

**MUNICIPAL CODE
of
THE CITY
of
FULLERTON, NEBRASKA**

PUBLISHED BY AUTHORITY
of the
MAYOR AND CITY COUNCIL

REISSUE 2010

Codified by
The City of Fullerton, Nebraska

**CITY OFFICERS
OF
FULLERTON, NEBRASKA**

REISSUE
2010

Updated December 2014

Patty Noble.....	Treasurer/Clerk
James Kramer.....	City Administrator
Darren Wright.....	City Attorney

MAYOR
Rachel Schweitz

CITY COUNCIL
Dan Willets
Harold Harris
Rick Collins
Wylene Novicki
DeDe Matthews
Mark Monroe

ORDINANCES OF A
GENERAL AND PERMANENT NATURE
of the CITY of
FULLERTON, NEBRASKA

ORDINANCE NO. 1215

An ordinance of the City of Fullerton, Nebraska, revising the general ordinances of the Municipality, repealing prior ordinances in conflict herewith.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF FULLERTON,
NEBRASKA;

Section 1 Codification. The general ordinances of the Municipality of Fullerton, Nebraska, are hereby codified into ten (10) chapters and the articles and sections hereunder, which are adopted and declared to be ordinances of this Municipality.

Section 2 Repeal of Prior Ordinances in Conflict. All ordinances and parts of ordinances of a general or permanent nature passed and approved prior to the passage and approval of this codification ordinance and in conflict with this ordinance or with any of the provisions of this ordinance, are hereby repealed; Provided, that in construing the provisions of this ordinance the following ordinances shall not be considered or held to be ordinances of a general or permanent nature, to-wit:

1. Ordinances vacating streets and alleys;
2. Ordinances authorizing or directing public improvements to be made;
3. Ordinances levying taxes or special assessments;
4. Ordinances granting a franchise, or special license to persons, firms, or corporations;
5. Ordinances providing for the issuance of bonds or other instruments of indebtedness;
6. Ordinances establishing grades;
7. Real Estate Transactions; or
8. Any other ordinance which by nature would be considered special.

Section 3 Exceptions. The repeal of ordinances as provided in Section 2, Ordinance No. 1215 shall not affect any rights acquired, fines, penalties, forfeitures, or liabilities incurred thereunder, or actions involving any of the provisions of such ordinances and parts thereof prior to repeal. Such ordinances above repealed are hereby continued in force and effect after the passage, approval and publication of this

general codification ordinance for the purpose of all rights, fines, penalties, forfeitures, liabilities, and actions therefor.

Section 4 Defining Chapters, Articles, and Sections. The chapters, articles, and sections as set forth herein shall be and hereby are declared to be the chapters, articles, and sections of this general codification ordinance. All ordinances hereafter passed by the local Governing Body of the Municipality shall be numbered consecutively, beginning with No. 1216.

Section 5 Severability. If any section, subsection, paragraph, sentence, clause, phrase, term, or provision of this ordinance should be declared invalid by any court of competent jurisdiction for any reason whatsoever, such decision shall not affect the remaining portions of this code, which will remain in full force and effect, and the provisions of this ordinance are hereby declared to be severable.

Section 6 Blanket Penalty. Any person, his agents, or servants who shall violate any of the provisions of this Municipal 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 one hundred dollars (\$100.00). Whoever aids, abets, procures, encourages, requests, advises, or incites another to commit any act which is an offense under this Code or under any other ordinance of the Municipality may be prosecuted and punished as though he were the principal offender.

Section 7 General Definitions:

1. Person. Whenever used in this code, the word person shall include natural persons, artificial persons, such as corporations, co-partnerships, associations, and all aggregate organizations of whatever character.
2. Gender and Number. All words used herein implying the masculine gender may apply to, and include the feminine or neuter gender and all words importing the plural may be applied to, and mean a single person, firm, or thing. All words importing the singular number may be applied to and mean the plural number.
3. Code, Ordinance, and Chapter. Municipal Code shall mean the General Codification Ordinance No. 1215. Ordinance and chapter are used synonymous unless from the context the contrary clearly appears.
4. Wholesale Dealer. The words wholesale dealer or sellers of said product at wholesale shall embrace and include manufacturers of any product who sell the said product to other persons for the

purpose of future resale to consumers.

5. Municipal and Municipality. The words Municipal and Municipality whenever used in this code shall mean the City of Fullerton, Nebraska, a Municipal Corporation.
6. Governing Body. The words Governing Body, whenever they appear in this Code mean the Mayor and City Council of the Municipality.
7. Mayor. The word Mayor means the Chief Administrative Official of the Municipality whenever it appears in this Code.
8. Municipal Police. Municipal Police shall mean any police officer of the Municipality or shall mean any officer of the Nance County Sheriff's Department whenever it appears in this Code as it may be changed from time to time by the Governing Body.

Section 8 Time. Whenever words fixing or importing time or the hour of the day are used in this Code, they shall be construed to mean Central Standard Time or Central Daylight Savings Time whichever is applicable.

Section 9 Construction of Chapters, Articles, and Sections. For purposes of construction each chapter contained and arranged in this Code shall be considered as a separate and distinct ordinance grouped for convenience under the General Codification Ordinance No. 1215, each section appearing in the several chapters of this Code shall be considered a separate and distinct unit of legislation germane to the chapter or article under which it is grouped and each article appearing in the said chapters shall be considered as a group of legislative units germane to the chapter wherein it is placed. Any chapter, article, or section duly enacted by the Governing Body of the Municipality and included in this Code, and any other independent ordinance, chapter, article, section, or subsection of an ordinance duly enacted shall be altered, amended, or revised only by the complete nullification and repeal of such ordinance, chapter, article, section, or subsection and by the substitution of a new ordinance, chapter, article, section, or subsection containing the entire ordinance, chapter, article, section, or subsection as amended, altered, or revised.

Section 10 Supplementation of Municipal Code. When preparing a supplement to this Code, the codifier (meaning the person, agency or organization authorized to prepare the supplement) may make formal nonsubstantive changes in ordinances and parts of ordinances included in the supplement, insofar as it is necessary to do so to embody them into a unified Code. For example, the codifier may:

1. Organize the ordinance material into appropriate subdivisions;
2. Provide appropriate catchlines, headings and titles for section and

- other subdivisions of the Code printed in the supplement, and make changes in such catchlines, headings and titles;
3. Assign appropriate numbers to sections and other subdivisions to be inserted in the Code and, where necessary, to accommodate new material, change existing section or other subdivision numbers;
 4. Change the words "this ordinance" or words of the same meaning to "this chapter", "this article", "this section", etc., as the case may be, or to "sections _____ to _____" (inserting section numbers to indicated the sections of the Code which embody the substantive section of the ordinance incorporated into the Code); and
 5. Make other nonsubstantive changes necessary to preserve the original meaning of ordinance sections inserted into the Code; but in no case, shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the Code.

Section 11 Publication and Distribution. This code was printed in book form under the direction of the Governing Body, and shall be distributed as it may see fit. *(Ref. 17-613, 17-614 RS Neb.)*

Section 12 When Operative. This ordinance shall be in full force and shall take effect from and after its passage, approval and publication according to law.

Passed and approved September 19, 1995.

Sandy Carey
Mayor

(SEAL)

Lois Plebanek
Municipal Clerk

PREFACE

This 2010 Reissue of the Municipal Code of Fullerton, Nebraska, 1995, contains all the ordinances of the Municipality of a general and permanent nature. Certain ordinances which were in effect prior to 1995 or have been passed since then that are not general and permanent have been omitted from this publication. In addition, certain zoning ordinances and regulations are published in a separate code book.

A Table of Contents appears after this page, and a complete index to the subject matter is found at the end of this volume. Convenient cross-references to the Statutes of Nebraska indicate the source of legislative power and supplement the text. However, those statute numbers may have changed since the ordinance was adopted.

The text of the Fullerton Municipal Code, Reissue 2010, is arranged in the same manner as the Revised Statutes of Nebraska. The number preceding the hyphen is the chapter number; immediately following the hyphen is the article number; and following that is the section number. Each section number is complete within itself indicating the number of the chapter, article, and section.

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CHAPTER 1 ADMINISTRATIVE

Article 1. Elected Officials

§1-101 CITY MAYOR; SELECTION AND DUTIES. The Mayor of the Municipality shall have the general and immediate control over all property, and officials, whether elected, or appointed, of the Municipality. He shall preside at all meetings of the City Council, and may vote when his vote shall be decisive and the Council is equally divided on any pending matter, legislation, or transaction and the Mayor shall, for the purpose of such vote, be deemed to be a member of the Council. His signature must appear on the Municipal Clerk's minutes of all meetings, and he must sign all resolutions which have been passed, and warrants for the payment of money when ordered by the City Council; provided, any ordinance vetoed by the Mayor may be passed over his veto by a two-thirds (2/3) vote by the members of the City Council, but if the Mayor neglects or refuses to sign any ordinance, and returns it to the Council with his objections in writing at the next regular Council meeting, the same shall become a law without his signature. He shall from time to time communicate to the Council such information and recommendations as, in his opinion, may improve the Municipality. He may require at reasonable intervals any Municipal official to exhibit his accounts and make reports to the Council on any subject pertaining to his office. He shall have the power to remit fines or pardon any offense arising under the ordinances of the Municipality. He may remove at any time an appointed police officer of the Municipality. His territorial authority shall extend over all places within five (5) miles of the corporate limits of the Municipality for the enforcement of any health ordinance, and one-half (1/2) mile in all matters vested in him except taxation. He shall also have such other duties as the City Council may by resolution confer upon him, or in any other matters which the laws of the State of Nebraska repose in him. He shall be elected at the Municipal election, and shall serve a four (4) year term of office. *(Ref. 17-110 through 17-117 RS Neb.)*

§1-102 CITY COUNCIL; ACTING PRESIDENT. The City Council shall elect one (1) of its own body each year who shall be styled the President of the Council, and who shall preside at all meetings of the City Council in the absence of the Mayor. In the absence of the Mayor, and the President of the Council, the City Council shall elect one (1) of its own body to occupy his place temporarily, who shall be styled Acting President of the Council. Both the President of the Council and the Acting President of the Council, when occupying the position of the Mayor, shall have the same privileges as the other members of the City Council, and all acts of the President of the Council, or Acting President of the Council, while so acting, shall be as binding upon the City Council, and upon the Municipality as if done by the elected Mayor. *(Ref. 17-148 RS Neb.)*

§1-103 CITY COUNCIL SELECTION AND DUTIES. The members of the City Council shall be elected and serve for a four (4) year term. The City Council shall be

the legislative division of the Municipal Government, and shall perform such duties, and have such powers as may be authorized by law. The City Council shall maintain the peace, regulate business, protect the public health and safety, and assess such taxes and fees as are necessary and appropriate in the exercise of these functions. (Ref. 17-103, 17-104 RS Neb.)

§1-104 CITY COUNCIL ORGANIZATION. City Council members of this Municipality shall take office, and commence their duties on the first regular meeting in December following their election. The newly elected Council members who have qualified as prescribed by law, together with the members of the City Council holding over, shall assemble in a regular meeting at the hour and place hereinafter prescribed and perfect the reorganization of the City Council as herein provided, and all appointive offices in which the terms of incumbents are expired shall be filled by appointment. After the said meeting has been called to order, the Municipal Clerk shall report to the City Council the names of all City Council members-elect who have qualified for their respective offices, and this report shall be spread upon the minutes of the meeting preceding the roll call. Each ward of the Municipality shall be represented by at least two (2) Council members unless Council members are elected at large. No person shall be eligible who is not at the time of his election an actual resident of the ward for which he is qualified and should any City Councilmember move from the ward from which he was elected, his office shall thereby become vacant. (Ref. 17-104, 17-107.02RS Neb.)

§1-105 ELECTED OFFICIALS; VACANCY.

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

(2) The City Council shall at once give public notice of the vacancy by causing to be published in a newspaper of general circulation within the City or by posting in three (3) public places in the City the office vacated and the length of the unexpired term.

(3) The Mayor shall within four (4) weeks after the regular meeting at which such notice has been presented, or upon the death of the incumbent, call a special meeting of the City Council at which time the Mayor shall submit the name of a qualified elector to fill the vacancy for the balance of the unexpired term.

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

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

(6) The Mayor shall cast his or her vote only in case of a tie vote of the City Council.

(7) All City Council members shall cast a ballot for or against each nominee.

(8) The Mayor and Council may, in lieu of filling a vacancy in a City office as provided above in this section, call a special Municipal Election to fill such vacancy.

(9) If there are vacancies in the offices of a majority of the members of the City Council, there shall be a special Municipal Election conducted by the Secretary of State to fill such vacancies. (*Ref. 32-4, 152, 32-1406RS Neb.*)

§1-106 ELECTED OFFICIALS; MAYOR: (1) Whenever a vacancy occurs in the office of Mayor, or in case of his disability or absence, the President of the Council shall exercise the office of Mayor for the unexpired term until such vacancy is filled or such disability is removed, or in case of temporary absence, until the Mayor returns.

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

(3) If the President of the Council shall for any cause assume the office of Mayor for the remainder of the unexpired term, there shall be a vacancy on the Council *which shall* be filled as provided in section 1-105. (*Ref. 17-107, 17-115 RS Neb.*)

Article 2. Appointed Officials

§1-201 APPOINTED OFFICIALS; GENERAL AUTHORITY. The Mayor, by, and with the consent of the City Council, may appoint such officers as shall be required by ordinance or otherwise required by law. Such officers may be removed from office by the Mayor. The Mayor, by, and with the consent of the City Council, shall appoint such a number of regular policemen, and other officials as may be necessary, and may establish a police reserve force as provided by law. All police officers, and other appointed officials shall be subject to removal at any time by the Mayor. (*Ref. 17-107, 81-1438 through 81-1446 RS Neb.*)

§1-202 APPOINTED OFFICIALS MERGER OF OFFICES. The Governing Body 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 Councilmember, with any other elective or appointive office or employment so that one or more of such offices or employments or any combination of duties of any such offices or employments may be held by the same officer or employee at the same time. The offices or employments so merged and combined shall always be construed to be separate and the effect of the combination or merger shall be limited to a consolidation of official duties only. The salary or compensation of the officer or employee holding the merged or combined offices or employments or offices and employments shall not be in excess of the maximum amount provided by law for the salary or compensation of the office, offices, employment or employments so merged and combined. For purposes of this section, volunteer firefighters and ambulance drivers shall not be considered officers. (*Ref. 17-108.02 RS Neb.*)

§1-203 APPOINTED OFFICIALS MUNICIPAL CLERK. (1) The Municipal Clerk shall attend the meetings of the Governing Body, and keep a correct journal of the proceedings of that body. He or she shall keep a record of all outstanding bonds against the Municipality and when any bonds are sold, purchased, paid, or canceled, said record shall show the fact. He or she shall make, at the end of the fiscal year, a report of the business of the Municipality transacted through his or her office for the year. That record shall describe particularly the bonds issued, and sold during the year, and the terms of the sale with each, and every item, and expense thereof. He or she shall file all official bonds after the same shall have been properly executed, and approved. He or she shall make the proper certificate of passage which shall be attached to original copies of all bond ordinances hereafter enacted by the Governing Body.

(2) The Municipal Clerk shall issue, and sign all licenses, permits, and occupation tax receipts authorized by law, and required by the Municipal ordinances. He or she shall collect all occupation taxes, and license money except where some other Municipal officer is specifically charged with that duty. He or she shall keep a register of all licenses granted in the Municipality, and the purpose for which they have been issued.

(3) The Municipal Clerk shall permit no records, public papers, or other documents of the Municipality kept, and preserved in his or her office to be taken therefrom, except by such officers of the Municipality as may be entitled to the use of the same, but only upon their leaving a receipt therefor. He or she shall keep all the records of his or her office, including a record of all licenses issued by him or her in a blank book with a proper index. He or she shall include as part of his or her records all petitions under which the Governing Body shall order public work to be done at the expense of the property fronting thereon, together with references to all resolutions, and ordinances relating to the same. He or she shall endorse the date,

and hour of filing upon every paper, or document so filed in his or her office. All such filings made by him or her shall be properly docketed. Included in his or her records shall be all standard codes, amendments thereto, and other documents incorporated by reference, and arranged in triplicate in a manner convenient for reference. He or she shall keep an accurate, and complete account of the appropriation of the several funds, draw, sign, and attest all warrants ordered for the payment of money on the particular fund from which the same is payable. At the end of each month, he or she shall then make a report of the amounts appropriated to the various funds, and the amount of the warrants drawn thereon. Nothing herein shall be construed to prevent any citizen, official, or other person from examining any public records at all reasonable times.

(4) The Municipal Clerk shall deliver all warrants, ordinances, and resolutions under his or her charge to the Mayor for his or her signature. He or she shall also deliver to officers, employees, and committees all resolutions, and communications which are directed at said officers, employees, or committees. With the seal of the Municipality, he or she shall duly attest the Mayor's signature to all ordinances, deeds, and papers required to be attested to when ordered to do so by the Governing Body. Within thirty (30) days after any meeting of the Governing Body, the Municipal Clerk shall prepare, and publish the official proceedings of the Governing Body in a legal newspaper of general circulation in the Municipality, and which was duly designated as such by the Governing Body. Said publication shall set forth a statement of the proceedings thereof and shall also include the amount of each claim allowed, the purpose of the claim, and the name of the claimant, except that the aggregate amount of all payroll claims may be included as one (1) item. Between July 15 and August 15 of each year, the employee job titles and the current annual, monthly, or hourly salaries corresponding to such job titles shall be published. Each job title published shall be descriptive and indicative of the duties and functions of the position. The charge for such publication shall not exceed the rates provided by the statutes of the State of Nebraska. Said publication shall be charged against the General Fund. He or she shall then keep in a book with a proper index, copies of all notices required to be published, or posted by the Municipal Clerk by order of the Governing Body, or under the ordinances of the Municipality. To each of the file copies of said notices shall be attached the printer's affidavit of publication, if the said notices are required to be published, or the Municipal Clerk's certificate under seal where the same are required to be posted only.

(5) The Municipal Clerk shall receive all objections to creation of paving districts, and other street Improvements. He or she shall receive the claims of any person against the Municipality, and in the event that the said claim is disallowed in part, or in whole, the Municipal Clerk shall notify such claimant, his or her agent, or attorney by letter within five (5) days after such disallowance, and the Municipal Clerk shall then prepare transcripts on appeals of any disallowance of a claim in all proper cases.

(6) The Municipal Clerk may charge a reasonable fee for certified copies of any record in his or her office as set by resolution of the Governing Body. He or she shall destroy Municipal records under the direction of the State Records Board pursuant to sections 84-1201 through 84-1220; provided, the Governing Body shall not have the authority to destroy the minutes of the Municipal Clerk, the permanent ordinances, and resolution books, or any other records classified as permanent by the State Records Board. (*Ref. 17-605, 19-1102, 19-1104, 84-1201 through 84-1220, 84-712 RS Neb.*)

§1-204 APPOINTED OFFICIALS; MUNICIPAL TREASURER. The Municipal Treasurer shall be the custodian of all moneys belonging to the Municipality. He shall keep all money belonging to the Municipality separate, and distinct from his own money. He shall keep a separate account of each fund or appropriation. and the debits, and credits belonging thereto. He shall issue duplicate (2) receipts for all moneys received by him for the Municipality. He shall give; to every person paying money into the Municipal Treasury, a receipt therefore, specifying the date of payment, and the account paid. One (1) of the receipts shall be filed with his monthly report, and the last copy of the said receipt shall be kept on file in his office. His books and accounts shall always be open for inspection by any citizen of the Municipality whenever any Municipal fiscal record, audit, warrant, voucher, invoice, purchase order, requisition, payroll check, receipt or other record of receipt, cash or expenditure involving public funds is involved. He shall cancel all bonds, coupons, warrants, and other evidences of debt against the Municipality, whenever paid by him, by writing, or stamping on the face thereof, "Paid by the Municipal Treasurer," with the date of payment written or stamped thereon. He shall collect all special taxes, allocate special assessments to the several owners, and shall obtain from the County Treasurer a monthly report as to the collection of delinquent taxes. The Treasurer's daily cash book shall be footed and balanced daily, and he shall adopt such bookkeeping methods as the Governing Body shall prescribe. He shall invest and collect all money owned by, or owed to, the Municipality as directed by the Governing Body. (*Ref. 17-606 through 17-609, 84-712 RS Neb.*)

§1-205 APPOINTED OFFICIALS; CLERK-TREASURER-WATER COMMISSIONER POSITION CREATED. The appointive offices of the Municipal Clerk, Municipal Treasurer, and Water Commissioner are hereby combined and merged in accordance with the authority granted to the Governing Body by section 1-202.

§1-206 APPOINTED OFFICIALS; TREASURER'S MONTHLY REPORT. The Municipal Treasurer shall at the end of each, and every month, and such other times as the Governing Body may deem necessary, render an account to the Governing Body under oath showing the financial state of the Municipality at that date, the amount of money remaining in each fund and the amount paid therefrom, and the balance of money remaining in the Treasury. He shall accompany the said account with a statement of all receipts, and disbursements, together with all warrants

redeemed, and paid by him. He shall also produce depository evidence that all Municipal money is in a solvent, and going bank in the name of the Municipality. If the Municipal Treasurer shall neglect, or fail for the space of ten (10) days from the end of each and every month to render his accounts as aforesaid, the Governing Body shall, by resolution, declare the office vacant, and appoint some person to fill the vacancy. The Municipal Treasurer shall be present at each regular meeting of the Governing Body at which time he shall read, and file his monthly report. (*Ref. 17-606 RS, Neb.*)

§1-207 APPOINTED OFFICIALS; TREASURER'S ANNUAL REPORT. The Municipal Treasurer shall publish in a legal newspaper having general circulation within the Municipality, within sixty (60) days following the close of each fiscal year, a report of the activities of his office which said report shall show in detail. Said report shall include all receipts, disbursements, warrants outstanding, and the debit, or credit balance of the Municipality. (*Ref. 19-110, RS Neb.*)

§1-208 APPOINTED OFFICIALS; MUNICIPAL ATTORNEY. The Municipal Attorney is the Municipality's legal advisor, and as such he shall commence, prosecute, and defend all suits on behalf of the Municipality. When requested by the Governing Body, he shall attend meetings of the Governing Body, and shall advise any Municipal official in all matters of law in which the interests of the Municipality may be involved. He shall draft such ordinances, bonds, contracts, and other writings as may be required in the administration of the affairs of the Municipality. He shall examine all bonds, contracts, and documents on which the Governing Body will be required to act, and attach thereto a brief statement in writing to all such instruments, and documents as to whether, or not, the document is in legal, and proper form. He shall prepare complaints, attend, and prosecute violations of the Municipal ordinances when directed to do so by the Governing Body. Without direction, he shall appear, and prosecute all cases for violation of the Municipal ordinances that have been appealed to, and are pending in any higher court. He shall also examine, when requested to do so by the Governing Body, the ordinance records, and advise, and assist the Municipal Clerk as much as may be necessary to the end that each procedural step will be taken in the passage of each ordinance to insure that they will be valid, and subsisting local laws in so far as their passage, and approval are concerned. The Governing Body shall have the right to compensate the Municipal Attorney for legal services on such terms as the Governing Body and the Municipal Attorney may agree, and to employ any additional legal assistance as may be necessary out of the funds of the Municipality. (*Ref. 17-610, RS Neb.*)

§1-209 APPOINTED OFFICIALS; MUNICIPAL PHYSICIAN. The Municipal Physician shall be a member of the Board of Health of the Municipality, and perform the duties devolving upon him as the medical advisor of the said board. In all injuries where a liability may be asserted against the Municipality, the Municipal Physician shall immediately investigate the said injuries, the extent thereof, and the circumstances. He shall then report the results of his investigation with the name of

the party injured, and all other persons who may have personal knowledge of the matter. He shall make all physical examinations, and necessary laboratory tests incident thereto, and issue such health certificates as are required by ordinance. For the purpose of making examinations of the sanitary conditions of the property, and the state of health of the inhabitants therein, he shall have the right at all reasonable hours to go upon, and enter all premises, buildings, or other structures in the Municipality. He shall perform such other duties as may be required of him by the laws of the State of Nebraska, and the ordinances of the Municipality. When ordered to do so by the Governing Body he shall disinfect, or fumigate the premises, or persons in or about the premises, when the premises are quarantined, and to call upon indigent sick persons, and perform other professional services at the direction of the Governing Body. The Municipal Physician shall receive as compensation for his services such sum as the Governing Body may from time to time set. He shall receive no compensation for his services as a member of the Municipal Board of Health. (*Ref. 17-121, RS Neb.*)

§1-210 APPOINTED OFFICIALS; COUNTY SHERIFF AS LAW

ENFORCEMENT OFFICER. The Nance County Sheriff shall direct the police work of the Municipality and shall be responsible for the maintenance of law and order. He shall act as Health Inspector, except in the event the Municipality appoints another person to those offices. He shall file the necessary complaints in cases arising out of violations of Municipal ordinances, and shall make all necessary reports required by the Municipal ordinances or the laws of the State of Nebraska. (*Ref. 19-3801, RS Neb.*)

§1-211 APPOINTED OFFICIALS; MUNICIPAL FIRE CHIEF. The Municipal Fire Chief shall be elected by the members of the Fire Department. He shall enforce all laws and ordinances covering the prevention of fires; the storage and use of explosives and flammable substances; the installation of fire alarm systems; the maintenance of fire extinguishing equipment; the regulation of fire escapes; and the inspection of all premises requiring adequate fire escapes. He shall within two (2) days investigate the cause, origin, and circumstances of fires arising within his jurisdiction. He shall, on or before the first (1st) day in April and October of each year, cause the secretary to file with the Municipal Clerk, and the Clerk of the District Court a certified copy of the rolls of all members in good standing in their respective companies in order to obtain the exemptions provided by law. He shall have the power during the time of a fire, and for a period of thirty-six (36) hours thereafter to arrest any suspected arsonist, or any person for hindering the department's efforts, conducting himself in a noisy and disorderly manner, or who shall refuse to obey any lawful order by the Fire Chief or Assistant Fire Chief. The Fire Chief or his assistant in charge of operations at a fire may command the services of any person present at any fire in extinguishing the same or in the removal, and protection of property. Failure to obey such an order shall be an offense punishable by a fine. The Fire Chief shall have the right to enter at all reasonable hours into buildings, and upon all premises within his jurisdiction for the purpose of examining

the same for fire hazards, and related dangers. (Ref. 17-147, 17-505, 35-102, 35-108, 81-506, 81-512, RS Neb.)

§1-212 APPOINTED OFFICIALS; MUNICIPAL ENGINEER. The Municipal Engineer shall make all surveys, estimates, and calculations necessary to be made for the establishment of any public utilities and the costs of labor and materials therefor. He shall accurately make all plats, sections, and maps as may be necessary under the direction of the Governing Body. Upon request, he shall make estimates of the cost of labor and material which may be done or furnished by contract with the Municipality, 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 and the improvement of streets and erection and repair of buildings, and shall perform such other duties as the Governing Body may require. (Ref. 17-150, 17-405, 17-568-01, 17-919, 81-839, RS Neb.)

§1-213 APPOINTED OFFICIALS; SPECIAL ENGINEER. The Governing Body may employ a Special Engineer to make or assist the Municipal Engineer in making any particular estimate, survey, or other work. The Special Engineer shall make a record of the minutes of his surveys and all other work done for the Municipality. He shall, when directed by the Governing Body, accurately make all plats, sections, profiles, and maps as may be necessary in the judgment of the Governing Body. He shall, upon request of the Governing Body, make estimates of the costs of labor and material which may be done or furnished by contract with the Municipality, and make all surveys, estimates, and calculations necessary for the establishment of grades, bridges, building of culverts, sewers, electric light system, waterworks, power plant, public heating system, curbing and gutters, and the improvement of streets and erection and repair of buildings, and shall perform such other duties as the Governing Body may require. All records of the Special Engineer shall be public records which shall belong to the Municipality, and shall be turned over to his successor. (Ref. 17-405, 17-568, 17-568.01, 17-919, RS Neb.)

§1-214 APPOINTED OFFICIALS; MUNICIPAL WATER COMMISSIONER. The Municipal Water Commissioner shall have general supervision and control over the Municipal Water System, and shall be primarily responsible for its economic operation and prudent management. Included in the said water system shall be the water plant, the pump house, all machinery, and appliances used in connection with producing and distributing water to inhabitants of the Municipality. All actions, decisions, and procedures of the Water Commissioner shall be subject to the general directives and control of the Governing Body. The Municipal Water Commissioner shall have the general control and supervisory authority over all employees of the Water System which the Governing Body may from time to time hire to operate and maintain the said system. Unless some other official is specifically designated, he shall collect all money received by the Municipality on account of the said system of waterworks, and shall faithfully account for, and pay over to the Municipal Treasurer

all such money collected in the name of the Municipality and receive a receipt from the Municipal Treasurer for the depository evidence of his faithful discharge of this duty. This receipt shall then be filed with the Municipal Clerk, and the second (2nd) copy shall be kept by the said Commissioner. He shall make a detailed report to the Governing Body at least once every six (6) months, of the condition of the said water system, of all mains, pipes, hydrants, reservoirs, and machinery and such improvements, repairs, and extensions thereof as he may think proper. The report shall show the amount of receipts and expenditures on account thereof for the preceding six (6) months. No money shall be expended for improvements, repairs, or extensions of the said waterworks system except upon the recommendation of the Commissioner. The Water Commissioner who may be removed at any time by the Mayor, and a two-thirds (2/3) vote of the Governing Body, shall provide a bond conditioned upon the faithful discharge of his duties which shall amount to not less than the amount set by resolution of the Governing Body and on file in the office of the Municipal Clerk. The Water Commissioner shall perform such additional duties as may be prescribed by the Governing Body. (*Ref. 17-107, 17-541, 17-543, RS Neb.*)

§1-215 APPOINTED OFFICIALS; MUNICIPAL OVERSEER OF STREETS

AND SEWERS. (1) The Municipal Overseer of Streets and Sewers shall, subject to the orders and directives of the Governing Body, have general charge, direction, and control of all work on the streets, sidewalks, culverts, and bridges of the Municipality, and shall perform such other duties as the Governing Body may require. It shall be his responsibility to see that gutters and drains therein function properly, and that the same are kept in good repair. He shall, at the request of the Governing Body make a detailed report to the Governing Body on the condition of the streets, sidewalks, culverts, alleys, and bridges of the Municipality, and shall direct their attention to such improvements, repairs, extensions, additions, and additional employees as he may believe are needed to maintain a satisfactory street system in the Municipality along with an estimate of the cost thereof. He shall issue such permits, and assume such other duties as the Governing Body may direct.

(2) The Municipal Overseer of Streets and Sewers shall have the immediate control and supervision over all the employees, and property that make up the Municipal sewer system, subject to the general control, and directives of the Governing Body. He shall at least every six (6) months, make a detailed report to the Governing Body on the condition of the sewer system, and shall direct their attention to such improvements, repairs, extensions, additions, and additional employees as he may believe are needed along with an estimate of the cost thereof. He shall have such other duties as the Governing Body may delegate to him. He shall issue permits for all connections to the Municipal sewer system, and inspect and supervise all repairs made to the said system. (*Ref. 17-107, 17-119, RS Neb.*)

§1-216 APPOINTED OFFICIALS; MUNICIPAL TREE DUMP CARETAKER.

The Municipal Tree Dump Caretaker shall have the immediate control and

supervision of the Municipal Tree Dump subject to the general control and directives of the Governing Body. He shall at least every six (6) months, make a detailed report to the Governing Body on the condition of the Tree Dump, and shall direct their attention to such improvements, additions, and additional employees as he may believe are needed along with an estimate of the cost thereof. He shall issue dumping permits if the Governing Body should require them and shall inspect and supervise all work done to improve or extend the Tree Dump. He shall have such other duties as the Governing Body may delegate to him. He may be removed at any time by the Mayor. (Ref. 17-107, 17-604 RS Neb.)

§1-217 APPOINTED OFFICIALS; CITY ADMINISTRATOR. (1) The City Administrator shall be appointed by the Mayor and with the consent of a majority of the City Council. Such person shall be the administrative head of the City Government, under the direction and the control of the Mayor and the City Council, and shall be responsible to the Mayor and the City Council for efficient conduct of his office.

(2) The office of the City Administrator may not be held by the Mayor. The City Administrator may be removed at any time by the Mayor.

(3) The purpose of the office of the City Administrator is to provide centralization of the administrative responsibilities of the City; such City Administrator to be the administrative head of the City government under the direction and control of the Mayor and the City Council.

(4) The duties of the City Administrator shall be as follows:

- (a) To make and keep up to date an Inventory of all property, real and personal, owned by the City.
- (b) To act as purchasing agent for the purchase of all supplies, goods, wares, and merchandise, equipment and material which may be required for the various departments, divisions, or services of the City.
- (c) Shall have prepared and maintained a current inventory of all property, real and personal owned by the City.
- (d) To serve as public relations officer of the City government, and in such capacity to investigate and adjust all complaints filed against any employee, department, division, or service thereof: and to cooperate with all community organizations whose aid and purpose is to advance the best Interest of the City and its people: and to attend meetings of such organizations, If, in his judgment, such attendance is necessary and desirable.

- (e) To attend all meetings of the City Council with the duty of reporting any matter concerning City affairs under his supervision or direction; and to attend such other meetings of the City departments and officials as his duties may require.
- (f) To analyze the functions, duties, and activities of other various departments, divisions, and services of the City government and of all employees thereof, and to make recommendations regarding the same to the Mayor and the City Council.
- (g) To carry out directions and recommendations of the Mayor and City Council in coordinating the administrative functions and operations of the various departments.
- (h) To procure facts and submit proposals for long range programs and improvements to the Mayor and the City Council and to make recommendations to the Mayor and the City Council in any matter believed by him to be necessary or expedient.
- (i) To investigate and make recommendations to the Mayor and the City Council regarding the duties and activities of any and all employees of the City over which he exercises jurisdiction and recommend to the Mayor and the City Council the appointment, dismissal, transfer, commendation, promotion, demotion, or suspension of such employees. Appointment, dismissal, transfer, commendation, promotion, demotion, or suspension of such employees will be made by and upon the recommendations of the Mayor and the confirmation of any by the City Council.
- (j) To administer through the heads of departments and to be responsible for all departments and divisions of the City government which are under the direction of the Mayor and the City Council including the police and fire departments, except insofar as such jurisdiction and administration conflicts with the Civil Service Law pertaining to such police and fire departments. The office of the City Attorney and the City Physician shall not come under the administration and responsibility of the City Administrator; said Administrator, however, is to be available to assist these officers in any administrative matter that may arise; and those officers, in turn, shall be available to assist the City Administrator in the discharge of his duties.
- (k) To recommend to the Mayor and the City Council the adoption of such measures and ordinances as are deemed necessary or expedient.
- (l) To prepare and recommend to the Mayor and the City Council a classification and compensation plan. He shall be the Personnel Officer of the City, and shall keep and maintain appropriate records of the employment status of each employee.

- (m) To make investigations into the affairs of the City and any department or division thereof, and any contract, or the proper performance of any obligation pertaining to the City.
- (n) To exercise general supervision over all public buildings, streets, and other public property which are under the control and jurisdiction of the Mayor and City Council.
- (o) To review and submit to the Mayor and the City Council at the end of each month and the end of the fiscal year, a complete report on the finances and administrative activities of the City for the preceding period. As prepared by the City Clerk and Treasurer.
- (p) Shall prepare the insurance specifications of the City and send them out for bids. To keep the Insurable property of the City appropriately insured.
- (q) To keep open the office of the City Administrator for public affairs during days and hours as set by the Mayor and the City Council.
- (r) To perform such other duties and exercise such other powers as may be delegated to him from time to time by ordinances or resolutions of the City Council; and where action of the City Council is not required, such duties and powers as may be prescribed by the Mayor.
- (s) Shall have periodic staff meetings with all department heads and employees.
- (t) Shall attend seminars and meetings that further educate, aid, and inform the administrator in doing his/her job more effectively and proficiently with the approval of the Mayor and City Council.
- (u) Act as the City's liaison to State and Federal economic/industrial development agencies; actively pursue community grant funding, by maintaining a working knowledge of grants, grant companies, loans, and monies available for community/ economic development; be responsible for the application, or assisting in the application, of such grants.
- (v) The City Administrator shall act as the agent of the Mayor in the discharge of the Administrator's duties and the superintending and control of all of the officers and the affairs of the City. The City Administrator shall have no independent power to exercise any policy making or any legislative functions whosoever. The City Administrator may not commit or bind the City to any plan, action, or program requiring official action by the City Council.

(5) The salary and benefits of the City Administrator shall be fixed by ordinance of the City Council.

(6) The City Administrator shall furnish a corporate surety bond to be approved by the City Council. The sum of such bond may be determined by the City Council, and shall be conditioned on the faithful performance of the duties imposed on the City Administrator as herein described. Bond fee will be paid by the City.

(7) The City Council and its members shall deal with the administrative services of the City only through the City Administrator except for the purpose of inquiry, and neither the City Council nor any members thereof shall give orders to any subordinate of the City Administrator.

(8) The City Administrator, in the discharge of his duties, shall have the right to expend an amount, not to exceed the limits set by the City Council, when entering into contracts for City work and/or Improvements and/or purchase of equipment, without advertising for bids, and within any dollar limitation as set by the City Council, to make any contract on behalf of the City for general purchases, maintenance, and improvements. The expenditure limitations herein is to apply to all departments of the City. (Ref. 17-604, RS Neb.)

§1-218 APPOINTED OFFICIALS; ZONING ADMINISTRATOR. The Mayor may appoint a Zoning Administrator, by and with the consent of the City Council. In the absence of a specific appointment by the Mayor, the City Administrator is hereby designated as the Zoning Administrator. (Ref. 17-109, 17-604 RS Neb.)

Article 3. Bonds and Oaths

§1-301 BONDS; FORM. Official bonds of the Municipality shall be in form, joint and several, and shall be made payable to the Municipality in such penalty as the Governing Body may set by resolution; provided, the penalty amount on any bond shall not fall below the legal minimum, when one has been set by the State of Nebraska, for each particular official. All official bonds of the Municipal officials shall be executed by the principal named in such bonds and by at least two (2) sufficient sureties who shall be freeholders of the county, or by the official as principal and by a guaranty, surety, fidelity, or bonding company; provided no Municipal official, while still in his official term of office, shall be accepted as surety on any other official's bond, contractor's bond, license bond, or appeal bond under any circumstances. Only companies that are legally authorized to transact business in the State of Nebraska shall be eligible for suretyship on the bond of an official of the Municipality. All said 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 the Municipality and any persons who may be injured by a breach of the conditions of such bonds. No bond shall be deemed to be given or complete until the approval of the Governing Body, and all sureties are endorsed in

writing on the said instrument by the Mayor and Municipal Clerk pursuant to the said approval of the Governing Body. The premium on any official bond required to be given may be paid out of the General Fund, or other proper Municipal fund, upon a resolution to that effect by the Governing Body at the beginning of any Municipal year. All official bonds, meeting the conditions herein, shall be filed with the Municipal Clerk for his official records, and it shall be the duty of the Municipal Clerk to furnish a certified copy of any bond so filed upon the payment of a fee which shall be set by resolution of the Governing Body. In the event that the sureties on the official bond of any officer of the Municipality, in the opinion of the Governing Body, become insufficient, the Governing Body may, by resolution, fix a reasonable time within which the said officer may give a new bond or additional sureties as directed. In the event that the officer should fail, refuse, or neglect to give a new bond, or additional sureties to the satisfaction, and approval of the Governing Body then the office shall, by such failure, refusal, or neglect, become vacant, and it shall be the duty of the Governing Body to appoint a competent, and qualified person to fill the said office. Any official who is re-elected to office shall be required to file a new bond after each election. *(Ref. 11-103 through 11-118, 17-604, RS Neb.)*

§1-302 OATH OF OFFICE MUNICIPAL OFFICIALS. All officials of the Municipality, 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." *(Ref. 11-101, RS Neb.)*

Article 4. Corporate Seal

§1-401 SEAL; OFFICIAL CORPORATE. The official Corporate Seal of the Municipality shall be kept in the office of the Municipal Clerk, and shall bear the following inscription, "The City of Fullerton, Nebraska, Seal." The Municipal Clerk shall affix an impression of the said official seal to all warrants, licenses, permits,

ordinances, and all other official papers Issued by order of the Governing Body and countersigned by the Municipal Clerk. (Ref. 17-502, RS Neb.)

Article 5. Meetings

§1-501 MEETINGS; DEFINED. Meetings, as used in this Article shall mean all regular, special, or called meetings, formal or informal, of a public body for the purposes of briefing, discussion of public business, formation of tentative policy, or the taking of any action. (Ref. 84-1409(2), RS Neb.)

§1-502 MEETINGS; PUBLIC BODY DEFINED. Public Body as used in this Article shall mean:

- (1) The Governing Body of the Municipality.
- (2) All Independent boards, commissions, bureaus, committees, councils, subunits, or any other bodies, now or hereafter created by Constitution, statute, ordinance or otherwise pursuant to law, and
- (3) Advisory committees of the bodies listed above.

This Article shall not apply to subcommittees of such bodies unless a quorum of the public body attends a subcommittee meeting or unless such subcommittees are holding hearings, making policy or taking formal action on behalf of their parent body. (Ref. 84-1409(1), RS Neb.)

