

CODE
OF THE CITY OF
YORK, NEBRASKA

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of the

CITY OF

YORK, NEBRASKA

AT THE TIME OF THIS RECODIFICATION

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Mayor

[Council Member]

[Council Member]

[Council Member]

City Council

[Name of City Administrator]

City Administrator

[Name of Attorney]

City Attorney

[Name of City Clerk]

City Clerk

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PREFACE

This Code constitutes a recodification of the general and permanent ordinances of the City of York, Nebraska.

Source materials used in the preparation of the Code were the 1972 Code, as supplemented through November 18, 2021, and ordinances subsequently adopted by the city council. The source of each section is included in the history note appearing in parentheses at the end thereof. The absence of such a note indicates that the section is new and was adopted for the first time with the adoption of the Code. By use of the comparative tables appearing in the back of this Code, the reader can locate any section of the 1972 Code, as supplemented, and any subsequent ordinance included herein.

Acknowledgments

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CODE OF ORDINANCES

Chapter 1

GENERAL PROVISIONS¹

Sec. 1-1. How Code designated and cited.

The ordinances embraced in this and the following chapters shall constitute and be designated the "Code of the City of York, Nebraska," and may be so cited. The Code may also be cited as the "York Code."

(Code 1972, § 1-1; Ord. No. 918, §§ 1, 2, 12-1-1955)

State law reference—Revision, publication of ordinances, R.R.S. 1943, §§ 16-247, 16-403--16-405.

Sec. 1-2. Definitions and rules of construction.

The following definitions and rules of construction shall apply to this Code and to all ordinances unless the context requires otherwise:

Generally.

- (1) Words and phrases shall be construed according to the common and approved usage of the language, but technical words, technical phrases and words and phrases that have acquired peculiar and appropriate meanings shall be construed according to such meanings or as they may be defined in this Code or state statute.
- (2) If any manifest error is discovered consisting of the misspelling of any word or words, the omission of any word or words necessary to express the clear intention of any provision, the use of a word or words to which no meaning can be attached, or the use of one word or words where it is clear that a different word or words should have been used to express the intent of any provision, such spelling shall be corrected and such word or words supplied, omitted, or substituted as will conform with the clear intention, and the provisions shall have the same effect as though the words were correctly spelled, and as supplied, omitted or substituted, were used originally. However, this subsection shall not have the effect of permitting any change to be made should there exist doubt as to the meaning of the provision in question.
- (3) Grammatical errors shall not change the clear meaning of a provision and a transposition of words and clauses may be resorted to when the sentence or clause is without meaning as it stands.

Bond. When a bond is required, an undertaking in writing shall be sufficient.

City. The term "city" means the City of York in the County of York, in the State of Nebraska.

City council, governing body, etc. The terms "city council," "the council," "board of councilmembers," "councilmembers," "mayor and council," "governing body," and "governing board" mean the city council of the City of York, Nebraska.

Code. The term "Code" means the Code of the City of York, Nebraska, as designated in section 1-1.

Computation of time. The time within which an act is to be done shall be computed by excluding the first and including the last day and if the last day is a Saturday, Sunday or a legal holiday, that day shall be excluded.

Conjunctions. In a provision involving two or more items, conditions, provisions or events, which items, conditions, provisions or events are connected by the conjunction "and," "or" or "either. . . or," the conjunction shall be interpreted as follows, except that the terms "and" and "or" may be interchangeable when the context so requires:

- (1) The term "and" indicates that all the connected terms, conditions, provisions or events apply.

¹ Legal or Editorial Change: Code 1972, ch. 1. Revised to be more complete.

(2) The term "or" indicates that the connected terms, conditions, provisions or events apply singly or in any combination.

(3) The term "either. . . or" indicates that the connected terms, conditions, provisions or events apply singly but not in combination.

County. The term "county" means the County of York, in the State of Nebraska.

Delegation of authority. Whenever a provision appears in this Code requiring or authorizing the head of a department or other officer of the city to do some act or perform some duty, it shall be construed to authorize such department head or other officer to designate, delegate and authorize subordinates to do the required act or perform the required duty unless the terms of the provision or state statute specifically designate otherwise.

Gender. Words of gender include all genders.

In the city. The term "in the city" means and includes any territory within the corporate limits of the City of York, Nebraska, and the ~~police~~ extra-territorial jurisdiction thereof, and any other territory over which regulatory power has been conferred on the city by general or special act state law, except as otherwise specified.

Includes. The term "includes" does not limit a term to a specified example.

~~*Joint authority.* All words giving a joint authority to three or more persons or officers shall be construed as giving such authority to a majority of such persons or officers.~~

May. The term "may" is to be construed as being permissive and not mandatory.

May not. The term "may not" has a prohibitory effect and states a prohibition.

Month. The term "month" means a calendar month.

Must. The term "must" is to be construed as being mandatory.

Number. Words used in the singular shall include the plural and words used in the plural shall include the singular.

Oath. The term "oath" includes an affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words "swear" and "sworn" are equivalent to the words "affirm" and "affirmed."

Officers, departments, etc. References to officers, departments, boards, commissions, committees, or employees are to city officers, city departments, city boards, city commissions, city committees, and city employees. Reference to a public office or officer shall be deemed to apply to any office, officer, or employee exercising the powers, duties, or functions contemplated in the provision, irrespective of any transfer of functions or change in the official title of the functionary.

Owner. The term "owner," applied to a building or land, includes not only the owner of the whole, but any part owner, joint owner, tenant in common, or joint tenant of the whole or a part of such building or land.

~~*Person.* The word "person" shall include a firm, partnership, association of persons, corporation, organization or any other group acting as a unit, as well as an individual. The term "person" means any human being, any governmental or political subdivision or public agency, any public or private corporation, any limited liability company, any partnership, any firm, association or other organization, any receiver, trustee, assignee, agent, or other legal representative of any of the foregoing or any other legal entity.~~

Personal property. The term "personal property," includes every species of property, except real property.

Preceding, following. The terms "preceding" and "following" mean next before and next after, respectively.

Property. The term "property" includes real, personal and mixed property.

Real property. The term "real property" includes lands, tenements and hereditaments.

R.R.S. 1943. The abbreviation "R.R.S. 1943" refers to the Revised Statutes of Nebraska, as now or hereafter revised or amended. All references to state acts by title are to such acts as now or hereafter amended.

Shall. The term "shall" is to be construed as being mandatory.

Sidewalk. The term "sidewalk" means any portion of a street between the curblin and the adjacent property

line intended for pedestrians.

Signature, subscription. The term "signature" or "subscription" includes a mark when the person cannot write, when the person's name is written near such mark and is witnessed by a person who writes their own name as witness.

State. The term "state" means the State of Nebraska.

Street. The term "street" means public streets, avenues, boulevards, highways, roads, alleys, lanes, viaducts, bridges and the approaches thereto and other public thoroughfares in the city.

Tenant, occupant. The terms "tenant" and "occupant," as applied to a building or land, mean any person who occupies the whole or a part of such building or land, whether alone or with others.

Tense. ~~Words used in the past or present tense shall include the future as well as the past and present.~~ The present tense of a verb includes the past and future tenses. The future tense includes the present tense.

Week. The term "week" means seven consecutive days.

Writing, written. The terms "writing" and "written" include typewriting, printing on paper and any other mode of representing words and letters.

Year. The term "year" means a calendar year.

(Code 1972, § 1-2; Ord. No. 918, § 7, 12-1-1955)

Sec. 1-3. Catchlines of sections; history notes; references.

(a) The catchlines of the sections of this Code printed in boldface type are intended as mere catchwords to indicate the contents of the sections and shall not be deemed or taken to be titles of such sections, nor as any part of any section, nor, unless expressly so provided, shall they be so deemed when any section, including its catchline, is amended or re-enacted.

(b) History notes that appear in this Code after sections or subsections or that otherwise appear in footnote form are provided for the convenience of the user of the Code and have no legal effect.

(c) Editor's notes, cross references and state law references that appear in this Code after sections or subsections or that otherwise appear in footnote form are provided for the convenience of the user of the Code and have no legal effect.

(d) Unless specified otherwise, all references to chapters or sections are to chapters or sections of this Code.

(Code 1972, § 1-3, 1-5; Ord. No. 918, § 8, 12-1-1955)

Sec. 1-4. Incorporation by reference.²

~~All standard codes, rules, regulations, and other subject matter herein or hereafter properly incorporated by reference, together with subsequent amendments thereto, pursuant to state law, and future incorporations by reference shall be kept and preserved in the office of the city clerk treasurer in a separate and distinct file as provided by law.~~

(Code 1972, § 1-4)

~~State Law reference — Adoption of standard codes, R.R.S. 1943, § 18-132.~~

Sec. 1-4. Effect of repeal or amendment of ordinances.

(a) Unless specifically provided otherwise, the repeal of an ordinance does not revive any previously repealed ordinance.

(b) The repeal or amendment of an ordinance does not affect any punishment or penalty incurred before the repeal or amendment took effect.

(c) The repeal or amendment of an ordinance does not affect any vested right, privilege, obligation or

² Legal or Editorial Change: Code 1972, § 1-4. Incorporation by reference. Deleted as not needed.

liability.

Sec. 1-5. Police power and general ordinances extended to city property.

The police power of the city is hereby extended to include all lands or property owned or leased by the city or any agency of the city, and the general ordinances of the city shall be applicable on such property.

(Code 1972, § 1-6)

Sec. 1-6. Amendments to Code; effect of new ordinances; amendatory language.

(a) All ordinances adopted subsequent to this Code that amend, repeal or in any way affect this Code may be numbered in accordance with the numbering system of the Code and printed for inclusion in the Code.

(b) Amendments to provisions of this Code may be made with the following language: "Section (chapter, article, division or subdivision, as appropriate) of the Code of the City of York, Nebraska, is hereby amended or revised to read as follows: . . ."

(c) If a new section, subdivision, division, article or chapter is to be added to the Code, the following language may be used: "Section (chapter, article, division or subdivision, as appropriate) of the Code of the City of York, Nebraska is hereby enacted to read as follows: . . ."

State law reference—Form of ordinances, R.R.S. 1943, § 16-404(3).

Sec. 1-7. Supplementation of Code.

(a) Supplements to this Code shall be prepared and printed whenever authorized or directed by the city. A supplement to this Code shall include all substantive permanent and general parts of ordinances adopted during the period covered by the supplement and all changes made thereby in the Code. The pages of the supplement shall be so numbered that they will fit properly into the Code and will, where necessary, replace pages that have become obsolete or partially obsolete. The new pages shall be so prepared that when they have been inserted, the Code will be current through the date of the adoption of the latest ordinance included in the supplement.

(b) In preparing a supplement to this Code, all portions of the Code that have been repealed shall be removed from the Code by the omission thereof from reprinted pages.

(c) When preparing a supplement to this Code, the person authorized to prepare the supplement may make formal, nonsubstantive changes in ordinances and parts or ordinances included in the supplement, insofar as necessary to do so in order to embody them into a unified code. For example, the person may:

- (1) Arrange the material into appropriate organizational units.
- (2) Supply appropriate catchlines, headings and titles for chapters, articles, divisions, subdivisions and sections to be included in the Code and make changes in any such catchlines, headings and titles or in any such catchlines, headings and titles already in the Code.
- (3) Assign appropriate numbers to chapters, articles, divisions, subdivisions and sections to be added to the Code.
- (4) Where necessary to accommodate new material, change existing numbers assigned to chapters, articles, divisions, subdivisions or sections.
- (5) Change the words "this ordinance" or similar words to "this chapter," "this article," "this division," "this subdivision," "this section" or "sections to " (inserting section numbers to indicate the sections of the Code that embody the substantive sections of the ordinance incorporated in the Code).
- (6) Make other nonsubstantive changes necessary to preserve the original meaning of the ordinances inserted in the Code.

Sec. 1-8. Altering Code.

It shall be unlawful for any person, not authorized so to do, to change or amend by additions or deletions, any part or portion of this Code, or to insert or delete pages, or portions thereof, or to alter or tamper with such Code in any manner whatsoever which will cause the law of the city to be misrepresented thereby.

(Code 1972, § 1-7)

State law reference—Forgery in the second degree, R.R.S. 1943, § 28-603.

Sec. 1-9. General penalty.³

~~Any person upon whom a duty is placed by the provisions of this Code and who shall fail, neglect or refuse to perform such duty, or any person who shall violate any of the provisions of this Code for which a penalty is not otherwise specifically provided, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not to exceed one hundred dollars (\$100.00) and shall stand committed to the city jail until such fine and costs of prosecution are paid or may be confined in the city jail for a period of not to exceed 15 days or both such fine and imprisonment. Each day that a violation of this Code continues shall constitute a separate and distinct offense and shall be punishable as such.~~

~~The penalty provided in this chapter shall be cumulative with and in addition to the revocation, cancellation, or forfeiture of any license or permit elsewhere in this Code provided for violation thereof.~~

(a) In this section, the term "violation of this Code" means any of the following:

- (1) Doing an act that is prohibited or made or declared unlawful, a misdemeanor, an offense, or a violation by ordinance, by statute adopted by reference in this Code, by state rule or regulation adopted by reference in this Code, or by order, rule or regulation authorized by ordinance.
- (2) Failure to perform an act that is required to be performed by ordinance, by statute adopted by reference in this Code, by state rule or regulation adopted by reference in this Code or by order, rule or regulation authorized by ordinance.
- (3) Failure to perform an act if the failure is prohibited or is made or declared unlawful, a misdemeanor, an offense, or a violation by ordinance, by statute adopted by reference in this Code, by state rule or regulation adopted by reference in this Code or by order, rule or regulation authorized by ordinance.

(b) In this section, the term "violation of this Code" does not include the failure of a city officer or city employee to perform an official duty unless it is specifically provided that the failure to perform the duty is to be punished as provided in this section.

~~(c) Except as otherwise provided by law or ordinance, a person convicted of a violation of this Code shall be punished by a fine not exceeding \$100.00, a definite term of imprisonment not to exceed 15 days, or any combination thereof \$1,000.00.~~

~~(d) Except as otherwise provided by law or ordinance:~~

- (1) With respect to violations of this Code that are continuous with respect to time, each day that the violation continues is a separate offense.
- (2) With respect to violations that are not continuous with respect to time, each act constitutes a separate offense.

~~(e) The imposition of a penalty does not prevent suspension or revocation of a license, permit or franchise or other administrative sanctions.~~

(f) Violations of this Code that are continuous with respect to time are a public nuisance and may be abated by injunctive or other equitable relief. The imposition of a penalty does not prevent injunctive relief.

