. The DWSRF offers loan funding assistance of \$14,935,020 minus \$4,214,298 in loan forgiveness for a principal amount of \$10,720,722. An annual debt service of \$402,604 plus the DWSRF contract required 10% coverage or \$40,260 for delinquency or loss of users, as show in Table 2, totals \$442,864. The water use fee would be pledged to repay the loan. Valley's number of residential, commercial, and industrial water users is 4,341. Current residential water rates are \$18.91 per month. Based solely upon the projected users for the City, an increase of \$8.50 to the monthly water use rate is recommended to service the SRF loan. The projected increase for the residential water bill is from \$18.91 to \$27.41 per month. Table 2 displays the amended proposed repayment amount to loan D311666. A final assessment of revenues and costs will be analyzed to determine the actual user charge adjustment as necessary.

Table 2  
Proposed DWSRF Loan D311666 Amendment No. 2  
Total SRF Financing \$14,935,020, Loan Forgiveness \$4,214,298, and Principal \$10,720,722

| Loan Term (years) | Combined Interest Rate                                            | First Year Payment | First Year Payment + 10% Coverage |
|-------------------|-------------------------------------------------------------------|--------------------|-----------------------------------|
| 30                | 0.28% + 0.28%<br>admin fee on<br>outstanding principal<br>balance | \$402,604          | \$442,864                         |

The projected monthly water rate of \$27.41 or \$328.94 annually required to fund this water improvement project is 0.41% of Valley's 2022 median household income of \$80,319 and is below EPA's 2.5% upper level of water rate affordability.

**ATTACHMENT E**

**Form of Opinion of Borrower's Counsel**

**[USE BORROWER'S OR COUNSEL'S LETTERHEAD]**

**[Date]**

**[NOTE: Any of the opinions given below may be given in reliance upon the opinion of another Bond Counsel, and one Bond Counsel may give some of the opinions and another Bond Counsel may give others.]**

Nebraska Department of Environment and Energy  
Post Office Box 98922  
Lincoln, NE 68509-8922  
Attention: State Revolving Fund Program

To the Nebraska State Revolving Fund:

I have acted as **[Bond]** Counsel in connection with the execution and delivery by City of Valley (the "Borrower"), of an Agreement for Loan No. D311666 dated February 16, 2022 (the "Loan Agreement"), and amended by Amendment No. 1 dated January 19, 2023, and Amendment No. 2 dated \_\_\_\_\_, by and between the Borrower and the Nebraska Department of Environment and Energy ("the NDEE") and the issuance of a promissory note (the "Note") by the Borrower to the NDEE. All terms used in this opinion letter and not defined shall have the meanings given to them in the Loan Agreement.

In this connection, I have examined the following:

- (a) Certified copies of the **[DESCRIBE RESOLUTION AND/OR ORDINANCE PURSUANT TO WHICH LOAN AGREEMENT AND NOTE ARE TO BE ENTERED INTO];**
- (b) An executed counterpart of the Loan Agreement, Amendment No. 1, and Amendment No. 2;
- (c) The executed Note; and
- (d) Such other documents as I deemed relevant and necessary in rendering this opinion.

As to questions of fact material to my opinion, I have relied upon the certified proceedings and other certifications of public officials furnished to me without undertaking to verify the same by independent investigation.

Based upon the foregoing I am of the opinion that:

- 1. The Borrower is a city duly organized and validly existing under the laws of the State of Nebraska.
- 2. The Borrower is a governmental unit, as such term is used in Section 141(b)(6) of the Internal Revenue Code of 1986, as amended.
- 3. The Borrower has the power and authority to enter into the Loan Agreement, Amendment No. 1, and Amendment No. 2, to issue the Note, to borrow the entire principal amount provided for in Section 2.01 of the Loan Agreement (the "Principal Amount") and to perform its obligations under the Loan Agreement and the Note.
- 4. The Loan Agreement, Amendment No. 1, Amendment No. 2, and the Note have been duly authorized, executed and delivered by the Borrower and are, and would be if the entire Principal Amount were advanced to the Borrower pursuant to the Loan Agreement on the date of this opinion, valid and legally binding special obligations of the Borrower, payable solely from the sources provided therefor in the Loan

Agreement, enforceable in accordance with their respective terms, except to the extent that the enforceability thereof may be limited by laws relating to bankruptcy, insolvency or other similar laws affecting creditors' rights generally and general principles of equity.

5. Pursuant, where applicable, to Nebraska Revised State Statutes §§18-1803 through 18-1805; §§31-732, 31-739, and 31-740, and all other applicable statutes governing eligible municipalities, the Loan Agreement creates a valid lien on the funds pledged by the Borrower pursuant to Section 3.02 of the Loan Agreement for the security of the Loan Agreement and the Note and no other debt of the Borrower is secured by a superior lien on such funds.
6. The Borrower has obtained or made all approvals, authorizations, consents, or other actions of, and filings, registrations, or qualifications with, the Borrower or any other government authority which are legally required to allow the Borrower to enter into and perform its obligations under the Loan Agreement and the Note and borrow the full Principal Amount pursuant to the Loan Agreement and the Note.