§1-503 MEETINGS; PUBLIC. All public meetings as defined by law shall be held in a Municipal public building which shall be open to attendance by the public. All meetings shall be held in the public building in which the Governing Body usually holds such meetings unless the publicized notice hereinafter required shall designate some other public building or other specified place. The advance publicized notice of all public convened meetings shall be simultaneously transmitted to all members of the Governing Body and to the public by a method designated by the Governing Body or by the Mayor if the Governing Body has not designated a method. Such notice shall contain the time and specific place for each meeting and either an enumeration of the agenda subjects known at the time of the notice, or a statement that such an agenda kept continually current shall be readily available for public inspection at the office of the Municipal Clerk. Except for items of an emergency nature, the agenda shall not be altered later than (a) twenty-four (24) hours before the scheduled commencement of the meeting or (b) forty-eight (48) hours before the scheduled commencement of a meeting of the Governing Body scheduled outside the corporate limits of the Municipality. The Governing Body shall have the right to modify the agenda to include items of an emergency nature only at such public meetings. The minutes of the Municipal Clerk shall include the record of the manner and advance time by which the advance publicized notice was given, a statement of how the availability of an agenda of the then known subjects was communicated, the time and specific place of the meetings, and the names of each member of the

Governing Body present or absent at each convened meeting. The minutes of the Governing Body shall be a public record open to inspection by the public upon request at any reasonable time at the office of the Municipal Clerk. Any official action on any question or motion duly moved and seconded shall be taken only by roll call vote of the Governing Body in open session. The record of the Municipal Clerk shall show how each member voted, or that the member was absent and did not vote. (Ref. 84-1408, 84-1409, 84-1411, 84-1413, RS Neb.)

§1-504 MEETINGS; CLOSED SESSIONS. (1) Any public body may hold a closed session by the affirmative vote of a majority of its voting members if a closed session is clearly necessary for the protection of the public interest or for the prevention of needless injury to the reputation of an individual and if such individual has not requested a public meeting. Closed sessions may be held for, but shall not be limited to, such reasons as:

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

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

(2) The vote to hold a closed session shall be taken in open session. The vote of each member on the question of holding a closed session, the reason for the closed session, and the time when the closed session commenced and concluded shall be recorded in the minutes. The public body holding such a closed session shall restrict its consideration to matters during the closed portions to only those purposes set forth in the minutes as the reason for the closed session. The meeting shall be reconvened in open session before any formal action may be taken. For purposes of this section, formal action shall mean a collective decision or a collective commitment or promise to make a decision on any question, motion, proposal, resolution, order, or ordinance or formation of a position or policy but shall include negotiating guidance given by members of the public body to legal counsel or other negotiations in closed sessions authorized under subsection (1) of this section.

(3) Any member of any public body shall have the right to challenge the continuation of a closed session if the member determines that the session has

exceeded the reason stated In the original motion to hold a closed session or if the member contends that the closed session Is neither clearly necessary for (a) the protection of the public interest or (b) the prevention of needless injury to the reputation of an individual. Such challenge shall be overruled only by a majority vote of the members of the public body. Such challenge and its disposition shall be recorded in the minutes.

(4) Nothing in this section shall be construed to require that any meeting be closed to the public. No person or public body shall fail to invite a portion of its member's to a meeting and no public body shall designate itself a subcommittee of the whole body for the purpose of circumventing the provisions of this Article. No closed session, informal meeting, chance meeting, social gathering, or electronic communication shall be used for the purpose of circumventing the provisions of this Article. The provisions of this Article shall not apply to chance meetings. or to attendance at or travel to conventions or workshops of members of a public body at which there Is no meeting of the body then intentionally convened and there is no vote or other action taken regarding any matter over which the public body has supervision, control, jurisdiction, or advisory power. *(Ref. 84-1410, RS Neb.)*

§1-505 MEETINGS; EMERGENCY MEETINGS. When it is necessary to hold an emergency meeting without reasonable advance public notice, the nature of the emergency shall be stated in the minutes and any formal action taken in such meeting shall pertain only to the emergency. Such emergency meetings may be held by means of electronic or telecommunication equipment. The provisions of section 1-508 of this Article shall be complied with in conducting emergency meetings. Complete minutes of such emergency meetings specifying the nature of the emergency and any formal action taken at the meeting shall be made available to the public by no later than the end of the next regular business day. *(Ref. 84-1411, RS Neb.)*

§1-506 MEETINGS; MINUTES. (1) Each public body shall keep minutes of all meetings showing the time, place, members present and absent, and the substance of all matters discussed.

(2) The minutes shall be public records and open to public inspection during normal business hours.

(3) Minutes shall be written and available for inspection within ten (10) working days, or prior to the next convened meeting, whichever occurs earlier. *(Ref. 84-1412, 84-1413, RS Neb.)*

§1-507 MEETINGS; VOTES. (1) Any action taken on any question or motion duly moved and seconded shall be by roll call vote of the public body in open session, and the record shall state how each member voted, or if the member was absent or not voting. The requirements of a roll call or viva voce vote shall be satisfied by the

Municipality utilizing an electronic voting device which allows the yeas and nays of each member of the Governing Body to be readily seen by the public.

(2) The vote to elect leadership within a public body may be taken by secret ballot, but the total number of votes for each candidate shall be recorded in the minutes. *(Ref. 17-616, 84-1413, RS Neb.)*

§1-508 MEETINGS; NOTICE TO NEWS MEDIA. The Municipal Clerk, Secretary, or other designee of each public body shall maintain a list of the news media requesting notification of meetings and shall make reasonable efforts to provide advance notification to them of the time and place of each meeting, and the subjects to be discussed at that meeting. *(Ref. 84-1411 RS Neb.)*

§1-509 MEETINGS; PUBLIC PARTICIPATION. (1) Subject to the provisions of this Article, the public shall have the right to attend and the right to speak at meetings of public bodies and all or any part of a meeting of a public body, except for closed meetings called pursuant to section 1-504 may be videotaped, televised, photographed, broadcast, or recorded by any person in attendance by means of a tape recorder, camera, video equipment, or any other means of pictorial or sonic reproduction or in writing.

(2) It shall not be a violation of this section for any public body to make and enforce reasonable rules and regulations regarding the conduct of persons attending, speaking at, videotaping, televising, photographing, broadcasting, or recording its meetings. A body may not be required to allow citizens to speak at each meeting, but it may not forbid public participation at all meetings. No public body shall require members of the public to identify themselves as a condition for admission to the meeting. The body may require any member of the public desiring to address the body to identify himself or herself. No public body shall for the purpose of circumventing the provisions of this Article hold a meeting in a place known by the body to be too small to accommodate the anticipated audience. No public body shall be deemed in violation of this section if it holds its meeting in its traditional meeting place which is located in this State. An agency which contracts with municipalities outside the State of Nebraska may hold meetings of any committee outside the State of Nebraska if such meetings are held only in such contracting municipalities. Final action on any agenda item shall only be taken by the agency at a meeting in the State of Nebraska, which meeting shall comply with sections 84-1408 to 84-1414 RS Neb. The public body shall, upon request, make a reasonable effort to accommodate the public's right to hear the discussion and testimony presented at the meeting. Public bodies shall make available at the meeting, for examination and copying by members of the public, at least one (1) copy of all reproducible written material to be discussed at an open meeting. *(Ref. 84-1412, 18-2438 RS Neb.)*

§1-510 MEETINGS; ORDER OF BUSINESS. All meetings of the Governing Body shall be open to the public. Promptly at the hour set by law on the day of each regular meeting, the members of the Governing Body, the Municipal Clerk, the

Mayor, and such other Municipal officials that may be required shall take their regular stations in the meeting place, and the business of the Municipality shall be taken up for consideration and disposition in the manner prescribed by the official agenda on file at the office of the Municipal Clerk.

§1-511 MEETINGS; CHANGE IN OFFICE. The change in office shall be made as follows: The Mayor and Council shall meet on the first regular meeting date in December of each year in which a Municipal election is held and the outgoing officers and the outgoing members of the Council shall present their reports, and upon the old Council having completed its business up to the said time, the outgoing members of the Council shall surrender their offices to the incoming members, and the outgoing officers shall thereupon each surrender to his successor in office all property, records, papers and moneys, belonging to the same. (Ref. 17-107.02(9) *RS Neb.*)

§1-512 MEETINGS; ORGANIZATIONAL. The newly elected Council shall convene at the regular place of meeting in the City on the first (1st) regular meeting in December of each year in which a Municipal election is held immediately after the prior Council adjourns and proceed to organize themselves for the ensuing year. The Mayor elected for the new municipal year shall call the meeting to order. The Council shall then proceed to examine the credentials of its members and other elective officers of the City to see that each has been duly and properly elected, and to see that such oaths and bonds have been given as are required. After ascertaining that all members are duly qualified, the Council shall then elect one of its own body who shall be styled as "President of the Council." The Mayor shall then nominate his candidates for appointive offices. He shall then proceed with the regular order of business. It is hereby made the duty of each and every member of the Council, or his or her successor in office, and of each officer elected to any office, to qualify prior to the first (1st) regular meeting in December following his election. All appointive officers shall qualify within two (2) weeks following their appointments. Qualification for each officer who is not required to give bond shall consist in his subscribing and taking an oath to support the Constitution of the United States, the Constitution of the State of Nebraska, the laws of the Municipality and to perform faithfully and impartially the duties of his office, said oath to be filed in the office of the Municipal Clerk. Each officer who is required to give a bond shall file the required bond in the office of the Municipal Clerk with sufficient sureties, conditioned on the faithful discharge of the duties of his office, with the oath endorsed thereon.

§1-513 MEETINGS; REGULAR MEETING. (1) The regular stated meetings of the City Council of the City of Fullerton, Nebraska, shall be held on the third Tuesday of each month, commencing at the hour of seven o'clock P.M., effective May 2007.

(2) The stated and special meetings of the City Council shall be held at the City office situated at Pt. of the Northeast Quarter of the Southeast Quarter (NE1/4SE1/4) of Section Fourteen (14), Township Sixteen (16) North, Range Six (6), West of the 6th P.M., Nance County, Nebraska; 20 rods x 20 rods except 70' x 146', lands in the City, being 2.27 acres.

(3) At all meetings of the Council a majority of the Council members shall constitute a quorum to do business.

§1-514 MEETINGS; SPECIAL MEETINGS. (1) Special meetings may be called by the Mayor, or by three members of the City Council, the object of which shall be submitted to the Council in writing. The call and object, as well as the disposition thereof, shall be entered upon the journal by the Municipal Clerk. On filing the call for a special meeting, the Municipal Clerk shall notify the Council members of the special meeting, stating the time and its purpose. Notice of a special meeting need not be given to a Councilmember known to be out of the state, or physically unable to be present. A majority of the members of the City Council shall constitute a quorum for the transaction of business, but a smaller number may adjourn from day to day and compel the attendance of the absent members. Whether a quorum is present or not, all absent members shall be sent for and compelled to attend.

(2) At the hour appointed for the meeting, the Municipal Clerk shall proceed to call the roll of members and announce whether a quorum is present. If a quorum is present, the Council shall be called to order by the Mayor, if present, or if absent, by the President of the Council. In the absence of both the Mayor and the President of the Council, the City Council members shall elect a President pro tempore. All ordinances passed at any special meeting shall comply with procedures set forth in Chapter 1, Article 6 herein. (*Ref. 17-106 RS Neb.*)

Article 6. Ordinances

§1-601 ORDINANCES; GRANT OF POWER. The Governing Body shall have the responsibility of making all ordinances, by-laws, rules, regulations, and resolutions, not inconsistent with the laws of the State of Nebraska, as may be necessary and proper for maintaining the peace, good government, and welfare of the Municipality and its trade, commerce, and security. (*Ref. 17-505 RS Neb.*)

§1-602 REPEALED

§1-603 ORDINANCES; RESOLUTIONS AND MOTIONS. Resolutions and motions shall be introduced in one of the methods prescribed for the introduction of ordinances. After their introduction, they shall be fully and distinctly read one (1) time in the presence and hearing of a majority of the members elected to the Council. The issue raised by said resolutions or motions shall be disposed of in accordance with the usage of parliamentary law adopted for the guidance of the

Council. A majority vote shall be required to pass any resolution or motion. The vote on any resolution or motion shall be by roll call vote.

§1-604 ORDINANCES; STYLE. The style of all Municipal ordinances shall be: "Be it ordained by the Mayor and Council of the City of Fullerton, Nebraska." (*Ref. 17-613 RS Neb.*)

§1-605 ORDINANCES; TITLE. No ordinance shall contain a subject not clearly expressed in its title. (*Ref. 17-614 RS Neb.*)

§1-606 ORDINANCES; PASSAGE. Ordinances, resolutions, or orders for the appropriation of money shall require for their adoption a concurrence of the majority of the members of the Governing Body. Ordinances of a general or permanent nature shall be read by the title on three (3) different days unless three-fourths (3/4) of the Governing Body vote to suspend this requirement, except that such requirement shall not be suspended for any ordinance for the annexation of territory. In case such requirement is suspended, the ordinance shall be read by title and then moved for final passage. Three-fourths (3/4) of the Council may require any ordinance to be read in full before final passage under either process. (*Ref. 17-614 RS Neb.*)

§1-607 ORDINANCES; PUBLICATION OR POSTING. All ordinances of a general nature shall be published one (1) time within fifteen (15) days after they are passed in (a) some newspaper published in the Municipality or if no paper is published in the Municipality, then by posting a written or printed copy thereof in each of three (3) public places in the Municipality or (b) in book or pamphlet form. (*Ref. 17-613 RS Neb.*)

§1-608 ORDINANCES; CERTIFICATE OF PUBLICATION OR POSTING. The passage, approval, and publication or posting of all ordinances shall be sufficiently proven by a certificate under the Seal of the Municipality from the Municipal Clerk showing that the said ordinance was passed and approved, and when, and in what paper the same was published, or when, and by whom, and where the same was posted. (*Ref. 17-613 RS Neb.*)

§1-609 ORDINANCES; EMERGENCY ORDINANCES. In the case of riot, infectious or contagious diseases, or other impending danger, failure of a public utility, or other emergency requiring its immediate operation, such ordinance shall take effect upon the proclamation of the Mayor, and the posting thereof in at least three (3) of the most public places in the Municipality. Such emergency notice shall recite the emergency and be passed by a three-fourths (3/4) vote of the Governing Body, and entered upon the Municipal Clerk's minutes. (*Ref. 17-613 RS Neb.*)

§1-610 ORDINANCES; AMENDMENTS AND REVISIONS. No ordinance or section thereof shall be revised or amended unless the new ordinance contains the

entire ordinance or section as revised or amended, and the ordinance or section so amended shall be repealed. (Ref. 17-614 RS Neb.)

Article 7. Elections

§1-701 ELECTIONS; GENERALLY. The Municipal primary and general election shall be held in accordance with the provisions of Chapter Thirty-two (32) Revised Statutes of Nebraska. Said elections shall be held in conjunction with the State Primary and General Election. Prior to February One (1) of the year in which the first (1st) such joint election takes place, the Governing Body shall receive the consent in writing of the County Board to so hold the election and such authorization shall be prescribed according to state law. The County Clerk shall have charge of the election and shall have the authority to deputize the Municipal Clerk for Municipal election purposes. Charges shall be paid to the County Clerk as set forth in section 32-4,147 RS Neb.

Commencing with the Statewide Primary Election in 1976, and every two (2) years thereafter, those candidates for Mayor and for positions on the City Council whose terms will be expiring shall be nominated at the Statewide Primary Election and elected at the Statewide General Election. (Ref. 17-107.02(l). (2). 32-4,146, 32-4,147 RS Neb.)

§1-702 ELECTIONS; TERM OF OFFICE. All elected officers of the Municipality shall serve a term of four (4) years and until their successors are elected and have qualified. (Ref. 17-107.02 (2) RS Neb.)

Article 8. Fiscal Management

§1-801 FISCAL MANAGEMENT; FISCAL YEAR. The fiscal year of the Municipality for the purposes of taxation and appropriations, shall begin the first (1st) day in October of each year. (Ref. 17-701 RS Neb.)

§1-802 FISCAL MANAGEMENT; BUDGET STATEMENT; FILING. (1) The Governing Body shall adopt a budget statement to be termed the annual appropriation bill, in which are appropriated such sums of money as may be deemed necessary to defray all necessary expenses and liabilities of the Municipality, not exceeding in the aggregate the amount of tax authorized to be levied. The said ordinance shall specify the objects and purposes for which such appropriations are made and the amount appropriated for each purpose. Any balance unexpended and unobligated at the end of the fiscal year shall, unless reappropriated, lapse to the general fund.

(2) The annual appropriation bill shall not be amended without a majority vote of the Governing Body after a public hearing. Notice of the time and place of the hearing shall be published at least five (5) days prior to the date set for hearing in a newspaper of general circulation within the Municipality. The income arising from the operation of proprietary functions shall be deemed especially appropriated to the

payment of the current expenses of and to the cost of improvements and extensions and additions to such functions and shall not be included in the annual appropriation bill. (Ref. 17-706 RS Neb.)

§1-803 FISCAL MANAGEMENT; BUDGET HEARING. Subsequent to the filing of the proposed budget statement, the Governing Body shall publish a proposed budget and conduct a public hearing on the proposed budget statement. Notice of the place and time of the said hearing, as well as a copy of the proposed budget, shall be published at least five (5) days prior to the date set for the hearing in a newspaper of general circulation in the Municipality. After such hearing, the statement shall be adopted, or amended, and adopted as amended, and a written record shall be made of such hearing, if the adopted budget statement reflects a change from that shown in the published proposed budget statement, a summary of such changes shall be published within twenty (20) days after its adoption. (Ref. 13-506 RS Neb.)

§1-804 FISCAL MANAGEMENT; BUDGET FILING. The Governing Body shall timely file with and certify to the levying board each year, and file with the Nebraska State Auditor, a copy of the adopted budget statement, together with the amount of the tax to be levied and proof of publication. The Governing Body shall not certify any tax that exceeds the maximum levy prescribed by State law; provided, in certifying the amount to be so levied, allowance may be made for delinquent taxes not exceeding five percent (5%) of the amount to be levied plus the actual percentage of delinquent taxes for the preceding tax year. (Ref. 13-508 RS Neb.)

§1-805 REPEALED

§1-806 FISCAL MANAGEMENT; BUDGET PROCEDURE. The Manual of Instructions for City Budgets, prepared by the Auditor of Public Accounts, State Capitol, Lincoln, Nebraska 68509 is incorporated by reference for the purpose of proper budget preparation.

§1-807 FISCAL MANAGEMENT; PROPRIETARY FUNCTIONS; FISCAL YEAR; BUDGET STATEMENTS; FILING; HEARING; ADOPTION; RECONCILIATION. (1) Pursuant to the Municipal Proprietary Function Act, the Governing Body may prepare a proprietary budget statement for its proprietary functions separate and apart from its Municipal budget statement prepared pursuant to the Nebraska Budget Act. For purposes of this section, proprietary function shall mean a water supply or distribution utility, a wastewater collection or treatment utility, an electric generation, transmission, or distribution utility, a gas supply, transmission, or distribution utility, an integrated solid waste management collection, disposal, or handling utility, or a hospital or a nursing home owned by the Municipality.

(2) The Governing Body may establish a separate fiscal year for each proprietary function, except that any proprietary function which is subsidized by appropriations from the Municipality's general fund shall have the same fiscal year as the Municipality. For purposes of this section, subsidization shall mean that the costs of operation of a proprietary function are regularly financed by appropriations from the Municipality's general fund in excess of the amount paid by the Municipality to the proprietary function for actual service or services received.

(3) If the Municipality does not include its proprietary functions in Its Municipal budget statement, a proposed proprietary statement shall be prepared in writing on forms provided by the State Auditor and filed with the Municipal Clerk, at least thirty (30) days prior to the start of the fiscal year of each proprietary function, containing the following information:

(a) For the immediate two (2) prior fiscal years, the revenue from all sources, the unencumbered cash balance at the beginning and end of the year, the amount received by taxation, and the amount of actual expenditure;

(b) For the current fiscal year, actual and estimated revenue from all sources separately stated as to each such source, the actual unencumbered cash balance available at the beginning of the year, the amount received from taxation, and the amount of actual and estimated expenditure, whichever is applicable;

(c) For the immediately ensuing fiscal year, an estimate of revenue from all sources separately stated as to each such source, the actual or estimated unencumbered cash balance, whichever is applicable, to be available at the beginning of the year, the amounts proposed to be expended during the fiscal year, and the amount of cash reserve based on actual experience of prior years; and

(d) A uniform summary of the proposed budget statement which shall include a total of all funds maintained for the proprietary function.

Such statement shall contain the estimated cash reserve for each fiscal year and shall whether or not such reserve is encumbered. The cash reserve projections shall be based upon the actual experience of prior years.

(4)(a) After the proposed proprietary budget statement is filed with the Municipal Clerk, the Governing Body shall conduct a public hearing on such statement. Notice of the time and place of the hearing, a summary of the proposed proprietary budget statement, and notice that the full proposed proprietary budget statement is available for public review with the Municipal Clerk during normal business hours, shall be published at least five (5) days prior to the hearing in a newspaper of general circulation within the Governing Body's jurisdiction or by mailing each resident within the Governing Body's jurisdiction.

(b) After such hearing, the proposed proprietary budget statement shall be adopted or amended and adopted as amended, and a written report shall be kept of such hearing. If the adopted proprietary budget statement reflects a change from the proposed proprietary statement presented at the hearing, a copy of the adopted proprietary budget statement shall be filed with the Municipal Clerk within twenty (20) days after its adoption and published in a newspaper of general circulation within the Governing Body's jurisdiction or by mailing to each resident within the Governing Body's jurisdiction.

(5) If the actual expenditures for a proprietary function exceed the estimated expenditures in the proprietary budget statement during its fiscal year, the Governing Body shall adopt a proprietary function reconciliation statement within ninety (90) days after the end of such fiscal year which reflects any difference between the adopted proprietary budget statement for the previous fiscal year and the actual expenditures and revenue for such fiscal year. After the adoption of a proprietary function reconciliation statement, it shall be filed with the Municipal Clerk and published in a newspaper of general circulation within the Governing Body's jurisdiction or by mailing to each resident within the Governing Body's jurisdiction. If the difference between the adopted proprietary budget for the previous fiscal year and the actual expenditures and revenues for such fiscal year is greater than ten percent (10%), the proprietary function reconciliation statement shall only be adopted following a public hearing.

(6) Any income from a proprietary function which is transferred to the general fund of the Municipality shall be shown as a source of revenue in the Municipal budget statement created pursuant to the Nebraska Budget Act. (*Ref. 18-2803 to 18-2808 RS Neb.*)

§1-808 REPEALED

§1-809 FISCAL MANAGEMENT; GENERAL PROPERTY TAX. The Governing Body shall cause to be certified to the County Clerk the amount of tax to be levied upon the actual value of all the taxable property of the Municipality for the requirements of the adopted budget for the ensuing year, including all special assessments and taxes. The maximum amount of tax which may be certified and assessed shall not require a tax levy in excess of the legal maximum as prescribed by State law. (*Ref. 17-702 RS Neb.*)

§1-810 REPEALED

§1-811 REPEALED

§1-812 FISCAL MANAGEMENT; ANNUAL AUDIT. The Governing Body shall cause an audit of the Municipal accounts to be made by a qualified accountant as required by State Law. (*Ref. 19-2961 through 19-2909, 13-606 RS Neb.*)

§1-813 FISCAL MANAGEMENT; CLAIMS. All claims against the Municipality shall be presented to the Governing Body in writing with a full account of the items, and no claim or demand shall be audited or allowed unless presented as provided for in this section. No costs shall be recovered against the Municipality in any action brought against it for an unliquidated claim which has not been presented to the Governing Body to be audited, nor upon claims allowed in part, unless the recovery shall be for a greater sum than the amount allowed, with the interest due. No order, or warrant shall be drawn in excess of eighty-five (85%) percent of the current levy for the purpose for which it is drawn unless there shall be sufficient money in the

Municipal Treasury for the appropriate fund against which it is to be drawn: provided, that in the event there exists obligated funds from the Federal and/or State government for the general purpose of such warrant, then such warrant may be drawn in excess of eighty-five percent (85%), but not more than one hundred (100%) percent of the current levy for the purpose for which said warrant is drawn. (Ref. 17-714, 17-715 RS Neb.)

§1-814 FISCAL MANAGEMENT; WARRANTS. All warrants drawn upon the Municipal Treasury must be signed by the Mayor and countersigned by the Municipal Clerk, stating the particular fund to which the warrant is chargeable, the person to whom it is payable, and the purpose of the expenditure. No money shall be otherwise paid than upon warrants so drawn. Each warrant shall specify the amount included in the adopted budget statement for the fund upon which it is drawn, and the amount already expended of such fund. (Ref. 17-711 RS Neb.)

§1-815 FISCAL MANAGEMENT; TRANSFER OF FUNDS. The Governing Body may, whenever during the current fiscal year it becomes apparent due to unforeseen emergencies that there is temporarily insufficient money in a particular fund to meet the requirements of the adopted budget of expenditures for that fund, by a majority vote transfer money from other funds to such fund. No expenditure during any fiscal year shall be made in excess of the amounts indicated in the adopted budget statement, except as authorized herein. If, as the result of unforeseen circumstances, the revenue of the current fiscal year shall be insufficient, the Governing Body may propose to supplement the previously adopted budget statement and shall conduct a public hearing at which time any taxpayer may appear, or file a written statement protesting the application for additional money. A written record shall be kept of all such hearings. Notice of a place, and time for the said hearing shall be published at least five (5) days prior to the date set for the hearing in a newspaper of general circulation in the Municipality. The published notice shall set forth the time, and place of the proposed hearing, the amount of additional money required, the purpose of the required money, a statement setting forth the reasons why the adopted budget of expenditures cannot be reduced to meet the need for additional money, and a copy of the summary of the originally adopted budget previously published. Upon the conclusion of the public hearing on the proposed supplemental budget, and the approval by the Governing Body, the Governing Body shall file with the County Clerk and the Nebraska State Auditor a copy of the supplemental budget, and shall certify the amount of additional tax to be levied. The Governing Body may then issue warrants in payment for expenditures authorized by the adopted supplemental budget. The said warrants shall be referred to as "registered warrants." and shall be repaid during the next fiscal year from funds derived from taxes levied therefore. (Ref. 13-510, 13-511 RS Neb.)

§1-816 FISCAL MANAGEMENT; SPECIAL ASSESSMENT FUND. All money received on special tax assessments shall be held by the Municipal Treasurer as a special fund to be applied to the payment of the improvement for which the

assessment was made, and such money shall be used for no other purpose unless to reimburse the Municipality for money expended for any such improvement. (*Ref. 17-710 RS Neb.*)

§1-817 FISCAL MANAGEMENT; SINKING FUNDS. The Governing Body, subject to the limitations set forth herein, shall have the power to levy a tax not to exceed that prescribed by State law upon the assessed value of all taxable property within the Municipality for a term not to exceed that prescribed by State law in addition to the amount of tax which may be annually levied for the purposes of the adopted budget statement of the Municipality, for the purpose of establishing a sinking fund for the construction, purchase, improvement, extension, or repair of the approved uses as authorized by State law. To initiate the said sinking fund, the Governing Body shall declare its purpose by resolution to submit to the qualified electors of the Municipality the proposition to provide the improvement at the next general Municipal election. The resolution shall set forth the improvement, the estimated cost, the amount of the annual levy, the number of years required to provide the required revenue, the name of the sinking fund proposed, and the proposition as It will appear on the ballot.

Notice of the said proposition shall be published in its entirety three (3) times on successive weeks before the day of the election in a legal newspaper of general circulation In the Municipality. The sinking fund may be established after the election if a majority, or more of the legal votes were in favor of the establishment of the fund. The Governing Body may then proceed to establish the said fund in conformity with the provisions of the proposition, and applicable State law. The funds received by the Municipal Treasurer shall, as they accumulate, be immediately invested with the written approval of the Governing Body in the manner provided by State law. No sinking fund so established shall be used for any purpose or purposes contrary to the purpose as it appeared on the ballot unless the Governing Body is authorized to do so by sixty percent (60%) of the qualified electors of the Municipality voting at a general election favoring such a change in the use of the sinking fund. (*Ref. 19-1301 through 19-1304, 77-2337, 77-2339 RS Neb.*)

§1-818 FISCAL MANAGEMENT; DEPOSIT OF FUNDS. The Governing Body, at its first (1st) meeting in each fiscal year, shall designate one (1) or more banks of approved and responsible standing in which the Municipal Treasurer shall keep at all times all money held by him; provided, if more than one (1) bank In the Municipality meets the requirements for approved banks as herein defined, the said funds shall be deposited in each of them, and the Municipal Treasurer shall not give a preference to any one (1) or more of them in the money he shall deposit. A bond shall be required from all banks so selected in a penal sum which equals the maximum amount on deposit at any time less the amount insured by the Federal Deposit Insurance Corporation or a pledge of sufficient assets of the bank to secure the payment of all such deposits. (*Ref. 17-607, 77-2362 through 77-2364 RS Neb.*)

§1-819 FISCAL MANAGEMENT; INVESTMENT OF FUNDS. Whenever a 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 Governing Body may invest any such surplus in certificates of deposit, in time deposits, and in any securities in which the State Investment Officer is authorized by law and as provided in the authorized Investment guidelines of the Nebraska Investment Council in effect on the date the investment is made. (Ref. 1 17-608, 17-609, 21-1316.01. 77-2341 RS Neb.)

§1-820 FISCAL MANAGEMENT; BOND ISSUES. The Governing Body may, after meeting all the requirements of State law, issue bonds, fund bonds, and retire bonds for such purposes as may be permitted by State law. The Governing Body shall have the authority to levy special assessments for the payment of interest and principal on such bonds, and may spread the payments up to the maximum number of years permitted by State law. (Ref. 10-201 through 10-411, 10-601 through 10-614, 12-1001, 17-529.01, 17-529.08, 17-534, 17-905, 17-908, 17-911, 17-939, 17-958, 17-968, 18-1801 through 18-1805, 23-343.13, 39-836 RS Neb.)

§1-821 FISCAL MANAGEMENT; MOTOR VEHICLE TAX. The Governing Body may levy a tax on all motor vehicles owned or used within the corporate limits of the municipality, which tax shall be paid to the County Treasurer when the registration fees as provided in sections 60-329 to 60-339, R.S. Neb., are paid. Such taxes shall be credited by the County Treasurer to the road fund of the municipality. Such funds shall be used by the municipality for constructing, resurfacing, maintaining, or improving streets, roads, alleys, public ways, or parts thereof, for the amortization of bonded indebtedness when created for such purposes. (Ref. 18-1214 RS Neb.)

§1-822 FISCAL MANAGEMENT; LOCAL SALES TAX,

ADMINISTRATION; PURPOSE. (1) From and after the first (1st) day of July, 1989, pursuant to the provisions of the Local Option Revenue Act, sections 77-27,142 to 77-27.148 RS Neb., as amended from time to time, there is hereby imposed a sales and use tax of one percent (1%) upon the same transactions within the corporate limits of the City of Fullerton, Nebraska, on which the State of Nebraska is authorized to impose a sales and use tax pursuant to the provisions of the Nebraska Revenue Act of 1967, as amended from time to time.

(2) The administration of the sales and use tax imposed by subsection (1) of this section, the making of returns for the ascertainment, assessment and collection and for the distribution of the taxes so imposed shall be a provided in sections 77-27,142 to 77-27.148 RS Neb., as amended from time to time.

(3) The sales and use tax imposed by subsection (1) of this section shall become effective on July 1, 1989, in accordance with the provisions of section 77-27,143 RS Neb., which provides that for ordinances passed after October 1, 1969, the

effective date shall be the first day of the next calendar quarter following receipt by the Tax Commissioner of the certified copy of the adopting ordinance, provided, the certified copy of the adopting ordinance is received sixty (60) days prior to the start of the next calendar quarter.

(4) The local sales and use tax provided for in this section shall continue in full force and effect for so long as it is necessary to provide property tax relief, or until to electorate of the City of Fullerton, Nance County, Nebraska, vote at an election to eliminate the local sales and use tax. (*Ref. 77-27,142 through 77-27,148 RS Neb.*)

Article 9. Compensation

§1-901 COMPENSATION; MUNICIPAL OFFICIALS. The compensation of any elective official of the Municipality shall not be increased or diminished during the term for which he shall have been elected except when there has been a merger of offices; provided, the compensation of the members of the Governing Body, a board, or commission may be increased or diminished at the beginning of the full term of any member whether or not the terms of one or more members commence and end at different times. No elected official may be rehired at a greater salary if he resigns and desires to be rehired during the unexpired term of office. He may be rehired after the term of office during which he resigned at a greater salary. All salaries shall be set by ordinance of the Governing Body and will be available for public inspection at the office of the Municipal Clerk. (*Ref. 17-108.02, 17-612 RS Neb.*)

§1-902 COMPENSATION; CONFLICT OF INTEREST. (1) For purposes of this section officer shall mean (a) any member of any board or commission of the Municipality, (b) any appointed official if such municipal official (i) serves on a board or commission which spends and administers its own funds and (ii) is dealing with a contract made by such board or commission, or (c) any elected municipal official. Unless specified otherwise, volunteer firefighters and ambulance drivers shall not be considered officers for purposes of this section, with respect to their duties as firefighters and ambulance drivers.

(2) No officer of the Municipality shall be permitted to benefit from any contract to which the Municipality is a party. The existence of such an interest in any contract renders the contract voidable by decree of a court of competent jurisdiction as to any person who entered into the contract or took assignment thereof with actual knowledge of the prohibited conflict. An action to have a contract declared void under this section may be brought by the Municipality or by any resident thereof and must be brought within one (1) year after the contract is signed or assigned. Any such decree may provide for the reimbursement of any person for the reasonable value of all money, goods, material, labor, or services furnished under the contract, to the extent that the Municipality has benefited thereby. The prohibition in this section shall apply only when the officer or his or her parent, spouse, or child (a) has a business with which the individual is associated or business association which

shall mean a business: (i) in which the individual is a partner, director, or officer, (ii) in which the individual or a member of the individual's immediate family is a stockholder of a closed corporation stock worth one thousand dollars (\$1,000.00) or more at fair market value or which represents more than five percent (5%) equity interest; (iii) or is a stockholder of publicly traded stock worth ten thousand dollars (\$10,000.00) or more at fair market value or which represents more than ten percent (10%) equity interest or (b) will receive a direct pecuniary fee or commission as a result of the contract, provided however, if such officer is an employee of the business involved in the contract and has no ownership interest or will not receive a pecuniary fee such officer shall not be deemed to have an interest within the meaning of this section.

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

- (a) Makes a declaration on the record to the Governmental Body responsible for approving the contract regarding the nature and extent of his or her interest, prior to official consideration of the contract;
- (b) Does not vote on the matter of granting the contract, except that if the number of members of the Board declaring an interest in the contract would prevent the Board, with all members present, from securing a quorum on the issue, then all members may vote on the matter; and
- (c) Does not act for the Municipality as to inspection or performance under the contract in which he or she has an interest.

(4) The receiving of deposits, cashing of checks, and buying and selling of warrants and bonds of indebtedness of any Municipality by a financial institution shall not be considered a contract under the provisions of this section. The ownership of less than five percent (5%) of the outstanding shares of a corporation shall not constitute an interest within the meaning of this section. Notwithstanding the provisions of subsection (3), if an officer's parent, spouse or child is an employee of the Municipality, the officer may vote on all issues of the contract which are generally applicable to all employees or all employees within a classification and do not single out his or her parent, spouse, or child for special action. If an officer has the power to employ personnel and he or she hires his or her parent, spouse, or child, such officer shall disclose the hiring pursuant to subsection (5), except that if the parent, spouse, or child is already employed in the position at the time the officer takes office and such position does not change, no disclosure need be made. Notwithstanding any other provision of this section, any contract entered into with an interested officer shall be subject to applicable competitive bidding requirements and shall be fair and reasonable to the Municipality.

(5) The Municipal Clerk shall maintain, separately from other records, a ledger containing the information listed in subdivisions (a) through (e) of this subsection about every contract entered into by the Municipality in which an officer has an interest as specified above for which disclosure is made as provided in

subsection 3. Such information shall be kept in the ledger for five (5) years from the date of the officer's last day in office and shall include the:

- (a) Names of the contracting parties;
- (b) Nature of the interest of the officer in question;
- (c) Date that the contract was approved by the Municipality involved;
- (d) Amount of the contract; and
- (e) Basic terms of the contract.

(6) The information supplied relative to the contract shall be provided to the Clerk not later than ten (10) days after the contract has been signed by both parties. The ledger kept by the Clerk shall be available for public inspection during the normal working hours of the office in which it is kept.

(7) An open account established for the benefit of any Municipality or entity thereof, with a business in which an officer has an interest, shall be deemed a contract subject to the provisions of this section. The statement required to be filed pursuant to this section shall be filed within ten (10) days after such account is opened. Thereafter, the Clerk shall maintain a running account of all amounts purchased on the open account. Purchases made from petty cash or a petty cash fund shall not be subject to the provisions of this section.

(8) The Municipality may enact ordinances exempting from the provisions of this section, contracts involving one hundred dollars (\$100.00) or less in which an officer of such Municipality may have an interest.

(9) No officer, including volunteer firefighters and ambulance drivers, shall receive any pay or perquisites from the Municipality other than his or her salary. The Governing Body shall not pay or appropriate any money or other valuable thing to pay a person who is not an officer for the performance of any act, service, or duty, which shall come within the proper scope of the duties of any officer of the Municipality. (*Ref. 17-611, 18-305 through 18-312, 49-14,103.01 through 49-14,103.03, 70-624.04 RS Neb.*)

Article 10. Initiative and Referendum

§1-1001 to 1-1015 REPEALED

Article 11. Penal Provision

§1-1101 VIOLATION; PENALTY. Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this Chapter, set forth at full length herein or incorporated by reference shall be deemed guilty of an offense and upon conviction thereof, shall be fined not more than five hundred (\$500.00) dollars

for each offense. A new violation shall be deemed to have been committed every twenty-four (24) hours of such failure to comply.

CHAPTER 2 COMMISSIONS AND BOARDS

Article 1. Standing Committees

§2-101 STANDING COMMITTEES; GENERAL PROVISIONS. At the organizational meeting of the City Council, the Mayor shall appoint members of such standing committees as the City Council may by ordinance, or resolution create. The membership of such standing committees may be changed at any time by the Mayor. The Mayor shall be a member ex officio of each standing committee. The members of the standing committees shall serve a term of office of one (1) year, unless reappointed.

The following standing committees shall be appointed or reappointed each year until changed by the Governing Body:

Finance
Public Health Board
Public Safety
Public Utilities
Streets

Article 2. Commissions and Boards

§2-201 LIBRARY BOARD. The Library Board shall be appointed by the Mayor and confirmed by a majority vote of the City Council. The Board shall consist of five (5) members who shall be residents of the City. The members of the Library Board shall serve a four (4) year term of office as specified by Nebraska statutes. The Board shall serve without compensation and may be required, in the discretion of the City Council, to give a bond in a sum set by resolution of the City Council, and conditioned upon the faithful performance of their duties. At the time of the Board's first (1st) meeting in July of each year, the Board shall organize by selecting from their number a Chairman and Secretary. It shall be the duty of the secretary to keep the full and correct minutes and records of all meetings, and to file the same with the City Clerk where they shall be available for public inspection at any reasonable time. A majority of the Board members shall constitute a quorum for the transaction of business. The Board shall meet at such times as the Board may designate. Special meetings may be held upon the call of the Chairman, or any three (3) members of the Board. The Library Board shall have the authority to appoint a librarian and all other employees. It shall be the duty of the Board to have general charge of the City Library and to establish appropriate rules and regulations for the management, operation, and use of the same. The Board shall have supervisory authority over all employees of the library including the librarian. All actions of the Board shall be subject to the review and supervision of the City Council. The Board shall be responsible for making such reports and performing such additional duties as the City Council may designate from time to time. No member of the City Council shall

serve as a member of the Library Board while serving a term of office as a member of the City Council. No member of the Library Board shall serve in the capacity of both the chairman and secretary of the Board. (*Ref. 51-202 RS Neb.*)

§2-202 PLANNING COMMISSION. The Governing Body shall appoint the Planning Commission which shall consist of five (5) members and one (1) alternate who shall represent, insofar as is possible, the different professions or occupations in the Municipality and who shall be residents of the Municipality. However, two (2) of such members may be residents of the area over which the Municipality is authorized to exercise extraterritorial zoning and subdivision regulations. The members of the Commission shall serve a three (3) year term of office unless reappointed, except that two (2) members of the first Commission to be so appointed shall serve for the term of one (1) year, two (2) for the term of two (2) years, and two (2) for a term of three (3) years. The Commission shall serve without compensation and may be required, in the discretion of the Governing Body, to give a bond in a sum set by resolution of the Governing Body, and conditioned upon the faithful performance of their duties. At the time of the Commission's first (1st) meeting in June of each year, the Commission shall organize by selecting from its membership a Chairman and Secretary. It shall be the duty of the Secretary to keep the full and correct minutes and records of all meetings and to file the same with the Municipal Clerk where they shall be available for public inspection at any reasonable time. The Planning Commission shall be funded by the Governing Body from time to time out of the General Fund. A majority of the Commission shall constitute a quorum for the purpose of doing business. Special meetings may be held upon the call of the Chairman, or any three (3) members of the Commission. It shall be the duty of the Commission to make and adopt plans for the physical development of the Municipality, including any areas outside its boundaries which, the Commission's judgment, bear relation to the planning of the Municipality. All actions by the Commission shall be subject to the review and supervision of the Governing Body. Recommendations from the Commission shall be received by the Governing Body within forty-five (45) days after the Commission begins consideration of a matter relating to the comprehensive development plan, capital improvements, building codes, subdivision development, the annexation of territory, or zoning. The Commission shall be responsible for making such reports and performing such other duties as the Governing Body may, from time to time, designate. No member of the Governing Body, or other Municipal official, except where otherwise specifically provided, shall serve as a member of the Planning Commission while serving any other term of office. No member of the Planning Commission shall serve in the capacity of both the Chairman and Secretary of the Commission. (*Ref. 19-924 through 19-929 RS Neb.*)

§2-203 BOARD OF ZONING ADJUSTMENT. The Governing Body shall appoint the Board of Zoning Adjustment which shall consist of five (5) regular members plus one (1) additional member designated as an alternate who shall attend and serve only when one of the regular members is unable to attend for any reason.