³ Legal or Editorial Change: Code 1972, § 1-8. General penalty. Revised the penalty. There does not appear to be any express limits on penalties in the state statutes. It would seem, however, that the city is limited by the maximum authorized penalty for a misdemeanor—a fine of \$1,000, imprisonment for not more than one year, or both. See R.R.S. 1943, § 28-106. Deleted imprisonment as an authorized penalty, as imprisonment as an authorized penalty confers the right to counsel. Also deleted the provisions about imprisonment for failure to pay fines, as indigents cannot be imprisoned for failure to pay a fine. See *Tate v. Short*, 401 U.S. 395, 91 S. Ct. 668, 28 L. Ed. 2d 130 (1971).

(Code 1972, § 1-8; Ord. No. 918, § 6, 12-1-1955)

State law reference—Authority to impose fine for violation of ordinances, R.R.S. 1943, § 16-225.

Sec. 1-10. Severability.

The sections, subsections, paragraphs, sentences, clauses and phrases of this Code and all provisions adopted by reference in this Code are severable so that if any section, subsection, paragraph, sentence, clause and phrase of this Code or of any provision adopted by reference in this Code is declared unconstitutional or invalid by a valid judgment of a court of competent jurisdiction, such judgment shall not affect the validity of any other section, subsection, paragraph, sentence, clause and phrase of this Code or of any provision adopted by reference in this Code, for the city council declares that it is its intent that it would have enacted this Code and all provisions adopted by reference in this Code without such invalid or unconstitutional provisions.

(Code 1972, § 1-10; Ord. No. 918, §§ 5, 10, 12-1-1955)

Sec. 1-11. Certain ordinances not affected by Code; Code does not affect prior offenses, rights, etc.

Nothing contained in this Code of Ordinances or in the ordinance adopting this Code shall be construed to repeal or otherwise affect the following:

- (1) Any offense or act committed or done or any penalty or forfeiture incurred or any contract or right established or accruing before the effective date of this Code.
- (2) Any ordinance describing the corporate limits of the city or annexing or deannexing property.
- (3) Any ordinance promising or guaranteeing the payment of money for the city, or authorizing the issuance of any bonds of the city or any evidence of the city's indebtedness, or any contract or obligation assumed by the city.
- (4) Any appropriation ordinance.
- (5) Any right or franchise granted by the city council to any person.
- (6) Any ordinance providing for salaries or other officer or employee benefits.
- (7) Any ordinance providing for local improvements or making assessments therefor.
- (8) Any ordinance adopting or amending a comprehensive plan.
- (9) Any ordinance dedicating, establishing, naming, renaming, locating, relocating, opening, paving, widening, repairing, vacating or discontinuing any road.
- (10) Any ordinance dedicating, accepting or vacating any plat or subdivision.
- (11) Any ordinance fixing utility rates.
- (12) Any ordinance rezoning specific property or amending the zoning map or otherwise pertaining to zoning.
- (13) Any ordinance that is temporary, although general in effect.
- (14) Any ordinance that is special, although permanent in effect.
- (15) Any ordinance the purpose of which has been accomplished.
- (16) Any ordinance that was repealed by an ordinance codified in the Code.

~~— Any ordinance enacted by the city council after February 10, 1972.~~

(Code 1972, § 1-9; Ord. No. 918, § 2, 12-1-1951)

Chapter 2

ADMINISTRATION*

***State law reference**—Cities of the first class generally, R.R.S. 1943, § 16-101 et seq.

ARTICLE I. IN GENERAL**Sec. 2-1. Corporate seal—Description.**

There shall be kept in the office of the city clerk, an official seal of the city having engraved thereon the words, "City of York, Nebraska, Seal."

(Code 1955, § 6-301; Code 1972, § 2-1)

State law reference—City seal, R.R.S. 1943, § 16-115.

Sec. 2-2. Corporate seal—Use.

The city clerk shall affix an impression of the official city seal to all warrants, licenses, ordinances and all papers issued by order of the mayor and council and to be signed by the mayor and countersigned by the city clerk.

(Code 1955, § 6-302; Code 1972, § 2-2)

Sec. 2-3. Council of governments participation.

The city is hereby authorized to join with any incorporated villages, cities, or counties that are eligible and may wish to participate in the creation of the county council of governments through the execution of an intergovernmental agreement. The mayor is hereby authorized for and on behalf of the city as its corporate act and deed under its corporate name and seal, to execute an agreement for participation by the city in the county council of governments, which said agreement shall be substantially in the words and figures set forth in that certain agreement, a copy of which is attached to Ordinance No. 1238 and made a part hereof.

(Code 1972, § 2-14; Ord. No. 1238, § 1, 2-8-1973; Ord. No. 1752, § 2, 9-11-1997)

Sec. 2-4. Departments, defined.⁴

(a) The following departments under the control of the mayor and administrator of the city are hereby created:

- (1) Police;
- (2) Fire;
- (3) Library;
- (4) Parks and recreation;
- (5) Public works;
- (6) Convention center; ~~aviation, wastewater, water, landfill, street and~~
- (7) Human resources.

(b) The departments created above shall perform the functions provided by this Code and state statute, and such other functions as may be authorized by the administrator or mayor.

(c) The mayor may, by and with the consent of the city council or majority of the same, appoint an administrator, treasurer, city clerk, city attorney, city parks and recreation director, convention center director, human resources director, ~~and three or five members of the board of public works as provided by separate ordinance,~~ and such other department heads as may further be provided by separate ordinance. The administrator shall perform

⁴ Legal or Editorial Change: Code 1972, § 2-101. Departments, defined. Altered to be current.

such administrative duties as prescribed by ordinance. The department heads shall perform such duties as prescribed by Code and state statute and such other duties as may be authorized by the administrator or mayor, and such further duties as may be necessary and appropriate to carry out the functions of their departments.

(d) Any of the officers referred to in subsection (c) of this section, may be removed from office at any time by the mayor with the approval of a majority of the members of the council.

(Code 1955, § 6-101; Code 1972, § 2-101; Ord. No. 2091, § 1, 2-6-2014; Ord. No. 2275, § 1, 12-17-2020)

State law reference—Appointment of officers, R.R.S. 1943, § 16-308.

Secs. 2-5--2-26. Reserved.

ARTICLE II. CITY COUNCIL*

***State law reference**—City council generally, R.R.S. 1943, §§ 16-304 et seq., 16-401 et seq.

Sec. 2-27. Membership; qualifications.

The members of the city council shall be elected at large and shall be qualified electors of the city.

(Code 1972, § 2-24; Ord. No. 1411, § 2, 2-12-1981)

State law reference—Election of council, R.R.S. 1943, § 16-302.1.

Sec. 2-28. Meetings.⁵

(a) *Organizational meeting.* After their election, the members of the city council shall convene at the regular place of meeting on the third Thursday in December in the year when they were elected at ~~7:00~~ 5:30 p.m. for the purpose of organizing themselves as provided by law.

(b) *Regular meetings.* The regular meetings of the city council shall be held on the first Thursday of each month beginning at the hour of ~~7:00~~ 5:30 p.m. and the third Thursday of each month beginning at the hour of ~~7:00~~ 5:30 p.m., provided that the city council may adjourn over not to exceed one regular meeting. The council may, by notice published not less than 24 hours thereto, change its regular time of meeting.

(c) *Place.* Regular meetings of the council shall be held in the council chambers of the York Municipal Building, provided that the council may adjourn any meeting to such other place as it may deem necessary, desirable or convenient for the holding of its session; provided, further, that if such meeting is adjourned to some other place, notice of the place of the meeting is being held shall be affixed to some other place, notice of the place the meeting is being held shall be affixed to the door of the council chambers.

(d) *Special meetings.* The mayor shall call special meetings of the city council ~~whenever, in his opinion, the public business may require it, or at the express written request of any three members of the council. Whenever a special meeting shall be called, a summons or a notice in writing signed by the mayor or president of the council shall be served upon each member either in person or by notice left or mailed to his place of residence, stating day and hour of the meeting of the council at least three hours before the time set for such meeting; provided, that such notice may be waived in writing either at, before or after such meeting by an member of the council and the attendance of any member of the council at such special meeting shall be deemed to be a waiver of any such notice. Notice must be provided to councilmembers in writing and public notice posted at least 24 hours before the meeting, except for emergency meetings.~~

(Code 1972, § 2-25; Ord. No. 1411, § 2, 2-12-1981; Ord. No. 1756, § 1, 11-13-1997; Ord. No. 1843, § 1, 9-5-2002; Ord. No. 1975, § 1, 12-21-2006; Ord. No. 2342, § 1, 10-20-2022)

State law reference—Council meetings, R.R.S. 1943, § 16-401; Open Meetings Act, R.R.S. 1943, § 84-1407 et seq.

Sec. 2-29. Agenda.

All reports, communications, ordinances, resolutions, contract documents or other matters to be submitted to the council shall, prior to each council meeting, be delivered to the city clerk, whereupon the city administrator

⁵ Legal or Editorial Change: Code 1972, § 2-25. Meetings. Altered per instructions.

shall immediately arrange an agenda of such matters according to the order of business and furnish the mayor, each member of the council, and the city attorney with a copy of the same as far in advance of the meeting as time for preparation will permit. Any member of the council may bring before the council any matter if placed on such agenda.

(Code 1972, § 2-26; Ord. No. 1411, § 2, 2-12-1981)

Sec. 2-30. Presiding officer.⁶

The presiding officer of the city council shall be the mayor, or, in the mayor's absence, the president of the city council, or in the president's absence, the ~~vice-president~~ acting president of the city council. The presiding officer shall preserve strict order and decorum at all regular and special meetings of the council. The presiding officer shall state every question coming before the council, announce the decision of the council on all subjects and decide all questions of order, subject, however, to an appeal to the council, in which event a majority vote of the council shall govern and conclusively determine such question of order. Such appeal shall be immediately presented and voted upon by the council. The presiding officer shall sign all ordinances and resolutions adopted by the council during the presiding officer's presence. In the event of the absence of the mayor, the presiding officer shall sign ordinances or resolutions as then adopted.

(Code 1972, § 2-27; Ord. No. 1411, § 2, 2-12-1981)

State law reference—City council president and acting president, R.R.S. 1943, § 16-402.

Sec. 2-31. Order of meeting.

(a) *Calling of meetings to order.* The presiding officer shall take the chair precisely at the hour appointed for the council meeting, and shall immediately call the city council to order. In the absence of the presiding officer, the city clerk or the city attorney shall call the council to order, whereupon a temporary chairperson shall be elected by the members of the council present. Upon the arrival of the presiding officer, the temporary chairperson shall immediately relinquish the chair upon the conclusion of the business immediately before the council.

(b) *Roll call.* Before proceeding with the business of the city council, the city clerk or the city clerk's deputy shall call the role of the members and the names of those present shall be entered in the minutes.

(c) *Quorum.* A majority of all the members elected to the city council shall constitute a quorum at any regular or special meeting of the council. In the absence of a quorum, a smaller number may adjourn from time to time and may compel the attendance of absent members.

(d) *Order of business.* All meetings of the city council shall be open to the public. Promptly at the hour set by ordinance on the day of each meeting, the members of the council, the city clerk, city attorney and city administrator, or their assistants, shall take their regular stations in the council chamber, and the business of the council shall be taken up for consideration and disposition ~~in the following order~~ to consist of the following items as needed or required:

- (1) Open Meetings Act announcement.
- (2) Roll call.
- (3) Approval of minutes of previous meeting.
- (4) Approval of claims.
- (5) Departmental activities report.
- (6) Water and sewer department operational statements.
- (7) Fund balances and budget comparison reports.
- (6) ~~Recognition of visitors.~~

⁶ Legal or Editorial Change: Code 1972, § 2-27. Presiding officer. Conformed to R.R.S. 1943, § 16-402 by changing vice-president of the city council to acting president of the city council.

- (8) Petitions, remonstrances and communications.
- (9) Introduction of resolutions.
- (10) Introduction of ordinances.
- (11) Report of officers, boards and committees.
- (12) Adjournment.

(Code 1972, § 2-28; Ord. No. 1411, § 2, 2-12-1981)

Sec. 2-32. Reading of minutes.

Unless a reading of the minutes of a city council meeting is requested by a member of the council, such minutes may be approved without reading if the city clerk has previously furnished each member with a copy thereof.

(Code 1972, § 2-29; Ord. No. 1411, § 2, 2-12-1981)

Sec. 2-33. Robert's Rules of Order.⁷

Unless otherwise specified or unless changed by a specific provision of this article, the city council shall be governed in all matters of procedure by that compilation of rules of procedure known as Robert's Rules of Order, Newly Revised, 12th edition.

(Code 1972, § 2-30; Ord. No. 1411, § 2, 2-12-1981)

Sec. 2-34. Rules of debate.

(a) *Rights of presiding officer.* The presiding officer, if other than the mayor, may move, second and debate from the chair, subject only to such limitations of debate as are imposed by these rules on all members, and shall not be deprived of any of the rights and privileges of a councilmember by reason of their acting as the presiding officer.

(b) *Getting the floor; improper references to be avoided.* Every member desiring to speak shall address the chair, and upon recognition by the presiding officer, shall confine themselves to the question under debate, avoiding all personalities and indecorous language.

(c) *Interruptions.* A member, once recognized, shall not be interrupted when speaking, unless it is to call the member to order as otherwise provided in this article. If a member, while speaking, is called to order, the member shall cease speaking until the question of order is determined, and, if in order, the member shall be permitted to proceed.

(d) *Yielding the floor.* A member having the floor shall yield the same for a point of order addressed to the chair, a question of personal privilege raised by any member and an inquiry for information addressed to the chair. Said member may, upon request of any other member, temporarily yield the floor for any interrogation or a statement by any member at the conclusion of which the member will again be entitled to the floor.

(e) *Limitation on debate.*

(1) The council may, by a general rule, limit debate or discussion on any matter or may, by motion adopted at the time, limit debate or discussion on any particular subject or motion and may, by majority vote of the members present, extend any such limit.

(2) No member shall speak more than once on any subject under discussion without permission from the presiding officer.

(f) *Privilege of closing debate.* The councilmember moving the adoption of an ordinance or resolution shall have the privilege of closing the debate.

⁷ Legal or Editorial Change: Code 1972, § 2-30. Robert's Rules of Order. So as to avoid adoption by reference problems, altered to adopt *Roberts Rules of Order Newly Revised, 12th Edition*,.