Very truly yours,

---

**For Borrower's Legal/Bond Counsel:**

**A Form of Opinion of Borrower's Counsel is required for this loan agreement. Attachment E is NDEE's recommended language and attestations with areas of blue to be changed. The letter should be on counsel's letterhead, if applicable, and must be signed by a counselor.**

**Signing of the letter can be done in one of two ways:**

**1) A signed letter is provided to the SRF Project Manager to insert and incorporate into the loan before document is electronically signed; or**

**2) Counsel can sign a prepared letter inserted into the loan agreement at the time of electronic signing. Please provide an unsigned letter to the SRF Project Manager to incorporate into the loan document, and the name and email of the signee. When the loan goes out for electronic signing, the NDEE Director will sign the document; the loan will then automatically be sent to the Borrower for signature. Once signed, the loan will then automatically be sent to the attorney/bond counsel for final review and approval via signature.**

**Any questions, please contact the SRF Project Manager.**

**ATTACHMENT F**

**PROMISSORY NOTE OF THE CITY OF VALLEY, NEBRASKA**

FOR VALUE RECEIVED, the undersigned (the "Borrower") promises to pay, but solely from the sources described herein, to the order of the Nebraska Department of Environment and Energy ("NDEE"), or its successors and assigns, the principal sum of not to exceed \$14,935,020 [less any Loan Forgiveness as established by Section 2.01 of the Loan Agreement], to the extent disbursed pursuant to Section 2.01 and Section 2.05 of the Loan Agreement No. D311666 ("the Loan Agreement"), with interest on each such amount until paid, pursuant to Section 2.03 of the Loan Agreement between the NDEE and the Borrower. In addition, the Borrower shall pay an Administrative Fee on the outstanding principal amount of this Note per annum pursuant to Section 2.04 of the Loan Agreement. The said principal, interest, and Administrative Fee shall be payable in semiannual installments each payable on June 15 and December 15 of each year in accordance with Section 2.06 of the Loan Agreement. Each installment shall be in the amount set forth in Attachment A to the Loan Agreement. The Borrower will pay any penalty or additional interest due pursuant to Section 2.06(d) of this Loan Agreement.

All payments under this Note shall be payable at the offices of the NDEE in Lincoln, Nebraska, and upon the assignment of this Note to the NIFA, at the principal corporate trust office of a Trustee designated by the NIFA, or such other place as the NDEE may designate in writing.

This Note is issued pursuant to and is secured by the Loan Agreement of the City of Valley, Nebraska, the terms and provisions of which are incorporated herein by reference.

All payments of principal of and interest on this Note and other payment obligations of the Borrower hereunder shall be limited obligations of the Borrower payable solely out of the Dedicated Source of Revenue for the Payment of the Loan, as established in the Loan Agreement, and shall not be payable out of any other revenues of the Borrower. The obligations of the Borrower under this Note shall never constitute or give rise to a charge against its general credit or taxing power. This note shall not be a debt of the Borrower within the meaning of any constitutional statutory or charter limitation upon the creation of general obligation indebtedness of the Borrower.

If default be made in the payment of any installment due under this Note, or by the occurrence of any one or more of the Events of Default specified in Article V of the Loan Agreement, and if such Event of Default is not remedied as therein provided, or at any time thereafter, the NDEE may give notice to the Borrower that all unpaid amounts of this Note then outstanding, together with all other unpaid amounts outstanding under the Loan Agreement, are due and payable immediately, and thereupon, without further notice or demand, all such amounts shall become and be immediately due and payable. Failure to exercise this option shall not constitute a waiver of the right to exercise the same at any time in the event of any continuing or subsequent default.

The Borrower hereby waives presentment for payment, demand, protest, notice of protest and notice of dishonor.

This Note and all instruments securing the same are to be construed according to the laws of the State of Nebraska. Signed and sealed, if applicable, by the following:

[SEAL] (if applicable)

CITY OF VALLEY, NEBRASKA

NEBRASKA DEPARTMENT OF  
ENVIRONMENT AND ENERGY

|                                                                     |                                                                |                                                                        |
|---------------------------------------------------------------------|----------------------------------------------------------------|------------------------------------------------------------------------|
| Attest: _____<br><div style="text-align: center;">(signature)</div> | By _____<br><div style="text-align: center;">(signature)</div> | By _____<br><div style="text-align: center;">(signature)</div>         |
| Title _____<br><div style="text-align: center;">Clerk</div>         | Title _____<br><div style="text-align: center;">Mayor</div>    | Title _____<br><div style="text-align: center;">Interim Director</div> |
| Date _____                                                          | Date _____                                                     | Date _____                                                             |



**ATTACHMENT F**

**PROMISSORY NOTE OF THE CITY OF VALLEY, NEBRASKA**

(continued)

*Complete this section upon assignment of this Note to the NIFA.*

Pursuant to the Pledge Agreement dated as of \_\_\_\_\_ as amended (the "Pledge Agreement"), by and between the NDEE and the Nebraska Investment Finance Authority ("NIFA"), and the \_\_\_\_\_ dated as of \_\_\_\_\_, as supplemented and amended, by and between NIFA \_\_\_\_\_, as trustee (the "Trustee"), the NDEE hereby assigns, grants and conveys any and all of the NDEE's rights, title and interest in this Note to NIFA, except as provided in the Pledge Agreement, and NIFA hereby assigns such rights, title and interest to the Trustee and any successor Trustee.

NEBRASKA INVESTMENT FINANCE  
AUTHORITY

Attested by:

By \_\_\_\_\_

**Note For Borrower:**

**If there are no comments or corrections to be made to Attachment F: Promissory Note, please print page the previous page (page 1 of Attachment F), sign, date, and seal (if applicable). Then mail in to:**

\_\_\_\_\_  
(signature)  
**Nebraska Department of Environment & Energy**  
**ATTN: SRF PROGRAM – Steve McNulty**  
**PO Box 98922**  
**Lincoln, NE 68509-8922**

Title \_\_\_\_\_

Interim Director

Date \_\_\_\_\_

**Please leave the second page of Attachment F blank. This page only needs to be completed if the Nebraska Investment Finance Authority (NIFA) is appointed as a Trustee to the project.**

**ATTACHMENT I**

**ADDITIONAL DOCUMENTS**

These forms will be loan specific so will need to be added/removed separately for each agreement.