Each member of the Board shall serve a term of three (3) years, unless reappointed, and shall be removable only for good and sufficient cause by the Governing Body upon written charges and after a public hearing. The members of the Board shall serve without compensation and may be required, in the discretion of the Governing Body, to give a bond in a sum set by resolution of the Governing Body, and conditioned upon the faithful performance of their duties. One (1) member of the Board of Zoning Adjustment shall be at the same time a member of the Planning Commission at all times. Upon the loss of membership on the Planning Commission the said member shall also lose his membership on the Board of Zoning Adjustment. The Board shall organize at its first (1st) meeting in June of each year and elect from its membership a Chairman and Secretary. It shall be the duty of the Secretary to keep complete and accurate minutes of all Board meetings and to file the same at the office of the Municipal Clerk for examination at any reasonable time by the public. The Board of Zoning Adjustment shall be funded from time to time out of the General Fund by the Governing Body. Meetings of the Board shall be held at such times as the Governing Body may designate, or at such other times as the Chairman may, in his discretion call a meeting. Special meetings may be also held upon the call of any three (3) members of the Board. A majority of the board shall constitute a quorum for the purpose of doing business. It shall be the duty of the Board to hear and decide appeals where it is alleged that there is error in any order, requirement, decision, or determination made by a Municipal official based on any zoning ordinance of the Municipality; to hear and decide in accordance with the provisions of any zoning ordinance, requests for interpretation of any map; and authorize a variance from the strict application of any zoning ordinance if it is found that a specific piece of property, due to exceptional specifications existing at the time of passage of the said ordinance, would result in exceptional difficulties and undue hardship; provided, that no variance shall be granted if the undue hardship appears to affect the property in the district generally, or if the situation of the property concerned appears to be so general or recurring in nature as to make reasonably practicable, the formulation of a general regulation to be adopted by the Governing Body as an ordinance. The concurring vote of four (4) members of the Board shall be necessary to reverse any order, requirement, decision, or determination made by a Municipal official on any matter which was governed by any Municipal zoning ordinance. In the event that the Governing Body chooses not to appoint a Board of Zoning Adjustment, the Governing Body may, by ordinance, provide that it shall constitute the Board of Zoning Adjustment and shall have the same duties, powers, and authority as provided herein. The Board shall be responsible for making such reports and performing such other duties as the Governing Body may designate. No member of the Governing Body shall serve as a member of the Board of Zoning Adjustment except as herein provided. No member of the Board of Zoning Adjustment shall serve in the capacity of both Chairman and Secretary of the Board. *(Ref. 19-907 through 19-910, 84-155 RS Neb.)*

§2-204 BOARD OF HEALTH. The Governing Body shall appoint a Board of Health which will consist of four (4) members. The Mayor, who shall serve as

chairperson, the President of the City Council, and two other members. One member shall be a physician or health care provider, if one can be found willing to serve. Such physician or health care provider, if appointed, shall serve as the Board's medical advisor. If the Mayor has appointed a Chief of Police, the Chief or designated Law Enforcement Officer shall serve on the Board as secretary and quarantine officer. The members of the Board shall serve, without compensation, for a one (1) year term of office, unless reappointed. The Board of Health shall be funded by the Governing Body from time to time out of the General Fund. A majority of the Board shall constitute a quorum for the purpose of doing business. The Board shall meet at such times as the Governing Body may designate. Special meetings may be held upon the call of the Chairman or any two (2) members of the Board. It shall be the duty of the Board to enact rules and regulations which shall have the full force and effect of law, to safeguard the health of the residents of the municipality. Included in the duties of the Board shall be to enforce the said rules and regulations and provide fines and punishments for any violations thereof. It may regulate, suppress and prevent the occurrence of nuisances and shall actively enforce all the Laws of the State of Nebraska and ordinances of the Municipality relating to matters of sanitation which affect the health and safety of the people. The Board shall regularly inspect such premises and businesses as the Governing Body may direct. All members of the Board shall be responsible for making reports and performing other duties as the Governing Body may designate. No member of the Board of Health shall hold more than one Board of Health position. (*Ref. 17-121 RS Neb.*)

§2-205 PARKS AND RECREATION, TREE BOARD OF COMMISSIONERS.

(1) There is hereby created a Park and Recreation, Tree Board for the City of Fullerton, Nance County, Nebraska. Said Board shall be composed of six members who shall be resident land owners of the City.

(2) Said Board shall have charge of all parks, recreational facilities, street and park trees, the swimming pool, tennis court and skate park belonging to the City. The Board shall have power to establish rules for management, care, and use of facilities. The Board, when requested by the Mayor and City Council, shall consider, investigate and make findings and a recommendation upon any special matter coming within the scope of its authority and work.

(3) Six members shall be appointed to the Park & Recreation, Tree Board. Members shall be appointed for a term of four (4) years. The terms of three members shall coincide with the election of the Mayor. Board members may be reappointed.

(4) Each Board member shall be appointed by the Mayor with the approval of the Council. The Mayor may dismiss any member of the Board at his/her pleasure at any time.

(5) The Board shall have power to expend funds form the City Treasury not to exceed, however, the Park and Recreation budget allotted in the City budget. This power of the Board to expend funds is, however, subject to the restriction that before any expenditure of \$500.00 or more is made that such expenditure will be presented

to the Mayor and City Council for approval.

§2-206 JOINT HOUSING AUTHORITY. (1) Pursuant to the authority granted in section 71-1519, the City of Fullerton hereby joins the Central Nebraska Joint Housing Authority to provide decent, safe and sanitary housing for persons of low income residing within the corporate limits of the Municipality. The area of operation of the Central Nebraska Joint Housing Authority shall be an area equivalent to the total areas of operation which the housing authorities, if created separately by the members establishing the Joint Housing Authority, would have.

(2) The Mayor shall appoint, with the consent of the City Council, one (1) Commissioner who shall serve a term of five (5) years from the date of his or her appointment. All vacancies in that position of Commissioner shall be filled for the unexpired term by appointment by the Mayor, with the consent of the City Council. Tenancy in a project established by the Central Nebraska Joint Housing Authority shall not preclude the appointment of any person to serve as a Commissioner on such Joint Housing Authority. (*Ref. 71-1519, 71-1522 through 71-1524 RS Neb.*)

§2-207 COMMUNITY HEALTH SERVICE COMMITTEE. (1) There is hereby created a Community Health Service Committee in conjunction with Saint Francis Medical Center of Grand Island, Nebraska. The Community Health Service Committee shall consist of six (6) members; four (4) of which shall be appointed by the Mayor, by and with the consent of the City Council and two (2) to be appointed by Saint Francis Medical Center. The Committee member's terms shall be staggered according to the Committee's by-laws.

(2) A fund shall be set up which fund shall be administered by the Community Health Service Committee. The Municipality shall place thirty thousand dollars (\$30,000.00) into the fund and Saint Francis Medical Center shall place fifteen thousand dollars (\$15,000.00) into the fund. The expenditures of funds from the fund established by this section shall be handled by the approval of a majority of the Committee members. In the event that the Committee would be disbanded, any funds left in the fund established by this section shall be distributed in the same percentage as the fund were contributed to the fund.

Article 3. Penal Provision

§2-301 VIOLATION; PENALTY. Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this Chapter, set forth at full length herein or incorporated by reference shall be deemed guilty of an offense and upon conviction thereof, shall be fined not more than five hundred (\$500.00) dollars for each offense. A new violation shall be deemed to have been committed every twenty-four (24) hours of such failure to comply.

CHAPTER 3 DEPARTMENTS

Article 1. Water Department

§3-101 MUNICIPAL WATER DEPARTMENT; OPERATION AND FUNDING.

The Municipality owns and operates the Municipal Water Department through the Water Commissioner. The Governing Body, for the purpose of defraying the cost of the care, management, and maintenance of the Municipal Water Department may each year levy a tax not exceeding the maximum limit prescribed by State law, on the actual valuation of all real estate and personal property within the corporate limits that is subject to taxation. The revenue from the said tax shall be known as the Water Fund and shall remain in the custody of the Municipal Treasurer. The Water Commissioner shall have the direct management and control of the Municipal Water Department and shall faithfully carry out the duties of his office. The Water Commissioner shall have the authority to adopt rules and regulations for the sanitary and efficient management of the Water Department subject to the supervision and review of the Governing Body. The Governing Body shall set the rates to be charged for services rendered by ordinance and shall file a copy of the rates in the office of the Municipal Clerk for public inspection at any reasonable time. (*Ref. 17-531, 17-534, 19-1305 RS Neb.*)

§3-102 MUNICIPAL WATER DEPARTMENT; DEFINITIONS. The following definitions shall be applied throughout this Article. Where no definition is specified, the normal dictionary usage of the word shall apply.

MAIN. The term "main" is hereby defined to be any pipe other than a supply or service pipe that is used for the purpose of carrying water to, and dispersing the same in the Municipality.

SUPPLY PIPE. The term "supply pipe" is hereby defined to be any pipe tapped into a main and extending from there to a point at or near the lot line of the consumer's premise where the shut-off, stop box, or curb cock is located.

SERVICE PIPE. The term "service pipe" is hereby defined to be any pipe extending from the shut-off, stop box, or curb cock at or near the lot line to and beyond the property line of the consumer to the location on the premise where the water is to be dispersed.

SEPARATE PREMISE. The term "separate premise" is hereby defined to be more than one (1) consumer procuring water from the same service or supply pipe. The second (2nd) premise may be a separate dwelling, apartment, building, or structure used for a separate business.

§3-103 MUNICIPAL WATER DEPARTMENT; CONSUMER APPLICATION

Every person or persons desiring a supply of water must make application therefore to the Water Commissioner. The Commissioner shall require applicants who do not or have not had, in existence a past payment history in "GOOD STANDING" meaning a history of no late payments, late charges or reconnect fees of at least 12 months consecutively, the following shall apply.

Effective June 1, 2002 a 12-month period of "GOOD STANDING" will take effect and apply to all existing accounts, providing passage of amendment of ordinance by council.

1. The Water Commissioner shall require a service deposit in the amount of \$ 100.00 to be placed on file at the office of the Municipal Clerk.
2. A service deposit may be refunded to the consumer after a period of 12 months only if the following criteria is met. The consumer has had no late payments, no late charges or no reconnect fees on file of each individual account.
3. The Water commissioner may at its reasonable discretion make a decision to determine a late payment status due to an emergency situation, which could show just cause of a late payment to be excused. An excused late payment shall only be allowed 1 time in a 12-month billing period.
4. Should a service deposit be returned after a period of 12 months of good standing, the Water Commissioner shall be able to require a new deposit in the amount of \$100.00 if the individual account shall fall into a non-excusable past due status at any time during a regular billing cycle.
5. Should any person or persons require more than 1 service of utility supply to more than 1 individual occupancy, the Water Commissioner shall require a single deposit to apply to all service accounts, provided that billing shall be applied to only one (1) individual responsible party. Should any other party be responsible for the billing of service for the sole purpose of occupancy that individual responsible party will be required to make a deposit of \$100.00.
 - a. If during a 12 month period, should 1 or more accounts become delinquent, where a single deposit has been applied, a new deposit will be required for each individual past due account.
6. Payments must be received non-delinquent non-excusable for a period of 12 consecutive months, if at any time during that 12 month time period should a payment fall past due, the 12 month period will start again until status is 12 months consecutive.
7. After a 12-month period of "GOOD STANDING" the City of Fullerton will credit the deposit amount to the account. If the party who paid the deposit requests a complete refund and not credit, that option will also be available. Credit to accounts will not take effect until after June 1, 2003 and will be done accordingly to a bimonthly-billing basis.

8. Should the account terminate for whatever reason, the City of Fullerton will not refund a deposit until after a period of 30 days of final reading. If there remains a balance due to the City of Fullerton, the deposit shall first be applied to balance; any remaining deposit amount will then be refunded. If no balance remains, full reimbursement of deposit will be refunded.

§3-104 MUNICIPAL WATER DEPARTMENT; SERVICE TO

NONRESIDENTS. The Water Department shall not supply water service to any person outside the corporate limits without special permission from the Governing Body. If special permission is granted by the Governing Body, and a commercial main is within one hundred feet (100') of the corporate limits, the cost of running a supply pipe to the corporate limits shall be borne by the Municipality, and all other costs of providing water service shall be paid by the consumer. In all other cases in which special permission is granted, the entire cost of laying mains, supply pipe, and service pipe shall be paid by the consumer. Nothing herein shall be construed to obligate the Municipality to provide water service to nonresidents. (*Ref. 19-2701 RS Neb.*)

§3-105 MUNICIPAL WATER DEPARTMENT; WATER CONTRACT.

The Municipality through its Water Department, may furnish water to persons within its corporate limits whose premises abut a street or alley in which a commercial main now is laid. The Municipality may furnish water to persons within its corporate limits whose premises do not abut a street or alley in which a Municipal 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 Municipality, as and when, according to law, the Governing Body may see fit to do so. The Municipality shall pay the cost of running a supply pipe one hundred feet (100') or to the property owner's line, whichever comes first. All other costs of providing water service shall be paid by the consumer. The rules, regulations, and water rates hereinafter named in this Article, shall be considered a part of every application hereafter made for water service and shall be considered a part of the contract between every consumer now or hereafter served. Without further formality, the making of application on the part of any applicant or the use or consumption of water service by present consumers thereof and the furnishing of water service to said consumer shall constitute a contract between the consumer and the Municipality, to which said contract both parties are bound. If the consumer shall violate any of the provisions of said contract or any reasonable rules and regulations that the Governing Body may hereafter adopt, the Water Commissioner or his agent, may cut off or disconnect the water service from the building or premise or place of such violation. No further connection for water service to said building, premise, or place shall again be made except by order of said Commissioner or his agent.

§3-106 MUNICIPAL WATER DEPARTMENT; INSTALLATION

PROCEDURE. In making excavations in streets, alleys, or sidewalks for the purpose of installing pipe, or making repairs, the paving, stones, and earth must be

removed and deposited in a manner that will occasion the least inconvenience to the public and provide for adequate drainage. No person shall leave an excavation made in the street, alley, or sidewalk open at any time without a barricade, and during the night, warning lights. 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 twenty-four (24) hours or more, the Water Commissioner shall have the duty to finish or correct the work, and all expenses so incurred shall be charged to the consumer. All installations or repairs of pipes require two (2) inspections by the Water Commissioner. The first (1st) inspection shall be made when connections or repairs are completed and before the pipes are covered. The second (2nd) inspection shall be made after the dirt work is completed and the service is restored. It is the customer's responsibility to notify the Water Commissioner at the time the work is ready for each inspection. All installation shall be done under the supervision and strictly in accordance with the rules, regulations, and specifications prescribed for such installation by the Water Commissioner; provided that the said rules, regulations, and specifications have been reviewed and approved by the Governing Body. (*Ref. 17-537 RS Neb.*)

§3-107 MUNICIPAL WATER DEPARTMENT; INSTALLATION EXPENSE.

The Municipality shall pay the cost of tapping the main, installing the meter, and providing fixtures and labor up to and including the stop box or curb stop at the lot line of the customer. The customer shall pay a tap fee in the amount as set by ordinance of the Governing Body. Such tap fees shall be on file in the office of the Municipal Clerk and available for public inspection during office hours. No person other than the Water Commissioner or his duly authorized agent shall tap the water main. The customer shall at his own expense bring service from the stop box or curb stop to the place of disbursement and shall employ a plumber who shall install water service to the place of disbursement (*Ref. 17-542 RS Neb.*)

§3-108 MUNICIPAL WATER DEPARTMENT; REPAIRS AND MAINTENANCE.

The Municipality shall repair or replace, as the case may be, all supply pipe between the commercial main and the stop box. The customer at his own expense shall replace and keep in repair all service pipe from the stop box to the place of disbursement. When leaks occur in service pipes, the Water Commissioner shall shut off water service until the leak is repaired at the expense of the customer to the satisfaction of the Water Commissioner. All water meters shall be kept in repair by the Municipality at the expense of the Municipality. When meters are worn out, they shall be replaced and reset by the Municipality at the expense of the Municipality; provided, that if the customer permits or allows a water meter to be damaged, injured, or destroyed through his own recklessness, carelessness, or neglect so that the meter must be repaired or replaced, the Water Commissioner shall bill and collect from the customer the cost of such meter repair or replacement in the same manner as water rent is collected. Permitting a water meter to be damaged or destroyed by freezing shall always be considered negligence on the part of the customer. All meters shall be tested at the customer's request at the

expense of the customer any reasonable number of times; provided, that if the test shows the water meter to be running two (2%) percent or more fast, the expense of such test shall be borne by the Municipality. The Municipality reserves the right to test any water service meter at any time, and if said meter is found to be beyond repair the Municipality shall always have the right to place a new meter on the customer's water service fixtures at Municipal expense. Should a consumer's meter fail to register properly, the customer shall be charged for water during the time the meter is out of repair on the basis of the quarterly consumption during the same quarter of the preceding year; provided, that if no such basis for comparison exists, the customer shall be charged such amount as may be reasonably fixed by the Water Commissioner. It shall be unlawful for any person to tamper with any water meter, or by any means or device to divert water from the service pipe so that the same shall not pass through said meter, or while passing through said meter, to cause the same to register inaccurately. (Ref. 17-537 RS Neb.)

§3-109 MUNICIPAL WATER DEPARTMENT; WATER RATES. The Mayor and City Council shall establish water rates and charges and regulations for the payment of the same. The rates and regulations are not of a permanent nature and are kept on record at the City Offices.

§3-110 RATES; DELINQUENT OR NONPAYMENT:

- (A) A late fee of ten dollars (\$10.00) will be applied to any utility bill not paid within twenty three (23) days of the initial mailing date. The due date will be posted on the initial utility bill.
- (B) An additional collection of fifteen dollars (\$15.00) will be applied to the utility bill if it is delinquent a further ten (10) days and if City employees are required to post a shutoff notice. The City of Fullerton is not required to post more than one shutoff notice per property per calendar year.
- (C) If water is shutoff due to non-payment, an additional re-connection fee of forty dollars (\$40.00) will be required.
- (D) The City of Fullerton reserves the right to waive all fees for delinquent or nonpayment based on past payment history.

(Rates) Not published herein but kept on record at the City Offices.

§3-111 MUNICIPAL WATER DEPARTMENT; MINIMUM RATES. All water consumers shall be liable for the minimum rate provided by ordinance unless and until the consumer shall, by written order, direct the Water Commissioner to shut off the water at the stop box, in which case he shall not be liable thereafter for water rental until the water is turned on again. (Ref. 17-542 RS Neb.) In the event a consumer directs the Water Commissioner to shut off the water and the stop box, as set out above, and thereafter requests the water to be turned on again, the consumer shall pay a re-connection fee in the amount of twenty-five dollars (\$25.00)

§3-112 MUNICIPAL WATER DEPARTMENT; SINGLE PREMISE. No

consumer shall supply water to other families, or allow them to take water from his premise, 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 premise for alteration, extension, or attachment without the written permission of the Water Commissioner. It shall further be unlawful for any person to tamper with any water meter or by means of any contrivance or device to divert the water from the service pipe so that the water will not pass through the meter or while passing through said meter to cause the meter to register inaccurately. *(Ref. 17-537 RS Neb.)*

§3-113 MUNICIPAL WATER DEPARTMENT; RESTRICTED USE. The Governing Body or the Water Commissioner may order a reduction in the use of water or shut off the water on any premise in the event of a water shortage due to fire or other good and sufficient cause. The Municipality shall not be liable for any damages caused by shutting off the supply of water of any consumer while the system or any part thereof is undergoing repairs or when there is a shortage of water due to circumstances over which the Municipality has no control. *(Ref. 17-537 RS Neb.)*

§3-114 MUNICIPAL WATER DEPARTMENT; 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 Municipal Fire Department under the orders of the Fire Chief, or the Assistant Fire Chief; or members of the Water Department to open or attempt to open any of the hydrants and draw water from the same, or in any manner to interfere with the hydrants.

§3-115 MUNICIPAL WATER DEPARTMENT; 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 Municipal Water Department. *(Ref. 17-536 RS Neb.)*

§3-116 MUNICIPAL WATER DEPARTMENT; WATER SERVICE CONTRACTS. Contracts for water service are not transferable. Any person wishing to change from one location to another shall make a new application and sign a new contract. If any consumer shall move from the premise where service is furnished, or if the said premise is destroyed by fire or other casualty, he shall at once inform the Water Commissioner who shall cause the water service to be shut off at the said premise. If the consumer should fail to give such notice, he shall be charged for all water used on the said premise until the Water Commissioner is otherwise advised of such circumstances. *(Ref. 17-537 RS Neb.)*

§3-117 MUNICIPAL WATER DEPARTMENT; INSPECTION. The Water Commissioner, or his duly authorized agents, shall have free access, at any reasonable time, to all parts of each premise and building to, or in which, water is delivered for the purpose of examining the pipes, fixtures, and other portions of the system to ascertain whether there is any disrepair or unnecessary waste of water.

(Ref. 17-537 RS Neb.)

§3-118 MUNICIPAL WATER DEPARTMENT; POLICE REPORTS. It shall be the duty of the Municipal Police to report to the Water Commissioner all cases of leakage and waste in the use of water and all violations of the Municipal Code relating to the Water Department. They shall have the additional duty of enforcing the observance of all such regulations.

§3-119 MUNICIPAL WATER DEPARTMENT; DESTRUCTION OF PROPERTY. It shall be unlawful for any person to willfully or carelessly break, injure, or deface any building, machinery, apparatus, fixture, attachment, or appurtenance of the Municipal 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 Water Commissioner.

§3-120 MUNICIPAL WATER DEPARTMENT; TIME. All taps or plumbing work done on or to the Municipal water system shall be done between the hours of seven (7:00) o'clock A.M. and four (4:00) o'clock P.M. Monday through Friday. (Ref. 17-537 RS Neb.)

§3-121 MUNICIPAL WATER DEPARTMENT; BACKFLOW/BACKSIPHONAGE PREVENTION; PURPOSE.

- (1) To protect the public potable water supply served by the Fullerton Water Department from the possibility of contamination or pollution by isolating, within its consumers internal distribution system, such contaminants or pollutants which could backflow or backsiphon into the public water system.
- (2) To promote the elimination or control of existing cross connections, actual or potential, between its customers' in-plant potable water systems, and non-potable systems.
- (3) To provide for the maintenance of a continuing program of cross connection control which will effectively prevent the contamination or pollution of all potable water systems by cross connection.

§3-122 MUNICIPAL WATER DEPARTMENT; BACKFLOW/BACKSIPHONAGE PREVENTION; AUTHORITY.

- (1) The Federal Safe Drinking Water Act of 1874, and the statutes of the State of Nebraska Chapter 71, the water purveyor has the primary responsibility for preventing water from unapproved sources, or any other substances, from entering the public potable water system.
- (2) Fullerton Water Department, Rules and Regulations, adopted.

§3-123 MUNICIPAL WATER DEPARTMENT; BACKFLOW/BACKSIPHONAGE PREVENTION; RESPONSIBILITY. The Water Commissioner shall be responsible for the protection of the public potable water

distribution system from contamination or pollution due to the backflow or backsiphonage of contaminants or pollutants through the water service connection. If, in the judgment of the Water Commissioner, an approved backflow device is required at the City's water service connection to any customer's premises, the Water Commissioner, or his delegated agent shall give notice in writing to said customer to install an approved backflow prevention device at each service connection to his premises. The customer shall, within 90 days install such approved device, or devices, at his own expense, and failure or refusal, or inability on the part of the customer to install said device or devices within ninety (90) days, shall constitute a ground for discontinuing water service to the premises until such device or devices have been properly installed.

**§3-124 MUNICIPAL WATER DEPARTMENT; BACKFLOW/
BACKSIPHONAGE PREVENTION; DEFINITIONS.**

- (1) Approved - Accepted by the Water Commissioner as meeting an applicable specification stated or cited in this regulation, or as suitable for the proposed use.
- (2) Auxiliary Water Supply - Any water supply, on or available, to the premises other than the purveyor's approved public potable water supply.
- (3) Backflow - The flow of water or other liquids, mixtures or substances, under positive or reduced pressure in the distribution pipes of a potable water supply from any source other than its intended source.
- (4) Backflow Preventer - A device or means designed to prevent backflow or backsiphonage. Most commonly categorized as air gap, reduced pressure principle device, double check valve assembly, pressure vacuum breaker, atmospheric vacuum breaker, hose bib vacuum breaker, residential dual check, double check with intermediate atmospheric vent, and barometric loop.
 - (a) Air Gap - A physical separation sufficient to prevent backflow between the free-flowing discharge end of the potable water system and any other system. Physically defined as a distance equal to twice the diameter of the supply side pipe diameter but never less than one (1) inch.
 - (b) Atmospheric Vacuum Breaker - A device which prevents backsiphonage by creating an atmospheric vent when there is either a negative pressure or sub-atmospheric pressure in a water system.
 - (c) Barometric Loop - A fabricated piping arrangement rising at least thirty-five (35) feet at its topmost point above the highest fixture it supplies. It is utilized in water supply systems to protect against backsiphonage.
 - (d) Double Check Valve Assembly - An assembly of two (2) independently operating spring loaded check valves with tightly closing shut off valves on each side of the check valves, plus properly located test cocks for the testing of each check valve.
 - (e) Double Check Valve with Intermediate Atmospheric Vent - A device having two (2) spring loaded check valves separated by an atmospheric vent chamber.

- (f) Hose Bib Vacuum Breaker - A device which is permanently attached to a hose bib and which acts as an atmospheric vacuum breaker.
 - (g) Pressure Vacuum Breaker - A device containing one or two independently operated spring loaded check valves and an independently operated spring loaded air inlet valve located on the discharge side of the check or checks. Device includes tightly closing shut-off valves on each side of the check valves and properly located test cocks for the testing of the check valve(s).
 - (h) Reduced Pressure Principle Backflow Preventer - An assembly consisting of two (2) independently operating approved check valves with an automatically operating differential relief valve located between the two (2) check valves, tightly closing shut-off valves on each side of the check valves plus properly located test cocks for the testing of the check valves and the relief valves.
 - (i) Residential Dual Check - An assembly of two (2) spring loaded, independently operating check valves without tightly closing shut-off valves and test cocks. Generally employed immediately downstream of the water meter to act as a containment device.
- (5) Backpressure - A condition in which the owners system pressure is greater than the suppliers system pressure.
 - (6) Backsiphonage - The flow of water or other liquids, mixtures or substances into the distribution pipes of a potable water supply system from any source other than its intended source caused by the sudden reduction of pressure in the potable water supply system.
 - (7) Containment - A method of backflow prevention which requires a backflow prevention preventer at the water service entrance.
 - (8) Contaminant - A substance that will impair the quality of the water to a degree that it creates a serious health hazard to the public leading to poisoning or the spread of disease.
 - (9) Cross Connection - Any actual or potential connection between the public water supply and a source of contamination or pollution.
 - (10) Department - City of Fullerton Water Department.
 - (11) Department of Health - The State of Nebraska Department of Health.
 - (12) Fixture Isolation - A method of backflow prevention in which a backflow preventer is located to correct a cross connection at an in-plant location rather than at a water service entrance.
 - (13) Owner - Any person who has legal title to, or license to operate or habitat in, a property upon which a cross connection inspection is to be made or upon which a cross connection is present.
 - (14) Person - Any individual, partnership, company, public or private corporation, political subdivision or agency of the State Department agency or instrumentality or the United States or any other legal entity.
 - (15) Permit - A document issued by the Department which allows the use of a backflow preventer.
 - (16) Pollutant - A foreign substance, that if permitted to get into the public water

system, will degrade its quality so as to constitute a moderate hazard, or impair the usefulness or quality of the water to a degree which does not create an actual hazard to the public health but which does adversely and unreasonably effect such water for domestic use.

- (17) Water Service Entrance - That point in the owners water system beyond the sanitary control of the Department; generally considered to be the outlet end of the water meter and always before any unprotected branch.
- (18) Water Commissioner - The Director or his delegated representative in charge of the Fullerton Water Department, is invested with the authority and responsibility for the implementation of a cross connection control program for the enforcement of the provisions of sections 3-121 through 30-133.

**§3-125 MUNICIPAL WATER DEPARTMENT; BACKFLOW/
BACKSIPHONAGE PREVENTION; ADMINISTRATION.**

- (1) The Department will operate a cross connection control program, to include the keeping of necessary records, which fulfills the requirements of the Department of Health's Cross Connection Regulations and is approved by the Department of Health.
- (2) The owner shall allow his property to be inspected for possible cross connections and shall follow the provisions of the Department's program and the Department of Health's Regulations if a cross connection is permitted.
- (3) If the Department requires that the public supply be protected by containment, the owner shall be responsible for water quality beyond the outlet end of the containment device and should utilize fixture outlet protection for that purpose.

He may utilize public health officials, or personnel from the Department or their delegated representatives, to assist him in the survey of his facilities and to assist him in the selection of proper fixture outlet devices, and the proper installation of these devices.

**§3-126 MUNICIPAL WATER DEPARTMENT; BACKFLOW/
BACKSIPHONAGE PREVENTION; REQUIREMENTS.**

- (1) Department
- (a) On new installations, the Department will provide on-site evaluation and/or inspection of plans in order to determine the type of backflow preventer, if any, that will be required, will issue permit, and perform inspection and testing. In any case, a minimum of a dual check valve will be required in any new construction.
- (b) For premises existing prior to the start of this program the Department will perform evaluations and inspections of plans and/or premises and inform the owner by letter of any corrective action deemed necessary, the method of achieving the correction, and the time allowed for the correction to be made. Ordinarily, ninety (90) days will be allowed, however, this time period may

be shortened depending upon the degree of hazard involved and the history of the device(s) in question.

- (c) The Department will not allow any cross connection to remain unless it is protected by an approved backflow preventer for which a permit has been issued and which will be regularly tested to insure satisfactory operation.
 - (d) The Department shall inform the owner by letter, of any failure to comply, by the time of the first re-inspection. The Department will allow an additional fifteen (15) days for the correction. In the event the owner fails to comply with the necessary correction by the time of the second re-inspection, the Department will inform the owner by letter, that the water service to the owner's premises will be terminated within a period not to exceed seven (7) days. In the event that the owner informs the Department of extenuating circumstances as to why the correction has not been made, a time extension may be granted by the Department but in no case will exceed an additional thirty (30) days.
 - (e) If the Department determines at any time that a serious threat to the public health exists, the water service will be terminated immediately.
 - (f) The Department shall have on file, a list of private contractors who are certified backflow device testers. All charges for these tests will be paid by the owner of the building or property.
 - (g) The Department will begin initial premises inspections to determine the nature of existing or potential hazards, following the approval of this program by the Department of Health, during the calendar year 1990. Initial focus will be on high hazard industries and commercial premises.
- (2) Owner
- (a) The owner shall be responsible for the elimination or protection of all cross connections on this premises.
 - (b) The owner, after having been informed by a letter from the Department, shall at his expense, install, maintain, and test, or have tested, any and all backflow preventers on his premises.
 - (c) The owner shall correct any malfunction of the backflow preventer which is revealed by periodic testing.
 - (d) The owner shall inform the Department of any proposed or modified cross connections and also any existing cross connections of which the owner is aware but has not been found by the Department.
 - (e) The owner shall not install a by-pass around any backflow preventer unless there is a backflow preventer of the same type on the bypass. Owners who cannot shut down operation for testing of the device(s) must supply additional devices necessary to allow testing to take place.
 - (f) The owner shall install backflow preventers in a manner approved by the Department.
 - (g) The owner shall install only backflow preventers approved by the Department or the Department of Health.

- (h) Any owner having a private well or other private water source must have a permit if the well or source is cross connected to the Department's system. Permission to cross connect may be denied by the Department. The owner may be required to install a backflow preventer at the service entrance if a private water source is maintained, even if it is not cross connected to the Department's system.
- (i) In the event the owner installs plumbing to provide potable water for domestic purposes which is on the Department's side of the backflow preventer, such plumbing must have its own backflow preventer.
- (j) The owner shall be responsible for the payment of all fees for permits, annual or semiannual device testing, re-testing in the case that the device fails to operate correctly, and second re-inspections for noncompliance with Department or Department of Health requirements.

§3-127 MUNICIPAL WATER DEPARTMENT; BACKFLOW/BACKSIPHONAGE PREVENTION; DEGREE OF HAZARD. The Department recognizes the threat to the public water system arising from cross connections. All threats will be classified by degree of hazard and will require the installation of approved reduced pressure principle backflow prevention devices or double check valves.

§3-128 MUNICIPAL WATER DEPARTMENT; BACKFLOW/BACKSIPHONAGE PREVENTION; PERMITS.

- (1) The Department shall not permit a cross connection within the public water supply system unless it is considered necessary and that it cannot be eliminated.
- (2) Cross connection permits that are required for each backflow prevention device are obtained from the Department. A fee of \$5.00 will be charged for the initial permit and \$5.00 for the renewal of each permit.
- (3) Permits shall be renewed every five (5) years and are non-transferable. Permits are subject to revocation and become immediately revoked if the owner should so change the type of cross connection or degree of hazard associated with the service.
- (4) A permit is not required when fixture isolation is achieved with the utilization of a non-testable backflow preventer.

§3-129 MUNICIPAL WATER DEPARTMENT; BACKFLOW/BACKSIPHONAGE PREVENTION; EXISTING IN-USE BACKFLOW PREVENTION DEVICES. Any existing backflow preventer shall be allowed by the Department to continue in service unless the degree of hazard is such as to supersede the effectiveness of the present backflow preventer, or result in an unreasonable risk to the public health. Where the degree of hazard has increased, as in the case of a residential installation converting to a business establishment, any existing backflow preventer must be upgraded to a reduced pressure principle device, or a reduced pressure principle device must be installed in the event that no backflow device is present.

**§3-130 MUNICIPAL WATER DEPARTMENT; BACKFLOW/
BACKSIPHONAGE PREVENTION; PERIODIC TEST- ING.**

- (1) Reduced pressure principle backflow devices shall be tested and inspected at least semi-annually.
- (2) Periodic testing shall be performed by the Department's certified tester or his delegated representative. This testing will be done at the owner's expense.
- (3) The testing shall be conducted during the Department's regular business hours. Exceptions to this, when at the request of the owner, may require additional charges to cover the increased costs to the Department.
- (4) Any backflow preventer which fails during a periodic test will be repaired or replaced. When repairs are necessary, upon completion of the repair the device will be re-tested at owners expense to insure correct operation. High hazard situations will not be allowed to continue unprotected if the backflow preventer fails the test and cannot be repaired immediately. In other situations, a compliance date of not more than thirty (30) days after the test date will be established. The owner is responsible for spare parts, repair tools, or a replacement device. Parallel installation of two (2) devices is an effective means of the owner insuring that uninterrupted water service during testing or repair of devices and is strongly recommended when the owner desires such continuity.
- (5) Backflow prevention devices will be tested more frequently than specified in (1) above, in cases where there is a history of test failures and the Department feels that due to the degree of hazard involved, additional testing is warranted. Cost of the additional tests will be born by the owner.

**§3-131 MUNICIPAL WATER DEPARTMENT; BACKFLOW/
BACKSIPHONAGE PREVENTION; RECORDS AND REPORTS.**

- (1) Records:
The Department will initiate and maintain the following:
 - (a) Master files on customer cross connection tests and/or inspections.
 - (b) Master files on cross connection permits.
 - (c) Copies of permits and permit applications.
 - (d) Copies of lists and summaries supplied to the Department of Health.
- (2) Reports:
The Department will submit the following to the Department of Health.
 - (a) Initial listing of low hazard cross connections to the State.
 - (b) Initial listing of high hazard cross connections to the State.
 - (c) Annual update lists of items 1 and 2 above.
 - (d) Annual summary of cross connection inspections to the State.

**§3-132 MUNICIPAL WATER DEPARTMENT; BACKFLOW/
BACKSIPHONAGE PREVENTION; FEES AND CHARGES.** The Department

will publish a list of fees or charges for the following services or permits:

- (1) Testing fees
- (2) Re-testing fees
- (3) Fee for re-inspection
- (4) Charges for after-hours inspections or tests.

§3-133 MUNICIPAL WATER DEPARTMENT; BACKFLOW/BACKSIPHONAGE PREVENTION; RESIDENTIAL DUAL CHECK

DEVICES REQUIRED; STRAINERS. (1) Effective the date of the acceptance of this Cross Connection Control Program for the Town of Fullerton all new residential buildings will be required to install a residential dual check device immediately downstream of the water meter. Installation of this residential dual check device on a retrofit basis on existing service lines will be instituted at a time and at a potential cost to the homeowner as deemed necessary by the Department.

(2) The owner must be aware that installation of a residential dual check valve results in a potential closed plumbing system within his residence. As such, provisions may have to be made by the owner to provide for thermal expansion within his closed loop system, i.e., the installation of thermal expansion devices and/or pressure relief valves.

(3) The Department strongly recommends that all new retrofit installations of reduced pressure principle devices and double check valve backflow preventers include the installation of strainers located immediately upstream of the backflow device. The installation of strainers will preclude the fouling of backflow devices due to both foreseen and unforeseen circumstances occurring to the water supply system such as water main repairs, water main breaks, fires, periodic cleaning and flushing of mains, etc. These occurrences may "stir up" debris within the water main that will cause fouling of backflow devices installed without the benefit of strainers.

§3-134 MUNICIPAL WATER DEPARTMENT; FLUORIDATION OF WATER SUPPLY.

That necessary equipment be installed and maintained for the injection of fluoride into the Municipal water supply to comply with the vote of the people on November 5, 1974 according to the provisions of LB 449 (Laws 1973) and to comply with the regulations as prescribed by Division of Environmental Engineering, State Department of Health. Fluoride shall be injected into the Municipal water supply in an amount adequate to comply with LB 449 and the vote of the people (*Ref. RS Neb. 71-3305*).

§3-135 DRILLING OR INSTALLATION OF OTHER FACILITIES WITHIN DESIGNATED DISTANCE FROM MUNICIPAL WATER SOURCES;

PROHIBITED. (1) Under no circumstances shall the City Council approve any permit to drill or operate any of the below described facility within the indicated number of feet from the City of Fullerton Municipal water wells:

Non potable water well - within 1,000 feet;
Any other well - within 1,000 feet;
Sewage lagoon - within 1,000 feet;
Absorption or disposal field for water - within 500 feet;
Cesspool - within 500 feet;
Dumping grounds - within 500 feet,
Feedlot or feedlot runoff - within 500 feet;
Livestock pasture or corral -within 500 feet;
Chemical product storage facility - within 500 feet;
Petroleum product storage facility - within 500 feet;
Pit toilet - within 500 feet;
Sanitary landfill - within 500 feet;
Septic tank - within 500 feet;
Sewage treatment plant - within 500 feet;
Sewage wet well - within 500 feet.

(2) No well may be drilled within the zoning jurisdiction of the City of Fullerton without applying for a permit and paying a fee of \$15.00. The permit will be reviewed by the City Council at a regular meeting at which the Council will review the application and either approve or deny the application. No permit will be approved for a potable water well unless the applicant has first applied for public water services and such services were denied or unless the applicant can show that public water service is not feasible. All wells must be drilled by a licensed well driller and all wells must be drilled according to state regulations and meet state set-back requirements and the City set-back requirements set forth in part in part one of this Ordinance, whichever is more restrictive.

§ 3-136 PENALTIES AND ABATEMENT PROCEDURE. In the event any of the above described facilities are installed or operated without first having obtained a permit from the City of Fullerton and/or within a designated number of feet from the municipal water supply, then such facilities shall be deemed a nuisance and the governing board shall abate such facility as a public nuisance. In addition thereto, any person violating any of the terms of this ordinance is hereby determined to be "guilty" of an offense and upon conviction thereof, shall be fined not more than five hundred (\$500.00) dollars for each offense. A new violation shall be deemed to have been committed every twenty-four hours of such failure to comply.

Article 2. Sewer Department

§3-201 MUNICIPAL SEWER DEPARTMENT; OPERATION AND FUNDING.