(g) *Motion to reconsider.* A motion to reconsider any action taken by the council may be made only on the day such action was taken. It may be made either immediately during the same session or at a recessed or adjourned session thereof. Such motion must be made by one of the prevailing side, but may be seconded by any member, and may be made at any time and have precedence over all other motions or while a member has the floor and it shall be debatable. Nothing in this subsection shall be construed to prevent any member of the council from making or remaking the same or any other motion at a subsequent meeting of the council.

(h) *When remarks of councilmember entered in minutes.* A councilmember may request, through the mayor, the privilege of having an abstract of their statement on any subject under consideration by the council entered in the minutes. If the council consents thereto, such statement shall be entered in the minutes.

(i) *When synopsis of debate entered in minutes.* The city clerk may be directed by the mayor, with consent of the council, to enter in the minutes a synopsis of the discussion of any question coming regularly before the council.

(Code 1972, § 2-31; Ord. No. 1411, § 2, 2-12-1981)

Sec. 2-35. Addressing the council.

(a) The presiding officer of the city council shall provide opportunity during the council meetings for discussion by interested persons or their authorized representatives on any council bill or other matter before the council prior to final passage.

(b) Any person may direct a written communication to the city council on any matter concerning the city's business by directing the communication to the council through the city clerk. Any such written communication shall be placed on the agenda of the next council meeting under the order of business entitled petitions, remonstrances and communications.

(c) Any person desiring to personally address the council on any matter not then before it shall notify the city clerk prior to the council meeting at which said person wishes to appear.

(d) After a motion is made in the city council, no person except a member of the council shall address the council.

(e) The presiding officer of the council shall, from time to time, make such rules as the presiding officer may deem necessary to fulfill and carry out the intent of the provisions of this section.

(Code 1972, § 2-32; Ord. No. 1411, § 2, 2-12-1981)

Sec. 2-36. Manner of addressing council; time limit.

Each person addressing the city council shall step up to the podium, shall give their name and address for the records, and unless further time is granted by the presiding officer, shall limit their address to five minutes. All remarks shall be addressed to the council as a body and not to any member thereof. No person, other than the council and the person having the floor, shall be permitted to enter into any discussion, either directly or through a member of the council, without the permission of the presiding officer. No question shall be asked a councilmember except through the presiding officer.

(Code 1972, § 2-33; Ord. No. 1411, § 2, 2-12-1981)

Sec. 2-37. Decorum, generally.

(a) *Councilmembers.* While the city council is in session, the members shall preserve decorum and order, and no member shall, by conversation or otherwise, delay or interrupt the proceedings or the peace of the council, nor disturb any member while speaking, nor refuse to obey the orders of the council or its presiding officer, except as otherwise provided in this article.

(b) *Other persons.* No person shall make personal, impertinent or slanderous remarks, nor otherwise disturb the order and decorum of any council meeting. The sergeant-at-arms, at the direction of the presiding officer, shall remove any person violating the provisions of this subsection.

(c) *Sergeant-at-arms.* The chief of police or such members of the police department as the chief of police may designate shall be sergeant-at-arms of the city council meetings. The sergeant-at-arms shall carry out all orders

and instructions given by the presiding officer for the purpose of maintaining order and decorum at the council meetings.

(Code 1972, § 2-34; Ord. No. 1411, § 2, 2-12-1981)

Sec. 2-38. Committees.⁸

(a) *Special committees.* All special committees shall be appointed by the mayor, unless otherwise directed by the city council.

(b) *Standing committees.* At the organization meeting of the council, held as provided in this Code, the mayor, with the approval of a majority of the council, shall appoint the following standing committees:

- (1) *Finance.* The finance committee shall review and provide advice regarding the budgets of city departments, the city funds and all claims presented to the city for payment.
- (2) *Ordinance and judiciary.* The ordinance and judiciary committee shall review proposed legislation, enactment and amendment of city ordinances and review existing city ordinances, and shall make recommendations to the council and administration regarding proposed enactment, amendment and rescission of city ordinances.
- (3) *Asset management.* The asset management committee shall review projects of the public works department and shall review the use of city property and potential repair and replacement of city property, and make recommendations regarding such matters.
- (4) *Insurance and benefits.* The insurance and benefits committee will review existing city insurance and make recommendations regarding insurance maintained by the city and the replacement, amendment or change to any city insurance.
- (5) *Others.* Such other standing committees as the council may by ordinance hereafter create.

(c) *Composition.* The committees (subsection (b) of this section) of the city council shall each consist of ~~three~~ four councilmembers, and the personnel thereof may be changed by the mayor at any time with the approval of the majority of the council. The mayor shall be a member ex officio of each standing committee of the city council.

(d) *Committee meetings, generally.* Meetings of all committees may be held at such time and place as the committee shall determine for its convenience. ~~All committee meetings shall be open to the public and notice of the meetings will be posted at least one day in advance of the meeting at the door of the City Hall.~~

(e) *Committee of the whole.* The council shall be the committee of the whole. The mayor shall be the presiding officer of the committee of the whole, and the rules of proceedings in the council shall be observed in the committee of the whole so far as the same may be applicable, provided that discussion in the committee of the whole shall be as informal as possible, consistent with good order. When the city council shall meet as committee, it shall not be required to meet immediately during the session of the council, but may defer its meeting and fix such time and place as the committee may determine, and may adjourn its meeting from time to time and may make its report, at any subsequent meeting of the mayor and city council.

(f) *Vacancies.* Whenever any vacancy shall occur in any appointive or elective office of the city or in the membership of the city council by death, resignation, impeachment, absence from city or from any regular or stated meeting of the council for 30 days without excuse from the mayor or other legal cause, the mayor shall, with the concurrence of a majority of the number of members required to be elected to the council, fill such vacancy. If the appointment to fill a vacancy be in an elective office, it shall be made until such time as a general or special election shall be held to fill such office and until such person or person then elected shall qualify and accept the duties of said office. A vote shall be taken and a record made in the filling of vacancies.

(Code 1972, § 2-35; Ord. No. 1411, § 2, 2-12-1981; Ord. No. 1815, § 1, 12-7-2000; Ord. No. 2121, 12-18-2014; Ord. No. 2189, § 1, 2-15-2018)

⁸ Legal or Editorial Change: Code 1972, § 2-35. Committees. Altered per instructions.

Sec. 2-39. Ordinances, resolutions, motions and contracts.⁹

(a) *Preparation of ordinances.* The city attorney shall, on request of the mayor, city administrator, city council or any number thereof, prepare any ordinance or resolution.

(b) *Approval of ordinances and resolutions.* Before any ordinance or resolution shall be finally adopted, the city attorney or authorized assistant shall endorse thereon their approval as to form.

(c) *Prior approval of bonds, contracts, etc.* Before any bond, contract or other legal document binding the city shall be presented to the council for final approval, the city administrator shall approve the same in writing as to the terms thereof, and the city attorney or authorized assistant shall approve the same as to its form and shall endorse such approval thereon.

~~Ordinances relating to administration. Any ordinance, except those containing an emergency clause, relating to the duties, powers and functions of any administrative department or office or affecting in any substantial manner the administration of the city government shall be referred by the presiding officer to the city administrator for his report and recommendations thereon, unless such ordinance shall have been previously approved by the city administrator. Further action on such ordinances shall be deferred until the next meeting of the council.~~

(d) *Presentation and sponsorship.* Ordinances, resolutions and other matters or subjects requiring action by the council may be introduced and sponsored by any member of the council, ~~and by no other person; provided, that the city administrator or the city attorney may present ordinances, resolutions and other matters or subjects to the council and any council member may assume sponsorship thereof by introducing the same and moving its adoption; otherwise, such matters shall not be considered by the council~~ the city administrator or mayor.

(e) *Protests by members against council action.* Any member shall have the right to have the reasons for the member's dissent from or protest against any action of the city council entered on the minutes.

(Code 1972, § 2-36; Ord. No. 1411, § 2, 2-12-1981)

Sec. 2-40. Reports of committees.

All committees of the city council shall make their reports in writing when so directed by the presiding officer, and shall return the petition, resolution, account or other paper submitted for consideration. All reports and resolutions shall be filed with the city clerk and entered on the minutes of the city council.

(Code 1972, § 2-37; Ord. No. 1411, § 2, 2-12-1981)

Sec. 2-41. Motions to adjourn.

A motion to adjourn shall always be in order and shall be decided without debate.

(Code 1972, § 2-38; Ord. No. 1411, § 2, 2-12-1981)

Secs. 2-42--2-72. Reserved.**ARTICLE III. LEGISLATION***

***State law reference**—Ordinances generally, R.R.S. 1943, § 18-131 et seq.; passage of ordinances, R.R.S. 1943, § 16-403 et seq.

Sec. 2-73. Introduction.¹⁰

Ordinances may be introduced ~~by members of the city council in either of the following ways: by a member of the council, the mayor, or the administrator.~~

- (1) ~~With the recognition of the chair, a member may in the presence and hearing of a majority of the members elected to the city council, read aloud the substance of his proposed ordinance and file a copy of the same with the city clerk treasurer for future consideration.~~

⁹ Legal or Editorial Change: Code 1972, § 2-36. Ordinances, resolutions, motions and contracts. Altered per instructions.

¹⁰ Legal or Editorial Change: Code 1972, § 2-67. Introduction. Revised per instructions.

~~— Or, with the recognition of the chair, a member may present his proposed ordinance to the clerk treasurer, who, in the presence and hearing of a majority of the members elected to the city council, shall read aloud the substance of the same and shall file the same for future consideration.~~

~~— Ordinances may be introduced by the mayor or other presiding officer of the city council when presiding.~~

(Code 1972, § 2-67)

Sec. 2-72. Form.

The form of ordinances shall be as follows:

- ~~(1) The title, which clearly and fully expresses every subject contained in the text of the ordinance;~~
- ~~(2) The statutory ordinance clause;~~
- ~~(3) The text of the ordinance properly divided into sections, each section to contain and express, as nearly as possible, a single unit of legislative matter;~~
- ~~(4) A section repealing prior ordinances in conflict with the ordinance;~~
- ~~(5) A section prescribing the time when the ordinance shall take effect;~~
- ~~(6) The date of the passage and approval of the ordinance, the signature of the mayor and the attestation of the clerk.~~

(Code 1972, § 2-68)

Sec. 2-69. Suspension of rules.¹¹

~~The rule requiring ordinances to be read on three different days shall not be suspended or dispensed with unless three fourths (3/4) of the members of the city council shall vote for the suspension of said rule.~~

(Code 1934, Ch. 6, § 32; Code 1972, § 2-69)

Sec. 2-74. Vote necessary to enact.

No ordinance shall be legal unless it shall have received the affirmative vote of a majority of the city council.

(Code 1934, ch. 6, § 32; Code 1972, § 2-70)

Sec. 2-75. Voting.¹²

The vote on any ordinance or resolution shall be viva voce, and the yeas and nays thereon shall be recorded by the city clerk ~~treasurer~~.

(Code 1934, ch. 6, § 32; Code 1972, § 2-71)

Sec. 2-75. Publication.

~~All ordinances enacted by the city council shall be posted in three public places within the city, one of which places shall be the office of the city clerk, or published in a legal newspaper within said city or published in book or pamphlet form, the method of such posting or publication to be as designated by the city council in the passage of any such ordinances, all as set forth and authorized in R.R.S. 1943, § 18-131.~~

(Code 1972, § 2-72; Ord. No. 1367, § 1, 3-15-1979)

¹¹ Legal or Editorial Change: Code 1972, § 2-69. Suspension of rules. Deleted as covered by R.R.S. 1943, § 16-404(2)(a).

¹² Legal or Editorial Change: Code 1972, § 2-71. Voting. As the offices of clerk and treasurer are no longer combined, revised to reference the clerk.

Sec. 2-76. Attestation.¹³

After the passage of every ordinance of the city and previous to the publication thereof, there shall be annexed thereto by the city clerk ~~treasurer~~ their certificate attesting the passage, approval and publication thereof.

(Code 1934, ch. 6, § 34; Code 1972, § 2-73)

Sec. 2-77. Resolutions and orders.¹⁴

(a) Except as otherwise provided, all resolutions and orders may be passed without the formalities required for the passage of an ordinance, by a simple viva voce vote of a majority of the members elected to the council. The existence and authenticity of any such resolutions or orders shall be sufficiently proved and established by a recitation in the city clerk ~~treasurer's~~ minutes, showing:

- (1) First, a copy of the resolution or order in full;
- (2) Second, that said resolution or order was ~~read at large at least once; and, attached to the agenda and published in advance of the meeting.~~
- (3) ~~Third, that a majority of the councilmembers present at the meeting, a majority of the members elected to the council being present, having voted for said resolution or order, the same was declared passed.~~

(b) No resolution shall be legal unless it shall have received the affirmative vote of a majority of the city council.

(Code 1972, § 2-74)

Sec. 2-78. Record vote.

Any councilmember shall have the right to demand a record vote upon any motion, resolution or ordinance introduced by the councilmember, regardless of whether the same shall have a second or not.

(Code 1972, § 2-75)

Sec. 2-79. Numbering of ordinances.

All ordinances hereafter passed shall be numbered consecutively.

(Code 1972, § 2-76)

Secs. 2-80--2-101. Reserved.

ARTICLE IV. OFFICERS AND EMPLOYEES*

*State law reference—Officers and employees generally, R.R.S. 1943, § 16-301 et seq.

DIVISION 1. GENERALLY

Sec. 2-102. Manner of appointment.¹⁵

~~All appointive officers of this city shall be nominated and appointed by the mayor with the advice and consent of a majority of the number of members required to be elected to the council. The vote thereon shall be recorded in the minutes of the meeting by the city clerk together with the names of the members voting for and against said appointment.~~

(Code 1955, § 6-406; Code 1972, § 2-102)

¹³ Legal or Editorial Change: Code 1972, § 2-73. Attestation. As the offices of clerk and treasurer are no longer combined, revised to reference the clerk.

¹⁴ Legal or Editorial Change: Code 1972, § 2-74. Resolutions and orders. Revised per instructions.

¹⁵ Legal or Editorial Change: Code 1972, § 2-102. Manner of appointment. Deleted the first sentence as covered by R.R.S. 1943, § 16-308 and the remainder of the section as not needed.