Attachment I.01 – Loan Forgiveness Form

**Attachment I.01**

**LOAN FORGIVENESS AGREEMENT FORM**

**PART I**  
**SRF LOAN FORGIVENESS AWARD**

Pursuant to Neb. Rev. Stat. §71-5322(9) et. Seq., as amended, the NDEE hereby offers the following Loan Forgiveness to the Borrower for the project as established by this Loan Agreement:

- (1) NDEE DWSRF BIL Emerging Contaminants Loan Forgiveness (herein known as Loan Forgiveness) of up to 52.48% on the initial seven million, nine hundred thirty-five thousand, twenty dollars (\$7,935,020) of eligible Project Costs, up to a ceiling of four million, one hundred sixty-four thousand, two hundred ninety-eight dollars (\$4,164,298) and an additional forgiveness amount is capped at fifty thousand dollars (\$50,000) on the remaining seven million dollars (\$7,000,000) (EPA, 2023, "Reallotment of Fiscal Year 2022 Drinking Water State Revolving Fund Bipartisan Infrastructure Law Funds"). The maximum total Loan Forgiveness is not to exceed four million, two hundred fourteen thousand, two hundred ninety-eight dollars (\$4,214,298).

This Loan Forgiveness is offered concurrent with this Loan Agreements Funds. Eligibility for such funds is made in accordance with the Federal Act, the state Act, Regulations, and the annual Intended Use Plan.

**PART II**  
**LOAN FORGIVENESS CERTIFICATION**

If the Borrower is receiving Loan Forgiveness Funds, the Borrower certifies that as a condition of receipt of state allocations under this Loan Agreement, the following information is accurate and the Borrower agrees to the following statements and stipulations:

- (1) The Borrower is not considered a privately owned entity;
- (2) The population at the time of the Loan Forgiveness award for the Borrower is equal to or less than ten thousand inhabitants as determined by the most recent federal decennial census or the most recent revised certified count by the United States Bureau of the Census;
- (3) Based on information from the applicable Intended Use Plan, the Borrower's population is estimated to be 3,037.
- (4) The Borrower has demonstrated serious financial hardship through the assessment and processes established in the related NDEE's State Fiscal Year's (SFY) Intended Use Plan;
- (5) The Borrower's Median Household Income (MHI) as listed in the NDEE's SFY's Intended Use Plan at the time of signing of this Loan Agreement is less than 120% of the State's MHI for that SFY; and
- (6) The total amount of Loan Forgiveness cannot exceed 75% of eligible SRF project cost of this Loan Agreement and cannot exceed a maximum of \$4,214,298.

**PART III**  
**LOAN FORGIVENESS CONDITIONS**

- (1) The total award of all Loan Forgiveness cannot exceed seventy-five percent of the total amount of eligible Project Costs.

- (2) Application and distribution of all Subsidies will be done pursuant to the terms as established by the Loan Agreement.
- (3) The total subsidy amount may be changed by the NDEE if the eligible project amount changes due to the project costs.
- (4) Violation or noncompliance of this Loan Agreement will result in annulment of all Loan Forgiveness and a demand that any disbursed Loan Forgiveness funds be returned to the State of Nebraska immediately.
- (5) If a Borrower receives any funding from any other funding source for costs paid for by this Loan Agreement, it will result in annulment of Loan Agreement Funds to the extent these costs are covered by the other funding. The Borrower will promptly notify the NDEE and promptly repay loan and Loan Forgiveness funds issued by the NDEE to the extent these costs are covered by the other funding.
- (6) Notice of annulment of any Loan Forgiveness shall be by registered mail, return receipt requested.
- (7) Additional changes to the Subsidies not specified in the stipulations herein shall be made through the amendment procedure as established by this Loan Agreement.

#### **PART IV** **ACCEPTANCE**

In accepting this award, the Borrower agrees that:

- (1) The undersigned represents that they are duly authorized to act on behalf of the City of Valley, Nebraska;
- (2) The award is subject to the applicable provisions of §71-5322 et. seq., as amended, the Federal Act, and Regulations, and that acceptance of any payments constitutes an agreement by the Borrower that the amounts, if any, found by the state to have been overpaid, shall be refunded or credited in full to the State of Nebraska; and
- (3) If the Borrower receives funding from any source for any portion of the Project Costs for which a portion of the Loan Amount and Loan Forgiveness have been disbursed and is outstanding under this Loan Agreement, the recipient will notify the NDEE immediately and such portion of the Loan Amount and Loan Forgiveness amount shall become immediately due and payable.

IN WITNESS THEREOF, the parties hereto agree to the information and stipulations herein.

CITY OF VALLEY, NEBRASKA

NEBRASKA DEPARTMENT OF  
ENVIRONMENT AND ENERGY

By \_\_\_\_\_ By \_\_\_\_\_  
(signature) (signature)  
Title \_\_\_\_\_ Title \_\_\_\_\_  
Mayor Interim Director  
**DRAFT: PLEASE DO NOT SIGN THIS SECTION. THIS SECTION  
WILL BE SIGNED ELECTRONICALLY THROUGH DOCUSIGN.**  
Date \_\_\_\_\_ Date \_\_\_\_\_

## ORDINANCE NO. 832

AN ORDINANCE TO AMEND EXISTING SECTIONS OF THE CITY OF VALLEY ZONING REGULATIONS RELATING TO OUTDOOR STORAGE AND ENCLOSED TRAILERS; PROVIDING FOR AN EFFECTIVE DATE OF THIS ORDINANCE, PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT HERewith.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF VALLEY, DOUGLAS COUNTY, NEBRASKA, AS FOLLOWS:

*Section 1* That existing Section 7.02.21 of the City of Valley Zoning Regulations is hereby repealed.