(1) The Municipality owns and operates the Municipal Sewer System through the Sewer Superintendent. The Governing Body, for the purpose of defraying the cost of the operation, maintenance and replacement (OM&R) of the Municipal Sewer System may establish a user charge system based on actual use and revise the charges, if necessary, to accomplish the following:

- (a) Maintain the proportional distribution of operation, maintenance and replacement (OM&R) costs among users and user classes;
- (b) Generate adequate revenues to pay the costs of OM&R;
- (c) Apply excess revenues collected from a class of users to the costs of OM&R attributable to that class for the next year and adjust the rates accordingly.

(2) The revenue from the said user charge system based on actual use shall be known as the Operation, Maintenance and Replacement Fund. The Sewer Superintendent shall have the direct management and control of the Sewer Department and shall faithfully carry out the duties of his office. He shall have the authority to adopt rules and regulations for the sanitary and efficient management of the Department subject to the supervision and review of the Governing Body. (*Ref. 17-149, 17-925.01 RS Neb.*)

§3-202 MUNICIPAL SEWER DEPARTMENT; DEFINITION OF TERMS.

Unless the context specifically indicates otherwise, the meaning of terms used in this Article shall be as follows:

"BOD" (denoting Biochemical Oxygen Demand) shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at twenty (20) degrees C., expressed in milligrams per liter.

"Building Drain" shall mean that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five (5) feet (1.5 meters) outside the inner face of the building wall.

"Building Sewer" shall mean the extension from the building drain to the public sewer or other place of disposal.

"Combined Sewer" shall mean a sewer receiving both surface runoff and sewage.

"Consumer" shall mean all users of the Municipal sewerage system of the City; the owners and tenants of real estate and buildings connected with said sewerage system, or served thereby; and all users of said system who in any way use the same or discharge sanitary sewage, industrial wastes, water or other liquid either directly or indirectly into the sewerage system of said City.

"Garbage" shall mean solid wastes from the domestic and commercial preparation, cooking, and dispensing of food, and from the handling, storage, and sale of produce.

"Industrial Wastes" shall mean the liquid wastes from industrial manufacturing

processes, trade, or business as distinct from sanitary sewage.

"Natural Outlet" shall mean any outlet into a watercourse, pond, ditch, lake, or other body of surface or groundwater.

"Person" shall mean any individual, firm, company, association, society, corporation, or group.

"pH" shall mean the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

"Properly Shredded Garbage" shall mean the wastes from the preparation, cooking, and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half (1/2) inch (1.27 centimeters) in any dimension.

"Public Sewer" shall mean a sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.

"Residential Contributor" shall mean any contributor to the City's sewerage system whose lot, parcel of real estate, or building is used for single family dwelling purposes only.

"Sanitary Sewer" shall mean a sewer which carries sewage and to which storm, surface, and groundwater is not intentionally admitted.

"Sewage" shall mean 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" shall mean any arrangement of devices and structures used for treating sewage.

"Sewage Works" shall mean all facilities for collecting, pumping, treating and disposing of sewage.

"Sewer" shall mean a pipe or conduit for carrying sewage.

"Shall" is mandatory; "May" is permissive.

"Slug" shall mean any discharge of water, sewage, or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration or flows during normal operation.

"Storm Drain" (sometimes termed "storm sewer") shall mean a sewer which carries storm and surface waters and drainage, but excludes sewage and industrial wastes, other than unpolluted cooling water.

"Superintendent" shall mean the Sewer Superintendent of the City of Fullerton, Nebraska or his authorized deputy, agent, or representative.

"Suspended Solids" shall mean solids that either float on the surface of, or are in suspension in water, sewage, or other liquids, and are removable by filtering.

"Watercourse" shall mean a channel in which a flow of water occurs, either continuously or intermittently.

§3-203 MUNICIPAL SEWER DEPARTMENT; APPLICATION FOR

PERMIT. Any person wishing to connect with the Sewer System shall make an application therefor to the Municipal Clerk. The Municipal Clerk may require any applicant to make a service deposit in such amount as set by ordinance of the Governing Body. Sewer service may not be supplied to any house or building except upon the written order of the Sewer Superintendent. The Department shall not supply sewer service to any person outside the corporate limits without special permission from the Governing Body; provided, that the entire cost of pipe and other installation charges shall be paid by such consumers. Nothing herein shall be construed to obligate the Municipality to provide sewer service to nonresidents. *(Ref. 17-149, 18-503 RS Neb.)*

§3-204 MUNICIPAL SEWER DEPARTMENT; SEWER CONTRACT. The Municipality through the Municipal 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 Municipality may also furnish sewer service to persons whose premises are situated outside the corporate limits of the Municipality, as and when, according to law, the Governing Body may see fit to do so. The rules, regulations, and sewer rental rates hereinafter named in this Article, shall be considered a part of every application hereafter made for sewer service and shall be considered a part of the contract between every customer now or hereafter served. Without further formality, the making of the application on the part of any applicant or the use of sewer service by present customers thereof shall constitute a contract between the customer and the Municipality to which said contract both parties are bound. If the customer shall violate any of the provisions of said contract or any reasonable rules and regulations that the Governing Body may hereafter adopt, the Sewer Superintendent, or his agent, may cut off or disconnect the sewer service from the building or premise of such violation. No further connection for sewer service to said building or premise shall again be made save or except by order of the Sewer Superintendent or his agent. *(Ref. 17-901, 17-902, 18-503 RS Neb.)*

§3-205 MUNICIPAL SEWER DEPARTMENT; SERVICE CONTRACTS.

Contracts for sewer service are not transferable. Any person wishing to change from one location to another shall make a new application and sign a new contract. If any customer shall move from the premise where service is furnished, or if the said premise is destroyed by fire or other casualty, he shall at once inform the Sewer Superintendent who shall cause the sewer service to be shut off from the said premise. If the customer should fail to give notice, he shall be charged for that period of time until the official in charge of sewers is otherwise advised of such circumstances. (Ref. 17-901, 17-902, 18-503 RS Neb.)

§3-206 MUNICIPAL SEWER DEPARTMENT; USER CHARGE RATES.

Sewer rates are non-permanent in nature and are kept on record at the City Offices.

§3-207 MUNICIPAL SEWER DEPARTMENT; OPERATION, MAINTENANCE, AND REPLACEMENT FUND.

(1) All monies raised from user charges for sewerage shall be used for maintenance or operation of the existing system and for principal and interest on bonds issued, as provided by law, or to create a replacement fund for the purpose of future maintenance or construction of a new sewer system, or construction of a new treatment system for the City of Fullerton, Nebraska. That portion of the total user charge collected which is designated for operation and maintenance, including replacement purposes as established in section 3-206, shall be deposited in a separate non-lapsing fund known as the Operation, Maintenance, and Replacement Fund, and will be kept in two primary accounts, as follows:

- (a) An account designated for the specific purpose of defraying operation and maintenance costs, excluding replacement, of the sewerage system (Operation and Maintenance Account).
- (b) An account designated for the specific purpose of ensuring replacement needs over the useful life of the sewerage system (Replacement Account). Deposits in the Replacement Account shall be made annually from the operation, maintenance, and replacement revenue in the amount of \$2,750.00 annually.

(2) Fiscal year-end balances in the Operation and Maintenance Account and the Replacement Account shall be carried over to the same accounts in the subsequent fiscal year, and shall be used for no other purposes than those designated for these accounts. Monies which have been transferred from other sources to meet temporary shortages in the operation, maintenance and replacement fund shall be returned to their respective accounts upon appropriate adjustment of the user charge rates. The user charge rate shall be adjusted such that the transferred monies will be returned to their respective accounts within the fiscal year following the fiscal year in which the monies were borrowed.

§3-208 MUNICIPAL SEWER DEPARTMENT; USER CHARGE REVIEW. At

least once every two years, the Mayor and Council shall review the sewer user charge system in order to maintain its adequacy to pay the costs of operation and maintenance, including replacement costs, and the proportionality of charges among the users. Any excess revenues collected for a class of users shall be credited to that class for the next year, and its rates will be adjusted accordingly.

§3-209 MUNICIPAL SEWER DEPARTMENT; USER CHARGE

NOTIFICATION. The City shall notify each user at least annually, in conjunction with a regular bill, of the rate being charged for operation and maintenance, including replacement, of the sewerage system.

§3-210 MUNICIPAL SEWER DEPARTMENT; USER CHARGE RATES;

EXCEPTION. Where, in the judgment of the Sewer Superintendent, special conditions surrounding the use of City water to the extent that the application of the service charges, user charge rates, or rentals, as specified herein, would be inequitable and unfair to either the City of Fullerton or the contributors, the Sewer Superintendent shall recommend to the City Council a special rate applying to such contributors. Such special rates shall apply to all contributors to the sanitary utilities of the City under like circumstances.

§3-211 MUNICIPAL SEWER DEPARTMENT; CLASSIFICATION. The Governing Body may classify for the purpose of rental fees the customers of the Municipal Sewer Department; provided, that such classifications are reasonable and do not discriminate unlawfully against any consumer or group of consumers. (*Ref. 17-925.02 RS Neb.*)

§3-212 MUNICIPAL SEWER DEPARTMENT; PUBLIC SEWERS

REQUIRED; UNLAWFUL DEPOSIT OF WASTES. It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the City of Fullerton, or in any area under the jurisdiction of said City, any human or animal excrement, garbage, or other objectionable waste.

§3-213 MUNICIPAL SEWER DEPARTMENT; PUBLIC SEWERS

REQUIRED; UNLAWFUL DISCHARGE OF UNTREATED SEWAGE. It shall be unlawful to discharge to any natural outlet within the City of Fullerton, or in any area under the jurisdiction of said City, any sewage or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this Article.

§3-214 MUNICIPAL SEWER DEPARTMENT; PUBLIC SEWERS

REQUIRED; CESSPOOLS, PRIVIES, AND SEPTIC TANKS PROHIBITED.

Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage.

§3-215 MUNICIPAL SEWER DEPARTMENT; PUBLIC SEWERS

REQUIRED; MANDATORY HOOK-UP. The owner of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes, situated within the City abutting on any street, alley, or right-of-way in which there is now located or may in the future be located a public sanitary or combined sewer of the City is hereby required at his expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this Article, within ninety (90) days after date of official notice to do so, provided that said public sewer is within thirty (30) feet of the property line.

§3-216 MUNICIPAL SEWER DEPARTMENT; PRIVATE SEWAGE

DISPOSAL; WHEN APPLICABLE. (1) Where a public sanitary or combined sewer is not available under the provisions of section 3-215, the building sewer shall be connected to a private sewage disposal system complying with the provisions of this Article.

(2) At such time as a public sewer becomes available to a property served by a private sewage disposal system, as provided in section 3-215, a direct connection shall be made to the public sewer in compliance with this Article, and any septic tanks, cesspools, and similar private sewage disposal facilities shall be abandoned and filled with suitable material.

§3-217 MUNICIPAL SEWER DEPARTMENT; PRIVATE SEWAGE

DISPOSAL SYSTEM; PERMIT REQUIRED; FEE. Before commencement of construction of a private sewage disposal system the owner shall first obtain a written permit signed by the Superintendent. The application for such permit shall be made on a form furnished by the City which the applicant shall supplement by any plans, specifications, and other information as are deemed necessary by the Superintendent. A permit and inspection fee of ten dollars (\$10.00) shall be paid to the Municipal Clerk at the time the application is filed.

§3-218 MUNICIPAL SEWER DEPARTMENT; PRIVATE SEWAGE

DISPOSAL SYSTEM; PERMIT, WHEN EFFECTIVE; INSPECTIONS. A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the Superintendent. He shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for the permit shall notify the Superintendent when the work is ready for final inspection, and before any underground portions are covered. The inspection shall be made within twenty-four (24) hours of the receipt of notice by the Superintendent.

§3-219 MUNICIPAL SEWER DEPARTMENT; PRIVATE SEWAGE

DISPOSAL SYSTEM; SPECIFICATIONS. The type, capacities, location, and layout of a private sewage disposal system shall comply with all recommendations

of the Department of Health of the State of Nebraska. No permit shall be issued for any private sewage disposal system employing subsurface soil absorption facilities where the area of the lot is less than 20,000 square feet. No septic tank or cesspool shall be permitted to discharge to any natural outlet.

§3-220 MUNICIPAL SEWER DEPARTMENT; PRIVATE SEWAGE DISPOSAL SYSTEM; MAINTENANCE. The owner shall operate and maintain the private disposal facilities in a sanitary manner at all times, at no expense to the City.

§3-221 MUNICIPAL SEWER DEPARTMENT; PRIVATE SEWAGE DISPOSAL SYSTEM; ADDITIONAL REQUIREMENTS. No statement contained in this Article shall be construed to interfere with any additional requirements that may be imposed by the Health Officer.

§3-222 MUNICIPAL SEWER DEPARTMENT; PRIVATE SEWAGE DISPOSAL SYSTEM; CONNECTION TO PUBLIC SEWER; WHEN REQUIRED. When a public sewer becomes available, the building sewer shall be connected to said sewer within sixty (60) days and the private sewage disposal system shall be cleaned of sludge with clean bank-run gravel or dirt.

§3-223 MUNICIPAL SEWER DEPARTMENT; BUILDING SEWER INSTALLATION; CLASSIFICATION; PERMIT APPLICATION; FEE. There shall be two (2) classes of building sewer permits: (a) for residential and commercial service, and (b) for service to establishments producing industrial wastes. In either case, the owner or his agent shall make application on a special form furnished by the City. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the Superintendent. A permit and inspection fee of ten dollars (\$10.00) for a residential or commercial building sewer permit and ten dollars (\$10.00) for an industrial building sewer permit shall be paid to the Municipal Clerk at the time the application is filed.

§3-224 MUNICIPAL SEWER DEPARTMENT; BUILDING SEWER INSTALLATION; EXPENSE. All costs and expense incident to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the City from any loss or damage that may directly be occasioned by the installation of the building sewer.

§3-225 MUNICIPAL SEWER DEPARTMENT; BUILDING SEWER INSTALLATION; SINGLE PREMISE. A separate and independent building sewer shall be provided for every building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway,

the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.

§3-226 MUNICIPAL SEWER DEPARTMENT; BUILDING SEWER INSTALLATION; USE OF EXISTING SEWERS. Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the Superintendent, to meet all requirements of this Article.

§3-227 MUNICIPAL SEWER DEPARTMENT; BUILDING SEWER INSTALLATION; CONSTRUCTION CODES. (1) The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing, and backfilling the trench, shall all conform to the requirements of the building and plumbing code or other applicable rules and regulations of the City. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the A.S.T.M. and W.P.C.F. Manual of Practice No. 9 shall apply.

(2) Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.

(3) The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the City, or the procedures set forth in appropriate specifications of the A.S.T.M. and the W.P.C.F. Manual No. 9. All such connections shall be made gas tight and watertight. Any deviation from the prescribed procedures and materials must be approved by the Superintendent before installation.

§3-228 MUNICIPAL SEWER DEPARTMENT; BUILDING SEWER INSTALLATION; INSPECTIONS. The applicant for the building sewer permit shall notify the Superintendent when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the Superintendent or his representatives.

§3-229 MUNICIPAL SEWER SYSTEM; REPAIRS AND REPLACEMENT. The Municipal Sewer Department may require the owner of any property which is within the Municipality and connected to the public sewers or drains to repair or replace any connection line which serves the owner's property and is broken, clogged or otherwise in need of repair or replacement. The property owner's duty to repair or replace such a connection line shall include those portions upon the owner's property and those portions upon public property or easements up to and including the point of junction with the public main.

The Municipal 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

thirty (30) days of mailing such notice the property owner fails or neglects to cause such repairs or replacements to be made, the Superintendent may cause such work to be done and assess the cost upon the property served by such connection. (*Ref. 18-1748 RS Neb.*)

§3-230 MUNICIPAL SEWER DEPARTMENT; PROHIBITED DISCHARGES; STORMWATER, SURFACE WATER, GROUND WATER, COOLING WATER, AND PROCESS WATER. (1) No person shall discharge or cause to be discharged any stormwater, surface water, ground water, roof runoff, subsurface drainage, including interior and exterior foundation drains, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer.

(2) Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as combined sewers or storm sewers, or to a natural outlet approved by the Superintendent. Industrial cooling water or unpolluted process waters may be discharged, on approval of the Superintendent, to a storm sewer, combined sewer, or natural outlet.

§3-231 MUNICIPAL SEWER DEPARTMENT; HAZARDOUS AND PROHIBITED DISCHARGES; 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:

- (1) Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas.
- (2) Any waters or wastes containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant, including but not limited to cyanides in excess of two (2) mg/1 as CN in the wastes as discharged to the public sewer.
- (3) Any waters or wastes having a pH lower than 5.5, or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage works.
- (4) Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc. either whole or ground by garbage grinders.

§3-232 MUNICIPAL SEWER DEPARTMENT; HAZARDOUS AND PROHIBITED DISCHARGES; SPECIFIC PROHIBITIONS AS DETERMINED BY SUPERINTENDENT; PRELIMINARY TREATMENT.

No person shall discharge or cause to be discharged the following described substances, materials, waters, or wastes if it appears likely in the opinion of the

Superintendent that such wastes can harm either the sewers, sewage treatment process, or equipment, have an adverse effect on the receiving stream, or can otherwise endanger life, limb, public property, or constitute a nuisance. In forming his opinion as to the acceptability of these wastes, the Superintendent will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials on construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant, and other pertinent factors. The substances prohibited are:

- (1) Any liquid or vapor having a temperature higher than one hundred fifty (150)°F (65°C).
- (2) Any water or waste containing fats, wax, grease, or oils, whether emulsified or not, in excess of one hundred (100) mg/1 or containing substances which may solidify or become viscous at temperatures between thirty-two (32) and one hundred fifty (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 of three-fourths (3/4) horsepower (0.76 hp metric) or greater shall be subject to the review and approval of the Superintendent.
- (4) Any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solutions whether neutralized or not.
- (5) Any waters or wastes containing iron, chromium, copper, zinc, and similar objectionable or toxic substances; or wastes exerting on excessive chlorine requirement, to such degree that any such material received in the composite sewage of the sewage treatment works exceeds the limits established by the Superintendent for such materials.
- (6) Any waters or wastes containing phenols or other taste- or odor-producing substances, in such concentrations exceeding limits which may be established by the Superintendent as necessary, after treatment of the composite sewage, to meet the requirements of the State, federal, or other public agencies of jurisdiction for such discharge to the receiving waters.
- (7) Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Superintendent in compliance with applicable State or Federal regulations.
- (8) Any waters or wastes having a pH in excess of 9.5.
- (9) Materials which exert or cause:
 - (a) Unusual concentrations of inert suspended solids (such as, but not limited to, Fullers earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride or sodium sulfate).
 - (b) Excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions).
 - (c) Unusual BOD, chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.

- (d) Unusual volume of flow or concentration of wastes constituting "slugs" as defined herein.
- (10) Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirement of other agencies having jurisdiction over discharge to the receiving waters.
- (11) Any waters or wastes having a 5-day biochemical oxygen demand 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 percent of the average sewage flow of the City shall be subject to the review of the Superintendent. Where necessary in the opinion of the Superintendent, the owner shall provide, at his expense, such preliminary treatment as may be necessary to reduce the biochemical oxygen demand 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 any other pertinent information relating to proposed preliminary treatment facilities shall be submitted for the approval of the Superintendent and no construction of such facilities shall be commenced until said approvals are obtained in writing.

§3-233 MUNICIPAL SEWER DEPARTMENT; HAZARDOUS AND PROHIBITED DISCHARGES; REJECTION, PRETREATMENT, CONTROL OF DISCHARGE RATE, OR USE FEE SURCHARGE. (1) If any waters or

wastes are discharged, or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in section 3-232, and which in the judgment of the Superintendent, may have a deleterious effect upon the sewage works, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Superintendent may:

- (a) Reject the wastes;
- (b) Require pretreatment to an acceptable condition for discharge to the public sewers;
- (c) Require control over the quantities and rates of discharge; and/or
- (d) Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of section 3-234 of this Article.

(2) If the Superintendent permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the Superintendent, and subject to the requirements of all applicable codes, ordinances, and laws.

§3-234 MUNICIPAL SEWER DEPARTMENT; HAZARDOUS AND

PROHIBITED DISCHARGES; SPECIAL EXCEPTIONS PERMITTED; USE FEE SURCHARGE. No statement contained in this Article shall be construed as preventing any special agreement or arrangement between the City and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the City for treatment, subject to payment thereof, by the industrial concern.

§3-235 MUNICIPAL SEWER DEPARTMENT; GREASE, OIL, AND SAND INTERCEPTORS; WHEN REQUIRED. Grease, oil, and sand interceptors shall be provided when, in the opinion of the Superintendent, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand, or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the Superintendent, and shall be located as to be readily and easily accessible for cleaning and inspection.

§3-236 MUNICIPAL SEWER DEPARTMENT; PRELIMINARY TREATMENT OF FLOW EQUALIZING FACILITIES; MAINTENANCE BY OWNER. Where preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense.

§3-237 MUNICIPAL SEWER DEPARTMENT; CONTROL MANHOLES/SAMPLING STATIONS; WHEN REQUIRED; INSTALLATION AND MAINTENANCE. When required by the Superintendent, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such manhole, when required, shall be accessibly and safely located, and shall be constructed in accordance with plans approved by the Superintendent. The manhole shall be installed by the owner at his expense, and shall be maintained by him so as to be safe and accessible at all times.

§3-238 MUNICIPAL SEWER DEPARTMENT; CONTROL MANHOLES/SAMPLING STATIONS; METHOD. All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this Article shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater," published by the American Public Health Association, and shall be determined at the control manhole provided, or upon suitable samples taken at said control manhole. In the event that 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 twenty-four (24) hour composite of all outfalls of a premise is appropriate or whether a grab sample or samples should be taken. Normally, but not always, BOD and suspended solids analyses are obtained from 24-hour composites of all outfalls whereas pH's are determined from periodic grab samples).

§3-239 MUNICIPAL SEWER DEPARTMENT; DESTRUCTION OF PROPERTY. No unauthorized person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment which is a part of the sewage works. Any person violating this provision shall be subject to immediate arrest under charge of disorderly conduct.

§3-240 MUNICIPAL SEWER DEPARTMENT; COMPLIANCE WITH ARTICLE; INSPECTIONS GENERALLY. The Superintendent and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling, and testing in accordance with the provisions of this Article. The Superintendent or his representative shall have no authority to inquire into any processes including metallurgical, chemical, oil, refining, ceramic, paper, or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment.

§3-241 MUNICIPAL SEWER DEPARTMENT; COMPLIANCE WITH ARTICLE; INSPECTIONS; INJURY LIABILITY. While performing the necessary work on private properties referred to in section 3-240 above, the Superintendent or duly authorized employees of the City shall observe all safety rules applicable to the premises established by the company and the company shall be held harmless for injury or death to the City employees and the City shall indemnify the company against loss or damage to its property by City employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions as required in section 3-237.

§3-242 MUNICIPAL SEWER DEPARTMENT; COMPLIANCE WITH ARTICLE; INSPECTIONS; EASEMENTS. The Superintendent and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all private properties through which the City holds a duly negotiated easement for the purpose 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.

§3-243 MUNICIPAL SEWER DEPARTMENT; NOTICE AND LIABILITY.
(1) Any person found to be violating any provision of this Article except section 3-

239 shall be served by the City with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

(2) Any person violating any of the provisions of this ordinance shall become liable to the City for any expense, loss, or damage occasioned the City by reason of such violation.

Article 3. Utilities Generally

§3-301 UTILITIES GENERALLY; UTILITY BILLS; COLLECTION. Charges for water and sewer service shall be billed jointly on a bimonthly basis. The Water Commissioner shall read, or cause to be read, water meters after the first day of January, March, May, July, September and November. Utility bills shall be mailed on the first (1st) day of February, April, June, August, October and December, and shall be due and payable by the tenth (10th) day of each such month. Bills not paid the 20th of the month that the bills are mailed, shall then be charged a late fee of ten dollars (\$10.00). Bills not paid within thirty (30) days after they are sent out shall be deemed to be delinquent. Upon being deemed to be delinquent, as herein defined, the Municipality may discontinue service pursuant to section 3-302 of this code. Once discontinued, service shall not be recommenced except upon payment in full of all delinquent charges and upon further payment of a re-connection fee in the amount of forty dollars (\$40.00). The Municipality may also take any action authorized by law to effect collection of the delinquent charges. (*Ref. 17-542, 17-925.01, 18-416 RS Neb.*)

§3-302 UTILITIES GENERALLY; DISCONTINUANCE OF SERVICE, NOTICE PROCEDURE. (1) The Municipality shall have the right to discontinue services and remove its properties if the charges for such services are not paid within seven (7) days after the date that the same becomes delinquent. Before any termination, the Municipality shall first give notice by first class mail or in person to any domestic subscriber whose service is proposed to be terminated. If notice is given by first class mail, such mail shall be conspicuously marked as to its importance. Service shall not be discontinued for at least seven (7) days, weekends and holidays excluded. As to any subscriber who has previously been identified as a welfare recipient to the Municipality by the Department of Social Services, such notice shall be by certified mail and notice of such proposed termination shall be given to the Department of Social Services.

(2) The notice shall contain the following information:

- (a) The reason for the proposed disconnection;
- (b) A statement of the intention to disconnect unless the domestic subscriber either pays the bill or reaches an agreement with the Municipality regarding payment of the bill;
- (c) The date upon which service will be disconnected if the domestic subscriber does not take appropriate action;

- (d) The name, address, and telephone number of the employee or department to whom the domestic subscriber may address an inquiry or complaint;
- (e) The domestic subscriber's right, prior to the disconnection date, to request a conference regarding any dispute over such proposed disconnection;
- (f) A statement that the Municipality may not disconnect service pending the conclusion of the conference;
- (g) A statement to the effect that disconnection may be postponed or prevented upon presentation of a duly licensed physician's certificate which shall certify that the domestic subscriber or resident within such subscriber's household has an existing illness or handicap which would cause such subscriber or resident to suffer an immediate and serious health hazard by the disconnection of the utility's service to that household. Such certificate shall be filed with the Municipality within five (5) days of receiving notice under this section and will prevent the disconnection of the Municipality's services for a period of thirty (30) days from such filing. Only one (1) postponement of disconnection shall be allowed under this subsection for each incidence of non-payment of any due account;
- (h) The cost that will be borne by the domestic subscriber for restoration of service;
- (i) A statement that the domestic subscriber may arrange with the Municipality for an installment payment plan;
- (j) A statement to the effect that those domestic subscribers who are welfare recipients may qualify for assistance in payment of their utility bill and that they should contact their caseworker in that regard; and
- (k) Any additional information not inconsistent with this section which has received prior approval from the Governing Body.

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

(4) The procedures adopted by the Governing Body for resolving utility bills, three (3) copies of which are on file in the office of the Municipal Clerk, are hereby incorporated by reference in addition to any amendments thereto and are made a part hereof as though set out in full.

(5) This section shall not apply to any 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. (*Ref. 19-2702 et seq. RS Neb.*)

§3-303 UTILITIES GENERALLY; DIVERSION OF SERVICES; PENALTY.

- (1) The Municipality may bring a civil action for damages against any person who commits, authorizes, solicits, aids, abets, or attempts (a) bypassing, (b) tampering, or (c) unauthorized metering when such act results in damages to a Municipal Utility.

The Municipality 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 Municipality 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 seven hundred fifty (\$750.00) dollars if the amount of actual damage or loss is not susceptible of reasonable calculation.

(3) In addition to damage or loss under subdivision (a) or (b) of subsection 2 of this section, the Municipality may recover all reasonable expenses and costs incurred on account of the bypassing, tampering, or unauthorized metering including, but not limited to, disconnection, re-connection, service calls, equipment, costs of the suit, and reasonable attorneys' fees in cases within the scope of section 25-1801 Reissue Revised Statutes of Nebraska 1943.

(4) There shall be a rebuttable presumption that a tenant or occupant at any premises where bypassing, tampering or unauthorized metering is proven to exist caused or had knowledge of such bypassing, tampering, or unauthorized metering if the tenant or occupant (a) had access to the part of the utility supply system on the premises where the bypassing, tampering, or unauthorized metering is proven to exist and (b) was responsible or partially responsible for payment, either directly or indirectly, to the utility or to any other person for utility services to the premises.

(5) There shall be a rebuttable presumption that a customer at any premises where bypassing, tampering, or unauthorized metering is proven to exist caused or had knowledge of such bypassing, tampering, or unauthorized metering if the customer controlled access to the part of the utility supply system on the premises where the bypassing, tampering, or unauthorized metering was proven to exist.

(6) The remedies provided by this section shall be deemed to be supplemental and additional to powers conferred by existing laws and the remedies provided in this section are in addition to and not in limitation of any other civil or criminal statutory or common law remedies. (*Ref. 86-331.01 through 86-331.04 RS Neb.*)

§3-304 UTILITIES GENERALLY; LIEN. In addition to all other remedies, if a customer shall for any reason remain indebted to the Municipality for utilities service furnished, such amount due, together with any rents and charges in arrears shall be considered a delinquent utility rent which is hereby declared to be a lien upon the real estate for which the same was furnished. The Municipal Clerk shall notify in writing or cause to be notified in writing, all owners of premises or their agents whenever their tenants or lessees are sixty (60) days or more delinquent in the payment of the utilities rent. It shall be the duty of the Municipal Clerk to report to the Governing Body a list of all unpaid accounts due for utilities service together

with a description of the premises served. The report shall be examined, and if approved by the Governing Body, shall be certified by the Municipal Clerk to the County Clerk to be collected as a special tax in the manner provided by law. (*Ref. 17-538, 17-925.01, 18-503 RS Neb.*)

Article 4. Fire Department

§3-401 MUNICIPAL FIRE DEPARTMENT; OPERATION AND FUNDING.

The Municipality operates the Municipal Fire Department through the Municipal Fire Chief and Firemen. The Governing Body, for the purpose of defraying the cost of the management, maintenance, and improving the Fire Department may each year levy a tax not exceeding the maximum limits prescribed by State law, on the actual valuation of all real estate and personal property within the Municipality that is subject to taxation. The revenue from the said tax shall be known as the Fire Department Fund. The Fund shall be at all times in the possession of the Municipal Treasurer. In addition to the above, the Fire Department is authorized to enter into agreements with the appropriate Rural Fire Districts for the mutual aid and protection of the residents to both the Municipality and of the Rural Fire Districts. The agreement so entered into shall be on file in the Fire Station for public inspection during office hours. (*Ref. 17-147, 17-718, 17-953 RS Neb.*)

§3-402 MUNICIPAL FIRE DEPARTMENT; FIRE CHIEF. The Fire Chief shall manage the Fire Department and it shall be his duty to inform the Governing Body when any of the fire engines, hose, ladders, or other apparatus needs repair. Upon the written consent and directive of the Governing Body, the Fire Chief shall cause the repair, improvement, or maintenance of the said equipment and shall personally supervise and approve of the same. It shall be the duty of the Fire Chief to come before the Governing Body at the regular meeting in January of each year to give an annual report to the Governing Body of the general condition and the proposed additions or improvements recommended by him.

§3-403 MUNICIPAL FIRE DEPARTMENT; MEMBERSHIP.

- (A) The Fire Department shall consist of so many members as may be decided by the City Council. The members may organize themselves in any way they may decide, subject to the review of the City Council. The Fire Chief shall appoint no more than 25 members for each fire department company subject to the review and approval of the City Council. All vacancies shall be filed in this manner.
- (B) All members of the Fire Department shall be subject to such rules and regulations, and shall perform such duties, as may be prescribed or required of them by the Fire Chief or the City Council. The members of the Fire Department shall, during the time of a fire or great public danger, have and exercise the powers and duties of police officers and shall have full power and authority to arrest all persons guilty of any violation of the municipal code or the laws of the state of Nebraska.

- (C) Members of the Fire Department may hold meetings and engage in social activities with the approval of the City Council. The secretary shall, upon request, keep a record of all meetings and shall make a report to the City Council of all meetings and activities of the Fire Department.
- (D) Members of the Fire Department shall be considered to be employees of the city for the purpose of providing them with workers' compensation and other benefits. The City Council may compensate or reimburse any member of the Fire Department for expenses incurred in carrying out his or her duties in an amount set by resolution.
- (E) The City Council shall purchase and maintain in force a policy of group term life insurance to age 65 covering the lives of all of the city's active volunteer fire and rescue personnel, except that when any such person serves more than one municipality or rural or suburban fire protection district, the policy shall be purchased only by the first municipality or district which he or she serves. The policy shall provide a minimum death benefit of \$10,000 for death from any cause and shall, at the option of the insured, be convertible to a permanent form of life insurance at age 65. The coverage of such policy shall terminate as to any individual who ceases to be an active volunteer member of the fire department of the city. (*Neb. RS 35-108*)
- (F) For purposes of Neb. RS 33-139.01, volunteer firefighters and rescue squad members testifying as witnesses in that capacity alone shall not be deemed employees of the city. (*Neb. RS 33-139.01*)

§3-404 MUNICIPAL FIRE DEPARTMENT; RECORDS. The Fire Chief shall keep or cause to be kept a record of all meetings of the Fire Department, the attendance record of all members, a record of all fires, and shall make a full report of such records to the Municipal Clerk during the last week in April each year. The record of any fire shall include the cause, origin, circumstances, property involved, and whether criminal conduct may have been involved. In the event of sizable property damage, he shall include the information of whether such losses were covered by insurance, and if so, in what amount. All records shall be available to the public at any reasonable time.

§3-405 MUNICIPAL FIRE DEPARTMENT; FIRES. It shall be the duty of the Fire Department to use all proper means for the extinguishing of fires; to protect property within the Municipality; and to secure the observance of all ordinances, laws, and other rules and regulations with respect to fires and fire prevention.

§3-406 MUNICIPAL FIRE DEPARTMENT; DISTANT FIRES. Upon the permission of the Mayor or Fire Chief, such fire equipment of the Municipality as may be designated by the Governing Body as rural equipment may be used beyond the corporate limits to extinguish reported fires.

§3-407 MUNICIPAL FIRE DEPARTMENT; FIGHTING DISTANT FIRES. The firefighters of the Municipality shall be considered as acting in the performance

and within the scope of their duties in fighting fire or saving property or life outside the corporate limits of the Municipality when directed to do so by the Mayor or Chief of the Fire Department or some person authorized to act for such Chief and in so doing, may take such fire equipment of the Municipality as may be designated by the Governing Body.

§3-408 MUNICIPAL FIRE DEPARTMENT; PRESERVATION OF

PROPERTY. Any official of the Municipal Fire Department shall have the power during the time of a fire to cause the removal of any private or public property whenever it shall become necessary to do so for the preservation of such property from fire, to prevent the spreading of fire, or to protect adjoining property. The said officials may direct the Municipal firefighters to remove any building, structure, or fence for the purpose of checking the progress of any fire, and the official in charge of the fire fighting effort shall have the power to blow up, or cause to be blown up, with powder or otherwise, any building or erection during the progress of a fire for the purpose of extinguishing or checking the same.

§3-409 MUNICIPAL FIRE DEPARTMENT; HOSE TESTED. All fire hose shall be pressure tested at least one (1) times each year.

§3-410 MUNICIPAL FIRE DEPARTMENT; DRILLS. The Municipal Fire Department shall hold departmental fire drills at least six (6) times per year at such times as the members of the Fire Department shall decide.

Article 5. Rescue Unit

§3-501 MUNICIPAL RESCUE UNIT; OPERATION AND FUNDING. The Municipality operates the Municipal Rescue Unit through the Mayor and City Council. The Governing Body, for the purpose of defraying the cost of the management, maintenance, and improving the Rescue Unit, may each year levy a tax not exceeding the maximum limits prescribed by State law, on the actual valuation of all real estate and personal property within the Municipality that is subject to taxation. The revenue from the said tax shall be known as the Rescue Unit Fund. The Fund shall be at all times in the possession of the Municipal Treasurer.

§3-502 MUNICIPAL RESCUE UNIT; MAINTENANCE. The Rescue Unit shall inform the Governing Body when any of the ambulances or equipment needs repair. Upon the consent and directive of the Governing Body, the Rescue Unit shall cause the repair, improvement, or maintenance of the said equipment and shall personally supervise and approve of the same. It shall be the duty of the Rescue Unit to come before the Governing Body at the regular meeting in January of each year to give an annual report to the Governing Body of the general condition and the proposed additions or improvements recommended by them.

§3-503 MUNICIPAL RESCUE UNIT; MEMBERSHIP. (1) All qualified EMT-A

and EMT-AD volunteers must be willing to take the training required and shall serve at least two (2) years on the Rescue Unit. Age requirements are subject to the State of Nebraska Department of Health. Any applicant becoming a member shall be subject to the review and approval of the Governing Body. All vacancies shall be filled in this manner. Said members shall be considered to be employees of the Municipality for the purpose of providing them with workmen's compensation, life insurance, and other benefits. The members may organize themselves in any way they may decide, subject to the review of the Governing Body. They may hold meetings and engage in social activities with the approval of the Governing Body. The secretary shall upon request keep a record of all meetings and shall make a report to the Governing Body of all meetings and activities of the Rescue Unit. All members of the Rescue Unit shall be subject to such rules and regulations, and shall perform such duties, as may be prescribed or required of them by the Governing Body.

(2) Rescue Unit members testifying as a witness in connection with his or her officially assigned duties in that capacity alone shall not be deemed employees of the State of Nebraska or of the Municipality.

§3-504 MUNICIPAL RESCUE UNIT; RECORDS. The Secretary shall keep or cause to be kept a record of all meetings of the Rescue Unit, the attendance record of all members, a record of all calls, and shall make a full report of such records to the Municipal Clerk during the last week in January each year. The record of any ambulance run shall include the cause, origin, circumstances, and the State of Nebraska minimum requirements of services rendered.

§3-505 MUNICIPAL RESCUE UNIT; SERVICES BEYOND CORPORATE LIMITS. For the purpose of defraying costs of service the Nancy County Board of Supervisors provides a subsidy to the City of Fullerton Rescue Unit.

§3-506 MUNICIPAL RESCUE UNIT; MUTUAL AID AGREEMENT. For the purpose of better insuring the safety of lives and property of the citizens of Nance and surrounding counties from medical emergencies, the City of Fullerton may enter into a mutual aid agreement with the Nance County Board of Supervisors. The agreement shall be on file in the office of the Municipal Clerk for public inspection during office hours.

§3-507 MUNICIPAL RESCUE UNIT; INFECTIOUS CONTROL POLICY. There shall hereby be established, pursuant to State of Nebraska (LB 157) an Infectious Control Policy. The Fullerton Rescue Unit shall be responsible for maintaining a current policy and copies of which shall be on file with the Municipal Clerk.

Article 6. Parks

§3-601 MUNICIPAL PARKS; OPERATION AND FUNDING. The Municipality

owns and operates the Municipal Parks and other recreational areas through the Parks and Recreation Board of Commissioners. The Governing Body, for the purpose of defraying the cost of the care, management, and maintenance of the Municipal Park may each year levy a tax not exceeding the maximum limit prescribed by State law, on the actual valuation of all real estate and personal property within the corporate limits that is subject to taxation. The revenue from the said tax shall be known as the Park Fund and shall remain in the custody of the Municipal Treasurer. The Board shall have the authority to adopt rules and regulations for the efficient management of the Municipal Parks and other recreational areas of the Municipality. The Board shall not enter into a contract of any nature which involves an expenditure of funds, except for ordinary operating expenses, unless the contract has been approved by resolution of the majority of the members of the Governing Body prior to the contractual agreement. *(Ref. 17-948 through 17-952 RS Neb.)*

§3-602 MUNICIPAL PARKS; INJURY TO PROPERTY. It shall be unlawful for any person to maliciously or willfully cut down, injure, or destroy any tree, plant, or shrub. It shall be unlawful for any person to injure or destroy any sodded or planted area, or injure or destroy any building, structure, equipment, fence, bench, table, or any other property of the Municipal Parks and recreational areas. No person shall commit any waste on or litter the Municipal Parks or other public grounds.

Article 7. Swimming Pool

§3-701 MUNICIPAL SWIMMING POOL; OPERATION AND FUNDING. The Municipality owns and manages the Municipal Swimming Pool. The Governing Body, for the purpose of defraying the cost of the management, maintenance, and improvements of the Swimming Pool may each year levy a tax not exceeding the maximum limit prescribed by State law, on the actual valuation of all real estate and personal property within the Municipality that is subject to taxation. The revenue from the said tax shall be known as the Swimming Pool Fund and shall include all gifts, grants, deeds of conveyance, bequests, or other valuable income-producing personal property and real estate from any source for the purpose of endowing the Swimming Pool. The Swimming Pool Fund shall at all times be in the custody of the Municipal Treasurer. The Park, Tree, and Recreation Board of Commissioners shall manage the Swimming Pool. The Board shall have the power and authority to hire and supervise the Swimming Pool Manager and such employees as they may deem necessary and shall pass such rules and regulations for the operation of the Swimming Pool as may be proper for its efficient operation. All actions by the Board shall be under the supervision and control of the Governing Body. *(Ref. 17-948, 17-951, 17-952 RS Neb.)*

§3-702 MUNICIPAL SWIMMING POOL; RULES AND REGULATIONS. The Park, Tree, and Recreation Board of Commissioners 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. They may provide suitable penalties for the violation of such bylaws, rules, and regulations subject to the review and supervision of the Governing Body. (Ref. 17-949 RS Neb.)