Sec. 2-3. Conflict of interests.¹⁶

~~No officer of this city shall be interested directly or indirectly, in any contract to which the city or any one for its benefit, is a party when the consideration of the same is in an amount in excess of ten thousand dollars (\$10,000.00) in any one year; any such interest in any such contract shall void the obligation thereof on the part of the city. No officer shall receive any pay or perquisites from the city other than his salary; and the council shall not pay or appropriate any money or any valuable things to any person not an officer for the performance of any act, service or duty, the doing or performance of which shall come within the proper scope of the duties of any officer of the city.~~

~~(Code 1955, § 11-419; Code 1972, § 2-3)~~

Sec. 2-4. Oaths.¹⁷

~~All officers of the city, whether elected or appointed, shall before entering upon the duties of their respective offices declare and subscribe the following oath or affirmation:~~

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

~~This oath or affirmation so subscribed shall be filed in the office of the city clerk, except that of the city clerk, if required, which shall be filed with the mayor.~~

~~(Code 1955, § 6-203; Code 1972, § 2-4)~~

~~State Law reference—Official oaths, R.R.S. 1943, §§ 11-101, 11-101.01, Const., Art. XV, § 1.~~

Sec. 2-102. Bonds.¹⁸

~~The city council may require any elected or appointed officer or employee of the city to give bond and security in such amount as provided by law or as required by the council for the faithful performance of their duties; provided, any corporate surety on such bond shall be authorized to do business in this state. No officer shall become surety upon the official bond of another, or upon any contractor's bond, license or appeal bond given to the city, or under any ordinance hereof, or from conviction in the police court. The bond required by state statute for elected and appointed officers or employees of the city shall be filed in the office of the city clerk. The premium for such bond may be paid by the city out of an appropriate fund. ~~The bond required by this section shall be filed in the office of the city clerk.~~~~

~~(Code 1955, § 6-201; Code 1972, § 2-5)~~

~~State law reference—Municipal officers' bond generally, R.R.S. 1943, §§ 11-104, 16-219; bond of councilmembers, R.R.S. 1943, § 16-304; bond of treasurer, R.R.S. 1943, § 16-318.~~

¹⁶ Legal or Editorial Change: Code 1972, § 2-3. Conflict of interests. Deleted as obsolete in light of R.R.S. 1943, § 49-1493 et seq.

¹⁷ Legal or Editorial Change: Code 1972, § 2-4. Oaths. Deleted the oath as covered by R.R.S. 1943, § 11-101.01 and the remainder of the section as not needed.

¹⁸ Legal or Editorial Change: Code 1972, § 2-5. Bonds. Deleted the first last sentence as not needed. Deleted the second sentence as covered by R.R.S. 1943, § 16-219. Also revised per instructions.

Sec. 2-103. Delivery of books, papers, etc., to successor.

Every officer shall upon going out of office deliver to said officer's successor all books, papers, furniture and other things appertaining to the office, the property of the city.

(Code 1955, § 6-801; Code 1972, § 2-6)

~~Sec. 2-7. Absence from office.~~¹⁹

~~Any elective or appointive officer or employee desiring to be temporarily absent from the city or from his post of duty shall apply to the mayor for leave of absence, and if any elective or appointive officer or employee shall be absent for 90 days, his office may be declared vacant by the mayor and three-fourths ($\frac{3}{4}$) of all the members of the council except as provided by state law.~~

~~(Code 1955, § 6-802; Code 1972, § 2-7)~~

Sec. 2-104. Monies to be given to city treasurer or city clerk; retention to satisfy claims prohibited.²⁰

All officers of the city collecting money on account of the city shall immediately pay the same to the city treasurer or city clerk, taking receipt therefor, and no money collected by any officer shall be retained by the officer to satisfy any claim which said officer may have against city.

(Code 1955, § 6-803; Code 1972, § 2-8)

Sec. 2-105. When reports to be filed.

Each officer or employee of the city required by the provisions of this Code or by resolution of the council to make written report to the council shall make such report of the doings of their office or employment monthly and shall file the same with the city clerk in due season before the second Tuesday in each month for the information and consideration of the mayor and council.

(Code 1955, § 6-805; Code 1972, § 2-9)

~~Sec. 2-10. Elected officers not to hold certain other offices.~~²¹

~~No elective officer of the city shall hold any county office nor shall he be appointed to any office created by the council. The acceptance of any county office by any such elective city officer shall be a vacation of the city office so held prior to such acceptance.~~

~~(Code 1955, § 6-409; Code 1972, § 2-10)~~

Sec. 2-106. Compensation of elective and appointed officers.

(a) The compensation and salaries of the various elective and appointive officers and employees of the city shall be determined and ordained by the city council from time to time.

(b) Salaries and when paid.

(1) The compensation for the office of the mayor shall be \$5,720.00 per year.

(2) The compensation for members of the council shall be \$2,860.00 per year.

(3) The compensation for the office of mayor and members of the council shall be paid to such officers biweekly.

~~(c) This section shall be in full force and effect commencing with the pay period beginning December 31, 2012.~~

(Code 1972, § 2-11; Ord. No. 1715, § 1, 2-8-1996; Ord. No. 1874, § 1, 11-20-2003; Ord. No. 2069, § 1, 12-6-2012)

¹⁹ Legal or Editorial Change: Code 1972, § 2-7. Absence from office. Deleted as obsolete.

²⁰ Legal or Editorial Change: Code 1972, § 2-8. Moneys to be given to treasurer; retention to satisfy claims prohibited. Revised per instructions.

²¹ Legal or Editorial Change: Code 1972, § 2-10. Elected officers not to hold certain other offices. Deleted as beyond the power of the city to provide.

State law reference—Compensation of officers and employees, R.R.S. 1943, § 16-305.

Sec. 2-12. Same — pay range schedule.²²

The following pay range schedule shall be and hereby is adopted for various job classifications set forth therein for employees of this city, to-wit:

CITY OF YORK								
2022-2023 PAY SCHEDULES (Effective September 26, 2022)								
Pay								
Grade		Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7
26.0	M	1974.72	2073.46	2177.13	2285.99	2400.29	2520.30	2646.32
	A	23,697	24,882	26,126	27,432	28,803	30,244	31,756
	H	11.393	11.962	12.560	13.188	13.848	14.540	15.267
	B	911.41	956.98	1004.83	1055.07	1107.83	1163.22	1221.38
26.5	M	2026.52	2127.85	2234.24	2345.95	2463.25	2586.41	2715.74
	A	24,318	25,534	26,811	28,151	29,559	31,037	32,589
	H	11.691	12.276	12.890	13.534	14.211	14.922	15.668
	B	935.32	982.08	1031.19	1082.75	1136.89	1193.73	1253.42
27.0	M	2078.32	2182.24	2291.35	2405.92	2526.21	2652.52	2785.15
	A	24,940	26,187	27,496	28,871	30,315	31,830	33,422
	H	11.990	12.590	13.219	13.880	14.574	15.303	16.068
	B	959.23	1007.19	1057.55	1110.42	1165.94	1224.24	1285.45
27.5	M	2129.21	2235.67	2347.46	2464.83	2588.07	2717.48	2853.35
	A	25,551	26,828	28,169	29,578	31,057	32,610	34,240
	H	12.284	12.898	13.543	14.220	14.931	15.678	16.462
	B	982.71	1031.85	1083.44	1137.61	1194.49	1254.22	1316.93
28.0	M	2180.10	2289.11	2403.56	2523.74	2649.93	2782.43	2921.55
	A	26,161	27,469	28,843	30,285	31,799	33,389	35,059
	H	12.578	13.206	13.867	14.560	15.288	16.052	16.855
	B	1006.20	1056.51	1109.34	1164.80	1223.04	1284.20	1348.41
28.5	M	2233.72	2345.41	2462.68	2585.81	2715.10	2850.86	2993.40
	A	26,805	28,145	29,552	31,030	32,581	34,210	35,921
	H	12.887	13.531	14.208	14.918	15.664	16.447	17.270
	B	1030.95	1082.49	1136.62	1193.45	1253.12	1315.78	1381.57
29.0	M	2287.34	2401.70	2521.79	2647.88	2780.27	2919.29	3065.25

²² Legal or Editorial Change: Code 1972, § 2-12. Pay range schedule. Deleted as not of a general and permanent nature. Ordinances of this nature generally are not codified. Provisions such as this are saved from repeal in Code chapter 1.

	A	27,448	28,820	30,261	31,775	33,363	35,031	36,783
	H	13.196	13.856	14.549	15.276	16.040	16.842	17.684
	B	1055.69	1108.48	1163.90	1222.10	1283.20	1347.36	1414.73
29.5	M	2343.22	2460.39	2583.41	2712.58	2848.20	2990.61	3140.15
	A	28,119	29,525	31,001	32,551	34,178	35,887	37,682
	H	13.519	14.195	14.904	15.649	16.432	17.254	18.116
	B	1081.49	1135.56	1192.34	1251.96	1314.56	1380.28	1449.30
30.0	M	2399.11	2519.07	2645.02	2777.27	2916.14	3061.94	3215.04
	A	28,789	30,229	31,740	33,327	34,994	36,743	38,580
	H	13.841	14.533	15.260	16.023	16.824	17.665	18.548
	B	1107.28	1162.65	1220.78	1281.82	1345.91	1413.20	1483.87
30.5	M	2461.82	2584.91	2714.15	2849.86	2992.35	3141.97	3299.07
	A	29,542	31,019	32,570	34,198	35,908	37,704	39,589
	H	14.203	14.913	15.659	16.442	17.264	18.127	19.033
	B	1136.22	1193.03	1252.69	1315.32	1381.09	1450.14	1522.65
31.0	M	2524.52	2650.75	2783.28	2922.45	3068.57	3222.00	3383.10
	A	30,294	31,809	33,399	35,069	36,823	38,664	40,597
	H	14.565	15.293	16.057	16.860	17.703	18.588	19.518
	B	1165.16	1223.42	1284.59	1348.82	1416.26	1487.08	1561.43
31.5	M	2588.13	2717.54	2853.42	2996.09	3145.89	3303.19	3468.35
	A	31,058	32,610	34,241	35,953	37,751	39,638	41,620
	H	14.932	15.678	16.462	17.285	18.149	19.057	20.010
	B	1194.52	1254.25	1316.96	1382.81	1451.95	1524.55	1600.78
32.0	M	2651.75	2784.33	2923.55	3069.73	3223.21	3384.38	3553.59
	A	31,821	33,412	35,083	36,837	38,679	40,613	42,643
	H	15.299	16.063	16.867	17.710	18.595	19.525	20.502
	B	1223.88	1285.08	1349.33	1416.80	1487.64	1562.02	1640.12
32.5	M	2712.18	2847.79	2990.18	3139.69	3296.67	3461.50	3634.58
	A	32,546	34,173	35,882	37,676	39,560	41,538	43,615
	H	15.647	16.430	17.251	18.114	19.019	19.970	20.969
	B	1251.77	1314.36	1380.08	1449.09	1521.54	1597.62	1677.50
33.0	M	2772.61	2911.24	3056.80	3209.64	3370.13	3538.63	3715.56
	A	33,271	34,935	36,682	38,516	40,442	42,464	44,587
	H	15.996	16.796	17.635	18.517	19.443	20.415	21.436
	B	1279.67	1343.65	1410.83	1481.37	1555.44	1633.22	1714.88
33.5	M	2840.31	2982.33	3131.45	3288.02	3452.42	3625.04	3806.29
	A	34,084	35,788	37,577	39,456	41,429	43,500	45,676

	H	16.386	17.206	18.066	18.969	19.918	20.914	21.959
	B	1310.91	1376.46	1445.28	1517.55	1593.42	1673.10	1756.75
34.0	M	2908.02	3053.42	3206.09	3366.39	3534.71	3711.45	3897.02
	A	34,896	36,641	38,473	40,397	42,417	44,537	46,764
	H	16.777	17.616	18.497	19.421	20.393	21.412	22.483
	B	1342.16	1409.27	1479.73	1553.72	1631.41	1712.98	1798.62
34.5	M	2979.35	3128.32	3284.74	3448.97	3621.42	3802.49	3992.62
	A	35,752	37,540	39,417	41,388	43,457	45,630	47,911
	H	17.189	18.048	18.950	19.898	20.893	21.937	23.034
	B	1375.09	1443.84	1516.03	1591.83	1671.43	1755.00	1842.75
35.0	M	3050.69	3203.22	3363.39	3531.56	3708.13	3893.54	4088.22
	A	36,608	38,439	40,361	42,379	44,498	46,722	49,059
	H	17.600	18.480	19.404	20.374	21.393	22.463	23.586
	B	1408.01	1478.41	1552.33	1629.95	1711.45	1797.02	1886.87
35.5	M	3124.30	3280.51	3444.54	3616.77	3797.61	3987.49	4186.86
	A	37,492	39,366	41,334	43,401	45,571	47,850	50,242
	H	18.025	18.926	19.872	20.866	21.909	23.005	24.155
	B	1441.98	1514.08	1589.79	1669.28	1752.74	1840.38	1932.40
36.0	M	3197.91	3357.80	3525.69	3701.98	3887.08	4081.43	4285.50
	A	38,375	40,294	42,308	44,424	46,645	48,977	51,426
	H	18.449	19.372	20.341	21.358	22.425	23.547	24.724
	B	1475.96	1549.76	1627.24	1708.61	1794.04	1883.74	1977.92
36.5	M	3275.61	3439.39	3611.36	3791.92	3981.52	4180.60	4389.63
	A	39,307	41,273	43,336	45,503	47,778	50,167	52,676
	H	18.898	19.843	20.835	21.876	22.970	24.119	25.325
	B	1511.82	1587.41	1666.78	1750.12	1837.63	1929.51	2025.98
37.0	M	3353.31	3520.97	3697.02	3881.87	4075.96	4279.76	4493.75
	A	40,240	42,252	44,364	46,582	48,912	51,357	53,925
	H	19.346	20.313	21.329	22.395	23.515	24.691	25.925
	B	1547.68	1625.06	1706.32	1791.63	1881.21	1975.27	2074.04
37.5	M	3437.82	3609.71	3790.20	3979.71	4178.69	4387.63	4607.01
	A	41,254	43,317	45,482	47,756	50,144	52,652	55,284
	H	19.834	20.825	21.867	22.960	24.108	25.313	26.579
	B	1586.69	1666.02	1749.32	1836.79	1928.63	2025.06	2126.31
38.0	M	3522.33	3698.45	3883.37	4077.54	4281.42	4495.49	4720.26
	A	42,268	44,381	46,600	48,931	51,377	53,946	56,643
	H	20.321	21.337	22.404	23.524	24.700	25.936	27.232