*Section 2.* That a new Section 7.02.21 of the City of Valley Zoning Regulations shall be inserted and shall read as follows:

7.02.01 Storage of any boat, boat trailer, camp trailer, recreational vehicle, utility trailer, enclosed trailer, or other vehicle shall not be permitted in any required yard; except that a boat, boat trailer, camp trailer, recreational vehicle, utility trailer, enclosed trailer or other vehicle may be placed on concrete, asphaltic concrete surfacing, or on a maintained crushed rock surfacing pad in a side or rear yard. This section applies only to personal storage. When used as personal storage, enclosed trailers are limited to two axles. For purposes of this Section 7.02.01, "maintained" shall mean covered in not less than one hundred percent (100%) crushed rock, and any such maintained crushed rock surfacing pad shall be counted against any impervious coverage requirements. Any maintained crushed rock surfacing pad must be larger than the footprint of the vehicle or trailer being stored thereon.

*Section 3.* Section 2.03 (Definitions) of the City of Valley Zoning Regulations shall be amended as follows:

1. A new defined term should be added as follows:

**ENCLOSED TRAILER**, also known as a cargo trailer, shall mean a device that is towed by a motor vehicle and has a roof and walls to protect the items being hauled and stored.

*Section 4.* This Ordinance shall take effect and be in force after its passage and approval, as provided by law.

*Section 5.* If any section, clause, provision or part or portion of any section, clause or provision of this ordinance or the application thereof to any person or circumstance is held unconstitutional, such invalidity or unconstitutionality shall not affect the validity or application of any other section, clause, provision or part or portion of this ordinance.

*Section 6.* All ordinances, sections, or parts thereof in conflict herewith are hereby repealed.

PASSED AND APPROVED THIS 14<sup>TH</sup> DAY OF JANUARY, 2025.

CITY OF VALLEY, DOUGLAS COUNTY, NEBRASKA

---

Cindy Grove, Mayor

ATTEST:

---

Christie Donnermeyer, City Clerk

## **RESOLUTION NO. 2025-02**

**WHEREAS**, an Application for Conditional Use Permit has been filed by Centaur Development Corporation, a Nebraska corporation, requesting a Conditional Use Permit allowing Centaur Development Corporation to approve the construction of an accessory building on certain real property legally described as:

**Lot 1, L & J Subdivision, s subdivision in Douglas County, Nebraska  
(the “Property”)**

**WHEREAS**, the Property is zoned Highway Commercial (C-3); and

**WHEREAS**, the Application for Conditional Use Permit was considered by the Valley Planning Commission on December 17, 2024, and the Planning Commission has recommended that the Conditional Use Permit should be denied; and

**WHEREAS**, the City Council has reviewed the Application for Conditional Use Permit and the recommendations of the Planning Commission and has voted to deny the Conditional Use Permit.

**NOW THEREFORE**, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF VALLEY, DOUGLAS COUNTY, NEBRASKA:

1. A Conditional Use Permit for Centaur Development Corporation, a Nebraska corporation to approve the construction of an accessory building on certain real property legally described as:

**Lot 1, L & J Subdivision, s subdivision in Douglas County, Nebraska  
(the “Property”)**

Is hereby denied.

PASSED AND APPROVED this 14<sup>th</sup> day of January, 2025.

CITY OF VALLEY, DOUGLAS COUNTY, NEBRASKA

---

Cindy Grove, Mayor

ATTEST:

---

Christie Donnermeyer, City Clerk

## **RESOLUTION NO. 2025-02**

**WHEREAS**, an Application for Conditional Use Permit has been filed by Centaur Development Corporation, a Nebraska corporation, requesting a Conditional Use Permit allowing Centaur Development Corporation to approve the construction of an accessory building on certain real property legally described as:

**Lot 1, L & J Subdivision, s subdivision in Douglas County, Nebraska  
(the “Property”)**

**WHEREAS**, the Property is zoned Highway Commercial (C-3); and

**WHEREAS**, the Application for Conditional Use Permit was considered by the Valley Planning Commission on December 17, 2024, and the Planning Commission has recommended that the Conditional Use Permit should be denied; and

**WHEREAS**, the City Council has reviewed the Application for Conditional Use Permit and the recommendations of the Planning Commission, and has voted to approve the Conditional Use Permit as set forth in the Conditional Use Agreement attached hereto as Exhibit “A” and incorporated herein by this reference.

**NOW THEREFORE**, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF VALLEY, DOUGLAS COUNTY, NEBRASKA:

1. A Conditional Use Permit is hereby issued to Centaur Development Corporation, a Nebraska corporation to approve the construction of an accessory building on certain real property legally described as:

**Lot 1, L & J Subdivision, s subdivision in Douglas County, Nebraska  
(the “Property”)**

subject to the terms and conditions contained in the Conditional Use Agreement attached hereto as Exhibit “A” and incorporated herein by this reference.

2. Rune van den Boogaart, Zoning Administrator, is hereby authorized and directed to execute the Conditional Use Agreement for and on behalf of the City of Valley.

PASSED AND APPROVED this 14<sup>th</sup> day of January, 2025.