§3-703 MUNICIPAL SWIMMING POOL; ADMISSION CHARGE. The Park, Tree, and Recreation Board of Commissioners may, for the purpose of defraying the expenses involved in maintaining, improving, managing, and beautifying the Swimming Pool, make a reasonable admission charge for the use by any person of the Municipal Swimming Pool. The said charges shall be on file at the office of the Municipal Clerk and shall also be posted in a conspicuous place at the Municipal 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. (Ref. 17-949 RS Neb.)

§3-704 MUNICIPAL SWIMMING POOL; RENTALS. The Park, Tree, and Recreation Board of Commissioners shall have the authority to rent the Municipal Swimming Pool to such organizations and other persons as they may in their discretion see fit, subject to the review of the Governing Body. The Board 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 Municipal Clerk and posted in a conspicuous place at the Municipal Swimming Pool. (Ref. 17-949 RS Neb.)

Article 8. Library

§3-801 MUNICIPAL LIBRARY; OPERATION AND FUNDING. The Municipality owns and manages the Municipal Library through the Library Board. The Governing Body, for the purpose of defraying the cost of the management, purchases, improvements, and maintenance of the Library may each year levy a tax not exceeding the maximum limit prescribed by State law, on the actual valuation of all real estate and personal property within the Municipality that is subject to taxation. The revenue from the said tax shall be known as the Library Fund and shall include all gifts, grants, deeds of conveyance, bequests, or other valuable income-producing personal property and real estate from any source for the purpose of endowing the Municipal Library. The Library Fund shall at all times be in the custody of the Municipal Treasurer. The Board shall have the power and authority to appoint the librarian and to hire such other employees as they may deem necessary and may pass such other rules and regulations for the operation of the Library as may be proper for its efficient operation. All actions by the Board shall be under the supervision and control of the Governing Body. (Ref. 51-201, 51-202, 51-211 RS Neb.)

§3-802 MUNICIPAL LIBRARY; BOOKS. The Library Board may authorize the sale, exchange, or disposal of any surplus, damaged, defective, obsolete, or duplicate

books in the Library. Records shall be kept of any such surplus, damaged, defective, obsolete, or duplicate books so disposed of. (Ref. 51-207 RS Neb.)

§3-803 MUNICIPAL LIBRARY; RULES AND REGULATIONS. The Library Board shall establish rules and regulations for the governing of the Municipal Library for the preservation and efficient management thereof. They shall fix and impose by general rules, penalties and forfeitures for injury to the Library grounds, rooms, books, or other property, or for failure to return a book. All fees, penalties, and forfeitures may be collected in civil action in the event of failure, neglect, or refusal to pay the said assessments. (Ref. 51-205, 51-214 RS Neb.)

§3-804 MUNICIPAL LIBRARY; BOOKS ISSUED. The Librarian shall keep, or cause to be kept, a register of all books issued and returned at the time they shall so be issued and returned. None of the books shall be detained more than fourteen (14) days without being renewed. No book may be renewed more than two (2) consecutive times by any person without the special permission of the Librarian or an authorized employee of the Municipal Library. (Ref. 51-211 RS Neb.)

§3-805 MUNICIPAL LIBRARY; DAMAGED AND LOST BOOKS. Any person who injures or fails to return any book taken from the Library shall forfeit and pay to the Library not less than the value of the book in addition to any replacement costs and penalty which the Library Board may assess. (Ref. 51-211 RS Neb.)

§3-806 MUNICIPAL LIBRARY; BOOK LABELING. It shall be the duty of the Librarian to label, or cause to be labeled, with a printed or stamped label, proof of Municipal ownership on each book, and also to write the said proof on the thirtieth (30th) page of each volume. (Ref. 51-211 RS Neb.)

§3-807 MUNICIPAL LIBRARY; BOOK REMOVAL. It shall be unlawful for any person not authorized by the regulations made by the Library Board to take a book from the Library, without the consent of the Librarian, or an authorized employee of the Library. Any person removing a book from the Library without properly checking it out shall be deemed to be guilty of an offense. (Ref. 51-211 RS Neb.)

§3-808 MUNICIPAL LIBRARY; COST OF USE. The Municipal Library shall be free for the use of the inhabitants of the Municipality. The Librarian may exclude from the use of the Library and reading rooms any person who shall willfully violate or refuse to comply with the rules and regulations established for the government thereof. (Ref. 51-201, 51-212 RS Neb.)

§3-809 MUNICIPAL LIBRARY; MONEY COLLECTED. Any money collected by the Library shall be turned over monthly by the Librarian to the Municipal Treasurer along with a report of the sources of the revenue. (Ref. 51-209 RS Neb.)

Article 9. Municipal Tree Dump

§3-901 MUNICIPAL TREE DUMP; OPERATION AND FUNDING. The Municipality owns and operates the Municipal Tree Dump through the Tree Dump Caretaker. The Governing Body, for the purpose of defraying the cost of the care, management, and maintenance of the Municipal Tree Dump may each year levy a tax not to exceed the maximum limit prescribed by State law, on the actual valuation of all real estate and personal property within the corporate limits that is subject to taxation. The revenue from the said tax shall be known as the Tree Dump Fund and shall remain in the custody of the Municipal Treasurer. The Tree Dump Caretaker shall have the direct management and control of the Municipal Tree Dump and shall faithfully carry out the duties of his position. The Tree Dump Caretaker shall have the authority to adopt rules and regulations for the sanitary and efficient management of the Tree Dump subject to the supervision and review of the Governing Body. The Governing Body shall provide by ordinance for the management and operation of the Tree Dump and shall set the rates to be charged for services rendered by ordinance and file the same in the office of the Municipal Clerk for public inspection at any reasonable time. *(Ref. 19-2101 through 19-2106 RS Neb.)*

Article 10. Penal Provision

§3-1001 VIOLATION; PENALTY. Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this Chapter, set forth at full length herein or incorporated by reference shall be deemed guilty of an offense and upon conviction thereof, shall be fined not more than five hundred (\$500.00) dollars for each offense. A new violation shall be deemed to have been committed every twenty-four (24) hours of such failure to comply.

CHAPTER 4 HEALTH AND SANITATION

Article 1. General Provisions

§4-101 HEALTH; REGULATIONS. For the purpose of promoting the health and safety of the residents of the Municipality, the Board of Health shall, from time to time, adopt such rules and regulations relative thereto and shall make such inspections, prescribe such penalties, and make such reports as may be necessary toward that purpose. *(Ref. 17-121 RS Neb.)*

§4-102 HEALTH; ENFORCEMENT OFFICIAL. The Nance County Sheriff as the Quarantine Officer, shall be the chief health officer of the Municipality. It shall be his duty to notify the Governing Body and the Board of Health of health nuisances within the Municipality and its zoning jurisdiction. *(Ref. 17-121 RS Neb.)*

§4-103 HEALTH; COUNTY HEALTH BOARD. It shall be the duty of the Board of Health to work closely with the County Health Board in protecting the health and welfare of the residents of the Municipality.

Article 2. Solid Waste Disposal

§4-201 SOLID WASTE DISPOSAL; DEFINITIONS. The following definitions shall be applied throughout this Article. Where no definition is specified, the normal dictionary usage of the word shall apply.

1. "Garbage" shall mean rejected food wastes, including waste accumulation of animal, fruit or vegetable matter used or intended for food or that attend the preparation, use, cooking, dealing in or storing of meat, fish, fowl, fruit, or vegetable.
2. "Hazardous waste" shall mean any waste designated or defined as a hazardous waste by N.A.C. Title 128 - Rules and Regulations Governing Hazardous Waste Management in Nebraska, which for purposes or general definition is a solid waste which, because of quantity, concentration, or physical, chemical or infectious characteristics may: (a) Cause, or significantly contribute to, an increase in mortality or an increase in serious, irreversible, or incapacitating reversible, illness; or (b) Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.
3. "Home-based business" shall mean a business, profession, service, or trade conducted for gain or support whereby the central office is located within a residential building in which the owner owns, rents, leases, or occupies.

4. "Refuse" shall mean putrescible and non-putrescible solid wastes, except body wastes, and include garbage, rubbish, ashes, incinerator ash, incinerator residue, street cleanings, industrial wastes, and other such wastes.
5. "Rubbish" shall mean non-putrescible solid wastes, excluding ashes, consisting of both combustible and noncombustible wastes, such as paper, cardboard, tin cans, wood, glass, bedding, crockery, or litter of any kind that will be a detriment to the public health and safety.
6. "Solid waste" shall mean any garbage, refuse, or sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, and mining operations, and from community activities.
7. "Yard waste" shall mean grass and leaves.

§4-202 CONTRACT FOR DISPOSAL OF SOLID WASTE: The City of Fullerton, Nebraska, shall provide or contract for facilities and systems as necessary for the safe and sanitary disposal of solid waste generated within its solid waste jurisdiction area. Such disposal shall comply with rules and regulations adopted and promulgated by the council for integrated solid waste management programs.

§4-203 GARBAGE HAULING AND DISPOSAL: SERVICE MANDATORY.

The Governing Body, in the interest of protecting the general health of the Municipality, has deemed it necessary to enter into a contract for the hauling and disposal of garbage, rubbish and waste from the Municipality. In order to provide this service, it is necessary for the Municipality to make this service mandatory on all businesses and all persons residing within the municipal limits. For the purposes of this Section the terms "business" and "persons", shall mean any of the categories for rates set out in this Ordinance or any contract for disposal services adopted by the City and all owners or occupants of premises within the jurisdiction of the City of Fullerton. As this service is deemed necessary to protect the general health of the Municipality, all premises in the city's jurisdiction are deemed served by the City's disposal system and shall be subject to the rates and charges established for the service unless the owner or occupant of the premises is exempt from such charges under the Integrated Solid Waste Management Act construed together with Fullerton City Ordinances and any disposal contract entered into by the City of Fullerton for garbage disposal services. Service shall be provided at least once a week. Rates for said service may be changed at any time by ordinance of the Governing Body.

§4-204 GARBAGE: HAULING AND DISPOSAL: RATES: AND RATE

ADJUSTMENTS. All garbage, waste, decayed or semi-solid matter or refuse shall be presented for disposal of by the owner or occupant of the premises in this

Municipality in a container provided by the contract hauler or as otherwise acceptable to the contract hauler. The rates for garbage hauling and disposal and other terms of the City's contract for the collection and disposal of nonhazardous solid waste are set forth in the Refuse Collection and Disposal Agreement hereafter a copy of which is kept at the City Office.

§4-205 BILLING FOR SERVICES Pursuant to the Integrated Solid Waste Management Act, the City of Fullerton elects to authorize Waste Connections of Nebraska, Inc, also known as HEARTLAND INC., to charge the owners of premises served such rates as are approved by the City Council.

If the service charges prescribed in this Article are not paid when due, such sums may be recovered by the Contract hauler in a civil action. In addition, the Contract hauler may certify a list of delinquent accounts to the City Clerk and discontinue service to such owners or occupants until the delinquent account is resolved. The Municipality may also take any action authorized by law to effect collection of the delinquent charges but is not required to do so under the present contract. The following constitute valid exemptions from the rates and charges authorized by this chapter and article:

A. Any solid waste generator within the municipal limits may elect to transport his, her or its individual solid waste out of the City Limits so long as the solid waste of such solid waste generator is then safely and sanitarly transported to a permitted landfill or transfer station and so long as such solid waste generator shall further comply with these rules and regulations and provide HEARTLAND INC. with a written statement and receipts as hereinafter described, then such solid waste generator shall be exempt from payment of the rates and charges for solid waste collection and disposal during the applicable period.

B. **Written Statement, Receipt, Governing Rules.** The solid waste generator desiring to be exempt from the rates and charges of the City shall first provide to the Contract Hauler a written statement described herein and be governed as follows:

1. The statement shall set forth the full legal name of the solid waste generator and/or person liable for the solid waste account if such solid waste were collected and disposed by HEARTLAND INC.;
2. The statement shall be signed by the solid waste generator;
3. The statement shall set forth the date when the solid waste generator will cease using the services of the City and will commence transporting and disposing of all of the generator's solid waste to a permitted landfill or permitted facility;
4. If the generator is causing the solid waste to be transported by an intermediary, such intermediary must file proof of financial responsibility with the City including

proof of liability insurance in the amount of \$500,000.00 per claim and proof of access to a permitted landfill or transfer station;

5. The generator shall provide the Contract Hauler with the “receipts” as required from time to time proving the safe and sanitary transportation and disposal of the solid waste generator’s solid waste at a permitted facility.

C. Written Statement Effective Period. The foregoing written statement may be executed and provided to the Contract Hauler at any time, and shall be effective with regard to exemption for rates and charges commencing the next billing period of the City or its contract hauler. The statement once filed with the City shall be deemed to be an election by the solid waste generator to opt out of the City's collection and disposal services, and the solid waste generator shall be deemed to remain as a person opting out of the City's services for collection and disposal until such time as the solid waste generator gives written notice that the generator desires to become a customer of the City, or the solid waste generator fails to provide the receipts as hereinafter provided.

D. Receipt. A receipt shall mean a written receipt from a permitted facility or transfer station or from an intermediary which has provided proof of responsibility. The "receipt" shall set forth the solid waste generator's name and address and shall bear the original signature of the authorized agent of the permitted facility or intermediary.

The solid waste generator shall submit at least one (1) receipt every six months. No solid waste generated within the City Limits shall be given to an intermediary other than HEARTLAND INC. within the City Limits or within the extra-territorial zoning jurisdiction of the City for transport to a permitted facility or transfer station except for special circumstances as set forth in the City’s agreement with HEARTLAND INC.

The Contract Hauler reserves at all times, the right to reject any receipt or written statement if the same is not prepared and filed with the Contract Hauler in accordance with these rules and regulations. “Permitted Facility” shall mean a facility approved by the Nebraska Department of Environmental Quality. “Licensed Hauler” shall mean a commercial garbage hauler specifically authorized by contract or written permit by the City of Fullerton to dispose of garbage and refuse generated within the city limits.

E. If the waste generator is absent from the premises served and no waste is generated from the premises for that reason for a period of at least one calendar month, the generator shall be exempt from the rates and charges for every complete calendar month absent during such period. The burden will be upon the generator to notify the Contract Hauler of such absence and the beginning and ending date of such absence. Premises which are vacant and unoccupied for periods exceeding one month are likewise exempt and the burden is upon the owner to notify the Contract Hauler that the premises are vacant in advance.

F. If the owner or occupant of premises located in the City limits shows good cause why the premises are exempt from billing, the Contract Hauler shall amend its billing records accordingly.

§4-206 SOLID WASTE DISPOSAL; HAZARDOUS WASTE OR WASTE REQUIRING SPECIAL HANDLING. Any person, firm, or corporation within the Municipal solid waste jurisdiction area who generates or creates hazardous waste or waste requiring special handling or disposal shall be responsible for arranging for the transportation and disposal of the same. All such handling and disposal shall in all respects comply with state and federal laws and regulations pertaining to the specific type of waste generated. *(Ref. 13-2020, 13-2023, 13-2026 RS Neb.)*

§4-207 ADDITIONAL REGULATIONS The governing body of the City of Fullerton, may make all necessary rules and regulations governing the use, operation and control of a Solid Waste Disposal facility or system and the regulation of solid waste, its collection and disposal. Such governing body may establish just and equitable rates or charges to be paid to it or its independent contractor for the use of such facility or system by each person whose premises are served by the facility or system, including charges for late payments.

§4-208 SOLID WASTE DISPOSAL; DEAD ANIMALS. All dead animals shall be immediately removed and lawfully disposed by the owner of such animals; and if the owner of such animal cannot be found within two (2) hours after discovering the same, then such animal may be removed by the Municipality and the cost assessed or charged to the owner. Dead animals shall not be buried within the corporate limits of the Municipality, nor within one (1) mile thereof, nor in or above the course of ground water that is used for drinking purposes by the Municipality or its inhabitants. *(Ref. 17-114, 17-123 RS Neb.)*

§4-209 GARBAGE: VIOLATION: PENALTY. Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this Ordinance shall be fined not more than \$500.00 for each offense. A new violation shall be deemed to have been committed every twenty-four (24) hours as such failure to comply. Whenever a violation exists, the Municipality may proceed by a suit in equity to enjoin and abate the same, in the manner provided by law.

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

Article 3. Nuisances

§4-301 NUISANCES; GENERALLY DEFINED. “Nuisance” shall mean any unlawful act, or omitting to perform a duty, or suffering or permitting any condition

or thing to be or exist, which act, omission, condition or thing either:

- (1) Injures or endangers the comfort, repose, health, or safety of others,
- (2) Offends decency,
- (3) Is offensive to the senses,
- (4) Unlawfully interferes with, obstructs, tends to obstruct or renders dangerous for passage any stream, public park, parkway, square, street, or highway in the Municipality,
- (5) In any way renders other persons insecure in life or the use of property, or
- (6) Essentially interferes with the comfortable enjoyment of life and property, or tends to depreciate the value of the property of others. (*Ref. 18-1720 RS Neb.*)

§4-302 NUISANCES; SPECIFICALLY DEFINED. The maintaining, using, placing, depositing, leaving, or permitting of any of the following specific acts, omissions, places, conditions, and things are hereby declared to be nuisances:

- (1) Any odorous, putrid, unsound or unwholesome grain, meat, hides, skins, feathers, vegetable matter, or the whole or any part of any dead animal, fish, or fowl.
- (2) Privies, vaults, cesspools, dumps, pits or like places which are not securely protected from flies or rats, or which are foul or malodorous.
- (3) Filthy, littered or trash-covered cellars, houseyards, barnyards, stable-yards, factory-yards, mill yards, vacant areas in rear of stores, granaries, vacant lots, houses, buildings, or premises.
- (4) Animal manure in any quantity which is not securely protected from flies and the elements, or which is kept or handled in violation of any ordinance of the Municipality.
- (5) Liquid household waste, human excreta, garbage, butcher's trimmings and offal, parts of fish or any waste vegetable or animal matter in any quantity; provided, nothing herein contained shall prevent the temporary retention of waste in receptacles in a manner provided by the health officer of the Municipality, nor the dumping of non-putrefying waste in a place and manner approved by the health officer.
- (6) Tin cans, bottles, glass, cans, ashes, small pieces of scrap iron, wire metal articles, bric-a-brac, broken stone or cement, broken crockery, broken glass, broken plaster, and all trash or abandoned material, unless the same is kept in covered bins or galvanized iron receptacles.
- (7) Trash, litter, rags, accumulations of barrels, boxes, crates, packing crates, mattresses, bedding, excelsior, packing hay, straw or other packing material, lumber not neatly piled, scrap iron, tin or other metal not neatly piled, old automobiles or parts thereof, or any other waste materials when any of said articles or materials create a condition in which flies or rats may breed or multiply, or which may be a fire danger or which are so unsightly as to depreciate property values in the vicinity thereof.
- (8) Any unsightly building, billboard, or other structure, or any old, abandoned

or partially destroyed building or structure or any building or structure commenced and left unfinished, which said buildings, billboards or other structures are either a fire hazard, a menace to the public health or safety, or are so unsightly as to depreciate the value of property in the vicinity thereof.

(9) All places used or maintained as junk yards, or dumping grounds, or for the wrecking and dissembling of automobiles, trucks, tractors, or machinery of any kind, or for the storing or leaving of worn-out, wrecked or abandoned automobiles, trucks, tractors, or machinery of any kind, or of any of the parts thereof, or for the storing or leaving of any machinery or equipment used by contractors or builders or by other persons, which said places are kept or maintained so as to essentially interfere with the comfortable enjoyment of life or property by others, or which are so unsightly as to tend to depreciate property values in the vicinity thereof.

(10) Stagnant water permitted or maintained on any lot or piece of ground.

(11) Stockyards, granaries, mills, pig pens, cattle pens, chicken pens or any other place, building or enclosure, in which animals or fowls of any kind are confined or on which are stored tankage or any other animal or vegetable matter, or on which any animal or vegetable matter including grain is being processed, when said places in which said animals are confined, or said premises on which said vegetable or animal matter is located, are maintained and kept in such a manner that foul and noxious odors are permitted to emanate therefrom, to the annoyance of inhabitants of the Municipality, or are maintained and kept in such a manner as to be injurious to the public health.

(12) Any refrigerator, icebox, freezer, or any other dangerous appliance in the open and accessible to children whether on private or public property; or

(13) All other things specifically designated as nuisances elsewhere in this Code. (*Ref. 18-1720 RS Neb.*)

§4-303 NUISANCES; ABATEMENT PROCEDURE. It shall be the duty of every owner, occupant, lessee, or mortgagee of real estate in the Municipality to keep such real estate free of public nuisances. Upon determination by the Board of Health, Health Officer or the Governing Body of the City of Fullerton that said owner, occupant, lessee, or mortgagee has failed to keep such real estate free of public nuisances, the City Clerk shall thereupon cause notice to be served upon the owner, occupant, lessee, mortgagee or agent thereof, by certified mail or by personal service. Such notice shall describe the condition as found and state that said condition has been declared a public nuisance, and that the condition must be remedied at once. The Clerk shall fix a hearing date which shall be included in the notice to be served upon the owner, occupant, lessee, or mortgagee, or agent of the real estate. Such notice shall require such party or parties to appear before the Governing Body to show cause why such condition should not be found to be a public nuisance and remedied. Whenever the owner, lessee, occupant, or mortgagee of such real estate is a non-resident or cannot be found in the State and has not been served by certified mail, then the Municipal Clerk shall publish, in a newspaper of general circulation in the Municipality, such notice of hearing for two (2)

consecutive weeks, the last publication to be at least one (1) week prior to the date set for the hearing. Upon the date fixed for the hearing and pursuant to notice, the Governing Body shall hear all objections made by interested parties and shall hear evidence. If after consideration of all of the evidence, the Governing Body shall find that the said condition is a public nuisance, it shall, by resolution, order and direct the owner, occupant, lessee, or mortgagee to remedy the said public nuisance at once; provided, the party or parties may appeal such decision to the appropriate court for adjudication, during which proceedings the decision of the Governing Body shall be stayed. Should the owner or occupant refuse or neglect to promptly comply with the order of the Governing Body, the Governing Body shall proceed to cause the abatement of the described public nuisance. Upon completion of the work by the Municipality, a statement of the cost of such work shall be transmitted to the Governing Body, which is authorized to bill the property owner or occupant, or to levy the cost as a special assessment against the land. Such special assessment shall be a lien on the real estate and shall be collected in the manner provided for special assessments. *(Ref. 18-1722 RS Neb.)*

§4-304 NUISANCE; DEAD OR DISEASED TREES. (1) It is hereby declared a nuisance for a property owner to permit, allow, or maintain any dead or diseased trees within the right-of-way of streets within the corporate limits of the Municipality.

(2) It is hereby declared a nuisance for a property owner to permit, allow, or maintain any dead or diseased trees on private property within the corporate limits of the Municipality. For the purpose of carrying out the provisions of this section, the Municipal Law enforcement officers or persons acting under their direction shall have the authority to enter upon private property to inspect the trees thereon.

(3) Notice to abate and remove such nuisance and notice of the right to a hearing and the manner in which it may be requested shall be given to each owner or owner's duly authorized agent and to the occupant, if any, by personal service or certified mail. Within thirty (30) days after the receipt of such notice, if the owner or occupant of the lot or piece of ground does not request a hearing or fails to comply with the order to abate and remove the nuisance, the Municipality may have such work done and may levy and assess all or any portion of the costs and expenses of the work upon the lot or piece of ground so benefited in the same manner as other special taxes for improvements are levied or assessed. *(Ref. 17-555, 18-1720, 28-1321 RS Neb.)*

§4-305 NUISANCES; JURISDICTION. The Mayor and Chief Law Enforcement Officer of the Municipality are directed to enforce this Municipal Code against all nuisances. The jurisdiction of the Mayor, the Municipal Law enforcement officers, and court shall extend to, and the territorial application of this Chapter shall include, all territory adjacent to the limits of the Municipality within one (1) mile thereof and all territory within the corporate limits. *(Ref. 18-1720 RS Neb.)*

§4-306 NUISANCES; ADJOINING LAND OWNERS; INTERVENTION

BEFORE TRIAL. In cases of appeal from an action of the Governing Body condemning real property as a nuisance or as dangerous under the police powers of the Municipality, the owners of the adjoining property may intervene in the action at any time before trial. (*Ref. 19-710 RS Neb*)

§4-307 OFFENSES; WEEDS, LITTER, STAGNANT WATER.

- (1) Any and all lots or pieces of ground within the Municipality shall be drained or filled so as to prevent stagnant water or any other nuisance accumulating thereon.
- (2) The owner or occupant of any lot or piece of ground within the Municipality shall keep the lot or piece of ground and the adjoining street and alleys free of any growth of twelve inches (12") or more in height of weeds, grasses, or worthless vegetation.
- (3) The throwing, depositing, or accumulation of litter on any lot or piece of ground within the Municipality is prohibited; provided that grass, leaves, and worthless vegetation may be used as a ground mulch or in a compost pile.
- (4) It is hereby declared to be a nuisance to permit, allow, or maintain any growth of twelve inches (12") or more in height of weeds, grasses, or worthless vegetation or to litter or cause litter to be deposited or remain thereon except in proper receptacles.
- (5) Any owner or occupant of a lot or piece of ground shall, upon conviction of violating this ordinance, shall be subject to the penalties provided in this code and to such civil and injunctive relief allowed by law.
- (6) 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, by personal service or certified mail. Within five (5) 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 Municipality or fails to comply with the order to abate and remove the nuisance, the Municipality may have such work done and may levy and assess the costs and expenses of the work upon the lot or piece of ground so benefited in the same manner as other special taxes for improvements are levied and assessed.
- (7) The notice may notify the owner, owner's agent or occupant that the property is a nuisance and that this notice shall apply for the remainder of the growing season; and if at any time growth exceeds twelve inches (12") in height of weeds, grasses or worthless vegetation after the first notice, that will be a separate offense. If the violation is a litter nuisance specifically described and the same litter is repeated by the owner, occupant or owner's agent that will be a separate violation. The growing season shall consist of April 1 through October 31.
- (8) For purposes of this section:
 - (a) Litter shall include:
 - (i) trash, rubbish, refuse, garbage, paper, rags and ashes;
 - (ii) wood, plaster, cement, brick, or stone building rubble;
 - (iii) grass, leaves, and worthless vegetation;
 - (iv) offal and dead animals; and
 - (v) any machine or machines, vehicle or vehicles, or parts of a machine or vehicle which have lost their identity, character, utility, or serviceability as such through deterioration, dismantling, or the ravages

of time, are inoperative or unable to perform their intended functions, or are cast off, discarded, or thrown away or left as waste, wreckage, or junk; and

(b) Weeds shall include, but not be limited to, bindweed (*convolvulus arvensis*), puncture vine (*tribulus terrestris*), leafy spurge (*euphorbia esula*), Canada thistle (*cirsium arvense*), perennial peppergrass (*lepidium draba*), Russian knapweed (*centaurea picris*), Johnson grass (*sorghum halepense*), nodding or musk thistle, quack grass (*agropyron repens*), perennial sow thistle (*sonchus arvensis*), horse nettle (*solanum carolinense*), bull thistle (*cirsium lanceolatum*), buckthorn (*rahmnus sp.*) (tourn), hemp plant (*cannabis sativa*), and ragweed (*ambrosiaceae*). (*Ref. 17-563.01, 18-1719 RS Neb.*)

§4-308 UNSAFE BUILDINGS; DEFINITION. The term "unsafe building" as used in this Article is hereby defined to mean and include any building, shed, fence, or other man-made structure (a) which is dangerous to the public health because of its condition, and which may cause or aid in the spread of disease or injury to the health of the occupants of it or neighboring structures; (b) which because of faulty construction, age, lack of proper repair, or any other cause is especially liable to fire and constitutes or creates a fire hazard; (c) which by reason of faulty construction or any other cause is liable to cause injury or damage by the collapse or fall of all or any part of such structure. Any such unsafe building in the Municipality is hereby declared to be a nuisance. (*Ref. 18-1720, 18-1722, 18-1722.01 RS Neb.*)

§4-309 UNSAFE BUILDINGS; PROHIBITION. It shall be unlawful to maintain or permit the existence of any unsafe building in the Municipality and it shall be unlawful for the owner, occupant, or person in custody of any dangerous building to permit the same to remain in an unsafe condition or to occupy such building or permit it to be occupied while it is in an unsafe condition. (*Ref. 18-1720, 18-1722, 18-1722.01 RS Neb.*)

§4-310 UNSAFE BUILDINGS; DETERMINATION AND NOTICE. Whenever the Board of Health, Health Officer or Governing Body shall be of the opinion that any building or structure in the Municipality is an unsafe building, a written statement to this effect shall be filed with the Municipal Clerk. The Clerk shall thereupon cause the property to be posted accordingly, and shall file a copy of such determination in the office of the County Register of Deeds, and shall serve written notice upon the owner thereof, and upon the occupant thereof, if any, by certified mail or by personal service. Such notice shall state that the building has been declared to be in an unsafe condition; and that such dangerous condition must be removed or remedied by repairing or altering the building or by demolishing it; and that the condition must be remedied within sixty (60) days from the date of receipt. Such notice may be in the following terms: "To

_____ (owner-occupant of premises) of
the premise known and described as _____.

"You are hereby notified that _____ (describe

building) on the premises above mentioned has been determined to be an unsafe building and a nuisance after inspection by _____.

The causes for this decision are _____ (here insert the facts as to the dangerous condition). You must remedy this condition or demolish the building within sixty (60) days from the date of receipt of this notice or the Municipality will proceed to do so. Appeal of this determination may be made to the Governing Body, acting as the Board of Appeals, by filing with the Municipal Clerk within ten (10) days from the date of receipt of this notice a request for a hearing." If the person receiving the notice has not complied therewith or taken an appeal from the determination of the officer or employee finding that a dangerous building exists within ten (10) days from the time when this notice is served upon such person by personal service or certified mail, the City may, upon orders of the Governing Body, proceed to remedy the condition or demolish the unsafe building. (Ref. 18-1720, 18-1722, 18-1722.01 RS Neb.)

§4-311 UNSAFE BUILDINGS; HEARING AND APPEAL. Upon receiving the notice to repair or demolish the building, the owner of the building, within the time stipulated, may in writing to the Municipal Clerk request a hearing before the Governing Body, sitting as the Board of Appeals, to present reasons why the building should not be repaired or demolished. The Clerk shall fix the hearing date and give notice to the owner by certified mail or personal service. The Governing Body shall hold such hearing within thirty (30) days from the date of receiving the request if practical. A written notice of the Governing Body's decision following the hearing shall be sent to the property owner by certified mail. If the Governing Body rejects the appeal, the owner shall have sixty (60) days from the sending of the decision to begin repair or demolition and removal. If after the sixty (60) day period the owner has not begun work, the Governing Body shall proceed to cause such work to be done; provided, the property owner may appeal such decision to the appropriate court for adjudication during which proceedings the decision of the Governing Body shall be stayed. Where the Municipality has not adopted a building code, the statutes of Nebraska relating to bonded indebtedness and collection of delinquent taxes shall apply. (Ref. 18-1720, 18-1722, 18-1722.01 RS Neb.)

§4-312 UNSAFE BUILDINGS; EMERGENCY. Where any unsafe building or structure poses an immediate danger to the health, safety, or general welfare of any person or persons, and the owner fails to remedy the situation in a reasonable time after notice by the Board of Health to do so, the Municipality may summarily repair or demolish and remove such building or structure.

§4-313 UNSAFE BUILDINGS; SPECIAL ASSESSMENTS. If any owner of any building or structure fails, neglects, or refuses to comply with notice by or on behalf of the Municipality to repair, rehabilitate, or demolish and remove a building or structure which is unsafe and a public nuisance, the Municipality may proceed with the work specified in the notice to the property owner. A statement of the cost of such work shall be transmitted to the Governing Body. The Governing Body may

(1) levy the cost as a special assessment against the lot or real estate upon which the building or structure is located, 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. Such special assessment shall be a lien on the real estate and shall be collected in the manner provided for special assessments. (Ref. 18-1720, 18-1722, 18-1722.01, 77-1725 RS Neb.)

Article 4. Penal Provision

§4-401 VIOLATION; PENALTY. Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this Chapter, set forth at full length herein or incorporated by reference shall be deemed guilty of an offense and upon conviction thereof, shall be fined not more than five hundred (\$500.00) dollars for each offense. A new violation shall be deemed to have been committed every twenty-four (24) hours of such failure to comply.

§4-402 ABATEMENT OF NUISANCE. Whenever a nuisance exists as defined in this Chapter, the Municipality 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 a part of the judgment in the case. (Ref. 18-1720, 18-1722 RS Neb.)

CHAPTER 5 TRAFFIC REGULATIONS

Article 1. General Provisions

§5-101 DEFINITIONS. The words and phrases used in this Chapter, pertaining to motor vehicles and traffic regulations, shall be construed as defined in Chapter 60, Article 6 of the Revised Statutes of Nebraska, 1943, as now existing or hereafter amended. If not defined in the designated statutes, the word or phrase shall have its common meaning. *(Ref. 60-606 through 60-676 RS Neb.)*

§5-102 TRUCK ROUTES. The Governing Body may, by resolution, designate certain streets in the Municipality that trucks shall travel upon, and it shall be unlawful for persons operating such trucks to travel on other streets than those designated for trucks, unless to pick up or deliver goods, wares, or merchandise, and in that event, the operator of such truck shall return to such truck routes as soon as possible in traveling through, or about the Municipality. The Governing Body shall cause notices to be posted, or shall erect signs indicating the streets so designated as truck routes. *(Ref. 60-681 RS Neb.)*

§5-103 CROSSWALKS. The Governing Body may, by resolution, establish and maintain, by appropriate devices, markers, or lines upon the street, crosswalks, at intersections where there is particular danger to pedestrians crossing the street, and at such other places as they may deem necessary. *(Ref. 60-680 RS Neb.)*

§5-104 SIGNS, SIGNALS. The Governing Body may, by resolution, provide for the placing of stop signs, or other signs, signals, standards, or mechanical devices in any street or alley under the Municipality's jurisdiction for the purpose of regulating, or prohibiting traffic thereon. Such resolution shall describe the portion of the street or alley wherein traffic is to be regulated or prohibited; the regulation or prohibition; the location where such sign, signal, standard or mechanical device shall be placed; and the hours when such regulation or prohibition shall be effective. It shall be unlawful for any person to fail, neglect, or refuse to comply with such regulation, or prohibition. *(Ref. 60-6,119 through 60-6,121, 60-680 RS Neb.)*

Article 2. Prohibitions and Enforcement

§5-201 TURNING; "U" TURNS. No vehicle shall be turned so as to proceed in the opposite direction, except at a street intersection. No vehicle shall be turned so as to proceed in the opposite direction at any intersection where an automatic signal is in operation, or where a sign is posted indicating that U-turns are prohibited. *(Ref. 60-680 RS Neb.)*

§5-202 SIGNS, TRAFFIC CONTROL DEVICES, TRAFFIC SURVEILLANCE DEVICES; DEFACING OR INTERFERING WITH. It shall be unlawful for any

person to willfully or maliciously deface, injure, remove, obstruct, knock down or interfere with any official traffic sign or signal, traffic control device, or traffic control surveillance device. (Ref. 60-6,129, 60-6,130 RS Neb.)

§5-203 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. (Ref. 60-6,127 RS Neb.)

§5-204 MANNER OF DRIVING; RATE OF SPEED. It shall be unlawful for any person operating a vehicle upon any of the highways of the Municipality to exceed the rate of speed authorized by the Governing Body, the provisions of the statute and rules of the road of the State of Nebraska, or the rate of speed indicated and designated by traffic signs at the entrance of respective traffic zones within the Municipality, or to drive at a rate of speed greater than is reasonable and prudent under the existing circumstances, or so as to hinder, obstruct, or delay, the lawful use of said highway by others; or to disregard, or fail to heed, any traffic sign or marker legally installed in said City. Provided the rate of speed in the various districts and zones in said City, shall not exceed the following:

- (1) "Residential District", 25 miles per hour.
 - (2) "Business District", 20 miles per hour.
 - (3) "School and Church Zones", and other places of public gathering, while pupils and/or congregations are in session, or gathering or dispersing, 15 miles per hour.
 - (4) "Highway Speed Zones", as hereinafter stated, and the areas as herein designated shall be excluded from the School and Church Zones and Residential and Business Districts:
 - (a) Johnson Street, otherwise known as State Highway 14 and 22, between the North City boundary (north of North Third Street), and North Second Street, 45 miles per hour.
 - (b) Johnson Street, between North Second Street and Carl Street, 35 miles per hour.
 - (c) Johnson Street, between Carl Street and South City boundary (Kenwood Street, extended), 45 miles per hour.
 - (d) Third Street, otherwise known as State Highway 22, from the West City boundary to the intersection of said street with Johnson Street, 35 miles per hour.
- (Ref. 60-6,186, 60-6,190 RS Neb.)

§5-205 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 a stop is necessary for emergency situations, to comply with traffic control devices and regulations, or to yield the right-of-way to pedestrians or to other vehicles. (Ref. 60-6,166, 60-680 RS Neb.)

§5-206 TRUCKS; WEIGHT LIMITS ON ARMOUR COATED STREETS.

That the Mayor and Council are desirous of protecting the armor coated streets in the Municipality. That in furtherance of this desire, the Mayor and City Council direct that there shall be no truck weighing in excess of twenty-four thousand (24,000) pounds traveling upon any armor coated street in the Municipality. Such streets shall be marked by the Municipality with the appropriate signs. Any person who violates the provisions of this section shall be guilty of a traffic offense. The fine for the first violation will be twenty-five dollars (\$25.00), and the fine for every subsequent violation will be fifty dollars (\$50.00). (Ref. 60-680 RS Neb.)

§5-207 POLICE; ENFORCEMENT. The Municipal Police are hereby authorized, empowered, and ordered to exercise all powers, and duties, with relation to the management of street traffic and to direct, control, stop, restrict, regulate, and, when necessary, temporarily divert, or exclude, in the interest of public safety, health, and convenience the movement of pedestrian, animal, and vehicular traffic of every kind in streets, parks, and on bridges. The driver of any vehicle shall stop upon the signal of any police officer. (Ref. 60-683 RS Neb.)

§5-208 EMERGENCY; REGULATIONS. The Nance County Sheriff is hereby empowered to make and enforce temporary traffic regulations to cover emergencies. (Ref. 81-2005 RS Neb.)

§5-209 TRAFFIC CITATIONS; DISPOSITION AND RECORDS. (1) The Nance County Sheriff upon issuing a traffic citation to an alleged violator of any provision of this Chapter shall deposit a copy of the traffic citation with the Municipal Attorney, unless the citation is just a warning.

(2) Upon the deposit of the traffic citation with the Municipal Attorney, such citation may be disposed of only by trial in said court, or other official action by the judge of the court, including a forfeiture of bail, or by the deposit of sufficient bail with, or payment of a fine to the court by the person to whom such traffic citation has been issued.

(3) It shall be unlawful for the Nance County Sheriff to dispose of a traffic citation, or copies thereof, or of the record of the issuance of the same in a manner other than as required herein. (Ref. 29-422, 29-424 RS Neb.)

Article 3. Parking

§5-301 PARKING; GENERALLY. No person shall park any vehicle, or approach the curb with a vehicle, except when headed in the direction of the traffic. Vehicles, when parked, shall stand parallel with and adjacent to the curb or edge of the roadway, in such manner as to have both right wheels within twelve inches (12") of

the curb or edge of the roadway, and so as to leave at least four feet (4') between the vehicle so parked and any other parked vehicles, except where the Governing Body designates that vehicles shall be parked at an angle so as to have the front right wheel at the curb or edge of the roadway. Where stalls are designated either on the curb or pavement, vehicles shall be parked within such stalls. No vehicle shall be parked upon a roadway when there is a shoulder adjacent to the roadway which is available for parking. (Ref. 60-680, 60-6,167 RS Neb.)

§5-302 PARKING; DESIGNATION. The Governing Body may, by resolution, designate any street, or portion thereof, where vehicles shall be parked parallel with and adjacent to the curb or at an angle so as to have the right front wheel at the curb. (Ref. 60-6,167, 60-680 RS Neb.)

§5-303 PARKING; AREAS. The Governing Body may, by resolution, set aside any street, alley, public way, or portion thereof where the parking of a particular kind or class of vehicle shall be prohibited, or where the parking of any vehicle shall be prohibited. No vehicle prohibited from parking thereon shall stand or be parked adjacent to the curb of said street, alley, public way, or portion thereof, longer than a period of time necessary to load and unload freight or passengers. (Ref. 60-680 RS Neb.)

§5-304 PARKING; OBSTRUCTING SIDEWALKS. No vehicle, while parked, shall have any portion thereof obstructing any sidewalk used for pedestrian travel. (Ref. 60-680 RS Neb.)

§5-305 PARKING; TIME LIMIT. The Governing Body may, by resolution, entirely prohibit, or fix a time limit for, the parking and stopping of vehicles on any street, streets, or district designated by such resolution, and the parking, or stopping, of any vehicle in any such street, streets, or district, for a period of time longer than fixed in such resolution shall constitute a violation of this Article. (Ref. 60-680 RS Neb.)