	B	1625.69	1706.98	1792.33	1881.94	1976.04	2074.84	2178.58
38.5	M	3610.48	3791.01	3980.56	4179.59	4388.57	4607.99	4838.39
	A	43,326	45,492	47,767	50,155	52,663	55,296	58,061
	H	20.830	21.871	22.965	24.113	25.319	26.585	27.914
	B	1666.38	1749.70	1837.18	1929.04	2025.49	2126.77	2233.10
39.0	M	3698.63	3883.56	4077.74	4281.63	4495.71	4720.50	4956.52
	A	44,384	46,603	48,933	51,380	53,949	56,646	59,478
	H	21.338	22.405	23.525	24.702	25.937	27.234	28.595
	B	1707.06	1792.41	1882.03	1976.14	2074.94	2178.69	2287.63
39.5	M	3785.42	3974.69	4173.42	4382.10	4601.20	4831.26	5072.82
	A	45,425	47,696	50,081	52,585	55,214	57,975	60,874
	H	21.839	22.931	24.077	25.281	26.545	27.873	29.266
	B	1747.12	1834.47	1926.20	2022.51	2123.63	2229.81	2341.30
40.0	M	3872.20	4065.82	4269.11	4482.56	4706.69	4942.02	5189.12
	A	46,466	48,790	51,229	53,791	56,480	59,304	62,269
	H	22.340	23.457	24.629	25.861	27.154	28.512	29.937
	B	1787.17	1876.53	1970.36	2068.87	2172.32	2280.93	2394.98
40.5	M	3964.44	4162.67	4370.80	4589.34	4818.81	5059.75	5312.73
	A	47,573	49,952	52,450	55,072	57,826	60,717	63,753
	H	22.872	24.015	25.216	26.477	27.801	29.191	30.650
	B	1829.74	1921.23	2017.29	2118.16	2224.06	2335.27	2452.03
41.0	M	4056.68	4259.52	4472.49	4696.12	4930.92	5177.47	5436.34
	A	48,680	51,114	53,670	56,353	59,171	62,130	65,236
	H	23.404	24.574	25.803	27.093	28.448	29.870	31.364
	B	1872.31	1965.93	2064.23	2167.44	2275.81	2389.60	2509.08
41.5	M	4158.01	4365.91	4584.20	4813.41	5054.09	5306.79	5572.13
	A	49,896	52,391	55,010	57,761	60,649	63,681	66,866
	H	23.989	25.188	26.447	27.770	29.158	30.616	32.147
	B	1919.08	2015.03	2115.79	2221.58	2332.65	2449.29	2571.75
42.0	M	4259.33	4472.30	4695.92	4930.71	5177.25	5436.11	5707.92
	A	51,112	53,668	56,351	59,169	62,127	65,233	68,495
	H	24.573	25.802	27.092	28.446	29.869	31.362	32.930
	B	1965.85	2064.14	2167.35	2275.71	2389.50	2508.97	2634.42
42.5	M	4367.48	4585.85	4815.14	5055.90	5308.69	5574.13	5852.84
	A	52,410	55,030	57,782	60,671	63,704	66,890	70,234
	H	25.197	26.457	27.780	29.169	30.627	32.158	33.766
	B	2015.76	2116.55	2222.37	2333.49	2450.17	2572.68	2701.31

43.0	M	4475.62	4699.40	4934.37	5181.09	5440.14	5712.15	5997.76
	A	53,707	56,393	59,212	62,173	65,282	68,546	71,973
	H	25.821	27.112	28.468	29.891	31.385	32.955	34.602
	B	2065.67	2168.95	2277.40	2391.27	2510.83	2636.38	2768.20
43.5	M	4587.85	4817.24	5058.10	5311.01	5576.56	5855.39	6148.16
	A	55,054	57,807	60,697	63,732	66,919	70,265	73,778
	H	26.468	27.792	29.181	30.640	32.172	33.781	35.470
	B	2117.47	2223.34	2334.51	2451.23	2573.80	2702.49	2837.61
44.0	M	4700.08	4935.08	5181.84	5440.93	5712.98	5998.63	6298.56
	A	56,401	59,221	62,182	65,291	68,556	71,984	75,583
	H	27.116	28.472	29.895	31.390	32.959	34.607	36.338
	B	2169.27	2277.73	2391.62	2511.20	2636.76	2768.60	2907.03
44.5	M	4813.67	5054.36	5307.08	5572.43	5851.05	6143.60	6450.78
	A	57,764	60,652	63,685	66,869	70,213	73,723	77,409
	H	27.771	29.160	30.618	32.149	33.756	35.444	37.216
	B	2221.70	2332.78	2449.42	2571.89	2700.49	2835.51	2977.29
45.0	M	4927.27	5173.63	5432.31	5703.93	5989.13	6288.58	6603.01
	A	59,127	62,084	65,188	68,447	71,870	75,463	79,236
	H	28.427	29.848	31.340	32.907	34.553	36.280	38.094
	B	2274.12	2387.83	2507.22	2632.58	2764.21	2902.42	3047.54
45.5	M	5053.59	5306.27	5571.58	5850.16	6142.67	6449.80	6772.29
	A	60,643	63,675	66,859	70,202	73,712	77,398	81,267
	H	29.155	30.613	32.144	33.751	35.438	37.210	39.071
	B	2332.42	2449.05	2571.50	2700.07	2835.08	2976.83	3125.67
46.0	M	5179.90	5438.90	5710.84	5996.39	6296.20	6611.01	6941.57
	A	62,159	65,267	68,530	71,957	75,554	79,332	83,299
	H	29.884	31.378	32.947	34.595	36.324	38.140	40.047
	B	2390.72	2510.26	2635.77	2767.56	2905.94	3051.24	3203.80
46.5	M	5308.04	5573.44	5852.11	6144.72	6451.95	6774.55	7113.28
	A	63,696	66,881	70,225	73,737	77,423	81,295	85,359
	H	30.623	32.154	33.762	35.450	37.223	39.084	41.038
	B	2449.86	2572.36	2700.97	2836.02	2977.82	3126.72	3283.05
47.0	M	5436.17	5707.98	5993.38	6293.05	6607.70	6938.09	7284.99
	A	65,234	68,496	71,921	75,517	79,292	83,257	87,420
	H	31.363	32.931	34.577	36.306	38.121	40.027	42.029
	B	2509.00	2634.45	2766.18	2904.48	3049.71	3202.19	3362.30
47.5	M	5570.67	5849.20	6141.66	6448.74	6771.18	7109.74	7465.23

	A	66,848	70,190	73,700	77,385	81,254	85,317	89,583
	H	32.138	33.745	35.433	37.204	39.065	41.018	43.069
	B	2571.08	2699.63	2834.61	2976.34	3125.16	3281.42	3445.49
48.0	M	5705.16	5990.42	6289.94	6604.44	6934.66	7281.40	7645.46
	A	68,462	71,885	75,479	79,253	83,216	87,377	91,746
	H	32.914	34.560	36.288	38.103	40.008	42.008	44.108
	B	2633.15	2764.81	2903.05	3048.20	3200.61	3360.64	3528.68
48.5	M	5847.84	6140.23	6447.24	6769.60	7108.08	7463.49	7836.66
	A	70,174	73,683	77,367	81,235	85,297	89,562	94,040
	H	33.738	35.424	37.196	39.055	41.008	43.059	45.212
	B	2699.00	2833.95	2975.65	3124.43	3280.65	3444.69	3616.92
49.0	M	5990.51	6290.04	6604.54	6934.77	7281.51	7645.58	8027.86
	A	71,886	75,480	79,254	83,217	87,378	91,747	96,334
	H	34.561	36.289	38.103	40.008	42.009	44.109	46.315
	B	2764.85	2903.09	3048.25	3200.66	3360.69	3528.73	3705.17
49.5	M	6140.46	6447.48	6769.85	7108.35	7463.76	7836.95	8228.80
	A	73,685	77,370	81,238	85,300	89,565	94,043	98,746
	H	35.426	37.197	39.057	41.010	43.060	45.213	47.474
	B	2834.06	2975.76	3124.55	3280.78	3444.81	3617.05	3797.91
50.0	M	6290.40	6604.92	6935.17	7281.93	7646.02	8028.32	8429.74
	A	75,485	79,259	83,222	87,383	91,752	96,340	101,157
	H	36.291	38.105	40.011	42.011	44.112	46.317	48.633
	B	2903.26	3048.43	3200.85	3360.89	3528.93	3705.38	3890.65
50.5	M	6448.07	6770.47	7109.00	7464.45	7837.67	8229.55	8641.03
	A	77,377	81,246	85,308	89,573	94,052	98,755	103,692
	H	37.200	39.060	41.013	43.064	45.217	47.478	49.852
	B	2976.03	3124.83	3281.08	3445.13	3617.39	3798.26	3988.17
51.0	M	6605.74	6936.03	7282.83	7646.97	8029.32	8430.78	8852.32
	A	79,269	83,232	87,394	91,764	96,352	101,169	106,228
	H	38.110	40.016	42.016	44.117	46.323	48.639	51.071
	B	3048.80	3201.24	3361.31	3529.37	3705.84	3891.13	4085.69
51.5	M	6770.68	7109.21	7464.67	7837.91	8229.80	8641.29	9073.36
	A	81,248	85,311	89,576	94,055	98,758	103,696	108,880
	H	39.062	41.015	43.065	45.219	47.480	49.854	52.346
	B	3124.93	3281.18	3445.23	3617.50	3798.37	3988.29	4187.70
52.0	M	6935.62	7282.40	7646.52	8028.84	8430.29	8851.80	9294.39
	A	83,227	87,389	91,758	96,346	101,163	106,222	111,533

	H	40.013	42.014	44.115	46.320	48.636	51.068	53.621
	B	3201.05	3361.11	3529.16	3705.62	3890.90	4085.45	4289.72
52.5	M	7109.64	7465.13	7838.38	8230.30	8641.82	9073.91	9527.60
	A	85,316	89,582	94,061	98,764	103,702	108,887	114,331
	H	41.017	43.068	45.221	47.483	49.857	52.349	54.967
	B	3281.37	3445.44	3617.72	3798.60	3988.53	4187.96	4397.36
53.0	M	7283.67	7647.85	8030.25	8431.76	8853.35	9296.01	9760.82
	A	87,404	91,774	96,363	101,181	106,240	111,552	117,130
	H	42.021	44.122	46.328	48.645	51.077	53.631	56.312
	B	3361.69	3529.78	3706.27	3891.58	4086.16	4290.47	4504.99
53.5	M	7464.97	7838.22	8230.13	8641.63	9073.71	9527.40	10003.77
	A	89,580	94,059	98,762	103,700	108,885	114,329	120,045
	H	43.067	45.220	47.481	49.856	52.348	54.966	57.714
	B	3445.37	3617.64	3798.52	3988.45	4187.87	4397.26	4617.12
54.0	M	7646.26	8028.58	8430.01	8851.51	9294.08	9758.79	10246.73
	A	91,755	96,343	101,160	106,218	111,529	117,105	122,961
	H	44.113	46.319	48.635	51.066	53.620	56.301	59.116
	B	3529.04	3705.50	3890.77	4085.31	4289.58	4504.06	4729.26
54.5	M	7838.47	8230.39	8641.91	9074.00	9527.70	10004.09	10504.29
	A	94,062	98,765	103,703	108,888	114,332	120,049	126,052
	H	45.222	47.483	49.857	52.350	54.968	57.716	60.602
	B	3617.75	3798.64	3988.57	4188.00	4397.40	4617.27	4848.14
55.0	M	8030.67	8432.20	8853.81	9296.50	9761.33	10249.39	10761.86
	A	96,368	101,186	106,246	111,558	117,136	122,993	129,142
	H	46.331	48.647	51.080	53.634	56.315	59.131	62.088
	B	3706.46	3891.78	4086.37	4290.69	4505.23	4730.49	4967.01
55.5	M	8230.14	8641.65	9073.73	9527.41	10003.79	10503.97	11029.17
	A	98,762	103,700	108,885	114,329	120,045	126,048	132,350
	H	47.482	49.856	52.348	54.966	57.714	60.600	63.630
	B	3798.53	3988.45	4187.87	4397.27	4617.13	4847.99	5090.39
56.0	M	8429.61	8851.09	9293.65	9758.33	10246.24	10758.56	11296.48
	A	101,155	106,213	111,524	117,100	122,955	129,103	135,558
	H	48.632	51.064	53.617	56.298	59.113	62.069	65.172
	B	3890.59	4085.12	4289.38	4503.84	4729.04	4965.49	5213.76
56.5	M	8639.99	9071.99	9525.59	10001.87	10501.96	11027.06	11578.41
	A	103,680	108,864	114,307	120,022	126,024	132,325	138,941
	H	49.846	52.338	54.955	57.703	60.588	63.618	66.799

	B	3987.69	4187.07	4396.42	4616.25	4847.06	5089.41	5343.88
57.0	M	8850.36	9292.88	9757.53	10245.40	10757.67	11295.56	11860.33
	A	106,204	111,515	117,090	122,945	129,092	135,547	142,324
	H	51.060	53.613	56.293	59.108	62.063	65.167	68.425
	B	4084.78	4289.02	4503.47	4728.65	4965.08	5213.33	5474.00
57.5	M	9070.74	9524.27	10000.49	10500.51	11025.54	11576.82	12155.66
	A	108,849	114,291	120,006	126,006	132,306	138,922	145,868
	H	52.331	54.948	57.695	60.580	63.609	66.789	70.129
	B	4186.49	4395.82	4615.61	4846.39	5088.71	5343.15	5610.30
58.0	M	9291.11	9755.67	10243.45	10755.62	11293.40	11858.07	12450.98
	A	111,493	117,068	122,921	129,067	135,521	142,297	149,412
	H	53.603	56.283	59.097	62.052	65.154	68.412	71.833
	B	4288.20	4502.62	4727.75	4964.13	5212.34	5472.96	5746.60
58.5	M	9608.72	10089.16	10593.61	11123.29	11679.46	12263.43	12876.60
	A	115,305	121,070	127,123	133,480	140,154	147,161	154,519
	H	55.435	58.207	61.117	64.173	67.381	70.751	74.288
	B	4434.79	4656.53	4889.36	5133.83	5390.52	5660.05	5943.05
59.0	M	9926.33	10422.65	10943.78	11490.97	12065.52	12668.79	13302.23
	A	119,116	125,072	131,325	137,892	144,786	152,026	159,627
	H	57.267	60.131	63.137	66.294	69.609	73.089	76.744
	B	4581.38	4810.45	5050.97	5303.52	5568.70	5847.13	6139.49
59.5	M	10084.00	10588.20	11117.61	11673.49	12257.16	12870.02	13513.52
	A	121,008	127,058	133,411	140,082	147,086	154,440	162,162
	H	58.177	61.086	64.140	67.347	70.714	74.250	77.963
	B	4654.15	4886.86	5131.20	5387.76	5657.15	5940.01	6237.01
60.0	M	10241.67	10753.75	11291.44	11856.01	12448.81	13071.25	13724.81
	A	122,900	129,045	135,497	142,272	149,386	156,855	164,698
	H	59.087	62.041	65.143	68.400	71.820	75.411	79.182
	B	4726.92	4963.27	5211.43	5472.01	5745.61	6032.89	6334.53

(Code 1972, § 2-12; Ord. No. 1163, 8-1-1969; Ord. No. 1272, § 1, 6-27-1974; Ord. No. 1372, § 1, 5-10-1979; Ord. No. 1462, § 1, 5-12-1983; Ord. No. 1573, § 1, 6-9-1988; Ord. No. 1678, § 1, 7-14-1994; Ord. No. 1781, § 1, 10-1-1998; Ord. No. 1812, § 1, 9-21-2000; Ord. No. 1872, § 1(Exh. A), 9-18-2003; Ord. No. 1917, § 1(Exh. A), 9-16-2004; Ord. No. 1948, § 1(Exh. A), 9-15-2005; Ord. No. 1970, § 1, 9-21-2006; Ord. No. 1999, § 1, 9-6-2007; Ord. No. 2010, § 1, 9-4-2008; Ord. No. 2026, § 1, 9-3-2009; Ord. No. 2229, § 1, 9-19-2019; Ord. No. 2299, § 1(Exh. A), 9-2-21; Ord. No. 2336, § 1(exh. A), 9-1-2022)

Sec. 2-107. Longevity pay.