CITY OF VALLEY,  
DOUGLAS COUNTY, NEBRASKA

---

Cindy Grove, Mayor



ATTEST:

---

Christie Donnermeyer, City Clerk

## **EXHIBIT “A”**

### **CONDITIONAL USE AGREEMENT**

This Conditional Use Agreement (“Agreement”) is made and entered into this \_\_\_\_ day of January, 2025, by and between the City of Valley, Nebraska and Centaur Development Corporation, a Nebraska corporation.

**WHEREAS**, an Application for Conditional Use Permit has been filed by Centaur Development Corporation, a Nebraska corporation, requesting a Conditional Use Permit allowing Centaur Development Corporation, a Nebraska corporation to approve the construction of an accessory building on certain real property legally described as:

**Lot 1, L & J Subdivision, s subdivision in Douglas County, Nebraska  
(the “Property”)**

**WHEREAS**, the Property is zoned Highway Commercial (C-3); and

**WHEREAS**, the Application for Conditional Use Permit was considered by the Valley Planning Commission on December 17, 2024, and the Planning Commission has recommended that the Conditional Use Permit should be denied; and

**WHEREAS**, the City Council has reviewed the Application for Conditional Use Permit and the recommendations of the Planning Commission, and has voted to approve the Conditional Use Permit.

**NOW THEREFORE**, the parties agree as follows:

1. A Conditional Use Permit is hereby issued to Centaur Development Corporation, a Nebraska corporation to approve the construction of an accessory building on certain real property legally described as:

**Lot 1, L & J Subdivision, s subdivision in Douglas County, Nebraska  
(the “Property”)**

2. The undersigned applicant, in consideration of the issuance of the Conditional Use Permit to approve the construction of an accessory building on the Property, agrees to comply with the terms and conditions of such permit and agrees that if there is a material breach of any condition, the Governing Body of Valley, Douglas County, Nebraska, is authorized to revoke such permit.

IN WITNESS WHEREOF, the undersigned hereby execute this Agreement on the date first above written.

CITY OF VALLEY,  
DOUGLAS COUNTY, NEBRASKA

ATTEST:

\_\_\_\_\_  
Christie Donnermeyer  
City Clerk

By: \_\_\_\_\_  
Rune van den Boogaart,  
Building/Zoning Admin.

ATTEST:

\_\_\_\_\_  
Witness

Centaur Development Corporation, a  
Nebraska corporation  
By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_

***Upon execution by all parties this document becomes the permit.***

## **RESOLUTION NO. 2025-03**

**WHEREAS**, an Application for Conditional Use Permit has been filed by Advantage Investment Properties, L.L.C., a Nebraska limited liability company, a/k/a Beefcake Jerky/ Dux Bux, requesting a Conditional Use Permit allowing Advantage Investment Properties, L.L.C., a Nebraska limited liability company, a/k/a Beefcake Jerky/ Dux Bux to engage in warehousing and distribution on certain real property legally described as:

**The West 1/2 of the NE 1/4 lying North of Nebraska Highway 64, in Section 5, Township 15 North, Range 10 East of the 6th P.M., Douglas County, Nebraska, except the East 350 feet thereof, more particularly described as follows: Commencing at the NW corner of said West 1/2, thence S89°57'01"E (assumed bearing) 136.53 feet on the North line of the said West 1/2 to the point of beginning; thence continuing S89°57'01 "E 836.93 feet on the North Line of said West 1/2; thence S00°37'26"W 1097 .51 feet to the Northeasterly right-of-way of Nebraska Highway 64; thence Northwesterly on the Northeasterly right-of-way line of said Nebraska Highway 64 on a 5643.03 foot radius curve to the right, chord bearing N38°35'36"W, chord distance 569.11 feet, arc distance 569.35 feet; thence N35°43'31"W 804.84 feet on the Northeasterly right-of-way line of said Nebraska Highway 64 to the North line of said West 1/2 and the point of beginning.**

**(the "Property")**

**WHEREAS**, the Property is zoned Highway Commercial (C-3); and

**WHEREAS**, the Application for Conditional Use Permit was considered by the Valley Planning Commission on December 17, 2024, and the Planning Commission has recommended that the Conditional Use Permit should be issued; and

**WHEREAS**, the City Council has reviewed the Application for Conditional Use Permit and the recommendations of the Planning Commission, and has voted to approve the Conditional Use Permit as set forth in the Conditional Use Agreement attached hereto as Exhibit "A" and incorporated herein by this reference.

**NOW THEREFORE**, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF VALLEY, DOUGLAS COUNTY, NEBRASKA:

1. A Conditional Use Permit is hereby issued to Advantage Investment Properties, L.L.C., a Nebraska limited liability company, a/k/a Beefcake Jerky/ Dux Bux to engage in warehouse and distribution on certain real property legally described as:

**The West 1/2 of the NE 1/4 lying North of Nebraska Highway 64, in Section 5, Township 15 North, Range 10 East of the 6th P.M., Douglas County, Nebraska, except the East 350 feet thereof, more particularly described as follows: Commencing at the NW corner of said West 1/2, thence S89°57'01"E**

**(assumed bearing) 136.53 feet on the North line of the said West 1/2 to the point of beginning; thence continuing S89°57'01 "E 836.93 feet on the North Line of said West 1/2; thence S00°37'26"W 1097 .51 feet to the Northeasterly right-of-way of Nebraska Highway 64; thence Northwesterly on the Northeasterly right-of-way line of said Nebraska Highway 64 on a 5643.03 foot radius curve to the right, chord bearing N38°35'36"W, chord distance 569.11 feet, arc distance 569.35 feet; thence N35°43'31"W 804.84 feet on the Northeasterly right-of-way line of said Nebraska Highway 64 to the North line of said West 1/2 and the point of beginning.**

**(the "Property")**

subject to the terms and conditions contained in the Conditional Use Agreement attached hereto as Exhibit "A" and incorporated herein by this reference.