§5-306 PARKING; MAXIMUM TIME LIMIT. The parking of a motor vehicle on a public street for over twenty-four (24) consecutive hours is unlawful, except where a different maximum time limit is posted. (Ref. 60-680 RS Neb.)

§5-307 PARKING; SNOW REMOVAL AND MAINTENANCE. Inasmuch as the Municipality needs Broadway Street clear for proper maintenance, snow removal, and cleaning by a mechanized cleaner, it is unlawful for any motor vehicle to be parked along the curb on Broadway Street between First Street and Fifth Street from 2:00 AM to 5:30 AM each day. (Ref. 60-680 RS Neb.)

§5-308 PARKING; HANDICAPPED OR DISABLED PERSONS; DESIGNATION OF ONSTREET PARKING SPACES; DISPLAY OF PERMITS. (1) The Governing Body may designate parking spaces for the

exclusive use of (a) handicapped or disabled persons whose vehicles display the distinguishing license plates issued to handicapped or disabled persons pursuant to *Section 60-311.14 RS Neb.*, (b) handicapped or disabled persons whose vehicles display a distinguishing license plate issued to a handicapped or disabled persons by another state, (c) such other handicapped or disabled persons or temporarily handicapped or disabled persons, as certified by the Governing Body, whose vehicles display the identification specified in section 5-313, and (d) such other motor vehicles, as certified by the Governing Body, which display such identification. All such permits shall be displayed in the operator's area in a conspicuous location upon the vehicle's dashboard or its equivalent so as to be clearly visible through the front windshield.

(2) Whenever the Governing Body so designates a parking space, it shall be indicated by a sign which is in conformance with the Manual on Uniform Traffic Control Devices. In addition to such sign, the space may also be indicated by blue paint on the curb or edge to the paved portion of the street adjacent to the space. (*Ref. 18-1737 RS Neb.*)

§5-309 PARKING; HANDICAPPED OR DISABLED PERSONS;

DESIGNATION OF OFFSTREET PARKING SPACES. The Governing Body and any person in lawful possession of any off-street parking facility may designate stalls or spaces in such facility for the exclusive use of (a) handicapped or disabled persons whose vehicles display the distinguishing license plates issued to such individuals pursuant to *Section 60-311.14 RS Neb.*, (b) such other handicapped or disabled persons or temporarily handicapped or disabled persons, as certified by the Governing Body, whose vehicles display the identification specified in section 5-313, and (c) such other motor vehicles, as certified by the Governing Body, which display such identification. Such designation shall be made by posting immediately adjacent to and visible from each stall or space a sign which is in conformance with the Manual on Uniform Traffic Control Devices. (*Ref. 18-1737 RS Neb.*)

§5-310 PARKING; HANDICAPPED OR DISABLED PERSONS,

HANDICAPPED PARKING INFRACTION; DEFINED. For the purposes of sections 5-308 to 5-317, the following terms shall be defined to mean as follows:

(1) Handicapped or disabled person shall mean any individual with a severe visual or physical impairment which limits personal mobility and results in an inability to travel unassisted more than two hundred feet (200') without the use of a wheelchair, crutch, walker, or prosthetic, orthotic, or other assistant device, any individual whose personal mobility is limited as a result of respiratory problems, and any individual who has lost all or substantially all the use of one or more limbs;

(2) Temporarily handicapped or disabled person shall mean any handicapped or disabled person whose personal mobility is expected to be limited in such a manner for no longer than one (1) year; and

(3) Handicapped parking infraction shall mean the violation of any section of this Article regulating the use of parking spaces designated for use by handicapped or disabled persons.

(Ref. 18-1738, 18-1741.01 RS Neb.)

§5-311 PARKING; HANDICAPPED OR DISABLED PERSONS; PERMIT ISSUANCE.

(1) The Municipal Clerk shall take an application from handicapped or disabled or temporarily handicapped or disabled persons or their parent, legal guardian, or foster parent for a permit which will entitle the holder thereof or a person driving a motor vehicle for the purpose of transporting such holder to park in those spaces provided for by this Article. Persons applying for a permit shall complete such forms as are provided to the Municipal Clerk by the Department of Motor Vehicles and shall demonstrate to the satisfaction of the Municipal Clerk that he or she is handicapped or disabled. The Municipal Clerk may require medical certificates and proof of a handicap or disability.

(2) The Municipal Clerk shall issue a permit to approved applicants, and before issuing such permit, shall enter all information required pursuant to section 5-313. The Municipal Clerk shall submit the Department of Motor Vehicles the name, address, and license number of all persons receiving a permit pursuant to this section. *(Ref. 18-1738 RS Neb.)*

§5-312 PARKING; HANDICAPPED OR DISABLED PERSONS; MOTOR VEHICLE PERMIT ISSUANCE.

(1) The Municipal 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 Article, if the motor vehicle is used primarily for the transportation of such persons. Such parking permit shall be used only when the motor vehicle for which it was issued is being used for the transportation of handicapped or disabled persons or temporarily handicapped or disabled persons.

(2) 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 Municipal Clerk that each such motor vehicle is used primarily for the transportation of handicapped or disabled persons or temporarily handicapped or disabled persons.

(3) The Municipal Clerk shall issue a permit to approved applicants, and before issuing such permit, shall enter all information required pursuant to section 5-313. The Municipal Clerk shall submit to the Department of Motor Vehicles the name, address, and license number of all persons receiving a permit pursuant to this section. *(Ref. 18-1738.01 RS Neb.)*

§5-313 PARKING; HANDICAPPED OR DISABLED PERSONS; PERMIT CONTENTS, DUPLICATE PERMITS.

(1) The permit to be issued by the Municipal Clerk shall be a card four inches (4") by four inches (4") in size

constructed so that it may be easily and conspicuously displayed from a vehicle's rearview mirror and on which is prominently displayed the date of expiration, the internationally accepted wheelchair symbol, which symbol is a representation of a person seated in a wheelchair surrounded by a border six (6) units wide by seven (7) units high, and an identifying number on the front of the card. The color of the permit issued to handicapped or disabled persons or for the transportation of such persons shall be white on blue. The permit issued to temporarily handicapped or disabled persons or for the transportation of such persons shall be a special distinguishing color as determined by the Department of Motor Vehicles. The name, address, phone number, date of birth, and age of the handicapped or disabled or temporarily handicapped or disabled person to whom issued shall appear on the reverse side. The name, address, and phone number of the party to whom issued and the license plate number of the motor vehicle for which the permit is issued shall appear on the reverse side of the permit if such permit is issued for a motor vehicle used primarily for the transportation of handicapped or disabled or temporarily handicapped or disabled persons.

(2) No permit shall be issued to any person or for any motor vehicle if any valid parking permit has been issued to such person or for such motor vehicle if such permit has been suspended pursuant to 5-315.

(3) A duplicate permit may be provided by the Municipal Clerk without cost if the original permit is destroyed, lost, or stolen. Such duplicate permit shall be issued in the same manner as the original permit and shall be valid for the remainder of the period for which the original permit was issued. (*Ref. 18-1739 RS Neb.*)

§5-314 PARKING; HANDICAPPED OR DISABLED PERSONS; PERMITS; PERIOD VALID; RENEWAL; FEE. (1) All permits authorized under this Article for handicapped or disabled parking shall be issued for a period of three (3) years from the date of issuance. All temporarily handicapped or disabled parking permits authorized under this Article shall be issued for a period ending ninety (90) days from the date of issuance but may be renewed for up to three (3) additional ninety-day (90) periods. For each additional ninety-day (90) renewal period, there shall be submitted an additional application with proof of a handicap or disability and the required permit fee.

(2) A permit fee of three dollars (\$3.00) shall be charged for each permit, two dollars and fifty cents (\$2.50) of which shall be retained by the Municipal Clerk and fifty cents (\$0.50) shall be forwarded on a quarterly basis to the Department of Motor Vehicles. (*Ref. 18-1740 RS Neb.*)

§5-315 PARKING; HANDICAPPED OR DISABLED PERSONS; PERMITS NONTRANSFERABLE; VIOLATION; SUSPENSION. Permits issued under this Article shall not be transferable, and shall be used only by the party to whom issued or for the motor vehicle for which issued and only for the purpose for which it is issued. Use by any other person, for any other motor vehicle, or for any other purpose shall be cause for suspension of such permit for a period of six (6) months. At the expiration of such period, a suspended permit may be renewed upon the

payment of the permit fee. (*Ref. 18-1741 RS Neb.*)

§5-316 PARKING; HANDICAPPED OR DISABLED PERSONS; REMOVAL OF UNAUTHORIZED VEHICLE; PENALTY.

(1) The owner or person in lawful possession of an off-street parking facility, after notifying the Police or Sheriff's Department, and the Municipality providing on-street parking or owning, operating, or providing 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, of any vehicles not displaying proper identification or the distinguishing license plates specified in this Article if there is posted immediately adjacent to and visible from such stall or space a sign which clearly and conspicuously states the area so designated as a tow-in zone.

(2) Anyone parking 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 identification or when the handicapped or disabled person to whom or for whom the license plate or permit is issued is not being transported shall be guilty of a handicapped parking infraction as defined in section 5-310, and shall be subject to the procedures as set forth in section 5-317 and the penalty provided for in this Chapter. If the identity of the person who parked the vehicle in violation of this section cannot be readily determined, the owner or person in whose name the vehicle is registered shall be held prima facie responsible for such violation and shall be guilty and subject to the penalty provided for in this Chapter.

(3) In the case of a privately owned off-street parking facility, the owner or person in lawful possession of such facility shall inform the Municipality of a violation of this section prior to taking any action pursuant to this section. (*Ref. 18-1737 RS Neb.*)

§5-317 PARKING; HANDICAPPED OR DISABLED PERSONS; CITATION, ISSUANCE; COMPLAINT; TRIAL.

(1) For any offense classified as a handicapped parking infraction, a handicapped parking citation may be issued by any peace officer or by any person designated by ordinance by the Governing Body to exercise the authority to issue a citation for any handicapped parking infraction.

(2) When a handicapped parking citation is issued for a handicapped parking infraction, the person issuing the handicapped parking citation shall enter thereon all required information, including the name and address of the cited person or, if not known, the license number and description of the offending motor vehicle, the offense charged, and the time and place the person cited is to appear in court. Unless the person cited requests an earlier date, the time of appearance shall be at least three (3) days after the issuance of the handicapped parking citation. One (1) copy of the handicapped parking citation shall be delivered to the person cited or attached to the offending motor vehicle.

(3) At least twenty-four (24) hours before the time set for the appearance of

the cited person, either the Municipal Attorney or other person authorized by law to issue a complaint for the particular offense shall issue and file a complaint charging such person with a handicapped parking infraction or such person shall be released from the obligation to appear as specified.

(4) The trial of any person for a handicapped parking infraction shall be by the court without a jury. A person cited for a handicapped parking violation may waive his or her right to trial. (Ref. 18-1741.01, 18-1741.04, 18-1741.06 RS Neb.)

§5-318 PARKING; REMOVAL OF ILLEGALLY PARKED VEHICLES.

(1) Whenever any Police Officer shall find a vehicle standing upon a street or alley in violation of any of the provisions of the Article, such individual may remove or have such vehicle removed, or require the driver or other person in charge of the vehicle to move such vehicle, to a position off the roadway of such street or alley or from such street or alley.

(2) The owner or other person lawfully entitled to the possession of any vehicle towed or stored shall be charged with the reasonable cost of towing and storage fees. Any such towing or storage fee shall be a lien upon the vehicle prior to all other claims. Any person towing or storing a vehicle shall be entitled to retain possession of such vehicle until such charges are paid. The lien provided for in this section shall not apply to the contents of any vehicles. (Ref. 60-6,165, 60-680 RS Neb.)

§5-319 ENGINE BRAKES; UNLAWFUL USE. It shall be unlawful for any person operating a motor vehicle equipped with engine brakes, commonly known as "jake brakes", to use such engine brakes within the city limits of Fullerton, Nance County, Nebraska. Provided however, it shall be permitted to use engine brakes in an emergency situation.

§5-330 ALL-TERRAIN VEHICLE (ATV); DEFINED An all-terrain vehicle as the term is defined in *Nebraska Rules of the Road Section 60-6,355* may not be operated on the streets, alleys and sidewalks of the City, except under the conditions set out in Sections 2 and 3.

Section 1. The conditions for the operation of an all-terrain vehicle within the City are as follows:

- a. The operation must occur only between the hours of sunrise and sunset.
- b. Any person operating an all-terrain vehicle shall have a valid Class O operator's license or a farm permit as provided in *Nebraska Rules of the Road Section 60-4,126*.
- c. The operator shall have liability insurance coverage for the all-terrain vehicle while operating the all-terrain vehicle on a public road, and the operator shall provide proof of insurance to any peace officer requesting such proof within five days of such a request.
- d. The operator shall not operate the all-terrain vehicle at a speed in

excess of 15 miles per hour and if the speed limit posted in the City is less than 30 miles per hour for a motor vehicle, the operator shall not operate the all-terrain vehicle in excess of the speed limit provided by the City Ordinances for motor vehicles.

- e. The all-terrain vehicle shall have a headlight and a taillight and these must be on and the all-terrain vehicle shall be equipped with a bicycle safety flag that extends not less than five feet above the ground, attached to the rear of the vehicle. The safety flag shall be triangular in shape with an area of not less than thirty square inches and shall be day-glow in color.
- f. The all-terrain vehicle may only be operated for the purpose of snow removal, debris removal, chemical spraying or agricultural purposes as defined in Section 3.

§5-331 ATV, AGRICULTURAL PURPOSES DEFINED;

Agricultural purposes as defined in the City of Fullerton are as follows: Driving from field to field, transporting equipment and moving livestock.

§5-332 ATV, PARADES DEFINED;

An all-terrain vehicle may be operated without complying with the Section 1 requirements in parades that have been authorized by the State of Nebraska or by a political subdivision of the State of Nebraska.

§5-333 ATV USE, VIOLATION;

Any person violating any provisions of this Ordinance shall be fined in a sum not to exceed \$500.00 and assessed the Court costs of prosecution, except that if such a person is convicted of a second or subsequent offense within any period of one year, that person shall be fined a minimum of \$200.00.

Article 4. Penal Provision

§5-401 VIOLATION; PENALTY. Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this Chapter, set forth at full length herein or incorporated by reference shall be deemed guilty of an offense and upon conviction thereof, shall be fined not more than five hundred (\$500.00) dollars for each offense. A new violation shall be deemed to have been committed every twenty-four (24) hours of such failure to comply.

CHAPTER 6 POLICE REGULATIONS

Article 1. Dogs

§6-101 DOGS; LICENSE. Any person who shall own, keep, or harbor a dog over the age of six (6) months within the Municipality shall within thirty (30) days after acquisition of the said dog acquire a license for each such dog annually by or before the first (1st) day of May of each year. The said tax shall be delinquent from and after May tenth (10th); provided, the possessor of any dog brought into or harbored within the corporate limits subsequent to May first (1st) 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 (10) days thereafter. Licenses shall be issued by the Municipal Clerk upon the payment of a license fee of five (\$5.00) dollars for each neutered male dog and spayed female dog and ten (\$10.00) dollars for each unneutered male dog and unspayed female dog. 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 and upon printed forms provided for such purpose, his name and address and the name, breed, color, and sex of each dog owned and kept by him. A certificate that the dog has had a rabies shot, effective for the ensuing year of the license, shall be presented when the license is applied for and no license or tag shall be issued until the certificate is shown. (*Ref. 54-603 RS Neb.*)

§6-102 DOGS; LICENSE TAGS. (1) Upon the payment of the license fee, the Municipal Clerk or designated Veterinary Clinic shall issue to the owner of a dog a license certificate and a metallic tag for each dog so licensed. The metallic tags shall be properly attached to the collar or harness of all dogs so licensed and shall entitle the owner to keep or harbor the said dog until the thirtieth (30th) day of April following such licensing. In the event that a license tag is lost and upon satisfactory evidence that the original plate or tag was issued in accordance with the provisions herein, the Municipal Clerk or designated Veterinary Clinic shall issue a duplicate or new tag for the balance of the year for which the license tax has been paid and shall charge and collect a fee set by resolution of the Governing Body for each duplicate or new tag so issued. All license fees and collections shall be immediately credited to the General Fund. It shall be the duty of the Municipal Clerk or designated Veterinary Clinic to issue tags of a suitable design that are different in appearance each year. (*Ref. 17-526, 54-603 RS Neb.*)

(2) All dogs defined as dangerous or potentially dangerous will be required to wear a special tag.

(3) This ordinance does not apply to animals being transported through the City of Fullerton city limits within a seven (7) day period of time.

§6-103 DOGS; VACCINATION REQUIRED. Every dog inside the City limits of

the City of Fullerton, Nance County, Nebraska, upon reaching the age of five (5) months shall be vaccinated by a licensed veterinarian with an anti-rabies vaccine. Each such dog shall again be vaccinated at least every three (3) years by a licensed veterinarian with anti-rabies vaccine. The owner shall be required to present proof of such vaccination to the Municipal Clerk or other dog licensing agency prior to a dog license being issued by the City of Fullerton to the owner of the dog. (Ref. 17-526)

§6-104 DOGS; 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 Municipal identification than that issued by the Municipal Clerk for dogs, nor shall the owner, keeper, or harbinger wrongfully and knowingly license an unsprayed female dog with a license prescribed for a male or sprayed female dog. (Ref. 17-526, 54-603 RS Neb.)

§6-105 DOGS; OWNER DEFINED. Any person who shall harbor or permit any dog to be for ten (10) days or more in or about his or her house, store, or enclosure, or to remain to be fed, shall be deemed the owner and possessor of such dog and shall be deemed to be liable for all penalties herein prescribed. (Ref. 54-606, 71-4401 RS Neb.)

§6-106 DOGS; PROCLAMATION. It shall be the duty of the Governing Body whenever in its opinion the danger to the public safety from rabid dogs is great or imminent, to issue a proclamation ordering all persons owning, keeping, or harboring any dog to muzzle the same, or to confine it for a period of not less than thirty (30) days or more than ninety (90) days from the date of such proclamation, or until such danger is passed. The dogs may be harbored by any good and sufficient means in a house, garage, or yard on the premise wherein the said owner may reside. Upon issuing the proclamation it shall be the duty of all persons owning, keeping, or harboring any dog to confine the same as herein provided. (Ref. 17-526 RS Neb.)

§6-107 DOGS; RUNNING AT LARGE. It shall be unlawful for the owner of any dog to allow such dog to run at large at any time within the corporate limits of the Municipality. It shall be the duty of the Nance County Sheriff's Department to cause any dog found to be running at large within the Municipality to be taken up and impounded. "Running at large" shall mean any dog found off the premise 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. (Ref. 17-526 RS Neb.)

§6-108 DOGS; CAPTURE IMPOSSIBLE. The Municipal 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. (Ref. 54-605 RS Neb.)

§6-109 DOGS; INTERFERENCE WITH POLICE. It shall be unlawful for any person to hinder, delay, or interfere with any Animal Control Officer who is performing any duty enjoined upon him by the provisions of this Article, or to break open, or in any manner directly or indirectly aid, counsel, or advise the breaking open of the animal shelter, any ambulance wagon, or other vehicle used for the collecting or conveying of dogs to the shelter. *(Ref. 28-906 RS Neb.)*

§6-110 DOGS; KILLING AND POISONING. It shall be unlawful to kill, or to administer, or cause to be administered, poison of any sort to a dog, or in any manner to injure, maim, or destroy, or in any manner attempt to injure, maim, or destroy any dog that is the property of another person, or to place any poison, or poisoned food where the same is accessible to a dog; provided, that this section shall not apply to Municipal Policemen acting within their power and duty. *(Ref. 28-1002 RS Neb.)*

§6-111 DOGS; BARKING AND OFFENSIVE. It shall be unlawful for any person to own, keep, or harbor any dog which by loud, continued, or frequent barking, howling, or yelping shall annoy or disturb any neighborhood, person, or which habitually barks at or chases pedestrians, drivers, or owners of horses or vehicles while they are on the public sidewalks, streets or alleys in the Municipality. Upon receiving a complaint that any dog is an annoyance or is a disturbance, any law enforcement officer may investigate the complaint and issue a citation upon substantiating the complaint. If no complaint is received, a dog shall be presumed to be annoying or disturbing the peace of a person or neighborhood if it barks frequently or continuously for 30 minutes or more after 11:00 PM and before 7:00 PM as documented by any law enforcement officer. Barking dogs are considered a nuisance and the Municipality 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 a part of the judgment in the case.

§6-112 DOGS; LIABILITY OF OWNER. It shall be unlawful for any person to allow a dog owned, kept, or harbored by him, or under his charge or control, to injure or destroy any real or personal property of any description belonging to another person. The owner or possessor of any such dog, in addition to the usual judgment upon conviction, may be made to be liable to the persons so injured in an amount equal to the value of the damage so sustained. *(Ref. 54-601, 54-602 RS Neb.)*

§6-113 DOGS; REMOVAL OF TAGS. It shall be unlawful for any person to remove or cause to be removed, the collar, harness, or metallic tag from any licensed dog without the consent of the owner, keeper, or possessor thereof. *(Ref. 17-526 RS Neb.)*

§6-114 DOGS; IMPOUNDING. It shall be the duty of the Nance County Sheriff's Department to capture, secure, and remove in a humane manner to the Veterinary Clinic any dog violating any of the provisions of this Article. The dogs so impounded shall be treated in a humane manner and shall be provided with a sufficient supply of food and fresh water each day. Each impounded dog shall be kept and maintained at the pound for a period of not less than two (2) days after public notice has been given unless reclaimed earlier by the owner. Notice of impoundment of all animals, including any significant marks or identifications, shall be posted at the office of the Municipal Clerk within twenty-four (24) hours after impoundment as public notification of such impoundment. Any dog may be reclaimed by its owner during the period of impoundment by payment of all expenses incurred by the Veterinary Clinic pertaining to such impoundment. The owner shall then be required to comply with the licensing and rabies vaccination requirements before the dog may be released. If the dog is not claimed at the end of required waiting period after public notice has been given the Nance County Sheriff's Department may dispose of the dog in accordance with the applicable rules and regulations pertaining to the same; provided, that if, in the judgment of the Nance County Sheriff's Department, a suitable home can be found for any such dog within the Municipality, the said dog shall be turned over to that person and the new owner shall then be required to pay all fees and meet all licensing and vaccinating requirements provided in this Article. The Municipality shall acquire legal title to any unlicensed dog impounded in the Veterinary Clinic for a period longer than the required waiting period after giving notice. All dogs shall be destroyed and buried in the summary and humane manner as prescribed by the Board of Health unless a suitable home can be found for such dog.

§6-115 DOGS; RABIES SUSPECTED. Any dog suspected of being afflicted with rabies, or any dog not vaccinated in accordance with the provisions of this Article which has bitten any person and caused an abrasion of the skin, shall be seized and impounded under the supervision of the Board of Health for a period of not less than ten (10) days. If upon examination by a veterinarian, the dog has no clinical signs of rabies at the end of such impoundment, it may be released to the owner, or, in the case of an unlicensed dog, it shall be disposed of in accordance with the provisions herein. If the owner of the said dog has proof of vaccination, it shall be confined by the owner or some other responsible person for a period of at least ten (10) days, at which time the dog shall be examined by a licensed veterinarian. If no signs of rabies are observed, the dog may be released from confinement. (*Ref. 71-4406 RS Neb.*)

§6-116 DANGEROUS DOGS; DEFINITIONS.

- (1) Animal Control Officer shall mean any individual employed, appointed, or authorized by an Nance County Sheriff's Department for the purpose of aiding in the enforcement of this Chapter or any other law or ordinance relating to the licensing of animals, control of animals, or seizure and impoundment of animals and shall include any state or local law enforcement or other employee

whose duties in whole or in part include assignments that involve the seizure and impoundment of any animal.

(2) Dangerous Dog shall mean any dog that, according to the records of the Nance County Sheriff's Department:

(a) Has killed or inflicted severe injury on a human being on public or private property;

(b) Has killed a domestic animal without provocation while the dog was off the owner's property; or

(c) Has been previously determined to be a potentially dangerous dog by the Nance County Sheriff's Department and the owner is on notice of such determination and such dog aggressively bites, attacks, or endangers the safety of humans or domestic animals. A dog shall not be defined as a dangerous dog if the threat, any injury that is not a severe injury, or the damage was sustained by a person who, at the time, was committing a willful trespass as defined in section 20-203, 28-520, or 28-521 RS Neb. or any other tort upon the property of the owner of the dog, who was tormenting, abusing, or assaulting the dog, who has, in the past, been observed or reported to have tormented, abused, or assaulted the dog, or who was committing or attempting to commit a crime;

(3) Domestic Animal shall mean a cat, a dog, or livestock;

(4) Owner shall mean any person, firm, corporation, organization, political subdivision, or department possessing, harboring, keeping, or having control or custody of a dog;

(5) Potentially Dangerous Dog shall mean:

(a) Any dog that when unprovoked:

(i) Inflicts a non-severe injury on a human or injures a domestic animal either on public or private property, or;

(ii) Chases or approaches a person upon streets, sidewalks, or any public grounds in a menacing fashion or apparent attitude of attack, or;

(b) Any specific dog with a known propensity, tendency, or disposition to attack when unprovoked, to cause injury, or to threaten the safety of humans or domestic animals;

(c) Any dog classified as a vicious dog.

(6) Severe Injury shall mean any physical injury that results in disfiguring lacerations requiring multiple sutures or cosmetic surgery or one or more broken bones or that creates a potential danger to the life or health of the victim. (*Ref. 54-617 RS Neb.*)

(7) Vicious Dogs as used in this ordinance means: (a) any Pit Bull Terrier, which shall be defined as any American Pit Bull Terrier or Staffordshire Bull Terrier or American Staffordshire Terrier breed of dog, or any mixed breed of dog which contains, as an element of its breeding the breed Pit Bull Terrier; (b) any Doberman Pinscher as defined by the American Kennel Club, or mixed dog containing as elements of its breeding, the breed Doberman Pinscher; (c) any Rottweiler as defined by the American Kennel Club, or mixed dog containing as elements of its breeding, the breed Rottweiler; (c) any Chow as defined by the American Kennel Club, or mixed dog containing as elements of its breeding, the breed Chow. (Ref. 54-617 RS Neb.)

§6-117 DANGEROUS DOGS; RESTRAINED. No owner of a dangerous dog shall permit the dog to go beyond the property of the owner unless the dog is restrained securely by a chain or leash. (Ref. 54-618 RS Neb.)

§6-118 DANGEROUS DOGS; CONFINED. (1) While unattended on the owner's property, a dangerous dog shall be securely confined, in a humane manner, indoors, in a securely enclosed and locked pen or structure suitably designed to prevent the entry of young children and to prevent the dog from escaping, The pen or structure shall have secure sides sufficient to prevent the escape of the animal, if the pen or structure has no bottom secured to the sides, the sides shall be embedded into or secured to the ground. The pen or structure shall also protect the dog from the elements. The owner of a dangerous dog shall post a warning sign on the property, where the dog is kept, that is clearly visible and that informs persons that a dangerous dog is on the property. (Ref. 54-619 RS Neb.)

(2) Any potentially dangerous dog will, at a minimum, be attached to a chain or leash of sufficient strength to restrain the animal. If the potentially dangerous dog is left unattended on a chain/leash, the chain/leash shall be of a length that restricts the range of the potentially dangerous dog to a minimum clearance of 20 linear feet from any public right of way, where normal pedestrian traffic is expected. (Ref. 54-619 RS Neb.)

§6-119 DANGEROUS DOGS; FAILURE TO COMPLY. (1) Any dangerous dog may be immediately confiscated by an animal control officer if the owner is in violation of this Article. The owner shall be responsible for the reasonable costs incurred by the Nance County Sheriff's Department for the care of a dangerous dog confiscated by an Animal Control Officer or for the destruction of any dangerous dog if the action by the Nance County Sheriff's Department is pursuant to law and if the owner violated this Article.

(2) In addition to any other penalty, a court may order the Nance County Sheriff's Department to dispose of a dangerous dog in an expeditious and humane manner. (Ref. 54-620 RS Neb.)

Article 2. Animals Generally

§6-201 ANIMALS; DEFINITIONS. For the purpose of this Article, the following definitions will prevail:

- (1) "Animal" means any and all types of animals both domesticated and wild, male and female, singular and plural.
- (2) "Fowl" means any and all fowl, domesticated and wild, male and female, singular and plural.
- (3) "At large" means off the premises of the owner or custodian of the animal or fowl, and not under the immediate control of the owner or custodian.

§6-202 ANIMALS; RUNNING AT LARGE; PROHIBITED. No person in charge, custody or control thereof, shall permit any animal or fowl to go loose or run at large in any of the public ways, or upon the property of another, in the Municipality or to be tethered or staked out in such a manner as to allow said animal to reach to or pass into any public way, or upon the property of another, except in enclosed places on private property owned or leased by the owner of such animal or fowl. *(Ref. 17-547 RS Neb.)*

§6-203 ANIMALS; PROPERTY OWNER MAY IMPOUND. Any person finding any animal or fowl upon his property to his injury or annoyance may take up same and remove it to any private or other animal shelter that will take possession of it. If no such shelter is available, he may hold the animal or fowl in his own possession, and as soon as possible notify the Nance County Sheriff's Department of this custody, giving a description of the animal or fowl and the name of the owner if known. *(Ref. 17-547 RS Neb.)*

§6-204 ANIMALS; ANIMAL CONTROL OFFICER TO TAKE POSSESSION. The Nance County Sheriff's Department as soon as possible after receiving notice will dispatch an officer to appear at the premises and take possession of the animal or fowl. *(Ref. 17-547 RS Neb.)*

§6-205 ANIMALS; RETURN TO OWNER. If the Animal Control Officer has or with reasonable dispatch can obtain the name of the owner or custodian of the animal or fowl, he will return it to the residence address. If there is no one at the address, he will leave a notice where the owner or custodian may reclaim the property. He will then proceed to the nearest veterinary clinic or shelter which will accept the animal or fowl and leave it. He will then secure or cause to be secured and serve or have served a warrant of arrest on the owner or custodian for permitting the animal or fowl to go at large. *(Ref. 17-547 RS Neb.)*

§6-206 ANIMALS; OWNER TO PAY BOARD FOR ANIMAL. The owner or custodian who redeems an animal or fowl from a veterinary clinic or shelter shall pay the expenses of the veterinary clinic or shelter pertaining to such impoundment.

(Ref. 17-547 RS Neb.)

§6-207 ANIMALS; DISPOSITION IF OWNER NOT FOUND. Any Animal Control Officer or designated person picking up an animal or fowl and after reasonable diligence is unable to find who owns or has custody of it, will take it to the nearest veterinary clinic or shelter and leave it. (Ref. 17-547 RS Neb.)

§6-208 ANIMALS; OFFICER MAY IMPOUND. Any Animal Control Officer or other person designated by the Municipality for such purpose is authorized to capture and impound any animal or fowl found at large, impounding to be in accordance with the procedure authorized by this Article. In the event capture cannot be effected promptly, the officer or person is authorized to destroy the animal or fowl.

§6-209 ANIMALS; DISPOSITION OF UNREDEEMED ANIMALS. Any animal or fowl not redeemed within 48 hours will be disposed of in such manner as previously agreed upon between the Municipality and owner of the veterinary clinic or shelter. The owner of the hospital or shelter is made an agent of the City for this purpose, and his actions in this regard are declared to be for a governmental purpose. (Ref. 17-547 RS Neb.)

§6-210 ANIMALS; DISPOSITION OF LARGE ANIMALS. Should any Animal Control Officer or designated person upon call or upon his own initiative pick up a large animal such as a horse, cow or mule or any other animal not acceptable by any veterinary clinic or shelter, he is authorized to call a trucking firm or company. The firm or company will convey the animal to a farm previously arranged by the Municipality to handle such cases. The disposition of the animal in this case shall be handled in the same manner as though it were in a veterinary clinic or shelter. (Ref. 17-547 RS Neb.)

§6-211 ANIMALS; NUMBER OF ANIMALS ON PREMISES LIMITED.

(1) No more than four (4) dogs or four (4) cats over the age of six months shall be kept on any premises within the city limits of Fullerton without a special use permit. Except as otherwise permitted by the Fullerton Zoning Regulations, no livestock shall be allowed on any premises within the city limit without a permit. The number of livestock allowed on any premises will be set forth in the permit and the number shall be determined based on the size of the parcel, its location, and historical use of the premises. Nothing in this section is intended to terminate a nonconforming use that existed prior to the adoption of the Fullerton Zoning Regulations unless the use has been abandoned or discontinued for 12 consecutive months. However, any such nonconforming use may be expanded or changed without a permit including but not limited to increasing the numbers of animals, expanding any structure or subdividing the real property. Any permit granted shall be appurtenant to the real estate and shall continue until the land is subdivided unless the permit is revoked according to law. There shall be no fee for an application for a

permit to keep livestock until January 1, 2007 after which date the fee shall be \$50.00 or the same as the fee for a Special Use Permits established by the Mayor and the City Council from time to time.

(2) Livestock shall be defined as any cow, horse, pig, goat, llama, domestic fowl or other domestic animal not normally considered a household pet.

(Ref. 17-547 RS Neb.)

§6-212 ANIMALS; WITHIN FIFTY FEET OF RESIDENCE. There shall be provided sufficient and suitable shelter for all animals or fowls kept under the provisions of this Article, and such shelter structure shall comply in all respects with any building and zoning regulations of the Municipality; provided, however, no enclosure, pen or shelter structure for any animal or fowl shall be nearer than fifty (50) feet to any building or structure used for residence purposes, either when located on the same lot or plot of ground or on adjoining property. *(Ref. 17-547 RS Neb.)*

§6-213 ANIMALS; SANITARY REGULATIONS. All pens, enclosures and shelter structures wherein animals or fowls are kept under this Article shall be kept in a sanitary condition, and the bedding, offal, manure and waste materials accumulating from such animals or fowls shall be removed or disposed of in a sanitary manner; and all such pens, enclosures and shelter structures shall, at all times be kept clean or disinfected so as to prevent the breeding of flies and other bacteria carrying insects and the emission of offensive odors. It shall be the duty of the board of health to enforce the provisions of this Article. *(Ref. 17-547 RS Neb.)*

Article 3. Municipal Offenses

§6-301 OFFENSES; DISTURBING THE PEACE. It shall be unlawful for any person or persons to:

(1) assemble or gather within the Municipality with the intent to do an unlawful or disorderly act or acts, by force or violence against the Municipality, or residents therein, or who shall disturb the public peace, quiet, security, repose, or sense of morality or

(2) engage in unreasonably loud conduct. For purposes of this section, unreasonably loud shall mean that which can be heard one hundred and fifty feet (150') away and which does not result from a legitimate commercial activity, conducted in the quietest fashion reasonably possible. This section shall not apply to horns or other noises intended to warn another of danger. The type of conduct prohibited includes, but is not limited to, loud music, shouts, honking, banging, or any other noise not necessary as a warning or resulting from a commercial activity as set forth above.

Any person or persons so assembled, gathered or engaging in loud conduct shall be deemed to be guilty of an offense. *(Ref. 28-818 RS Neb.)*

§6-305 OFFENSES; DISCHARGE OF FIREARMS. It shall be unlawful for any

person, except an officer of the law in the discharge of his official duty, to fire or discharge any gun, pistol, or other fowling piece within the Municipality; provided, nothing herein shall be construed to apply to officially sanctioned public celebrations if the persons so discharging firearms have written permission from the Governing Body. (Ref. 17-556 RS Neb.)

§6-306 OFFENSES; DISORDERLY CONDUCT. Any person who shall knowingly start a fight, fight, commit assault or battery, make unnecessary noise, or otherwise conduct themselves in such a way as to breach the peace shall be deemed to be guilty of a misdemeanor. (Ref. 17-129, 17-556 RS Neb.)

§6-307 OFFENSES; 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.

§6-308 OFFENSES; CURFEW HOURS (1) It shall be unlawful for any person under the age of 16 years to loiter, idle, wander, stroll, play or be in or upon the public streets, public places and public buildings, places of amusement and entertainment, vacant buildings, vacant lots operate any bicycle or other vehicle or be a passenger in such vehicle, in, upon, over or through the streets or other public places of the city between the hours of 11:00 P.M. of any day until the hour of 6:00 A.M. of the following day, unless such a 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 on the way to or from legitimate employment by the most direct route or is upon an emergency errand directed by his/her parents, guardian or legal custodian, except as hereinafter provided.

(2) It shall be unlawful for any person over the age of 15 years but 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, vacant lots operate any bicycle or other vehicle or be a passenger in such vehicle, in, upon, over or through the streets or other public places of the city between the hours of 12:00 Midnight of any day until the hour of 6:00 A.M. of the following day, unless such a 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 on the way to or from legitimate employment by the most direct route or is upon an emergency errand directed by his/her parents, guardian or legal custodian, except as hereinafter provided.

(3) Nothing herein contained shall prohibit said minor persons from attending special school functions or adult supervised entertainment conducted by any school, church or fraternal organization, which continue beyond the curfew hours as set out in Subsections (1) and (2) above. In all 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.

(4) It shall be unlawful for the parent, guardian or other adult person, having

the care and custody of minors under the age of 18 years to allow or permit said minor person to do any of the acts or things prohibited by this Section.

(5) Any violation of the foregoing provisions of this article by a minor at the discretion of the City Attorney be brought as a Juvenile Court action and the minor shall be subject to the possible dispositions set forth in Nebraska Juvenile Code Section 43-286 Neb Rev Stat 2004 as amended.

§6-309 OFFENSES; ABANDONED AUTOMOBILES. (1) It shall be unlawful to abandon any automobile on the Municipal streets, highways, alleys, parks or other property. An automobile shall be deemed to be abandoned if left unattended:

- (a) With no number plates affixed thereto, for more than six (6) hours on any public property; or,
- (b) For more than twenty-four (24) hours on any public property, except a portion thereof on which parking is legally permitted; or,
- (c) For more than forty-eight (48) hours, after the parking of such vehicle shall have become illegal, if left on a portion of a public property on which parking is legally permitted; or,
- (d) For more than seven (7) days on private property if left initially without permission of the owner, or after permission of the owner shall be terminated.

(2) The title to any automobile so abandoned which at the time of such abandonment, has no number plates of the current year affixed and is of a wholesale value, taking into consideration the condition of such vehicle, of one hundred dollars (\$100.00) or less, shall immediately vest in the Municipality. In the event the automobile is licensed for the current year or is of a wholesale value of over one hundred dollars (\$100.00), the Municipal Police shall make a reasonable effort to contact the owner of the said automobile by sending a notice to the registered owner, if known; by sending an inquiry to the county it is registered in, if the owner is unknown; or by contacting the Director of Motor Vehicles, if the car is without license plates and the owner is unknown. If notified by the Director of Motor Vehicles that a lien or mortgage exists on said vehicle, notice shall also be sent to the lienholder or mortgagee. Any person claiming such vehicle shall be required to pay the cost of removal and storage of such vehicle. If the owner, lienholder or mortgagee, is known and does not claim the automobile within five (5) days after the date when the notice was mailed, or upon receiving word from the Director of Motor Vehicles that the owner is unknown, title will immediately vest in the Municipality and the automobile may be sold. Any proceeds from the sale of the automobile less any expenses incurred by the Municipality in such sale shall be held without interest for the benefit of the owner of such vehicle for a period of two (2) years. If not claimed within such period of time, the proceeds shall then be paid into the General Fund.

(3) For purposes of this section, public property shall mean any public right-of-way, street, highway, alley, park or other state, county or Municipally-owned property; and private property shall mean any privately-owned property which is not

included within the definition of public property.

(4) Any person who abandons an automobile as hereinbefore defined shall be deemed to be guilty of an offense. (*Ref. 60-1901 - 60-1911 RS Neb.*)

§6-310 OFFENSES; UNLICENSED OR INOPERABLE VEHICLES. No person in charge or control of any property within the Municipality, other than Municipal property, whether as owner, tenant, occupant, lessee, or otherwise, shall allow any partially dismantled, inoperable, wrecked, junked, or discarded vehicle to remain on such property longer than thirty (30) days. No unlicensed vehicle shall be permitted to remain on any private or public property for any length of time; provided, this section shall not apply to a vehicle in an enclosed building; to a vehicle on the premises of a business enterprise, operated in a lawful place and manner, when such vehicle is necessary to the lawful operation of the business; or to a vehicle in an appropriate storage place or depository maintained in a lawful place and manner by the Municipality. Any vehicle allowed to remain on property in violation of this section shall constitute a nuisance and shall be abated, and any person violating this section shall be guilty of an offense.

§6-311 OFFENSES; DISCHARGE OF FIREWORKS. Permissible fireworks may be sold at retail or offered for sale at retail within the City of Fullerton only during those times allowed by State law and regulations. It shall be unlawful to discharge, explode, or use permissible fireworks on said dates before 8:00 AM. and after 11:00 PM, except on July 4 when permissible fireworks may be lawfully discharged, exploded, or used between the hours of 8:00 AM and 12:00 midnight. Permissible fireworks may be discharged between 8:00 AM and 12:00 midnight on Monday, July 5th or as otherwise permitted by resolution of the City Council. It shall be unlawful to discharge non-permissible fireworks at any time.