All permanent full-time employees shall be entitled to longevity pay at the rate of one percent of base pay for each five of continuous services through September 27, 2020. Longevity pay for all employees shall no longer accrue effective September 28, 2020, except such employees who may be entitled to receive longevity pay pursuant

to union contract. All employees who have accrued longevity pay through September 27, 2020, shall continue to receive payment for all such accrued longevity pay, but no additional longevity pay shall continue to accrue or be paid to any employee other than previously accrued longevity pay effective September 28, 2020, except such employees who may be entitled to receive longevity pay pursuant to union contract.

(Code 1972, § 2-13; Ord. No. 1752, § 1, 9-11-1997; Ord. No. 2264, § 1, 8-20-2020)

Sec. 2-108. City employees prohibited from holding office positions.

(a) No person may be employed as a city employee while also holding the office of mayor or councilmember. Any city employee who is elected to the office of mayor or councilmember shall be required to resign their position as a city employee or shall be required to resign from the elected position of mayor or councilmember, prior to assuming the office of mayor or councilmember.

(b) In the event that a city employee assumes the office of mayor or councilmember without resigning either the city employee position or the elected position of mayor or councilmember, then the employee's city employment shall be terminated by the city administrator.

(Code 1972, § 2-15; Ord. No. 2129, § 1, 5-21-2015)

Secs. 2-109--2-129. Reserved.

DIVISION 2. CITY ADMINISTRATOR*

*State law reference—City administrator, R.R.S. 1943, § 16-308.

Sec. 2-130. Office created.

There is hereby created the office of city administrator.

(Code 1972, § 2-110; Ord. No. 1134, § 1, 9-12-1968)

Sec. 2-131. Purpose of office.

The purpose of the office of the city administrator is to provide the centralization of the administrative responsibilities of the city.

(Code 1972, § 2-111; Ord. No. 1134, § 2, 9-12-1968)

Sec. 2-112. Appointment.²³

~~The city administrator shall be appointed by the mayor by and with the consent of a majority of the city council.~~

~~(Code 1972, § 2-112; Ord. No. 1134, § 1, 9-12-1968)~~

Sec. 2-132. Duties—Generally.

The city administrator shall be the administrative head of the city government under the direction and control of the mayor and city council and shall be responsible to the mayor and city council for the efficient conduct of the administrator's office.

(Code 1972, § 2-113; Ord. No. 1134, § 2, 9-12-1968)

Sec. 2-133. Duties—Enumerated.²⁴

The duties of the city administrator shall be as follows:

- (1) Make and keep up to date an inventory of all property, real and personal, owned by the city.
- (2) Act as purchasing agent for the purchase of all supplies, goods, wares and merchandise, equipment and

²³ Legal or Editorial Change: Code 1972, § 2-112. Appointment. Deleted as covered by R.R.S. 1943, § 16-308.

²⁴ Legal or Editorial Change: Code 1972, § 2-114. Same—Enumerated. Revised per instructions.

material which may be required for the various departments, divisions or services of the city.

- (3) Keep the mayor and council fully advised as to the financial condition and needs of the city and shall be responsible for and prepare the annual estimate of expenditures for presentation to the mayor and council prior to the passage of the annual appropriation ordinance.
- (4) To serve as public relations officer of the city government, and in such capacity, to endeavor to investigate and adjust all complaints filed against any employee, department, division or service thereof and cooperate with all community organizations whose aim and purpose is to advance the best interests of the city and its people and to attend meetings of such organizations if in the judgment of the administrator such attendance is necessary and desirable.
- (5) To attend all meetings of the council with the duty of reporting any matter concerning city affairs under the city administrator's supervision or direction and to attend such other meetings of the city departments and officials as the city administrator's duties may require.
- (6) To analyze the functions, duties and activities of the 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 council.
- (7) To carry out the mayor and council's recommendations in coordinating the administrative functions and operations of the various departments.
- (8) To procure facts and submit long-range improvements to the mayor and council.
- (9) Recommend to the mayor and council the appointment and dismissal of all department heads over which the city administrator exercises jurisdiction. Appointment or dismissal of department heads will be made upon the recommendation of the mayor and confirmation by the council. The city administrator may appoint and dismiss all subordinate employees of the city, as well as provide for the transfer of such employees from one department to another except those employees covered under the Civil Service Act of the state.
- (10) ~~The city administrator shall have the duty and the right~~ To investigate and make recommendations to the mayor and city council regarding duties and activities of any employee of the city covered under the Civil Service Act of the state and recommend to the mayor and council the promotion, demotion, suspension, transfer or discharge of such employees.
- (11) Administer and be responsible for all departments and divisions of the city government, which are under the mayor and council's direction, ~~including the board of public works~~ and any public utilities hereafter acquired by the city and including fire and police departments, except insofar as such jurisdiction and administration conflicts with the Civil Service Law pertaining to such fire and police departments. The office of the city attorney and city physician shall not come under the administration and responsibility of the city administrator; said administrator, however, to be available to assist these offices in any administrative matter that may arise and those officers in turn shall be available to assist the city administrator in the discharge of the city administrator's duties.
- (12) Recommend to the mayor and council for adoption such measures and ordinances as are deemed necessary or expedient.
- (13) Prepare and recommend to the mayor and council a classification and compensation plan.
- (14) Make investigations into the affairs of the city and any department or division thereof, and any contract, or the proper performance of any obligation running to the city.
- (15) Exercise general supervision over all public buildings, streets and other public property which are under the control and jurisdiction of the mayor and council.
- ~~— Prepare and submit to the mayor and council as of the end of the fiscal year, a complete report on the finances and administrative activities of the city for the preceding year.~~
- (16) Keep the insurable property of the city appropriately insured.
- (17) Serve in any appointed office or head of department within the city government if the need arises and

when appointed thereto by the mayor and council and to hold and perform the duties thereof at the pleasure of the mayor and council.

- (18) ~~The city administrator shall have the duty~~ To keep open the administrator's office for public affairs during days and hours set by the mayor and council.
- (19) Perform such other duties and exercise such other powers as may be delegated to city administrator from time to time by ordinances or resolutions of the mayor and council.

(Code 1972, § 2-114; Ord. No. 1134, § 3, 9-12-1968)

Sec. 2-134. Compensation.²⁵

The salary of the city administrator shall be fixed by resolution of the council, payable ~~monthly~~ biweekly.

(Code 1972, § 2-115; Ord. No. 1134, § 4, 9-12-1968)

Sec. 2-135. Authority to enter into contracts.

The city administrator, in the discharge of duties, shall have the right to expend an amount not to exceed the limits set forth in the applicable state law pertaining to cities of the first class entering into contracts for municipal work and improvements or purchase of equipment without advertising for bids and within said dollar limitation to make any contract on behalf of the city for general purchases, maintenances and improvements, the expenditure limitation herein to apply to all departments of the city, subject to any further limitation or requirement imposed by city ordinance or resolution.

(Code 1972, § 2-116; Ord. No. 1147, § 1, 1-9-1969)

Sec. 2-136. Removal.

The city administrator may be removed by a vote of a majority of all the members of the council with the approval of the mayor.

(Code 1972, § 2-117; Ord. No. 1134, § 1, 9-12-1968)

Secs. 2-137--2-155. Reserved.

DIVISION 3. CITY CLERK*

*State law reference—City clerk generally, R.R.S. 1943, § 16-317 et seq.

Sec. 2-156. Assumption of office.

The city clerk, after being appointed, qualified and sworn, shall take possession of all books, papers and other property in the nature of records belonging to the city of the clerk's office.

(Code 1955, § 6-606; Code 1972, § 2-125; Ord. No. 2282, § 2, 3-18-2021)

Sec. 2-157. Clerical assistance.

The mayor and council shall provide the city clerk with such clerical assistants as may be necessary. Any clerical assistant, appointed as deputy clerk, in the absence of the clerk due to illness or otherwise, shall be empowered to perform all duties of the city clerk.

(Code 1972, § 2-126; Ord. No. 2282, § 2, 3-18-2021)

Sec. 2-127. Powers, duties generally.²⁶

~~The clerk, in addition to the duties imposed upon him or her by the provisions of this division, shall perform all other duties and exercise all other powers required of him or her or vested in him or her by state law, this Code~~

²⁵ Legal or Editorial Change: Code 1972, § 2-115. Compensation. Altered to conform to the existing practice.

²⁶ Legal or Editorial Change: Code 1972, § 2-127. Powers, duties generally. Deleted as not needed.

~~or city ordinance.~~

~~(Code 1955, § 6-606; Code 1972, § 2-127; Ord. No. 2282, § 2, 3-18-21)~~

Sec. 2-158. Custody generally.

The city clerk shall have the custody of the city seal, all laws, ordinances, records, official papers and monies belonging to the city.

(Code 1955, § 6-606; Code 1972, § 2-128; Ord. No. 2282, § 2, 3-18-2021)

Sec. 2-159. Council proceedings.

The clerk shall attend all meetings of the city council and shall keep a correct journal of the proceedings thereof. Within 30 days after any meeting of the council, the clerk shall prepare and publish the proceedings of the council in a legal newspaper within the county.

(Code 1955, § 6-606; Code 1972, § 2-129; Ord. No. 2282, § 2, 3-18-2021)

Sec. 2-160. Attestation of documents.

The city clerk shall duly attest all deeds and papers required to be attested.

(Code 1955, § 6-606; Code 1972, § 2-130; Ord. No. 2282, § 2, 3-18-2021)

Sec. 2-161. Keeping of records, papers, etc.

The city clerk shall permit no records, public papers or other documents of the city, kept and preserved in the clerk's office, to be taken therefrom, except by such officers of the city as may be entitled to the use of the same, and then only upon their leaving a receipt therefor.

(Code 1955, § 6-607; Code 1972, § 2-131; Ord. No. 2282, § 2, 3-18-2021)

Sec. 2-162. Certified copies, fee.

For furnishing certified copies of any record in the clerk's office, the city clerk may charge such fee as may be authorized.

(Code 1955, § 6-607; Code 1972, § 2-132; Ord. No. 2282, § 2, 3-18-2021)

Sec. 2-133. Records of notices, proclamations.²⁷

~~The city clerk shall provide a blank book with proper index in which he or she shall keep a copy of all notices and proclamations required to be published or posted by him or her by order of the council or under law, the preservation of which is not otherwise provided for by the provisions of this Code; to which notices and proclamations shall be attached the printer's affidavit of publication, if such notices or proclamations are required to be published, or the clerk's certificate under seal where the same are required to be posted only.~~

~~(Code 1955, § 6-607; Code 1972, § 2-133; Ord. No. 2282, § 2, 3-18-21)~~

Sec. 2-163. Access to records.

The city clerk shall keep all books and papers pertaining to clerk's office conveniently accessible to inspection of any member of the council, city official or any citizen or taxpayer within the city clerk's office hours.

(Code 1955, § 6-607; Code 1972, § 2-134; Ord. No. 2282, § 2, 3-18-2021)

Sec. 2-164. Delivery of documents.

The city clerk shall, without unnecessary delay, deliver all warrants, ordinances, or resolutions under the city clerk's charge to the mayor for signature and likewise shall deliver to officers or employees of the city and committees of the council, all resolutions and communications referred to such officers, employees or committees of the council.

²⁷ Legal or Editorial Change: Code 1972, § 2-133. Records of notices, proclamations. Deleted per instructions.

(Code 1955, § 6-67; Code 1972, § 2-135; Ord. No. 2282, § 2, 3-18-2021)

Sec. 2-136. Transfer of records.²⁸

~~After the period of time specified by the state records administrator pursuant to the Nebraska Records Management Act (R.R.S. 1943, § 84-1201 et seq.), the city clerk may transfer such journal of the proceedings of the city council to the state archives of the Nebraska State Historical Society for permanent preservation. Such other records may be disposed of pursuant to the Nebraska Records Management Act (R.R.S. 1943, § 84-1201 et seq.).~~

~~(Code 1972, § 2-136; Ord. No. 2282, § 2, 3-18-21)~~

Sec. 2-165. Licenses, occupation taxes.

The city clerk shall issue all licenses, permits and occupational tax receipts authorized by law. The city clerk shall collect all occupation tax and license money except where some other city officer is specifically charged with such duty. The city clerk shall keep a register of all licenses granted in the city and the purpose for which they are issued, and report in detail concerning the same in writing to the council at every meeting. If required by the police department, the city clerk shall furnish it with a true copy of the register of all licenses and permits then in force.

(Code 1955, § 6-606; Code 1972, § 2-140; Ord. No. 2282, § 2, 3-18-2021)

Sec. 2-166. Collection of taxes, assessments.²⁹

The city clerk shall collect all sidewalk assessments and all special taxes and allocate special assessments to the several owners ~~and shall obtain from the county treasurer monthly reports as to the collection of delinquent taxes.~~

(Code 1955, § 6-608; Code 1972, § 2-141; Ord. No. 2282, § 2, 3-18-2021)

Secs. 2-167--2-185. Reserved.