2. Rune van den Boogaart, Zoning Administrator, is hereby authorized and directed to execute the Conditional Use Agreement for and on behalf of the City of Valley.

PASSED AND APPROVED this 14<sup>th</sup> day of January, 2025.

CITY OF VALLEY, DOUGLAS COUNTY, NEBRASKA

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Cindy Grove, Mayor

ATTEST:

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Christie Donnermeyer, City Clerk

## **EXHIBIT “A”**

### **CONDITIONAL USE AGREEMENT**

This Conditional Use Agreement (“Agreement”) is made and entered into this \_\_\_\_ day of January, 2025, by and between the City of Valley, Nebraska and Advantage Investment Properties, L.L.C., a Nebraska limited liability company, a/k/a Beefcake Jerky/ Dux Bux.

**WHEREAS**, an Application for Conditional Use Permit has been filed by Advantage Investment Properties, L.L.C., a Nebraska limited liability company, a/k/a Beefcake Jerky/ Dux Bux, requesting a Conditional Use Permit allowing Advantage Investment Properties, L.L.C., a Nebraska limited liability company, a/k/a Beefcake Jerky/ Dux Bux, to engage in warehousing and distribution on certain real property legally described as:

**The West 1/2 of the NE 1/4 lying North of Nebraska Highway 64, in Section 5, Township 15 North, Range 10 East of the 6th P.M., Douglas County, Nebraska, except the East 350 feet thereof, more particularly described as follows: Commencing at the NW corner of said West 1/2, thence S89°57'01"E (assumed bearing) 136.53 feet on the North line of the said West 1/2 to the point of beginning; thence continuing S89°57'01 "E 836.93 feet on the North Line of said West 1/2; thence S00°37'26"W 1097 .51 feet to the Northeasterly right-of-way of Nebraska Highway 64; thence Northwesterly on the Northeasterly right-of-way line of said Nebraska Highway 64 on a 5643.03 foot radius curve to the right, chord bearing N38°35'36"W, chord distance 569.11 feet, arc distance 569.35 feet; thence N35°43'31"W 804.84 feet on the Northeasterly right-of-way line of said Nebraska Highway 64 to the North line of said West 1/2 and the point of beginning.**

**(the “Property”)**

**WHEREAS**, the Property is zoned Highway Commercial (C-3); and

**WHEREAS**, the Application for Conditional Use Permit was considered by the Valley Planning Commission on December 17, 2024, and the Planning Commission has recommended that the Conditional Use Permit should be issued; and

**WHEREAS**, the City Council has reviewed the Application for Conditional Use Permit and the recommendations of the Planning Commission, and has voted to approve the Conditional Use Permit, subject to certain conditions set forth herein.

**NOW THEREFORE**, the parties agree as follows:

1. A Conditional Use Permit is hereby issued to Advantage Investment Properties, L.L.C., a Nebraska limited liability company, a/k/a Beefcake Jerky/ Dux Bux. to engage in warehousing and distribution on certain real property legally described as:

**The West 1/2 of the NE 1/4 lying North of Nebraska Highway 64, in Section 5, Township 15 North, Range 10 East of the 6th P.M., Douglas County, Nebraska, except the East 350 feet thereof, more particularly described as follows: Commencing at the NW corner of said West 1/2, thence S89°57'01"E (assumed bearing) 136.53 feet on the North line of the said West 1/2 to the point of beginning; thence continuing S89°57'01 "E 836.93 feet on the North Line of said West 1/2; thence S00°37'26"W 1097 .51 feet to the Northeasterly right-of-way of Nebraska Highway 64; thence Northwesterly on the Northeasterly right-of-way line of said Nebraska Highway 64 on a 5643.03 foot radius curve to the right, chord bearing N38°35'36"W, chord distance 569.11 feet, arc distance 569.35 feet; thence N35°43'31"W 804.84 feet on the Northeasterly right-of-way line of said Nebraska Highway 64 to the North line of said West 1/2 and the point of beginning.**

**(the "Property")**

2. The undersigned applicant, in consideration of the issuance of the Conditional Use Permit to engage in warehousing and distribution on the Property, agrees to comply with the terms and conditions of such permit and agrees that if there is a material breach of any condition, the Governing Body of Valley, Douglas County, Nebraska, is authorized to revoke such permit.

IN WITNESS WHEREOF, the undersigned hereby execute this Agreement on the date first above written.

CITY OF VALLEY,  
DOUGLAS COUNTY, NEBRASKA

ATTEST:

\_\_\_\_\_  
Christie Donnermeyer  
City Clerk

By: \_\_\_\_\_  
Rune van den Boogaart,  
Building/Zoning Admin.

Advantage Investment Properties, L.L.C., a  
Nebraska limited liability company, a/k/a Beefcake  
Jerky/ Dux Bux.