**§6-312 SEXUAL PREDATOR RESIDENCY RESTRICTIONS;
DEFINITIONS:**

- (1) Child care facility means a facility licensed pursuant to the Child Care Licensing Act;
- (2) School means a public, private, denominational or parochial school which meets the requirements for state accreditation or approval;
- (3) Reside means to sleep, live or dwell at a place which may include more than one location and may be mobile or transitory;
- (4) Residence means a place where an individual sleeps, lives or dwells, which may include more than one location and may be mobile or transitory;
- (5) Sex Offender means an individual who has been convicted of a crime listed in Neb. Rev. Stat. Section 29-4003 and such section's future amendments and who is required to register as a sex offender pursuant to the Sex Offender Registration Act;
- (6) Sexual Predator means an individual who is required to register under the Sex Offender Registration Act, who has committed an aggravated offense as defined in *Nebraska Revised Statute Section 29-4001.01* and who has victimized a person eighteen years of age or younger.

§6-313 SEXUAL PREDATOR RESIDENCY RESTRICTIONS;

A. Prohibited Location of Residence: It is unlawful for any sexual predator to reside within five hundred (500) feet from a school or child care facility.

B. Measure of Distance: For purposes of determining the minimum distance separation, the distance shall be measured by following a straight line from the outer property line of the residence to the nearest outer boundary line of the school or child care facility.

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

D. Exceptions: This ordinance shall not apply to a sexual predator who:

(1) Resides within a prison or correctional or treatment facility operated by the State or a political subdivision;

(2) Established a residence before July 1, 2006 and has not moved from that residence; or

(3) Established a residence after July 1, 2006 and the school or child care facility triggering the restriction was established after the initial date of the sexual predator's residence at that location.

Article 4. Penal Provision

§6-401 VIOLATION; PENALTY. Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this Chapter, set forth at full length herein or incorporated by reference shall be deemed guilty of an offense and upon conviction thereof, shall be fined not more than five hundred (\$500.00) dollars for each offense. A new violation shall be deemed to have been committed every twenty-four (24) hours of such failure to comply.

§6-402 ABATEMENT OF NUISANCE. Whenever a nuisance exists as defined in this Chapter, the Municipality 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 a part of the judgment in the case. (*Ref. 18-1720, 18-1722 RS Neb.*)

CHAPTER 7 FIRE REGULATIONS

Article 1. Fires

§7-101 FIRES; DISORDERLY SPECTATOR. It shall be unlawful for any person during the time of a fire and for a period of thirty-six (36) hours after its extinguishment to hinder, resist or refuse to obey the Municipal Fire Chief, or to act in a noisy or disorderly manner. The Fire Chief and Assistant Fire Chief shall have the power and authority during such time to arrest or command any such person to assist them in the performance of their official duties. *(Ref. 28-908 RS Neb.)*

§7-102 FIRES; EQUIPMENT. It shall be unlawful for any person except the Fire Chief and the members of the Municipal Fire Department to molest, destroy, handle or in any other way to interfere with the use and storage of any of the fire trucks and other apparatus belonging to the Municipality. *(Ref. 28-519 RS Neb.)*

§7-103 FIRES; INTERFERENCE. It shall be unlawful for any person or persons to hinder or obstruct the Municipal Fire Chief or the members of the Fire Department in the performance of their duty. *(Ref. 28-908 RS Neb.)*

§7-104 FIRES; OBSTRUCTION. It shall be unlawful for any person to obstruct the use of a fire hydrant, or have or place any material within fifteen (15') feet of the said hydrant. Any vehicle or material found as an obstruction may be immediately removed by the Fire Chief or any member of the Fire Department, at the risk, cost, and expense of the owner or claimant. *(Ref. 60-6,166 RS Neb.)*

§7-105 FIRES; TRAFFIC. Every vehicle already stationary when the fire alarm shall have been sounded must remain so for a period of five (5) minutes after the sounding of the fire alarm. No vehicle, except by the specific direction of the Fire Chief or Assistant Fire Chief, shall follow, approach or park closer than five hundred (500) feet to any fire vehicle, or to any fire hydrant to which a hose is connected. Nothing herein shall be construed to apply to vehicles carrying doctors, members of the Fire Department, or emergency vehicles. *(Ref. 60-6,183 RS Neb.)*

§7-106 FIRES; PEDESTRIANS. It shall be unlawful for any pedestrian to enter or remain in any street after a fire alarm shall have sounded until the fire trucks shall have completely passed. *(Ref. 28-908 RS Neb.)*

Article 2. Fire Limits

§7-201 FIRE LIMITS; DEFINITIONS. For the purposes of this Article, the following terms, phrases, words, and their derivations shall have the meaning given herein:

(1) "Building" shall mean a house for business, residence, or public use or for the

shelter of man or beast or the storage or display for sale of goods, wares and merchandise; or any erection connected with the temporary or permanent use of man; any fixture or article of a chattel nature which can be severed from the land after having been affixed to it.

- (2) "Structure" shall mean any production or piece of work used for shelter artificially built up or composed of parts joined together in some definite manner and not necessarily affixed to the land, although resting upon it and capable of being moved from one place to another.
- (3) "Ironclads" shall mean buildings, sheds, or structures constructed of wood and covered with sheet iron or tin, or constructed of sheet iron or tin attached to a frame work or posts or any skeleton support constructed of wood or other combustible material.
(*Ref. 17-550 RS Neb.*)

§7-202 FIRE LIMITS; TERRITORY COMPRISING FIRE LIMITS. The following territory shall constitute the fire limits of the Municipality:

Commencing at a point 125 feet east of the northwest corner of block eight (8), in the original town, now City of Fullerton, as shown by the recorded plat thereof in the recorder's office of Nance County, Nebraska, running thence due south on a line parallel with Fuller Street to the north boundary of Fourth Street, thence east along the north line of Fourth Street to a point twenty-five feet (25') east of the east line of the alley running north and south through blocks nine (9) and twelve (12) of the original village, now City of Fullerton, thence north on a parallel line with the east line of said alley to the south line of Second Street, thence west along said south line of Second Street to the place of beginning.

§7-203 FIRE LIMITS; NEW CONSTRUCTION AND ADDITIONS. It shall be unlawful for any person, persons, company or corporation to build, erect, construct or cause to be built, erected or constructed any wooden or other combustible building or part thereof or to enlarge any such building, or to build any addition thereto within the fire limits.

- (1) Building Requirements. Every building hereafter erected or enlarged within the fire limits shall be enclosed on all sides with walls constructed wholly of stone, well-burned brick, terra cotta, concrete or equivalent incombustible materials; provided, roofs and dormer windows on said masonry buildings may be constructed with wood joints but said roofs and dormer windows shall, in all cases, be covered with non-combustible material, with tin, iron, plate, tile or fireproof roof; and provided further, incombustible materials may be construed to include wood when applied to floors in any building within the fire limits. All cornices shall be of incombustible material.
- (2) Minor Repairs. Minor repairs on existing wooden or ironclad structures, such as to stop leaky shingle roofs, siding on existing warehouses or storage sheds,

where the work might be fairly construed as patching or covering small areas on the outside or inside of combustible buildings, shall not require fireproof materials.

- (3) Roofing. When combustible buildings are permitted to be roofed or reroofed in the fire limits, roof covering over all combustible roof construction shall be either of the following kinds: Composition roofings bearing the label and laid in the manner provided by the Underwriters Laboratory, Inc., for Class A and B; concrete slab or concrete tile; slate; clay; tile; or asphalt.

§7-204 FIRE LIMITS; MOVING COMBUSTIBLE BUILDINGS. It shall be unlawful for any person, persons, company or corporation to move in, on or place upon any lot or parcel of ground within the fire limits, any wooden or combustible building or structure, or of any part thereof, which had been built, erected or constructed elsewhere, or to remove any such building or structure or part thereof from one part of the same lot to another part thereof within said fire limits.

- (1) Temporary Permits. Upon application in writing from the owner or agent, permission may be granted by a two-thirds vote of the members required to be elected to the Council for a temporary removal of said combustible building to such a location in the street or other place within said fire limits as said council shall specify, when the owner of any such building desires immediately to construct on its former site a building of non-combustible material and shall immediately after the completion of said non-combustible building, move said combustible building outside of the fire limits.
- (2) Bond. Before any such permits shall be issued, the owner or agent desiring the same shall furnish the City with a good and sufficient bond conditioned to save the City harmless from any liability occasioned by such removal.
- (3) Penalty. There is hereby imposed a payment of a penalty of ten dollars (\$10.00) per day for each and every day such combustible building is allowed to remain on its temporary site after the completion of the non-combustible building.

§7-205 FIRE LIMITS; BARRICADES AND LIGHTS. It shall be the duty of the owner, tenant, lessee or contractor, and of all or any of them, during the construction of any building or improvement upon or near the line of any public street, highway, alley or sidewalk to have all excavations or exposures of any kind protected and guarded by suitable guards or barricades by day, and by warning red lights at night. In case of the failure, neglect, or refusal of said persons, or any of them, to erect such guards and keep the street, highway, or sidewalk well and securely guarded, it shall be lawful for the Street Superintendent or any police officer of City forthwith to stop all work upon said buildings and improvements until guards are erected and kept in the manner aforesaid.

§7-206 FIRE LIMITS; DAMAGED BUILDINGS OR STRUCTURES.

Whenever any wooden or any non-combustible building stands within said fire limits and it shall be damaged by fire or other casualty to the extent of fifty percent

(50%) or more of its value (exclusive of foundation), it shall not be repaired or rebuilt, but shall be taken down and removed.

- (1) Time Limitation. The building so damaged shall be removed within sixty (60) days from the date of the casualty causing the damage.
- (2) Penalty. It shall be unlawful for any person, persons, company or corporation to repair or rebuild any such damaged building or structure or for any owner thereof to fail to remove any such damaged building or structure and to protect and guard the public from injury or damage arising out of such excavation or open basement remaining, if any, within thirty (30) days after notice to do so from the Mayor and Council of the City.
- (3) Removal by City. If such owner fails or neglects to remove said building or structure, and to protect and guard the public from injury or damage arising out of such excavation or open basement remaining, if any, as commanded by said notice, the City Administrator, upon motion of the Council, shall remove or cause to be removed said building or structure and shall protect and guard said excavation or open basement, if any, and shall report the cost and expenses thereof to the City attorney who shall collect such cost and expense from said owner by civil suit or otherwise in the name of the City.

Article 3. Fire Prevention

§7-301 FIRE PREVENTION; OPEN BURNING BAN; WAIVER. (1) There shall be a statewide open burning ban on all bonfires, outdoor rubbish fires, and fires for the purpose of clearing land.

(2) The Fire Chief of the Municipal Fire Department or his or her designee may waive an open burning ban under subsection (1) of this section for an area under his or her jurisdiction by issuing an open burning permit to a person requesting permission to conduct open burning. The permit issued by the Fire Chief or his or her designee to a person desiring to conduct open burning shall be in writing, signed by the Fire Chief or his or her designee, and on a form provided by the State Fire Marshal.

(3) The Municipal Fire Chief or his or her designee may waive the open burning ban in his or her jurisdiction when conditions are acceptable to the Chief or his or her designee. Anyone burning in such jurisdiction when the open burning ban has been waived shall notify the Fire Department of his or her intention to burn.

(4) The Municipal Fire Chief may adopt and promulgate rules and regulations listing the conditions acceptable for issuing a permit to conduct open burning under subsection (2) of this section.

(5) The Municipal Fire Department may charge a fee, not to exceed ten dollars (\$10.00), for each such permit issued. This fee shall be remitted to the Governing Body for inclusion in the general funds allocated to the Fire Department. Such funds shall not reduce the tax requirements for the Fire Department. No such fee shall be collected from any state or political subdivision to which such a permit is issued to conduct open burning under subsection (2) of this section in the course

of such state's or political subdivision' s official duties. (Ref. 81-520.01 RS Neb.)

Article 4. Penal Provision

§7-401 VIOLATION; PENALTY. Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this Chapter, set forth at full length herein or incorporated by reference shall be deemed guilty of an offense and upon conviction thereof, shall be fined not more than five hundred (\$500.00) dollars for each offense. A new violation shall be deemed to have been committed every twenty-four (24) hours of such failure to comply.

CHAPTER 8 PUBLIC WAYS AND PROPERTY

Article 1. Municipal Property

§8-101 MUNICIPAL PROPERTY; DEFINITIONS. The following definitions shall be applied throughout this Chapter. When no definition is specified, the normal dictionary usage of the word shall apply.

Sidewalk Space: The term "sidewalk space" as used herein, shall mean that portion of a street between curb lines and adjacent property lines.

§8-102 MUNICIPAL PROPERTY; MAINTENANCE AND CONTROL. The Governing Body shall have the care, supervision, and control of all public highways, bridges, streets, alleys, public squares, and commons within the Municipality, and shall cause the same to be kept open and in repair, and free from nuisances. (*Ref. 17-567 RS Neb.*)

§8-103 MUNICIPAL PROPERTY; OBSTRUCTIONS. Trees and shrubs, growing upon, or near, the lot line, or upon public ground and interfering with the use, or construction of any public improvements shall be deemed an obstruction under this Article. Said trees, shrubs and their roots may be removed by the Municipality at the expense of the owner of the property upon which the tree or shrub is located should the owner fail, or neglect, after notice, to do so. It shall be unlawful for any person, persons, firm, or corporation to obstruct, or encumber, by fences, gates, buildings, structures, or otherwise, any of the streets, alleys, or sidewalks. (*Ref. 17-557.01 RS Neb.*)

§8-104 MUNICIPAL PROPERTY; OVERHANGING BRANCHES. The owner or occupant of any lot, piece, or parcel of ground abutting or adjacent to any street or sidewalk over which there extends the branches of trees shall at all times keep the branches or limbs thereof trimmed to the height of at least eight (8') feet above the surface of said walk and at least fifteen (15') feet above the surface of said street. Whenever the limbs or branches of any tree or trees extend over streets or sidewalks contrary to the provisions herein so as to interfere with the lighting of the street from street lights, or with the convenience of the public using said street or sidewalk, the Governing Body at any regular or special meeting may pass a resolution ordering the owner or occupant to cut or remove said obstructions within five (5) days after having received a copy thereof from the Street Superintendent stating that the Municipality will remove said branches and charge the costs thereof to the owner or occupant as a special assessment for improvements as herein provided, if said resolution is not complied with. In the event the property owner is a nonresident of the county in which the property lies, the Municipality 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. (Ref. 17-557.01 RS Neb.)

§8-105 MUNICIPAL PROPERTY; SALE AND CONVEYANCE.

(A) Except as provided in subsection (G) of this section, the power of the city to convey any real property owned by it, including land used for park purposes and public squares, except real property used in the operation of public utilities, shall be exercised by resolution, directing the sale at public auction or by sealed bid of such property and the manner and terms thereof, except that such property shall not be sold at public auction or by sealed bid when:

- (1) Such property is being sold in compliance with the requirements of federal or state grants or programs;
- (2) Such property is being conveyed to another public agency, or;
- (3) Such property consists of streets and alleys.

(B) The City Council may establish a minimum price for such real property at which bidding shall begin or shall serve as a minimum for a sealed bid.

(C) After the passage of the resolution directing the sale, notice of all proposed sales property described in division (A) of this section and the terms thereof, shall be published once each week for three (3) 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 against such sale is signed by registered voters of the city equal in number to 30% of the registered voters of the city voting at the last regular municipal election held therein and is filed with the City Council, such property shall not then, nor within one year thereafter, be sold. If the date for filing the remonstrance falls upon a Saturday, Sunday, or legal holiday, the signatures shall be collected within the 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 remonstrance. The City Council shall deliver the remonstrance to the Election Commissioner or County Clerk by hand carrier, by use of law enforcement officials, or by certified mail, return receipt requested.

(3) Upon receipt of the remonstrance, the Election Commissioner or County Clerk shall issue to the City Council a written receipt that the remonstrance is in the custody of the Election Commissioner or County Clerk. The Election Commissioner or County Clerk shall compare the signature of each person signing the remonstrance with the voter registration records to determine if each signer was a registered voter on or before the date on which the remonstrance was filed with the City Council. The Election Commissioner or County Clerk shall also compare the signer's printed name, street and number or voting precinct, and city or post office address with the

voter registration records to determine whether the signer was a registered voter. The signature and address shall be presumed to be valid only if the Election Commissioner or County Clerk determines that the printed name, street and number or voting precinct, and city or post office address matches the registration records and that the registration was received on or before the date on which the remonstrance was filed with the 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 remonstrance, the sufficiency of the remonstrance, and the qualifications of the signer, shall be to prevent fraud, deception, and misrepresentation in the remonstrance 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 non-registration of the signer, the Election Commissioner or County Clerk shall set forth the reason for the invalidity of the signature. If the Election Commissioner or County Clerk determines that a signer has affixed his or her signature more than once to the remonstrance and that only one person is registered by that name, the Election Commissioner or County Clerk shall prepare in writing a certification under seal setting forth the name of the duplicate signature and shall count only the earliest dated signature.

(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 of Nebraska for state armory sites or, if acquired for state armory sites, shall be conveyed strictly in accordance with the conditions of Neb. RS 18-1001 to 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. Such sale shall be confirmed by passage of an ordinance stating the name of the purchaser and terms of the sale. (*Neb. RS 17-503*)

(G) Divisions (A) through (F) of this section 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 \$5,000.00. Following passage of the resolution directing the sale of the property, notice of the sale shall be posted in three prominent places within the city for a period of not less than seven days prior to the sale of the property. The notice shall give a general description of the property offered for sale and state the terms and conditions of sale. Confirmation of the sale by passage of an ordinance may be required. (*Neb. RS 17-503.01*)

§8-106 MUNICIPAL PROPERTY; ACQUISITION OF REAL PROPERTY.

When acquiring an interest in real property by purchase or eminent domain, the Municipality shall do so only after the Governing Body has authorized the acquisition by action taken in a public meeting after notice and public hearing. (*Ref. 18-1755 RS Neb.*)

§8-107 MUNICIPAL PROPERTY; ACQUISITION OF PROPERTY;

APPRAISAL. The Municipality shall not purchase, lease-purchase, or acquire for consideration real property having an estimated value of one hundred thousand dollars (\$100,000.00) or more unless an appraisal of such property has been performed by a certified real estate appraiser. (*Ref. 13-403 RS Neb.*)

§8-108 MUNICIPAL PROPERTY; SALE AND CONVEYANCE OF PERSONAL PROPERTY.

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 thereof. 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 \$5000, notice of the sale shall also be published once in a legal newspaper published 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. (*Neb. RS 17-503.02*)

Article 2. Sidewalks

§8-201 SIDEWALKS; KEPT CLEAN. It shall be unlawful for the occupant of any lot or lots or the owner of any vacant lot or lots within the corporate limits to allow snow, sleet, mud, ice, or other substance to accumulate on the sidewalks or to permit any snow, sleet, ice, mud, or other substance to remain upon said sidewalk. All sidewalks within the business district shall be cleaned within five (5) 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 eight-thirty (8:30) o'clock AM the following day; provided, sidewalks within the residential areas of the Municipality shall be cleaned within twenty-four (24) hours after the cessation of the storm. (*Ref. 17-557 RS Neb.*)

§8-202 SIDEWALKS; BENEATH. No person shall be allowed to keep or use the space beneath the sidewalk lying between lot line and curb line unless a permit therefor shall have been obtained from the Governing Body. Before any permit shall be granted, the applicant for said permit shall submit plans and specifications of any present or proposed construction to the Municipal Engineer. Should such plans or specifications be disapproved by him, no permit shall be granted therefor. All permits hereafter granted shall continue only upon the condition that the party receiving the same shall build, maintain, and keep in repair a sidewalk over such space used or constructed to be used and pay all damages that may be sustained by any person by reason of such use or by reason of said sidewalk being defective or in a dangerous condition. As a condition precedent to the issuance or continuance of any permit for the use of any space underneath the Municipal sidewalks as herein contemplated, the Governing Body may require applicant to furnish a bond to the Municipality as obligee for the benefit of any person or persons who may suffer any damage or damages by reason of such use. The bond shall be in such sum as the Governing Body, in its discretion, may designate.

§8-203 SIDEWALKS; MAINTENANCE. Every owner of any lot, lots or piece of land within the corporate limits shall at all times keep and maintain the sidewalk along and contiguous to said lot, lots, or pieces of land, as the case may be, in good and proper repair, and in a condition reasonably safe for travel for all travelers thereon. In the event that the owner or owners of any lot, lots, or lands, abutting on any street, avenue, or part thereof shall fail to construct or repair any sidewalk in front of his, her, or their lot, lots, or lands, within the time and in the manner as directed and required herein after having received due notice to do so, they shall be liable for all damages or injury occasioned by reason of the defective or dangerous condition of any sidewalk, and the Governing Body shall have power to cause any such sidewalks to be constructed or repaired and assess the costs thereof against such property. In the event the property owner is a nonresident of the county in which the property lies, the Municipality 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. *(Ref. 17-557.01 RS Neb.)*

§8-204 SIDEWALKS; REPAIR. The Municipal official in charge of sidewalks may require sidewalks of the Municipality to be repaired. Notice to the owners of property upon which such sidewalks in disrepair are located shall require within forty-eight (48) hours from issuance of notice said owners to make arrangements to have the sidewalk repaired. Said repairs shall be completed within twenty-one (21) days after issuance of said notice. No special assessment shall be levied against the property unless said owner shall neglect or refuse to repair within the time prescribed and in the event that such owner fails to repair, the Municipality shall

cause the repairs to be made and assess the property owner the expense of such repairs. In the event the property owner is a nonresident of the county in which the property lies, the Municipality 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.

§8-205 SIDEWALKS; MUNICIPAL CONSTRUCTION. (1) The Governing Body may, by resolution, order the construction of a sidewalk on any lot or piece of ground within the Municipality. Notice of the Governing Body's intention to construct said sidewalk shall be given by the Municipal Clerk by publication of notice one (1) time in a legal newspaper of general circulation in the Municipality.

(2) 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 posted upon such premise ten (10) days prior to the commencement of construction. The notice required in this section shall be prepared by the Municipal Attorney in accordance with the provisions of this section. Such service shall include a form of return evidencing personal service or posting as herein required.

(3) Said notice shall notify the owner of the premise of the passage of the resolution ordering him to construct or cause to be constructed a sidewalk within thirty (30) days after the date of publication and further that if he fails to construct the sidewalk or cause the same to be done within the time allowed, the Municipality will cause the sidewalk to be constructed and the cost thereof shall be levied and assessed as a special tax against the premise; provided, the notice shall contain the official estimate of the cost of said construction and no special assessment in excess of this estimate shall be assessed against the property. In the event the property owner is a nonresident of the county in which the property lies, the Municipality 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. (*Ref. 17-522, 17-523 RS Neb.*)

Article 3. Streets

§8-301 STREETS; NAMES AND NUMBERS. The Governing Body 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 such streets shall retain such numbers as the Governing Body may require. It shall be the duty of the Municipal official in charge of streets, upon the erection of any new building or buildings to assign the proper numbers to said building or buildings and give notice to the owner or owners and occupant or occupants of the same.

§8-302 STREETS; WIDENING OR OPENING. The Governing Body shall have

the power to open or widen any street, alley, or lane within the limits of the Municipality; to create, open, and improve any new street, alley, or lane; provided, all damages sustained shall be ascertained in such manner as shall be provided by ordinance. (Ref. 17-558, 17-559, 76-704 through 76-724 RS Neb.)

§8-303 STREETS; EXCAVATION. It shall be unlawful for any person to make an excavation in any street or streets for any purpose whatsoever unless a written permit is issued by the Street Superintendent authorizing such excavations. (Ref. 17-567 RS Neb.)

§8-304 STREETS; 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.

§8-305 STREETS; 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.

§8-306 STREETS; HARMFUL LIQUIDS. It shall be unlawful for any person to place or permit to leak in the gutter of any street, waste gasoline, kerosene, or high lubricating oils, which damage or act as a solvent upon said streets.

§8-307 STREETS; HEAVY EQUIPMENT. It shall hereafter be unlawful for any person or person to move or operate heavy equipment across any curb, gutter, bridge, culvert, sidewalk, crosswalk, or crossing on any unpaved street without first having protected such curb, gutter, bridge, culvert, sidewalks, crosswalk, or crossing with heavy plank sufficient in strength to warrant against the breaking or damaging of such curb, gutter, bridge, culvert, sidewalk, crosswalk, or crossing. Hereafter, it shall be unlawful to run, drive, move, operate, or convey over or across any paved street a vehicle, machine, or implement with sharp discs or sharp wheels that bear upon said pavement; with wheels having cutting edges; with wheels having lugs, any protruding parts, or bolts thereon that extend beyond a plain tire so as to cut, mark, mar, indent, or otherwise injure or damage any pavement, gutter, or curb; provided, where heavy vehicles, structures, and machines move along paved or unpaved streets the Street Superintendent is hereby authorized and empowered to choose the route over which the moving of such vehicles, structures, or machines will be permitted and allowed. Nothing in this section shall be construed to apply to pneumatic tires with metal or metal-type studs not exceeding five-sixteenths (5/16) of an inch in diameter inclusive of the stud-casting with an average protrusion beyond the tread surface of not more than seven sixty-fourths (7/64) of an inch between November 1, and March 15; provided, that school buses and emergency vehicles shall be permitted to use metal or metal-type studs all year; it shall be permissible to use farm machinery with tires having protuberances which will not injure the streets. It shall be permissible to use a rubber tired crane with a fixed load when such vehicle will be transported on a state highway or on any road within the corporate limits of the

Municipality, the Municipality in which the crane is intended to be transported has authorized a one-day (1) permit for the transportation of the crane and specified the route to be used and the hours during which the crane can be transported, such vehicle is escorted by another vehicle or vehicles assigned by the Municipality, and such vehicle's gross weight does not exceed the limits set out in *60-6,294(10) RS Neb.* and it shall be permissible to use tire chains of reasonable proportions upon any vehicle when required for safety because of snow, ice, or other condition tending to cause a vehicle to slide or skid. (*Ref. 60-6,250 RS Neb.*)

Article 4. Curb and Gutter

§8-401 CURB AND GUTTER; CUTTING CURB. 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 Governing Body therefor. Before any person shall obtain a permit, he shall inform the Municipal Clerk of the place where such cutting is to be done, and it shall be the Street Superintendent's duty to inspect the place of entry into the paving, sidewalk, or curb, before the same is cut. When cutting into any paving, it shall be the duty of the party to cut the paving under such rules and regulations as may be prescribed by the Governing Body or the Municipal Engineer. When the applicant is ready to close the opening made, he shall inform the Street Superintendent, who shall supervise and inspect the materials used and the work done in closing the opening. It shall be discretionary with the Governing Body to order the Street Superintendent, under the supervision and inspection of the Municipal Engineer or the committee of the Governing Body on the streets and alleys, to do the work of cutting and closing the paving and charge the costs thereof to the party who obtained such permit. The Governing Body may consent to the work of cutting and closing the paving to be done by the party holding such permit. Before any permit is issued by the Governing Body, the applicant for such permit shall deposit with the Municipal Treasurer a sum set by resolution of the Governing Body 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 Municipality for the purpose of replacing the paving, curb, or sidewalk, in the event the work is done by the Municipality. In the event the Municipality elects to require the applicant to replace the paving, curb, or sidewalk, the deposit shall be retained by the Municipality until the work is completed to the satisfaction of the Street Superintendent or of the committee of the Governing Body on streets and alleys. In addition to making the deposit above set forth, the applicant shall, before any permit is issued, execute a bond to the Municipality with a good and sufficient surety or sureties to be approved by the Governing Body in a sum set by resolution of the Governing Body. (*Ref. 17-567 RS Neb.*)

Article 5. Trees

§8-501 TITLE This Article shall be known as the Tree Ordinance of the City of Fullerton, County of Nance, State of Nebraska.

§8-502 DEFINITIONS

- (1) “Street trees” are herein defined as trees, shrubs, bushes and all other woody vegetation on land lying between property lines on either side of all streets, avenues, or alleys within the City.
- (2) “Park trees” are herein defined as trees, shrubs, bushes and all other woody vegetation in public parks and all areas owned by the City, or to which the public has free access.
- (3) “Public community forest” is defined as all street and park trees, and other trees owned by the City as a total resource.
- (4) “Private community forest” is defined as all trees within city boundaries but not owned by the City.

§8-503 REPEALED

§8-504 REPEALED

§8-505 REPEALED

§8-506 TREES; SPECIES TO BE PLANTED A list of recommended species of trees listed by common name shall be kept by the City Clerk and available to the public. No species other than these included in this list may be planted as street trees without written permission of the City of Fullerton. The City of Fullerton shall review and approve all tree planting plans for park trees as defined in Chapter.

§8-507 REPEALED

§8-508 DUTIES AND RESPONSIBILITIES It shall be the responsibility of the Parks and Recreation, Tree Board and the City Administrator to study, investigate, counsel and develop, update and administer a plan for the care, preservation, pruning, planting, replanting, removal or disposition of trees and shrubs in parks, along streets and in other public places. The City Administrator is tasked, through the recommendations of the Parks and Recreation, Tree Board, to present such a plan to the City Council for approval.

§8-509 REPEALED

§8-510 REPEALED

§8-511 ADJACENT LANDOWNER RESPONSIBILITIES & PERMITS Every owner of any lot, lots, or piece of land within the corporate limits shall at all times keep and maintain the street trees along and contiguous to said lot, lots, or pieces of land, as the case may be, in a tidy condition reasonably safe for travel for all travelers thereon. In the event that the owner or owners shall fail to take appropriate action within the time and in the manner as directed and required herein after having received due notice to do so, they shall be liable for all damages or injury occasioned by reason of the defective or dangerous condition of any street tree, and the Governing Body shall have power to cause any such street tree to be properly treated or removed and assess the costs thereof against the adjoining property. In the event the property owner is a nonresident of the county in which the property lies, the Municipality 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. No person shall plant, remove, cut above the ground, or disturb any tree on any street, park or other public place without first filing an application and procuring a permit from the city. There shall be no fee for such permit. The person receiving the permit shall abide by the standards set forth in this ordinance.

§8-512 TREES; ABUSE OR MUTILATION Unless specifically authorized by the City of Fullerton, no person shall intentionally damage, cut, carve, transplant or remove any street tree or park tree; attach any rope, wire, nails, advertising posters or other contrivance to such trees; allow any gaseous, liquid, or solid substance which is harmful to such trees to come in contact with them; or set fire or permit any fire to burn when such fire or the heat thereof will injure any portion of such trees. The preceding restrictions do not apply to proper planting, staking and guying practices. When determining whether to permit the removal of a street tree or park tree, the city or its designated administrator, may set such requirements as it deems necessary to carry out the intent of this act including, but not limited to, replacement of the tree, clean up, and safety precautions.

§8-513 TREE PLANTING REQUIREMENTS The City of Fullerton shall develop and maintains a list of desirable trees for planting along streets in three size classes, small, medium and large. No trees may be planted closer together than the following: small trees, 30 feet; medium trees, 40 feet; and large trees, 50 feet; except in special plantings designed or approved by a landscape architect. For purposes of this Article, the following definitions are adopted:

- (1) "Small Trees" are herein defined as trees which by their nature do not normally attain heights greater than 25 feet at maturity.
- (2) "Medium Trees" are herein defined as trees which by their nature normally attain heights of from 25 to 40 feet at maturity.

(3) "Large Trees" are herein defined as trees which by their nature normally attain heights greater than 40 feet at maturity.

No trees may be planted closer to any curb or sidewalk than the following: small trees, 3 feet; medium trees, 4 feet; and large trees, 5 feet. No street tree may be planted closer than 35 feet from any street corner as measured from the point of the nearest intersection of curbs or curb lines. No street tree may be planted closer than 10 feet from any fire hydrant or within 15 feet of any driveway or alley.

No trees other than those species listed as small trees may be planted under or within 10 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.

§8-514 TREE TOPPING It shall be unlawful for any person, firm or city department to top any street tree, park tree or other tree on public property. Topping is defined as the severe cutting back of limbs to such a degree so as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempt from this article at the determination of the City Administrator. The topping of private trees by persons or firms engaged in the business will not be recommended by the City.

§8-515 PRUNING

(1) Every owner of any tree or owner of property adjoining any street tree overhanging any street or right of way within the City shall prune the branches so that such branches shall not obstruct the light from any street lamp or obstruct the view of any street intersection, and so that there shall be a clear space of 8 feet above the surface of the sidewalk and a clearance of 15 feet over streets and alleys. Such owner shall keep all such trees and shrubs pruned or removed when such trees or shrubs obstruct the light from any street lamp, obstruct the visibility of any traffic control device or sign, obstruct the passage of pedestrians on sidewalks, or obstruct the view of any street or alley intersection.

(2) All shrubs and hedges defined as street trees in this Article shall be kept trimmed by the abutting property owner at least two feet (2') back from all curbs, sidewalks, driveways or alleys; and the same shall at all times be kept trimmed to a height not greater than thirty inches (30") above the top of the curb unless the City of Fullerton, for other than corner lots, determines that a greater height would not constitute a hazard to pedestrian or vehicular traffic.

(3) The City of Fullerton shall have the power and authority to prune or remove, or order to be pruned or removed, any such trees or shrubs on private property. The City of Fullerton shall notify in writing the owners of such trees or shrubs. Pruning or removal shall be done by said owners at their own expense within sixty (60) days after the date of notification. In the event of failure of owners to comply with said notice, the City of Fullerton shall have the authority to prune or

remove said trees or shrubs and assess the cost of said pruning or removal on the owner's property tax notice.

§8-516 DEAD OR DISEASED TREE REMOVAL ON PUBLIC & PRIVATE PROPERTY All trees and shrubs that are in a diseased, dying or dead condition are declared to be a public nuisance and shall be removed by the property owner from the private property, as well as the abutting property, on which they are located. For the purpose of carrying out the provisions of this section, the City shall have the authority to enter on private property to inspect the trees and shrubs thereon. In the event that the trees or shrubs are diseased or dead, notice shall be given to the owner of the property as provided in the general nuisance ordinances of this City and such notice shall allow the said owner a specified time to remove or treat the trees or shrubs. The person charged with the removal or treatment may enter into an agreement with the City that such work may be accomplished by the City, and the expense shall be declared to be a lien upon such property from the time the same becomes due until paid. If the owner fails, neglects or refuses to enter into such an agreement, or to remove or treat the trees or shrubs, the City of Fullerton or any of its agents may enter upon the property and cause the treatment or removal of the trees shrubs and assess the cost thereof shall to the 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 clerk and collected in the manner allowed by law.

§8-517 REMOVAL OF STUMPS All stumps of street and park trees shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground. Abutting property owners of street trees shall assume the expense for stump removal. The cost thereof, if not paid, may be assessed against the abutting owner and collected as allowed by law.

§8-518 INTERFERENCE WITH CITY It shall be unlawful for any person to prevent, delay or interfere with the City of Fullerton or any of its agents, while engaging in and about the planting, cultivating, mulching, pruning, spraying or removing of any trees within the public community forest, or to prevent, delay or interfere with access to private property by the City in the legal performance of any section of this Article.

§8-519 PERMIT AND INSURANCE It shall be unlawful for any uninsured person or firm to engage in the business or occupation of pruning, treating or removing city trees without first applying for and procuring an annual permit; provided, however, that no permit shall be required of any public service company or city employee doing such work in the pursuit of their public service endeavors. Before any permit shall be issued, each applicant shall first file evidence of possession of liability insurance in the minimum amounts of \$250,000.00 for bodily injury and \$250,000.00 for property damage, indemnifying the City or any person injured for damage resulting from the pursuit of such endeavors as herein described. There

shall be no fee required for said permit which shall be good for 12 months from issuance unless sooner revoked by the City for violations of this Article.

§8-520 VIOLATION; PENALTY Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this Article, set forth at full length herein or incorporated by reference shall be deemed guilty of an offense and upon conviction thereof, shall be fined not more than one hundred dollars (\$100.00) for each offense. A new violation shall be deemed to have been committed every twenty-four (24) hours of such failure to comply.

§8-521 ABATEMENT OF NUISANCE Whenever a nuisance exists as defined in this Chapter or elsewhere, the Municipality 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 a part of the judgment in the case.

Article 6. Penal Provision

§8-601 VIOLATION; PENALTY. Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this Chapter, set forth at full length herein or incorporated by reference shall be deemed guilty of an offense and upon conviction thereof, shall be fined not more than five hundred (\$500.00) dollars for each offense. A new violation shall be deemed to have been committed every twenty-four (24) hours of such failure to comply.

CHAPTER 9 BUILDING REGULATIONS

Article 1. Building Permits

§9-101 BUILDING PERMITS; APPLICATION. Any persons intending to construct or reconstruct a building or other structure, or any addition thereto within the Municipality shall, before proceeding with said work or commencing any excavation in connection therewith, file in the office of the Municipal Clerk a written application designating the kind of building, structure or addition which he intends to erect or make.

§9-102 BUILDING PERMITS; WORK AFFECTING UTILITIES, CURBING; NOTIFICATION. Any persons intending to construct or reconstruct a building or other structure, or any addition thereto, or do any work whatsoever on his property within the corporate limits when such work or construction involves either Municipal utilities or curbing, shall thirty (30) days before proceeding with this work file in the office of the Zoning Administrator a written application designating the construction or work to be done and how it will affect the Municipal utilities or curbing.

§9-103 BUILDING PERMITS; APPLICATION; CONTENTS. To obtain a permit, the applicant shall first file an application therefore in writing on a form furnished for that purpose. Every such application shall:

1. Identify and describe the work to be covered by the permit for which application is made;
2. Describe the land on which the proposed work is to be done, by lot, block, tract, and house and street address, or similar description that will readily identify and definitely locate the proposed work building or work;
3. Indicate the use or occupancy for which the proposed work is intended;
4. Be accompanied by plans and specifications for proposed construction;
5. Be signed by the permittee, or his authorized agent, who may be required to submit evidence to indicate such authority;
6. Give such other information as reasonably may be required by the Municipal Clerk.

§9-104 BUILDING PERMITS; REMOVAL OF SIDEWALK; REPLACEMENT. Any land owner in the Municipality who takes out a sidewalk on his property for whatever reason shall be required to replace this sidewalk at his

own cost unless the Mayor and City Council indicate otherwise at a meeting. This sidewalk is to be replaced within sixty (60) days of its removal from the property.

§9-105 BUILDING PERMITS; APPLICATION; FLOOD HAZARDS;

REVIEW The Zoning Administrator shall review all building permit applications to determine if the site of the proposed construction is reasonably safe from flooding and to make recommendations for construction in all locations which have flood hazards.

§9-106 BUILDING PERMITS; APPLICATION; FLOOD HAZARDS

REVIEW; REQUIREMENTS The Zoning Administrator in reviewing all applications for construction in flood hazard locations within the Municipality shall require that any such proposed construction or substantial improvement must:

1. Be designated and anchored to prevent the flotation, collapse or lateral movement of the structure or portions of the structure due to flooding.
2. Use of construction materials and utility equipment that are resistant to flood damage.
3. Use of construction methods and practices that will minimize flood damage.

§9-107 BUILDING PERMITS; FEE The Zoning Administrator shall at the time of the filing of the application, charge and collect in advance for issuance of said permit a fee of one dollar (\$1.00) and said fee shall be the property of the Municipality and shall be paid over to the Treasurer for credit to the General Fund.

§9-108 BUILDING PERMITS; FAILURE TO MAKE APPLICATION;

PENALTY That failure to make such application prior to the construction or reconstruction of a building or other structure or improvement is unlawful and upon the conviction thereof said person owning said real estate shall be subject to a fine of not more than one hundred dollars (\$100.00).

Article 2. Building Moving

§9-201 BUILDING MOVING; REGULATIONS. It shall be unlawful for any person, firm, or corporation to move any building or structure within the Municipality without a written permit to do so. Application may be made to the Municipal 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 Governing Body may require. The application shall be accompanied by a certificate issued by the County Treasurer to the effect that all the provisions regulating the moving of buildings have been complied with on the part of the owner of the real estate upon which the said building is presently located. The Municipal Clerk shall refer the said application to the City Administrator for approval of the

proposed route over which the said building is to be moved. Upon approval of the Governing Body, the Municipal Clerk shall then issue the said permit; provided, that a good and sufficient corporate surety bond, check, or cash in an amount set by motion of the Governing Body and conditioned upon moving said building without doing damage to any private or Municipal property is filed with the Municipal Clerk prior to the granting of any permit. No moving permit shall be required to move a building that is ten feet (10') wide, or less, and twenty feet (20') long, or less, and when in a position to move, fifteen feet (15') high, or less. 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 said poles, wires or line shall upon proper notice of at least twenty-four (24) hours, be present and assist by disconnecting the said poles, wires, or line relative to the building moving operation. All expense of the said disconnection, removal, or related work shall be paid in advance by the licensee unless such disconnection or work is furnished on different terms as provided in the said company's franchise. Whenever the moving of any building necessitates interference with a water main, sewer main, pipes, or wire belonging to the Municipality, notice in writing of the time and route of the said building moving operation shall be given to the various Municipal officials in charge of the Municipal utility departments who shall proceed in behalf of the Municipality and at the expense of the mover to make such disconnections and do such work as is necessary. (*Ref. 60-6,288 to 60-6,294, 60-6,296, 77-1725 RS Neb.*)

§9-202 BUILDING MOVING; DEPOSIT At such time as the building moving has been completed, the City Administrator shall inspect the premises and report to the Municipal Clerk as to the extent of damages, if any, resulting from the said relocation and whether any Municipal laws have been violated during the said operation. Upon a satisfactory report from the City Administrator, the Municipal 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 Governing Body may apply the money deposited for the purpose of defraying the expense of correcting the said conditions. If the expense of correcting the hazardous condition is greater than the amount of the deposit set by resolution of the Governing Body, as required herein, the Governing Body may recover such excess expense by civil suit or otherwise as prescribed by law.