DIVISION 4. CITY ATTORNEY*

*State law reference—City attorney generally, R.R.S. 1943, § 16-319.

Sec. 2-186. Legal advisor.

The city attorney shall be the legal advisor of the council and city officers.

(Code 1972, § 2-151)

Sec. 2-187. Duties generally.

The city attorney shall attend all meetings of the mayor and council and shall, upon request, advise the mayor and council or any officer in all matters of law in which the interest of the city may be involved.

(Code 1955, § 6-102; Code 1972, § 2-152)

Sec. 2-188. Drafting legislation, other documents.

The city attorney shall draw such ordinances, bonds, contracts and other documents as may be required in the administration of the affairs of the city.

(Code 1955, § 6-102; Code 1972, § 2-153)

Sec. 2-189. Approval of documents.³⁰

The city attorney shall examine all bonds, contracts and documents on which the mayor and council will be required to act and ~~attach thereto a brief statement in writing whether or not the document is in legal and proper~~

²⁸ Legal or Editorial Change: Code 1972, § 2-136. Transfer of records. Deleted per instructions.
See R.R.S. 1943, §§ 16-317, 84-1201 et seq.

²⁹ Legal or Editorial Change: Code 1972, § 2-141. Collection of taxes, assessments. Expanded to all assessments.

³⁰ Legal or Editorial Change: Code 1972, § 2-154. Approval of documents. Altered per instructions.

~~form advise whether such documents are in proper and legal form when requested.~~

(Code 1955, § 6-102; Code 1972, § 2-154)

Sec. 2-190. Trial work.³¹

The city attorney shall commence, prosecute and defend all actions necessary to be commenced, prosecuted or defended on behalf of the city, or that may be ordered so by the council, except such actions in which separate legal counsel is retained.

(Code 1955, § 6-102; Code 1972, § 2-155)

Sec. 2-191. Additional compensation, assistance.

The mayor and city council shall have the right to pay the city attorney additional compensation for legal services performed by the city attorney for the city or to employ additional legal assistance and to pay for such legal assistance out of the funds of the city.

(Code 1972, § 2-156)

~~Sec. 2-157. Represent board of public works.~~³²

~~Whenever the mayor and city council shall authorize, the board of public works shall have the right to pay the city attorney additional compensation for legal services performed by him for it or to employ additional legal service and assistance other than the city attorney and pay such assistance out of funds disbursed under the orders of the board.~~

~~(Code 1972, § 2-157)~~

Secs. 2-192--2-220. Reserved.

DIVISION 5. DIRECTOR OF PUBLIC WORKS

Sec. 2-221. Created.

There is hereby created in and for the city the office of director of public works.

(Code 1972, § 31-43)

Sec. 2-222. Appointment.

The office of director of public works shall be filled by appointment by the mayor, with the consent of the city council.

(Code 1972, § 31-44)

Sec. 2-223. Term.

The director of public works shall hold the office at the pleasure of the mayor and city council.

(Code 1972, § 31-45)

Sec. 2-224. Duties generally.

The director of public works shall perform such duties in the line of the director's work as may be requested or required by the mayor and council from time to time.

(Code 1955, § 6-103; Code 1972, § 31-46)

~~Sec. 31-47. Records.~~³³

³¹ Legal or Editorial Change: Code 1972, § 2-155. Trial work. Altered per instructions.

³² Legal or Editorial Change: Code 1972, § 2-157. Represent board of public works. Deleted per instructions.

³³ Legal or Editorial Change: Code 1972, § 31-47. Records. Deleted per instructions.

~~The director of public works shall make a record of the minutes of his surveys and of all work done for the city. All such records shall be public records, shall belong to the city, and shall be turned over to his successor.~~
(Code 1955, § 6-103; Code 1972, § 31-47)

Sec. 2-225. Plats, profiles, etc.³⁴

~~The director of public works shall accurately make all such plats, sections, profiles and maps as may be necessary in any work for the city.~~
(Code 1955, § 6-103; Code 1972, § 31-48)

Sec. 2-225. Inspections.

The director of public works shall inspect all works or public improvement, and, if found to be properly done, shall accept the same and forthwith report the director's acceptance to the council.
(Code 1955, § 6-102; Code 1972, § 31-49)

Sec. 2-226. Work estimates.³⁵

The director of public works shall, upon request of the mayor and council, make an estimate of the costs of labor and material which may be done or furnished by contract with the city, and make all surveys, estimates and calculations necessary for the establishment of grades, bridges or culverts and for the building, constructing or repairing of any public improvement of the city ~~and file the same with the city clerk.~~ The director of public works shall estimate the cost of all proposed municipal utilities and public improvements, together with any extensions thereof, which the council proposes to construct or improve.
(Code 1955, § 6-103; Code 1972, § 31-50)

Sec. 2-227. Special assistance.³⁶

The mayor and council, whenever they deem it expedient, may employ a special engineer to make or assist in making any particular estimate or survey. ~~The special engineer employed shall keep records of his work which records shall be public records and filed in the office of the city clerk treasurer.~~
(Code 1955, § 6-104; Code 1972, § 31-51)

Sec. 2-228. Duties as ~~street commissioner~~ superintendent.³⁷

The director of public works shall be subject to the orders of the city administrator and shall have general charge, direction and control of all work on the streets, sidewalks, culverts and bridges of the city. The director shall also perform such other duties as the mayor and council may require.
(Code 1955, § 6-114; Code 1972, § 31-52)

Sec. 2-229. Duties as sidewalk inspector.

- (a) As sidewalk inspector, the director of public works shall have general control of all sidewalk and sidewalk spaces in the city.
- (b) It shall be the duty of the director of public works, as sidewalk inspector, to:
- (1) See that sidewalk and sidewalk spaces are not unlawfully occupied;
 - (2) Report all obstructions on sidewalks and unlawful uses of the same;
 - (3) Serve all notices pertaining to sidewalks, crossings and alleys;

³⁴ Legal or Editorial Change: Code 1972, § 31-48. Plats, profiles, etc. Deleted per instructions.

³⁵ Legal or Editorial Change: Code 1972, § 31-50. Work estimates. Altered per instructions.

³⁶ Legal or Editorial Change: Code 1972, § 31-51. Special assistance. Altered per instructions.

³⁷ Legal or Editorial Change: Code 1972, § 31-52. Duties as street commissioner superintendent. Altered per instructions.

- (4) Keep in a suitable book an accurate record of each notice served pursuant to this section with the time and manner of such service; and
- (5) Keep a record of all sidewalks ordered built.

(c) For the purposes of performing the duties required by this section, the director of public works, shall have the authority to go upon any private property and to enter any areaways under the sidewalks at reasonable hours.

(Code 1955, § 6-114; Code 1972, § 31-53)

Secs. 2-230--2-253. Reserved.

ARTICLE V. EMPLOYEE BENEFITS

DIVISION 1. GENERALLY

Secs. 2-254--2-284. Reserved.

DIVISION 2. SOCIAL SECURITY*

***State law reference**—Social security generally, R.R.S. 1943, § 68-601 et seq.; social security coverage by political subdivisions, R.R.S. 1943, § 68-608 et seq.

Sec. 2-285. Definitions.

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

Employee means an employee as defined by the Social Security Act and shall include both officers and appointees of the city.

System means the Federal Old Age and Survivors' Insurance System established by title II of the Social Security Act, the same being Public Law 734 (81st Congress, 2nd Session, H.R. 6000) and cited as the Social Security Act Amendments of 1950.

(Code 1955, § 6-1105; Code 1972, § 2-176)

Sec. 2-286. Acceptance of benefits.

The city accepts for itself and on behalf of its officials, appointees and employees, except such as are hereinafter excluded from the provisions, benefits, and protection of the Federal Old Age and Survivors Insurance System.

(Code 1955, § 6-1101; Code 1972, § 2-177)

Sec. 2-287. Execution of contracts, agreements.

The mayor is hereby authorized and directed to enter into such contracts and make such agreements and stipulations with the administrator of the system in and for the state, or such other state agency for the purpose that may hereafter be designated or created, as may be deemed necessary or expedient by said administrator, or other state agency authorized in the premises, as the case may be, or as required by general law, state or federal, or any applicable regulations of the state or federal agency, to extend the benefits and protection of such system to the eligible employees of the city, their dependents and survivors. Such contracts, agreements or stipulations shall be executed in duplicate by the mayor attested by the signature of the city clerk with the seal of the city attached thereto, one copy thereof to be filed with and become a part of the permanent records of such municipality. Such agreements shall be made retroactive to January 1, 1951, in all respects.

(Code 1955, § 6-1102; Code 1972, § 2-178)

Sec. 2-288. Inclusion of employees.

The employees, or classes of employees, of the city shall include all such employees as are not excluded from participation in said system, and are hereby determined to be within and entitled to the benefits and protection of said system.

(Code 1955, § 6-1103; Code 1972, § 2-179)

Sec. 2-289. Employees excluded.

Any employee with respect to any position not authorized for coverage by applicable state or federal laws or regulations of the federal administrative agency is hereby deemed excluded from participation in said system.

(Code 1955, § 6-1103; Code 1972, § 2-180)

Sec. 2-290. Withholding authorized.

Withholdings from the compensation of eligible employees of the city are hereby authorized, and the city shall impose upon such employees, as to services covered by this division, such withholdings to be made in amounts and at such times as may be required by general law, state or federal, and applicable regulations promulgated with respect thereto by state or federal administrative agencies.

(Code 1955, § 6-1104; Code 1972, § 2-181)

Sec. 2-291. Fund created.

There is hereby created, and the city treasurer is hereby authorized and directed to set up an account to be known as the Social Security Fund, into which the withholdings shall be paid; also, the proceeds from the tax levy as hereinafter authorized, together with any appropriations from available funds that might be made from time to time by municipal authority for the benefit of said fund. Said fund shall be kept segregated and shall be used for no other purposes than the provisions and obligations of this division, as herein provided to be accomplished by such fund.

(Code 1955, § 6-1105; Code 1972, § 2-182)

Sec. 2-292. Payment of fund monies.

The money in the Federal Security Fund shall be paid over to the tax commissioner designated by law as the administrator of the Social Security Act for the state, as authorized and provided by regulations promulgated to that end by such administrator.

(Code 1955, § 6-1105; Code 1972, § 2-183)

Sec. 2-293. Records, reports.

The city treasurer shall keep such records and make such reports relevant to the administration of the Social Security Act as may be required by general law, state or federal, or as provided by regulations promulgated by either the state or federal administrator of the system.

(Code 1955, § 6-1105; Code 1972, § 2-184)

Secs. 2-294--2-326. Reserved.

DIVISION 3. GENERAL EMPLOYEES' RETIREMENT PLAN

Sec. 2-327. ~~Eligibility; effective date~~ Requirement to participate.³⁸

All full-time employees of the city, ~~or appointed full-time employees of the City of York~~ with the exception of police officers and firefighters, are ~~to be eligible~~ required to participate under the civilian pension program. ~~The plan so created shall be effective on October 1, 1967, and this day may be hereinafter referred to as the "effective date."~~ An employee will be deemed to be a full-time employee if the employee works more than 20 30 hours each week ~~and more than five months of each year for 12 months of the year.~~

~~An employee to be eligible to participate in the pension plan must have completed at least one year of service for the City of York, must be at least twenty five (25) years of age, but not have reached the age of sixty five (65), except for persons employed on the effective date.~~

³⁸ Legal or Editorial Change: Code 1972, § 2-192. Eligibility; effective date. Altered per instructions.

(Code 1972, § 2-192; Ord. No. 1282, § 1, 11-14-1974)

Sec. 2-321. Normal retirement date; notice of intent to retire; continuation of employment.

~~(a) The normal retirement date for any employee who is participating in the pension plan will be on the first day of the month following the attainment of age 65 years. The employee shall submit to the city written intention to retire.~~

~~(b) Employees may continue employment on a year to year basis after age 65 years with the consent and approval of the city after written notice to city by employee of the employee's intention to so remain employed.~~

~~(c) No pension will be purchased for any employee after said employee's normal retirement date, but pension payments will be in an increased amount as set forth in master policy contract, and such payments will continue as long as the employee lives.~~

(Code 1972, § 2-193; Ord. No. 1282, § 2, 11-14-1974)

Sec. 2-322. Monthly pension benefit; contributions; past service benefit.

~~(a) The current service benefit each year will be that which the employer (the city) and the employee contributions will purchase on the basis of the employee's attained age and then existing current service premium rates. The employer and the employee shall each contribute three percent on the first \$9,600.00 of annual earnings and six percent on earnings in excess of \$9,600.00 annually.~~

~~(b) The past service benefit shall be one half percent of monthly earnings as of the effective date for each year of credited past service. The past service benefit will be computed on the basis of credited years of past service but not in excess of ten years, and the maximum benefit which can be credited to each individual will be a maximum of \$10.00 monthly benefit.~~

(Code 1972, § 2-194; Ord. No. 1282, § 3, 11-14-1974)

Sec. 2-323. Guaranteed pension benefit.

~~All pension benefits hereunder shall commence on retirement date elected by employee and accepted by employer and will be paid monthly for as long as the employee lives.~~

(Code 1972, § 2-195; Ord. No. 1282, § 4, 11-14-1974)

Sec. 2-328. Vesting of benefits.³⁹

~~The employee participating under the pension program will be fifty percent (50%) vested after five years of participation and will increase ten percent (10%) per year and be one hundred percent (100%) vested after ten years of participation in the pension plan.~~

~~An employee who becomes disabled while employed for the City of York and who is receiving disability benefits under the Social Security Act will be considered one hundred percent (100%) vested if he has ten years of service.~~

(a) Employees are eligible to participate in the city defined contribution plan upon their date of hire. Employees are required to contribute 6.5 percent of the employee's salary into the plan. Employees may contribute additional voluntary after-tax contributions in the plan. The city will contribute 100 percent of each employee's mandatory salary reduction to the plan.

(b) Mandatory other voluntary contributions and rollover dollars are 100 percent vested. Employer contributions are vested following date of hire as follows:

(1) Zero percent for the first two years.

(2) 25 percent after two years.

(3) 50 percent after three years.

³⁹ Legal or Editorial Change: Code 1972, § 2-196. Vesting of benefits. Altered per instructions.

(4) 75 percent after four years.

(5) 100 percent after five years.