ATTEST:

\_\_\_\_\_  
Witness

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_

***Upon execution by all parties this document becomes the permit.***

## **ORDINANCE NO. 833**

AN ORDINANCE OF THE CITY OF VALLEY, NEBRASKA, TO ADOPT AN MISCELLANEOUS EXPENDITURE POLICY; TO PROVIDE AN EFFECTIVE DATE HEREOF; TO PROVIDE A SEVERABILITY CLAUSE; AND THAT ANY ORDINANCE OR RESOLUTION IN CONFLICT HERewith IS REPEALED.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF VALLEY, NEBRASKA AS FOLLOWS:

### **MISCELLANEOUS EXPENDITURE POLICY**

**WHEREAS**, the “Local Government Miscellaneous Expenditure Act”, Neb. Rev. Stat. §§ 13-2201 to 13-2204, and specifically §13-2203(3), authorizes municipalities to expend public funds for plaques, certificates of achievement, or items of value awarded to elected or appointed officials, employees, or volunteers, including persons serving on boards and commissions of the Municipality, upon the adoption of a uniform policy which sets a dollar limit on the value of such items by a formal vote of the governing body; and

**WHEREAS**, the Mayor and the Council, of the City of Valley, Douglas County, Nebraska, have conducted a public hearing and have heard and considered all comments concerning the expenditure of public funds for such purposes and any proposed dollar limits; and

**WHEREAS**, the Mayor and Council of the City of Valley, Douglas County, Nebraska, hereby find that it is in the best interests of the City that a uniform policy shall be adopted authorizing the expenditure of public funds for such purposes.

**NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND THE COUNCIL OF THE CITY OF VALLEY, NEBRASKA**, that a policy is hereby adopted pursuant to Neb. Rev. Stat. §13-2203(3), which authorizes the expenditure of public funds for achievement plaques or items of value to be awarded to elected or appointed officials, employees, or volunteers, which includes persons serving on boards and commissions of the City. No such achievement plaque or item of value shall exceed \$500.00 dollars in value and may be awarded annually at the City Council’s discretion.

PASSED AND APPROVED THIS 14<sup>TH</sup> DAY OF JANUARY, 2025.

CITY OF VALLEY, DOUGLAS COUNTY, NEBRASKA

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Cindy Grove, Mayor

ATTEST:

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Christie Donnermeyer, City Clerk,

( S E A L )





# IRS increases the standard mileage rate for business use in 2025; key rate increases 3 cents to 70 cents per mile

IR-2024-312, Dec. 19, 2024

WASHINGTON — The Internal Revenue Service today announced that the optional [standard mileage rate](#) for automobiles driven for business will increase by 3 cents in 2025, while the mileage rates for vehicles used for other purposes will remain unchanged from 2024.

Optional standard mileage rates are used to calculate the deductible costs of operating vehicles for business, charitable and medical purposes, as well as for [active-duty members of the Armed Forces who are moving](#).

Beginning Jan. 1, 2025, the standard mileage rates for the use of a car, van, pickup or panel truck will be:

- 70 cents per mile [driven for business use](#), up 3 cents from 2024.
- 21 cents per mile driven for medical purposes, the same as in 2024.
- 21 cents per mile driven for moving purposes for qualified active-duty members of the Armed Forces, unchanged from last year.
- 14 cents per mile driven in service of charitable organizations, equal to the rate in 2024.

The rates apply to fully-electric and hybrid automobiles, as well as gasoline and diesel-powered vehicles.

While the mileage rate for charitable use is set by statute, the mileage rate for business use is based on an annual study of the fixed and variable costs of operating an automobile. The rate for medical and moving purposes, meanwhile, is based on only the variable costs from the annual study.

Under the Tax Cuts and Jobs Act, taxpayers cannot claim a miscellaneous itemized deduction for unreimbursed employee travel expenses. And only taxpayers who are members of the military on active duty may claim a deduction for moving expenses incurred while relocating under orders to a permanent change of station.

Use of the standard mileage rates is optional. Taxpayers may instead choose to calculate the actual costs of using their vehicle.

Taxpayers using the standard mileage rate for a vehicle they own and use for business must choose to use the rate in the first year the automobile is available for business use. Then, in later years, they can choose to use the standard mileage rate or actual expenses.

For a leased vehicle, taxpayers using the standard mileage rate must employ that method for the entire lease period, including renewals.

[Notice 2025-5](#) [PDF](#) contains the optional 2025 standard mileage rates, as well as the maximum automobile cost used to calculate mileage reimbursement allowances under a fixed-and variable rate (FAVR) plan. The notice also provides the maximum fair market value of employer-provided automobiles first made available to employees for personal use in 2025 for which employers may calculate mileage allowances using a cents-per-mile valuation rule or the fleet-average-valuation rule.

## RESOLUTION NO. 2025-04

**A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF VALLEY AUTHORIZING SUBMITTAL OF A JOINT APPLICATION WITH ELKHORN ATHLETIC ASSOCIATION, INC. TO THE STATE OF NEBRASKA FOR ASSISTANCE UNDER THE SPORTS ARENA FACILITY FINANCING ASSISTANCE ACT; TO CALL FOR AN ELECTION UPON CONDITIONAL APPROVAL OF SUCH APPLICATION; AND TO AUTHORIZE ISSUANCE OF REVENUE BONDS FOR SUCH PROJECT.**

**BE IT RESOLVED** by the City Council of the City of Valley, Nebraska:

**Section 1.** The City Council (the “**Council**”) of the City of Valley, Nebraska, (the “**City**”) hereby finds and determines as follows:

(a) The Nebraska Legislature has enacted the Sports Arena Facility Financing Assistance Act, Nebraska Revised Statutes §§ 13-3101 to 13-3110 (the “**Act**”), to promote the construction and development of eligible sports arena facilities within the State of Nebraska, with such facilities to include sports complexes and related concessions areas, parking facilities and onsite administrative offices connected with operating the sports complex.

(b) The City is a city of the second class in the State of Nebraska, and the Act provides financial support from the State of Nebraska in the form of the remittance of a portion of the State sales tax collected on certain transactions within the city limits for an approved project for a period of five (5) years (the “**Turn Back Tax**”).