Article 4. Building Regulations

§9-401 BUILDING REGULATIONS; PROHIBITION OF LEAD PIPES, SOLDER, AND FLUX Any pipe, solders or flux used in the installation or repair of any residential or nonresidential facility which is connected to the public water supply system shall be lead free.

For purposes of this section, lead free shall mean:

- A. Solders and flux - not more than two-tenths percent (.2%) lead, and
 - B. Pipe and pipe fittings - not more than eight percent (8%) lead.
- (Ref. 71-5301 RS Neb.)

Article 5. Minimum Lighting and Thermal Efficiency Standards

§9-501 LIGHTING AND THERMAL EFFICIENCY STANDARDS; NEED (1)

This Article shall be known as the Minimum Lighting and Thermal Efficiency Standards for Buildings.

(2) The Municipality finds that there is a present and continuing need to provide for the development and implementation of minimum lighting and thermal efficiency standards for buildings to insure coordination with federal policy under the Energy Conservation Standards for New Buildings Act of 1976, to promote for the conservation of our dwindling energy resources, and to provide for the public health, safety, and welfare.

§9-502 LIGHTING AND THERMAL EFFICIENCY STANDARDS; TERMS;

DEFINED. As used in this Article, unless the context otherwise requires, the following definitions shall apply:

"Prime contractor" shall mean the person, persons, entity or entities who has a contract with the owner and is the one responsible for the overall construction of any building or the installation of any component which affects the energy efficiency of the building. Prime contractor shall also mean a property owner who performs the work of a prime contractor.

"Architect" or "engineer" shall mean any person registered pursuant to section 81-847, *Reissue Revised Statutes of Nebraska, 1943.*

"Building" shall mean any structure which utilizes or will utilize a heating system, cooling system, or domestic hot water system, including new buildings, renovated buildings, and additions, but not including any structure which has a consumption of traditional energy sources for all purposes not exceeding the energy equivalent of one watt per square foot.

"Residential building" shall mean a building three stories or less that is used primarily as one or more dwelling units.

"Renovation" shall mean alterations on an existing building which will cost more than fifty percent (50%) of the replacement cost of such building at the time work is commenced or which was not previously heated or cooled, for which a heating or cooling system is now proposed, except that the restoration of historical buildings shall not be included.

"Addition" shall mean any construction added to an existing building which will

increase the floor area of that building by five percent (5%) or more.

"Floor area" shall mean the total area of a building, expressed in square feet, which is within the exterior face of the shell of the structure which is heated or cooled.

"Standard" shall mean Standard 90-75 of the American Society of Heating, Refrigeration, and Air-Conditioning Engineers, Inc., as it existed on April 23, 1980.

"Traditional energy sources" shall mean electricity, petroleum based fuels, uranium, coal, and all nonrenewable forms of energy.

§9-503 LIGHTING AND THERMAL EFFICIENCY STANDARDS; APPLICABILITY The Standard shall apply to:

- (1) New residential buildings on which construction is initiated on or after April 1, 1981; and
- (2) All other new buildings, or renovations of or additions to any existing buildings, on which construction is initiated on or after January 1, 1982.

§9-504 LIGHTING AND THERMAL EFFICIENCY STANDARDS; EXEMPTIONS The following shall be exempt from this Article:

- (1) Any building which has a peak design rate of energy usage for all purposes of less than one watt, or three and four-tenths British Thermal Units per hour, per square foot of floor area;
- (2) Any building which is neither heated nor cooled;
- (3) Any building or portion thereof which is owned by the United States of America;
- (4) Any mobile home as defined by section 71-4603, *Reissue Revised Statutes of Nebraska, 1943*;
- (5) Any manufactured housing unit as defined by subsection (1) of section 71-1557, *Reissue Revised Statutes of Nebraska, 1943*;
- (6) Any building listed on the National Register of Historic Places; and
- (7) All residential buildings shall be exempt from lighting efficiency standards.

§9-505 LIGHTING AND THERMAL EFFICIENCY STANDARDS; REQUEST FOR ALTERNATIVE BUILDING SYSTEM; APPROVAL. Any person who owns or constructs a building to which this Article applies may request that an alternative building system, technique, equipment design, or building material be

found equivalent to the Standard. The Zoning Administrator shall make such determination if he finds that the proposed alternative would not result in energy consumption greater than would result from the strict application of the Standard. If the Zoning Administrator fails to approve or disapprove the request within sixty (60) days from the date of filing, it shall be considered approved.

§9-506 LIGHTING AND THERMAL EFFICIENCY STANDARDS;

INSPECTION; INVESTIGATIONS. (1) The Zoning Administrator or any person designated by him or her shall conduct inspections and investigations necessary to enforce the Standard and may, at reasonable hours, enter into any building and upon any premises within its jurisdiction for the purpose of examination to determine compliance with this Article. Inspections shall be conducted only after permission has been granted by the owner or occupant or after a warrant has been issued pursuant to sections 29-830 to 29-835, *Reissue Revised Statutes of Nebraska, 1943*.

(2) During construction, the Zoning Administrator or persons designated by him or her shall make periodic inspections to assure compliance with this Article.

§9-507 LIGHTING AND THERMAL EFFICIENCY STANDARDS;

BUILDING PLANS; SUBMISSION FOR APPROVAL. (1) Prior to the construction of, renovation of, or addition to any building covered by this Article, the prime contractor or owner shall file sufficient plans and specifications with the Zoning Administrator to enable him or her to make a determination whether such building will comply with the Standard. The Zoning Administrator shall within thirty (30) days of the filing approve or disapprove the plans and specifications. If disapproved, the reasons shall be set forth in writing to the prime contractor or owner.

(2) If the Zoning Administrator determines that such construction, renovation or addition will comply with the Standard, he or she shall issue a written permit as part of the building permit required in Article 1 of this Chapter which the prime contractor shall display in a conspicuous place on the premises where the construction work is to be done. No construction, renovation or addition shall commence until a permit is issued and displayed as required by this section.

§9-508 LIGHTING AND THERMAL EFFICIENCY STANDARDS; PERMIT APPLICATION FEES.

(1) The person filing the application for a permit shall, at the time of such filing, pay to the City such fee as is required for building permits under section 9-507.

(2) The costs of a permit shall be ten dollars (\$10.00).

§9-509 LIGHTING AND THERMAL EFFICIENCY STANDARDS;

ARCHITECTS, ENGINEERS; STATE REGISTRATION SEAL. If an architect or engineer is retained, the architect or engineer shall place his or her state registration seal on all construction drawings which shall indicate that the design meets the Standard. The prime contractor shall certify that he or she will build in accordance with the construction documents prepared by the architect or engineer.

This certification must accompany the building plans submitted to the Zoning Administrator for approval.

Article 6. Penal Provisions

§9-601 VIOLATION; PENALTY. Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this Chapter, set forth at full length herein or incorporated by reference shall be deemed guilty of an offense and upon conviction thereof, shall be fined not more than five hundred (\$500.00) dollars for each offense. A new violation shall be deemed to have been committed every twenty-four (24) hours of such failure to comply.

§9-602 ABATEMENT OF NUISANCE. Whenever a nuisance exists as defined in this Chapter, the Municipality 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 a part of the judgment in the case. (*Ref. 18-1720, 18-1722 RS Neb.*)

**CHAPTER 10
BUSINESS REGULATIONS**

Article 1. Alcoholic Beverages

§10-101 ALCOHOLIC BEVERAGES; DEFINITIONS. All words and phrases herein used are to have the definitions applied thereto, as defined in the Liquor Control Act of the State of Nebraska. *(Ref. 53-103 RS Neb.)*

§10-102 ALCOHOLIC BEVERAGES; LICENSE REQUIRED. It shall be unlawful for any person to manufacture for sale, sell, keep for sale, or to barter any alcoholic liquors within the Municipality unless said person shall have in full force and effect a license as provided by the Nebraska Liquor Control Act. *(Ref. 53-102 RS Neb.)*

§10-103 ALCOHOLIC BEVERAGES; LOCATION. It shall be unlawful for any person or persons to own, maintain, manage, or hold open to the public any establishment for the purpose of selling at retail any alcoholic liquor within one hundred and fifty feet (150') of any church, school, hospital, or home for aged or indigent persons or veterans, their wives or children; provided, this prohibition shall not apply to any location within such distance when the said establishment has been licensed by the Nebraska Liquor Control Commission at least two (2) years, and to hotels offering restaurant service, regularly organized clubs, or to restaurants where the selling of alcoholic liquors is not the principal business carried on, if the said hotel, club, or restaurant were licensed and in operation prior to May 24, 1935. No alcoholic liquor, other than beer, shall be sold for consumption on the premise within three hundred feet (300') from the campus of any college within the Municipality. *(Ref. 53-177 RS Neb.)*

§10-104 ALCOHOLIC BEVERAGES; DWELLINGS. Except in the case of hotels and clubs no alcoholic liquor shall be sold at retail upon any premise which has any access which leads from such premise to any other portion of the same building used for dwelling or lodging purposes, and which is permitted to be used by the public. Nothing herein shall prevent any connection with such premise, and such other portion of the building which is used only by the licensee, his family, or personal guests. *(Ref. 53-178 RS Neb.)*

§10-105 ALCOHOLIC BEVERAGES; LICENSE DISPLAYED. Every licensee under the Nebraska Liquor Control Act shall cause his license to be framed and hung in plain public view in a conspicuous place on the licensed premise. *(Ref. 53-148 RS Neb.)*

§10-106 ALCOHOLIC BEVERAGES; LICENSEE REQUIREMENTS. It shall be unlawful for any person or persons to own an establishment that sells at retail any alcoholic beverages unless said person is a resident of the county in which the

premise is located; a person of good character and reputation; a citizen of the United States; a person who has never been convicted of a felony or any Class I misdemeanor pursuant to Chapter 28, Article 3, 4, 7, 8, 10, 11, or 12 Reissue Revised Statutes of Nebraska, 1943, or any similar offense under a prior criminal statute or in another state; a person who has never had a liquor license revoked for cause; a person whose premises, for which a license is sought, meets standards for fire safety as established by the State Fire Marshal; provided, the beneficial interest requirement in this section shall not apply to a person applying for an additional license for use in connection with the operation of a hotel containing at least twenty-five (25) sleeping rooms, or where the request is limited to on premises sale of beer only in a restaurant. (Ref. 53-124.03, 53-125 RS Neb.)

§10-107 ALCOHOLIC BEVERAGES; MUNICIPAL EXAMINATION. Any person or persons desiring to obtain a license to sell alcoholic liquors at retail shall file with the Liquor Control Commission. The Commission shall then notify by registered or certified mail the Municipal Clerk. The Governing Body shall then meet and determine the desirability of the application and report in writing or in person to the Commission within thirty (30) days. The Governing Body may examine, or cause to be examined, under oath, any applicant; examine, or cause to be examined, the books and records of any such applicant; to hear testimony, and to take proof for its information in the performance of its duties. For the purpose of obtaining any of the information desired, the Governing Body may authorize its agent, or the Municipal Attorney, to act on their behalf. The Governing Body may hold the said examination and hearing upon the receipt from the Commission of the notice and copy of the application. The Governing Body shall fix a time and place at which a hearing will be held, and at which time the Governing Body may receive competent evidence under oath, either orally, or by affidavit, from the applicant or any other person concerning the propriety of the issuance of such license. Notice shall be published in a legal newspaper in, or of general circulation in, the Municipality one (1) time not less than seven (7), nor more than fourteen (14), days before the time of the hearing. Such notice shall include, but not be limited to, a statement that all persons desiring to give evidence before the local Governing Body in support of or protest against the issuance of such license may do so at the time of the hearing. Such hearing shall be held not more than twenty-one (21) days after the receipt of the Commission's letter of notice and after such hearing, the Governing Body shall cause to be spread at large in the minute record of their proceedings a resolution recommending either issuance or refusal of said applicant. The Municipal Clerk shall thereupon mail to the Commission a copy of the resolution which shall state the cost of the published notice except that failure to hold a hearing and to examine the said applicant shall not render void any license issued by the Commission. In the event the Commission refuses to issue a license, the cost of the publication of notice as herein required shall be paid by the Commission. (Ref. 53-131, 53-134 1984 Reissue RS Neb.)

§10-108 ALCOHOLIC BEVERAGES; LIQUOR LICENSE RENEWAL.

Retail or bottle club licenses issued by the Commission and outstanding may be automatically renewed in the absence of a request by the Governing Body to require the said licensee to issue an application for renewal. Any licensed retail or bottle club establishment located in an area which is annexed to the Municipality shall file a formal application for a license, and while such application is pending, the licensee shall be authorized to continue all license privileges pursuant to this Article until the original license expires, is canceled, or revoked. If such license expires within sixty (60) days following the annexation date of such area, the license may be renewed by order of the Commission for not more than one (1) year. The Municipal Clerk, upon notice from the Commission, between January tenth (10th) and January thirtieth (30th) of each year, shall cause to be published in a legal newspaper in, or of general circulation in the Municipality, one (1) time, a notice in the form prescribed by law of the right of automatic renewal of each retail liquor and beer license within the Municipality; provided, Class C license renewal notices shall be published between the dates of July tenth (10th) and July thirtieth (30th) of each year. The Municipal Clerk shall then file with the Commission proof of publication of said notice on or before February tenth (10th) of each year or August tenth (10th) of each year for Class C licenses. Upon the conclusion of any hearing required by this section, the Governing Body may request a licensee to submit an application. (*Ref. 53-135, 53-135.01 RS Neb.*)

§10-109 ALCOHOLIC BEVERAGES; MUNICIPAL POWERS & DUTIES.

The Governing Body is authorized to regulate by ordinance not inconsistent with the provisions of the Nebraska Liquor Control Act, the business of all retail and bottle club licensees carried on within the corporate limits. The Governing Body shall further have the power and duties in respect to licensed retailers of alcoholic beverages to cancel or revoke for cause retail or bottle club licenses to sell or dispense alcoholic liquors issued to persons for premises within its jurisdiction subject to the right of appeal to the Commission; to enter or to authorize any law enforcement officer to enter at any time upon any premise licensed by the State of Nebraska to determine whether any of the provisions of the Municipal laws, or the laws of the State of Nebraska, are being violated; to receive signed complaints from any citizens within its jurisdiction that any of the Municipal laws, or laws of the State of Nebraska, are being violated, and to act upon such complaints in the manner herein provided; to cancel or revoke on its own motion any license if, upon the same notice and hearing as provided in section 10-124 it determines that the licensee has violated any of the provisions of the Nebraska Liquor Control Act or any valid and subsisting ordinance or regulation duly enacted relating to alcoholic liquors; and to collect for the benefit of the State of Nebraska and the Municipality all license fees and occupation taxes as prescribed by law. (*Ref. 53-134 RS Neb.*)

§10-110 ALCOHOLIC BEVERAGES; OWNER OF PREMISES. The owner of any premise used for the sale at retail of alcoholic beverages shall be deemed guilty of a violation of these laws to the same extent as the said licensee if the owner shall knowingly permit the licensee to use the said licensed premise in violation of any

Municipal Code section or Nebraska statute. (Ref. 53-1,101 RS Neb.)

§10-111 ALCOHOLIC BEVERAGES; EMPLOYER. The employer of any officer, director, manager, or employees working in a retail liquor establishment shall be held to be liable and guilty of any act or omission or violation of any law or ordinance, if such act is committed or omission made with the authorization, knowledge or approval of the employer or licensee, and each such act or omission shall be deemed and held to be the act of the employer, and will be punishable in the same manner as if the said act or omission had been committed by him personally. (Ref. 53-1,102 RS Neb.)

§10-112 ALCOHOLIC BEVERAGES; MINORS AND INCOMPETENTS. It shall be unlawful for any person or persons to sell, give away, dispose of, exchange, permit the sale of or make a gift of, any alcoholic liquors, or to procure any such alcoholic liquors to or for any minor, or to any person who is mentally incompetent. (Ref. 53-180 RS Neb.)

§10-113 ALCOHOLIC BEVERAGES; CREDIT SALES. No person shall sell or furnish alcoholic liquor at retail to any person or persons for credit of any kind, barter, or services rendered; provided, nothing herein contained shall be construed to prevent any club holding a Class C license from permitting checks or statements for alcoholic liquor to be signed by members, or guests of members, and charged to the accounts of the said members or guests in accordance with the by-laws of any such club; and provided further, nothing herein shall be construed to prevent any hotel or restaurant holding a retail alcoholic beverage license from permitting checks or statements for liquor to be signed by regular guests residing in the said hotel, and charged to the accounts of such guests. (Ref. 53-183 RS Neb.)

§10-114 ALCOHOLIC BEVERAGES; SPIKING BEER. It shall be unlawful for any person or persons who own, manage, or lease any premise in which the sale of alcoholic beverages is licensed, to serve or offer for sale any beer to which there has been added any alcohol, or permit any person or persons to add alcohol to any beer on the licensed premise of such licensee. (Ref. 53-174 RS Neb.)

§10-115 ALCOHOLIC BEVERAGES; ORIGINAL PACKAGE. It shall be unlawful for any person or persons who own, manage, or lease any premise in which the sale of alcoholic beverages is licensed, to have in their possession for sale at retail any alcoholic liquor contained in casks, or other containers except in the original package. Nothing in this section shall prohibit the refilling of original packages of alcoholic liquor for strictly private use and not for resale. (Ref. 53-184 RS Neb.)

§10-116 ALCOHOLIC BEVERAGES; MINOR'S PRESENCE. It shall be unlawful for any person or persons who own, manage, or lease an establishment selling alcoholic beverages at retail to allow any minor under the age of eighteen

(18) years to frequent or otherwise remain in the said establishment unless the said minor is accompanied by his parent or legal guardian, and unless said minor remains seated with, and under the immediate control of, the said parent or legal guardian. (Ref. 53-147 RS Neb.)

§10-117 ALCOHOLIC BEVERAGES; HOURS OF SALE.

- (1) No alcoholic liquor shall be sold at retail or dispensed on any day between 1 AM. and 6 AM.
- (2) No package alcoholic liquor except beer and wine may be sold between 6 AM. and 12 Noon on Sunday. (Ref. 53-179 RS Neb.)
- (3) Package liquor other than beer and wine may be sold between 10 AM Sunday and 1 AM. Monday. (Ref. 53-179 RS Neb.)
- (4) No Liquor by the drink shall be sold or dispensed on Sunday except between the hours of 10 AM. and 1 AM. (Ref. 53-179 RS Neb.)
- (5) On property licensed to sell alcoholic liquor at retail, no open containers shall remain for purposes of consumption between 15 minutes after closing and 6 AM on any day. (Ref. 53-179 RS Neb.)
- (6) The violation of any of the provisions of this Ordinance shall constitute a misdemeanor and upon conviction thereof the defendant shall be fined in any sum not exceeding Five Hundred Dollars, and the costs of the prosecution.

§10-118 ALCOHOLIC BEVERAGES; SANITARY CONDITIONS. It shall be unlawful to open for public use any retail liquor establishment that is not in a clean and sanitary condition. Toilet facilities shall be adequate and convenient for customers and patrons and said licensed premise shall be subject to any health inspections the Governing Body or the Municipal Police may make, or cause to be made. All applications for liquor licenses shall be viewed in part from the standpoint of the sanitary conditions, and a report concerning the said sanitary conditions shall be made at all hearings concerning the application for, or renewal of, a liquor license. (Ref. 53-118 RS Neb.)

§10-119 ALCOHOLIC BEVERAGES; HIRING MINORS. It shall be unlawful for any person to hire a minor regardless of sex under the age of nineteen (19) years to serve or dispense alcoholic liquors, including beer, to said licensee's customers. (Ref. 53-102 RS Neb.)

§10-120 ALCOHOLIC BEVERAGES; CONSUMPTION IN PUBLIC PLACES. It shall be unlawful for any person to consume alcoholic beverages within the corporate limits upon the public ways and property, including inside vehicles while upon the public ways and property. It shall further be unlawful for any person to consume alcoholic beverages within any other public business that is not a licensed liquor establishment. (Ref. 53-186, 53-186.01 RS Neb.)

§10-121 ALCOHOLIC BEVERAGES; ACQUISITION OF ALCOHOLIC BEVERAGES.

It shall be unlawful for any person to have possession of any alcoholic liquors which shall have been acquired otherwise than from a licensee duly licensed to sell same to such person under the provisions of the Nebraska Liquor Control Act; Providing, nothing herein shall prevent the possession of alcoholic liquor for the personal use of the possessor, his family and guests, as long as the quantity of alcoholic liquor transported, imported, brought, shipped or caused to be transported, imported, brought, or shipped into the State for personal use does not exceed one (1) gallon at any one (1) time or in excess of two (2) gallons in any one (1) calendar month, nor prevent the making of wine, cider or other alcoholic liquor by a person from fruits, vegetables or grains, or the product thereof, by simple fermentation and without distillation, if it is made solely for the use of the maker, his family and his guests; provided further, that nothing herein shall prevent any duly licensed practicing physician or dentist from possessing or using alcoholic liquor in the strict practice of his profession, or any hospital or institution caring for the sick and diseased persons, from possessing any alcoholic liquor for the treatment of bonafide patients of such hospital or other institution; provided further, that any drug store employing a licensed pharmacist may possess and use alcoholic liquors in the compounding of prescriptions of duly licensed physicians; and provided further, that the possession and dispensation of wine by an authorized representative of any church for the purpose of conducting any bonafide rite or religious ceremony conducted by such church shall not be prohibited by this section; provided further, that persons who are sixteen (16) years old or older may carry beer from grocery stores when they are accompanied by a person not a minor, persons who are sixteen (16) years old or older may handle beer containers and beer in the course of their employment in grocery stores, and persons who are sixteen (16) years old or older may remove and dispose of alcoholic liquor containers for the convenience of their employer and customers in the course of their employment as waiters, waitresses, or busboys, by any restaurant, club, hotel, or similar organization; and provided further, that persons who are nineteen (19) years old or older may serve or sell alcoholic liquor in the course of their employment. (*Ref. 53-102, 53-164.01, 53-175 RS Neb.*)

§10-122 ALCOHOLIC BEVERAGES; REMOVAL OF INTOXICATED PERSONS FROM PUBLIC OR QUASI-PUBLIC PROPERTY.

(1) Any law enforcement officer with the power to arrest for traffic violations may take a person who is intoxicated and in the judgment of the officer dangerous to himself, herself, or others, or who is otherwise incapacitated, from any public or quasi-public property. An officer removing an intoxicated person from public or quasi-public property shall make a reasonable effort to take such intoxicated person to his or her home or to place such person in any hospital, clinic, alcoholism center, or with a medical doctor as may be necessary to preserve life or to prevent injury. Such effort at placement shall be deemed reasonable if the officer contacts those facilities or doctor which have previously represented a willingness to accept and treat such individuals and which regularly do accept such individuals. If such efforts are unsuccessful or are not feasible, the officer may then place such intoxicated person

in civil protective custody, except that civil protective custody shall be used only as long as is necessary to preserve life or to prevent injury, and under no circumstances longer than twenty-four (24) hours. The placement of such person in civil protective custody shall be recorded at the facility or jail at which he or she is delivered and communicated to his or her family or next of kin, if they can be located, or to such person designated by the person taken into civil protective custody.

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

(3) For purposes of this section, public property shall mean any public right-of-way, street, highway, alley, park, or other state, county, or Municipally-owned property.

(4) For the purposes of this section, quasi-public property shall mean and include private or publicly-owned property utilized for proprietary or business uses which invites patronage by the public or which invites public ingress and egress. *(Ref. 53-1,121 RS Neb.)*

§10-123 ALCOHOLIC BEVERAGES; INSPECTIONS. It shall be the duty of the Governing Body to cause frequent inspections to be made on the premises of all retail and bottle club licensees. If it is found that any such licensee is violating any provision of the Nebraska Liquor Control Act or regulations of the Nebraska Liquor Control Commission, or is failing to observe in good faith the purposes of said Act, the license may be suspended, canceled, or revoked after the licensee has been given an opportunity to be heard by the Governing Body. *(Ref. 53-146 RS Neb.)*

§10-124 ALCOHOLIC BEVERAGES; CITIZEN COMPLAINTS. Any five (5) residents of the Municipality shall have the right to file a complaint with the Governing Body stating that any retail or bottle club licensee, subject to the jurisdiction of the Governing Body, has been or is violating any provision of the Nebraska Liquor Control Act or the rules or regulations issued pursuant thereto. Such complaint shall be in writing in the form prescribed by the Governing Body and shall be signed and sworn by the parties complaining. The complaint shall state the particular provision, rule, or regulation believed to have been violated and the facts in detail upon which belief is based. If the Governing Body is satisfied that the complaint substantially charges a violation and that from the fact alleged there is reasonable cause for such belief, it shall set the matter for hearing within ten (10) days from the date of the filing of the complaint and shall serve notice upon the licensee of the time and place of such hearing and of the particular charge in the complaint; provided, that the complaint must in all cases be disposed of by the Governing Body within thirty (30) days from the date the complaint was filed by resolution thereof, said resolution shall be deemed the final order for purposes of appeal to the Nebraska Liquor Control Commission as provided by law. *(Ref. 53-*

1,114 RS Neb.)

Article 2. Peddlers and Hawkers

§10-201 PEDDLERS AND HAWKERS; REGULATION To prevent the sale of fraudulent, dangerous, and unhelpful goods and services, and to protect the public by maintaining records of products sold and the persons and companies responsible for such sales, all peddlers, hawkers or salespersons intending or attempting to sell at retail any merchandise or other item of value or attempting to take orders or subscriptions for the same within the corporate limits of the City shall, prior to making any attempt to sell such items, register with the law enforcement agency responsible for enforcing the laws within the City limits. Such law enforcement agency shall obtain satisfactory evidence of identification, including but not limited to, fingerprints, photographs, information regarding the product to be sold, principal place of business, employers' name and address, telephone numbers, address if employed and such other additional evidence necessary for identification and location. The law enforcement agency will also determine if there are any active warrants for the applicant. After satisfactory evidence of identification has been obtained, the law enforcement agency shall certify to the City Clerk that such inquiry has been made and the Clerk shall have authority to issue a permit. The duration of the permit shall be stated thereon and the Clerk shall collect a fee in the amount of \$5.00. The Clerk may also require written satisfactory recommendation or approval from the Better Business Bureau or such other organization as to the applicant, his or her product and business prior to issuing a permit.

§10-202 PEDDLERS AND HAWKERS; HOURS OF SOLICITATION It shall be unlawful for any solicitor, salesman, or peddler to solicit any individual between the hours of six o'clock (6:00) P.M., and eight o'clock (8:00) A.M., unless they have a previous appointment with the resident, or residents, of the premise solicited. It shall be unlawful at any hour for a solicitor, salesman, or peddler to solicit without a proper permit on his person at all times. *(Ref. 17-134 RS Neb.)*

§10-203 PEDDLERS AND HAWKERS; EXCEPTIONS Nothing herein shall be construed to apply to any person, or persons, selling produce raised within the county, or to wholesale salesmen soliciting merchants directly. *(Ref. 17-562 RS Neb.)*

Article 3. Bingo

§10-301 BINGO; REGULATION. Games of bingo shall be conducted within the Municipality in accordance with all laws of the Municipality and the State of Nebraska if the said game of bingo is played for or involves profit or gain. Any association duly licensed by the State of Nebraska to conduct the game of bingo shall obtain a written permit from the Governing Body before commencing

operation of said game. Application shall be made to the Municipal Clerk for such permit. Said application form shall contain such information and documents or copies thereof as the Governing Body deems necessary to determine whether to grant or reject the application. Upon the determination that granting the application would be proper, the Governing Body shall immediately direct the Municipal Clerk to issue the said license to the applicant upon the payment of an annual permit fee of ten dollars (\$10.00). Said license shall be subject to revocation at any time for good cause. Any person or persons, so licensed, shall be subject to any other fees, rules, and regulations which the Governing Body may designate. All permits so issued will automatically expire on September thirtieth (30th), following its issuance or renewal. The fee for each renewal unless otherwise prescribed shall be in the sum of ten dollars (\$10.00). Said fee shall be credited to the General Fund. The permit shall be on display at any place where a game of bingo is conducted. *(Ref. 9-236 RS Neb.)*

§10-302 BINGO; TAX. A tax of two percent (2%) of the gross receipts of each licensed association deriving revenue from the game of bingo is hereby imposed and levied against each such association and payable on or before the thirtieth (30th) day of the immediately succeeding calendar quarter to the Municipal Treasurer. Such tax shall be credited to the Municipal General Fund, and shall be used to pay for the cost of regulation and enforcement of this Article. *(Ref. 9-239 RS Neb.)*

§10-303 BINGO; QUARTERLY REPORT. Each association conducting the game of bingo shall submit a written quarterly report to the Municipal Clerk covering the preceding calendar quarter on or before the thirtieth (30th) day of the immediately succeeding calendar quarter. *(Ref. 9-239 RS Neb.)*

§10-304 BINGO; INCORPORATED REGULATION. All applicable State statutes as they now exist or may hereafter be amended shall be, and will constitute, a part of this Article as if repeated verbatim herein, and violation of any State statute will be a distinct and separate offense against the Municipality as well as against the State. Violators thereof shall be separately prosecuted by the Municipality for each of such offenses, and if convicted, shall be deemed to be guilty of a misdemeanor. *(Ref. 9-201 through 9-265 RS Neb.)*

Article 4. Junk Yards

§10-401 JUNK YARDS; DEFINITIONS. The following definitions shall be applied throughout this Chapter. Where no definition is specified, the normal dictionary usage of the word shall apply.

JUNK DEALER. The term "junk dealer" as used in this Code is hereby defined as meaning, and shall include any person engaged in the business of buying, selling, receiving, collecting or dealing in metal scraps, scrap iron, metals of any kind and in

any form, bottles, rags and used tires; the dismantling or taking apart of automobiles, other than for repair, or the wrecking of automobiles; the storage of automobiles unfit for operation; the storage of automobile bodies and parts thereof; the storage of automobiles or parts thereof kept for salvage; the storage of scraps from automobiles; or the storage of iron, metals or junk.

JUNK COLLECTOR. The term "junk collector" shall be construed to mean any person going from place to place, or house to house, collecting or buying iron, copper, brass and zinc scraps, rags, bottles, or old paper, and selling the same to a junk dealer.

JUNK YARD. The term "junk yard" as used in this Code is hereby defined as meaning, and shall include any place in the Municipality where or from which any person shall conduct, engage in, or carry on the business of junk dealer as herein defined.

JUNK. The term "junk" as used in this Code shall include scrap metals, scrap materials, whether they are liquids, solids, or gases, branches of trees, and dismantled or wrecked automobiles, tractors, and machinery or parts thereof. *(Ref. 17-207 RS Neb.)*

§10-402 JUNK YARDS; REGULATION. It shall be unlawful for any person to own, operate, or hold open for public use any junk yard as herein defined without first obtaining a license to do so from the Municipality. Application for a license to own, operate, or hold open for public use any junk yard shall be made in writing to the Municipal Clerk and shall require such information and documents, or copies thereof, that the Governing Body deems necessary to determine whether to grant or reject the said application. Upon approval of the application, the Municipal Clerk shall issue the license upon the payment of a fee set by resolution of the Governing Body. The licensee shall then be subject to any occupation taxes, bond requirements, and other rules and regulations which the Governing Body may determine to be beneficial to the Municipality. Any such bond shall be set by resolution of the Governing Body and will be conditioned upon the faithful observance of the provisions of this Code. The bond shall be held for the benefit of any person who may suffer damage by the improper management of the said junk yard. *(Ref. 69-202 RS Neb.)*

§10-403 JUNK YARDS; OWNER'S RESPONSIBILITY. The owner of the premise upon which a junk yard is located shall be equally responsible with the operator, director, or employee thereof to see that the provisions of this Code will not be violated. In the event the provisions of this Code are violated, he shall be equally liable with the operator, director, or employee for the said violation of the provisions herein.

§10-404 JUNK YARDS; INSPECTIONS. The Municipal Police, Health Officials,

and the Governing Body shall have the power and authority to inspect and examine the premise on which a junk yard is located; provided, that the said inspection is at a reasonable time. Upon a finding that the owner, operator, director, or employee has allowed a health or safety hazard to develop, the Governing Body shall give written notice to the owner to remove the said health hazard within thirty (30) days. (Ref. 69-204 RS Neb.)

§10-405 JUNK YARDS; NUISANCE. Any junk yard that becomes a danger to the public health, or is not operated in the manner herein provided, shall be deemed to be a public nuisance after the said thirty (30) day period of grace. The Governing Body shall then request the Municipal Attorney to prosecute the owner, operator, director, or employee of the said nuisance for violation of the provisions of this Article. (Ref. 18-1720 RS Neb.)

§10-406 JUNK YARDS; RECORDS. Any person who shall be engaged in the junk business shall keep a book which shall be legibly written in ink at the time of any purchase of goods or articles at the time the same was received and the name, residence, and description of the person doing the selling. The said book, as well as the article purchased, shall be at all reasonable times subject to the inspection of the Governing Body or any member of the Municipal Police. (Ref. 69-204 RS Neb.)

§10-407 JUNK YARDS; PREMISE. Any area or parcel of land used as a junk yard shall not have more than two (2) entrances and two (2) exits each of which shall not exceed fifteen feet (15') in width at the perimeter of the premise. Such premise or parcel of land shall be enclosed with either a solid nontransparent wall or fence or link-weave steel wire, or combination thereof, with a minimum height of seven feet (7') from the ground level, except for entrances and exits. The fence shall not contain any poster or advertising of any kind except one (1) sign of the licensee not exceeding one hundred (100) square feet.

§10-408 JUNK YARDS; RODENTS. Any person who owns, operates, directs, or is employed by a junk yard shall make a diligent and continuous effort to exterminate all rats, mice, and other harmful rodents frequenting the said junk yard. (Ref. 18-1720 RS Neb.)

Article 5. Occupation Taxes

§10-501 OCCUPATION TAX; AMOUNTS. (1) For the purpose of raising revenue within the City of Fullerton, there is hereby levied upon the following described businesses conducted in said City, an annual fee of fifty dollars (\$50.00) per year for an occupation tax:

- a) Manufacturer of Beer
- b) Manufacturer of Wine
- c) Alcoholic Liquor Distributor (except Beer)

- d) Beer Distributor
- e) Retailer of Beer only, for consumption on the premises
- f) Retailer of Beer only, for consumption off the premises
(sale in the original packages only)
- g) Retailer of Alcoholic Liquors for consumption on the premises and off the
premises (sale in the original packages only)
- h) Nonprofit Clubs, selling liquors for consumption on premises as defined
by State Law
- i) Retailer of Alcoholic Liquors, including beer, for consumption off the
premises (sale in original packages only)

(2) This tax shall be levied for each such business in business on January 1st of each year and shall be due and payable when the liquor licenses are picked up.

(3) The City Treasurer shall issue his receipt for such tax when paid properly dated, specifying the person for whom paid and for what purpose. If such City Treasurer be unable to collect such occupation tax when due he shall immediately report such facts to the City Attorney who shall then proceed by civil suit in the name of the City to collect the amount due. This remedy shall not be exclusive of any other right of action but merely cumulative. *(Ref. 17-525 RS Neb.)*

§10-502 OCCUPATION TAX; FIRE INSURANCE COMPANIES. For the use, support, and maintenance of the Municipal Fire Department all revenue realized from the occupation tax on Fire Insurance Companies shall be appropriated to the Fire Department Fund. *(Ref. 35-106 RS Neb.)*

Article 6. Franchises

§10-601 FRANCHISE; NATURAL GAS. The Governing Body has granted to the Kansas-Nebraska Natural Gas Company, Inc. the authority to construct, maintain, and operate a gas transmission, and distribution system within the Municipality. Actual details of the agreement, and the present gas rates, charges, and fees are available at the Municipal Clerk's office. *(Ref. 17-528.02 RS Neb.)*

§10-602 FRANCHISE; ELECTRICITY. The Governing Body has granted to the Loup River Public Power District the authority to maintain and operate the light and power system in the Municipality for the purpose of furnishing electric energy to the Municipality, and fixing the charges for such services. Actual details of the agreement and the present electrical rates, charges, and fees are available at the Municipal Clerk's office. *(Ref. 17-528.03 RS Neb.)*

§10-603 FRANCHISE; CABLE TELEVISION. The Governing Body has granted to Galaxy Cablevision, Inc. the authority to construct, operate, and maintain a community antenna television system in the Municipality. Actual details of the agreement and the charges, rates, and fees are available at the Municipal Clerk's office.

Article 7. Penal Provisions

§10-701 VIOLATION; PENALTY. Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this Chapter, set forth at full length herein or incorporated by reference shall be deemed guilty of an offense and upon conviction thereof, shall be fined not more than five hundred (\$500.00) dollars for each offense. A new violation shall be deemed to have been committed every twenty-four (24) hours of such failure to comply.

§10-702 ABATEMENT OF NUISANCE. Whenever a nuisance exists as defined in this Chapter, the Municipality 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 a part of the judgment in the case. (*Ref. 18-1720, 18-1722 RS Neb.*)

CHAPTER 11 MUNICIPAL PLANNING

Article 1. General Provisions

§11-101 COMPREHENSIVE PLAN; INCORPORATED BY REFERENCE.

(1) That the Comprehensive Plan contained in a booklet entitled "City of Fullerton, Nebraska, Comprehensive Plan" as prepared by the Fullerton, Nebraska Planning Commission and assisted by Bucher, Willis and Ratliff is hereby incorporated by reference as authorized by the provisions of *Article 9, section 19-922 of the Revised Statutes of Nebraska as amended.*

(2) That one (1) copy of said Comprehensive Plan shall be marked or stamped "Official City Copy as incorporated by Ordinance No. 1208," to which shall be attached a copy of the incorporating ordinance and such copy shall be filed for use and examination by the public in the office of the Municipal Clerk.

§11-102 ZONING REGULATIONS; INCORPORATED BY REFERENCE; ENFORCEMENT.

(1) That the zoning regulations and administrative procedures contained in a booklet entitled "City of Fullerton, Zoning Regulations" as prepared by the Fullerton Planning Commission and assisted by Bucher, Willis and Ratliff are hereby incorporated by reference as authorized by the provisions of *Article 9, section 19-922 of the Revised Statutes of Nebraska as amended.*

(2) That one (1) copy of said zoning regulations shall be marked or stamped "Official City Copy as incorporated by Ordinance No. 1207A," to which shall be attached a copy of the incorporating ordinance and such copy shall be filed for use and examination by the public in the office of the Municipal Clerk.

(3) That the Zoning Map entitled, "Official Zoning District Map of the City of Fullerton, Nebraska" is hereby adopted and incorporated by reference and the City Clerk is hereby ordered to certify the same as the Official Zoning Map for the City of Fullerton, Nebraska, and said map shall be on file in the office of the City Clerk and be open to inspection and available to the public at all reasonable business hours.

(4) That the Municipal Attorney shall enforce the provisions of the zoning regulations and is hereby authorized and directed to file appropriate actions for such enforcement upon request of the Zoning Administrator.

§11-103 SUBDIVISION REGULATIONS; INCORPORATED BY REFERENCE; ENFORCEMENT.

(1) That the subdivision regulations contained in a booklet entitled "City of Fullerton, Nebraska, Subdivision Regulations" as prepared by the Fullerton Planning Commission and assisted by Bucher, Willis and Ratliff are hereby incorporated by reference as authorized by the provisions of *Article 9, section 19-922 of the Revised Statutes of Nebraska as amended.*

(2) That one (1) copy of said subdivision regulations shall be marked or stamped "Official City Copy as incorporated by Ordinance No. 1209," to which shall be attached a copy of the incorporating ordinance and such copy shall be filed for use and examination by the public in the office of the Municipal Clerk.

(3) That the Municipal Attorney shall enforce the provisions of the subdivision regulations and is hereby authorized and directed to file appropriate actions for such enforcement upon request of the Zoning Administrator.

§11-104 FLOODPLAIN MANAGEMENT REGULATIONS;

INCORPORATED BY REFERENCE; ENFORCEMENT. (1) That the floodplain management regulations contained in a booklet entitled "City of Fullerton, Nebraska, Floodplain Management Regulations" are hereby incorporated by reference as authorized by the provisions of *Article 9, section 19-922 of the Revised Statutes of Nebraska as amended.*

(2) That one (1) copy of said floodplain management regulations, as enacted by Ordinance No. 1172," shall be filed for use and examination by the public in the office of the Municipal Clerk.

(3) That the Municipal Attorney shall enforce the provisions of the floodplain management regulations and is hereby authorized and directed to file appropriate actions for such enforcement upon request of the Zoning Administrator.

Article 2. Penal Provisions

§11-201 VIOLATION; PENALTY. Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this Chapter, set forth at full length herein or incorporated by reference shall be deemed guilty of an offense and upon conviction thereof, shall be fined not more than five hundred (\$500.00) dollars for each offense. A new violation shall be deemed to have been committed every twenty-four (24) hours of such failure to comply.

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