(c) Under the Act, the City may join with a nonprofit corporation to jointly submit an application requesting the Turn Back Tax to finance a privately-owned sports complex under certain conditions. If the application is approved, and if the voters of the City approve of such project as an economic development project under the Act, such Turn Back Tax may be appropriated by the City and applied to pay back amounts expended or borrowed through one or more debt issues to be expended by the nonprofit corporation co-applicant to acquire, construct, improve, or equip the privately-owned sports complex.

(d) Such a privately-owned sports complex must be (i) proposed by the City co-applicant as a sports complex economic development project, (ii) located within the corporate limits of the City, and (iii) approved by the voters of the City.

(e) Elkhorn Athletic Association, Inc., a non-profit corporation organized under the Nebraska Nonprofit Corporation Act (the “**Nonprofit Corporation**”), has proposed the construction and development of a privately-owned sports complex, with such privately-owned sports complex to be financed in part with revenue bonds issued by the City and to be repaid in part from the Turn Back Tax.

(f) The Nonprofit Corporation has proposed the construction of a privately-owned sports complex consisting of an outdoor area which includes at least two competition sports venues, as defined in Section 13-3102(23) (collectively, the “**Project**”).

(g) The Project will be owned by the Nonprofit Corporation and located within the corporate limits of the City at the time of construction.

(h) It is advisable and appropriate for the City to authorize (a) the submission of a co-application with the Nonprofit Corporation for assistance under the Act by officers of the City, (b) calling an election in the City on the question of whether the Project shall be approved as an economic development project under the Act, and (c) the issuance of revenue bonds of the City to pay a portion of the Project.

**Section 2.** The City shall join as co-applicant with the Nonprofit Corporation for assistance under the Act on the proposed Project. The City hereby authorizes the Mayor, President of the City Council, and City Clerk (each, an “**Authorized Officer**”) to approve the form and contents of an application and all materials submitted therewith (the “**Application**”) and to execute and submit the Application on behalf of the City in pursuance of the requirements of the Act to secure Turn Back Tax for the Project to be owned by the Nonprofit Corporation.

**Section 3.** The Act authorizes the City to order submission of the question to the qualified voters of the City at a special election or statewide primary or general election pursuant to the Election Act on the question of whether to authorize the City to establish a sports complex economic development project and appropriate the Turn Back Tax for such Project. Upon conditional approval of the Application from the Sports Arena Facilities Financing Assistance Board under the Act (the “**Board**”), the City shall order submission of the following question to the qualified voters of the City at a special election or statewide primary or general election in accordance with the Act and the Election Act (the “**Ballot Question**”):

“The City of Valley, Nebraska, proposes to establish a sports complex economic development project by appropriating annually from state assistance received by the City pursuant to the Sports Arena Facility Financing Assistance Act for the purpose of funding a sports complex to be owned by the Elkhorn Athletic Association, Inc., a Nebraska nonprofit corporation, which may include financing through the issuance of revenue bonds to be repaid from such state assistance.

Shall the City of Valley, Nebraska establish a sports complex economic development project as described above by appropriating annually from state assistance received by the City pursuant to the Sports Arena Facility Financing Assistance Act?”

VOTE FOR or AGAINST



I vote FOR authorizing the City to establish a sports complex economic development project and appropriate state assistance to such project.



I vote AGAINST authorizing the City to establish a sports complex economic development project and appropriate state assistance to such project.

Electors voting in favor of the proposition shall blacken the oval opposite the words “FOR” following such proposition, and electors voting against such proposition shall blacken the oval opposite the words “AGAINST” following the proposition.

If a majority of the votes cast upon such question shall be in favor, then the governing body of the City of Valley shall be empowered to establish and implement a sports complex economic development project and appropriate the state assistance upon the terms and conditions contained in the Sports Arena Facility Financing Assistance Act.”

**Section 4.** Upon the conditional approval of the Application from the Board, but only after voter approval of the Ballot Question, City may proceed with the requisite approvals to establish a sports complex economic development project and, after such approvals and upon receipt of such Turn Back Tax, appropriate the Turn Back Tax to the Nonprofit Corporation be applied to pay back amounts expended or borrowed through one or more debt issues to be expended by the Nonprofit Corporation to finance the Project.

**Section 5.** The City of Valley is hereby authorized to issue revenue bonds for the Project, which shall be payable from and secured by funds and property provided by the Nonprofit Corporation, including receipts attributable to the Turn Back Tax, and shall not be a pecuniary liability of the City. The City shall approve the terms of such bonds upon conditional approval of the Application and approval of the Ballot Question by the voters.

**Section 6.** Notwithstanding anything to the contrary contained in this Resolution, before each action is taken by the City related to the Application or calling an election for the Ballot Question, the Authorized Officers are hereby authorized to require funds from the Nonprofit Corporation sufficient to cover the costs of the City related to the Project, including preparation of the Application, calling the election for the Ballot Question, and other related costs.

**Section 7.** The Authorized Officers are hereby authorized to do all things and execute all documents as may by them be deemed necessary and proper to complete and submit the Application and actions contemplated by this Resolution.

PASSED AND APPROVED this \_\_\_\_\_ day of JANUARY 2025.

CITY OF VALLEY,  
DOUGLAS COUNTY NEBRASKA

\_\_\_\_\_  
Cindy Grove, Mayor

ATTEST:

\_\_\_\_\_  
Christie Donnermeyer, Clerk

Approved as to form: \_\_\_\_\_  
City Attorney