(c) An employee becomes 100 percent vested upon death while employed or upon becoming totally disabled while employed, attainment of normal retirement age while employed or the date the employee satisfied the early retirement date.

(Code 1972, § 2-196; Ord. No. 1282, § 5, 11-14-1974)

~~Sec. 2-325. Cash withdrawal benefit.~~

~~If an employee terminates employment, the employee may receive in lieu of all other benefits an amount equal to 100 percent of the employee's contributions with compound interest at the rate of at least 3 3/4 percent.~~

~~(Code 1972, § 2-197; Ord. No. 1282, § 6, 11-14-1974)~~

~~Sec. 2-326. Death benefit.~~

~~(a) If an employee dies before the employee's retirement date, the employee's beneficiary will receive a death benefit equal to the employee's cash withdrawal benefit and a benefit equal to the employer's cash withdrawal benefit.~~

~~(b) If an employee dies after retirement, and before receiving 120 monthly payments, payments will continue to the employee's beneficiary until a total of 120 payments have been made to the employee and the beneficiary.~~

~~(Code 1972, § 2-198; Ord. No. 1282, § 7, 11-14-1974)~~

~~Sec. 2-327. Employer withdrawal credits.~~

~~If an employee terminates employment in good health and is not vested, the employer will be credited against premiums due an amount equal to 100 percent of all current service premiums paid for the employee with compound interest at the rate of at least 3 3/4 percent less the cash withdrawal benefit due the employee.~~

~~(Code 1972, § 2-199; Ord. No. 1282, § 8, 11-14-1974)~~

~~Sec. 2-328. Options.~~

~~(a) The plan includes options providing for:~~

~~(1) Early retirement as defined in section 2-196; and~~

~~(2) Deferred retirement with consent of employer, as defined herein.~~

~~(b) The individual upon reaching retirement age may elect, if said individual so desires, to receive a cash withdrawal benefit equal to 25 percent of the value of the individual's retirement benefit and the remaining 75 percent would be paid in a monthly income basis.~~

~~(Code 1972, § 2-200; Ord. No. 1282, § 9, 11-14-1974)~~

~~Sec. 2-329. Continuity and computation of length of service.~~

~~(a) An employee's service shall include the actual total length of continuous active employment as an employee, and also, but not for the computation of the number of years of past service, the period of any leave of absence, lay-off, or suspension, provided the employee shall return to active employment on the termination of such leave, layoff or suspension. If after discharge of an employee who has been or shall have been reinstated or restored to the service of the city under the provisions of a leave of absence, the employee shall have been deemed to have been granted a leave of absence.~~

~~(b) Any employee, who while an employee, entered into and served or shall enter into and serve in the armed forces of the United States, and who within 90 days after honorable discharge or separation from active duty with such armed forces, again became or becomes an employee of the city, shall be deemed to have been on a leave of absence.~~

~~(c) A person whose employment has ceased and who may have been or may be thereafter reemployed by the city shall be deemed to have been employed by the city only from the date of such reemployment; provided, however, that if the employee completed three years continuous employment prior to reemployment and such~~

~~previous service is within five years from the effective date, October 1, 1976 as defined in section 2-192, the employee shall be deemed to be considered as an eligible employee under the terms of this division from the date of said employee's reemployment.~~

(d) Length of service shall be computed by taking into consideration only full calendar months of service and for past service shall be computed only on full years of service.

(Code 1972, § 2-201; Ord. No. 1282, § 10, 11-14-1974)

Sec. 2-330. Continuance and amendment of plan.

(a) It is the expectation of the city that it will continue ~~this~~ the general employees' retirement plan and the payments of its contributions hereunder indefinitely, but the same is not assumed as a contractual obligation of the city and the right is reserved to the city by action of its mayor and council at any time to discontinue this plan and its contributions hereunder, and the contributions under the plan for employees shall be paid only from funds appropriated for, or otherwise duly available for, the payment of such expenses.

(b) The city may at any time amend this plan, but no such amendment shall have the effect of revesting in the city any part of the funds theretofore contributed hereunder, nor to reduce the value of pension or other benefits theretofore accrued to any member or beneficiary by reasons of contributions theretofore made, but subject to the foregoing limitations, the city shall have the power to amend this plan in any manner in which it deems desirable, including, but not by way of limitation, the right to increase or diminish or modify contributions to be made by it or by members hereunder, or to increase or diminish the benefits thereafter accruing to any class of employees or beneficiaries.

(Code 1972, § 2-202; Ord. No. 1282, § 11, 11-14-1974)

Secs. 2-331--2-348. Reserved.

ARTICLE VI. FINANCE*

*State law reference—Finance generally, R.R.S. 1943, § 16-701 et seq.

Sec. 2-349. Claims; warrants; issuance; delivery.⁴⁰

Upon allowance of a claim by the council, the order for the payment thereof shall specify the particular fund out of which it is payable as specified in the adopted budget statement, and no order or warrant shall be drawn in excess of 85 percent of the current levy for the purpose for which it is drawn unless there shall be sufficient money in the treasury to the credit of the proper fund for its payment, and no claim shall be audited or allowed except an order or warrant for the payment thereof may legally be drawn. All warrants drawn upon the treasury must be signed by the mayor and countersigned by the clerk or treasurer and shall state the particular fund to which the same is chargeable, the person to whom payable, and for what particular object. No money shall be otherwise paid than upon such warrant so drawn. Such warrants may be delivered immediately when so drawn.

(Code 1955, § 6-710; Code 1972, § 2-242)

State law reference—Claims, R.R.S. 1943, § 16-746 et seq.

Sec. 2-243. Filing; notice of disallowance.⁴¹

~~All claims against the city, including claims for personal injury but not including officers' salaries and interest upon public debts, must be filed with the city clerk. Upon the filing of any such claim, the party shall state therein his post office address; and, upon the disallowance of any such claim, it will be the duty of the city clerk to notify the claimant, his agent, or attorney by letter mailed to such address within five days after such disallowance.~~

~~(Code 1955, § 6-709; Code 1972, § 2-243)~~

⁴⁰ Legal or Editorial Change: Code 1972, § 2-242. Warrants; issuance; delivery. Altered per instructions.

⁴¹ Legal or Editorial Change: Code 1972, §§ 2-243—2-246. Claims. Deleted as covered by R.R.S. 1943, § 16-726—16-729.

Sec. 2-244. Appeal on disallowance.

~~When the claim of any person against the city, except a tort claim is disallowed in whole or in part by the council, such person may appeal from the decision of the city council to the district court by causing a written notice to be served on the city clerk within 20 days after making such decision and executing a bond to city, with good and sufficient sureties to be approved by the city clerk, conditioned for the faithful prosecution of such appeal and the payment of all costs that may be adjudged against the appellant.~~

~~(Code 1955, § 6-709; Code 1972, § 2-244)~~

Sec. 2-245. Appeal on allowance of claim.

~~Any taxpayer may appeal from the allowance of any claim against the city, except a tort claim, by serving a written notice upon the city clerk within ten days from said allowance and giving bond similar to that provided for in section 2-244; provided, when the council, by ordinance, provides for the publication of the list of the claims allowed, giving the amounts allowed and the names of the persons to whom allowed, in a newspaper printed and published and of general circulation in such city, such appeal may be taken by a taxpayer by serving a notice thereof within such time after such publication as may be fixed by such ordinance, and giving bond for such appeal within ten days after such allowance.~~

~~(Code 1955, § 6-709; Code 1972, § 2-245)~~

Sec. 2-246. Trial on appeal.

~~The clerk, upon appeal being taken under this division and being paid the proper fees therefor, including fees for filing the same in the district court, shall make out a transcript of the proceedings of the council, mayor, and other officers as relate to the presentation and allowance or disallowance of such claim, and shall file the same with the clerk of the district court within 30 days after the decision allowing or disallowing the claim and paying the proper commencement fees. Such appeal shall be entered on the docket of the court, tried, and determined as appeals from justice courts, and costs shall be awarded thereon in like manner. No appeal bond shall be required of the city by any court in the case of an appeal by the city, and judgment shall be stayed pending such appeal.~~

~~(Code 1955, § 6-709; Code 1972, § 2-246)~~

Secs. 2-350--2-371. Reserved.**ARTICLE VII. BOARDS, COMMISSIONS, COMMITTEES AND AUTHORITIES****DIVISION 1. GENERALLY****Secs. 2-372--2-400. Reserved.****DIVISION 2. PERSONNEL BOARD****Sec. 2-401. Personnel board; membership; powers and duties.⁴²**

(a) There shall be a personnel board comprised of four members who shall be appointed by the mayor and confirmed by the city council. ~~The first appointees shall be appointed for terms of one, two, three, and four years respectively. Thereafter,~~ All appointments shall be for four-year terms. Vacancies in an unexpired term shall be filled by the mayor by appointment for the remainder of the term, and such appointments shall require the council's confirmation.

(b) Members shall be appointed from among persons who are residents of the city, but no officer or employee of the city shall be eligible for appointment to this board. A member of the board may be removed by the affirmative vote of a majority of the city council.

(c) The board shall annually elect its chairperson and such other officers as it desires from among its

⁴² Legal or Editorial Change: Code 1972, § 2-211. Personnel board; membership; powers and duties. In subsection (a), deleted provisions for initial terms of office as obsolete and altered the section per instructions.

members and shall establish its own rules of procedure, provided that three members shall constitute a quorum for the transaction of business and three affirmative votes shall be required for final action on any matter acted upon by the board.

(d) The board shall have power and shall be required to:

(1) Advise the mayor, city council and city administrator on matters concerning personnel administration, including training programs and the fostering of interest by educational institutions and civic, professional and employee organizations in the improvement of the city service.

~~— Review the personnel rules and regulations and amendments thereto developed and recommended by the city administrator; conduct hearings thereon; approve or reject such rules in whole or in part and with or without modifications; and transmit such rules and recommendations to the city council for its consideration and legislative action.~~

(2) Hear appeals by any employee (other than civil service employees, i.e., police and fire) in the classified service from a decision by the appointing authority with respect to a discharge, suspension, reduction in classification or pay, reprimands, disciplinary probation or grievances, and report in writing to the appealing employee and the appointing authority its findings and decisions, which decision shall be binding upon the appointment authority. ~~With respect to civil service employees, i.e., police and fire, this board will hear appeals only as regards to reprimands, disciplinary probation, or grievances.~~

(3) Make any investigation which it may consider desirable concerning personnel administration in the city service and report to the mayor and city council its findings, conclusions and recommendations.

(4) Perform such other related duties as may be necessary to fulfill its responsibilities under this division or as may be assigned by the mayor or city council.

(e) The personnel board, for purposes of conducting any hearing or investigation authorized by this division, shall have the power to administer oaths, subpoena witnesses and compel the production of pertinent records and books.

(f) Members of the board shall serve without pay.

(Code 1972, § 2-211; Ord. No. 1808, § 1, 7-6-2000)

Secs. 2-402--2-430. Reserved.

DIVISION 3. PUBLIC WORKS ADVISORY BOARD

Sec. 2-431. Created.

An advisory board of public works for the city is hereby created and shall be known and designated as "The York Board of Public Works."the public works advisory board.

(Code 1955, § 12-101; Code 1972, § 31-16)

Sec. 2-432. Composition.

The board of public works-public works advisory board shall consist of three or five members.

(Code 1955, § 12-101; Code 1972, § 31-17)

Sec. 2-433. Appointment.

The mayor shall appoint, subject to the approval of the council or a majority thereof, the three or five members of the board of public works-public works advisory board, who shall be citizens and bona fide residents of the city. The members of the previous public works advisory board shall continue to serve as members of the public works advisory board until their terms end.

(Code 1955, § 12-101; Code 1972, § 31-18)

Sec. 2-434. Terms.

Each member of the board of public works shall serve for a term dependent upon the number of members so appointed as provided by law and until his successor is appointed and qualified. Members of the public works

advisory board shall serve for a term of three years. In case of any vacancy by resignation, removal or otherwise, the mayor shall fill the vacancy for the unexpired term with the consent of the council.

(Code 1955, § 12-101; Code 1972, § 31-19)

~~Sec. 31-20. Removal from office.~~

~~Any member of the board of public works may at any time be removed from office by the mayor and majority of the council and the proceedings in that behalf shall be entered in the journal of the council.~~

~~(Code 1955, § 12-101; Code 1972, § 31-20)~~

~~Sec. 31-21. Filling of vacancies.~~⁴³

~~Vacancies occurring in the membership of the board of public works shall be filled for the unexpired term by the mayor and council.~~

~~(Code 1955, § 12-101; Code 1972, § 31-21)~~

~~Sec. 31-22. Oath required.~~

~~Before entering upon the duties of such office, each member of the board of public works shall take an oath in writing, to be filed with the city clerk treasurer, that he will faithfully and impartially perform the duties of his office as a member of the board of public works, to the best of his ability, and will not in any manner be actuated or influenced in the performance of such duties by personal or political motives.~~

~~(Code 1955, § 12-105; Code 1972, § 31-22)~~

~~Sec. 31-23. Salaries.~~

~~The salary of each member of the board of public works shall be fixed from time to time by the mayor and city council by resolution for each regular or special meeting attended by the respective members. The salaries of the members of the board, and the actual and necessary expenses incurred by the members of the board in the performance of their duties shall be allowed and paid by the mayor and council as a part of the cost of operation and maintenance of the public utilities owned and operated by the city, from the same sources, and in like manner as other costs of operation and maintenance are paid.~~

~~(Code 1955, § 12-104; Code 1972, § 31-23)~~

~~Sec. 31-24. Duty of city attorney.~~

~~The city attorney shall be the legal advisor of the council and city officers, but they shall have the right to pay the city attorney additional compensation for legal services performed by him for the board of public works, or to employ additional legal assistance other than the city attorney and pay such legal assistance out of funds disbursed under the orders of the board of public works. The city attorney shall commence, prosecute, and defend all suits and actions necessary to be commenced, prosecuted or defended on behalf of the corporation, or that may be ordered by the council. He shall attend all meetings of the council and give them his opinion upon any matters submitted to him, either orally or in writing as may be required.~~

~~(Code 1955, § 12-103; Code 1972, § 31-24)~~

~~Sec. 31-25. Conflict of interest.~~

~~No member of the board shall ever be directly or indirectly interested in any contract entered into by the board on behalf of such city, nor shall they be interested, either directly or indirectly, in the purchase of any material to be used or applied for municipal purposes except as may be modified or amended by statute.~~

~~(Code 1955, § 12-105; Code 1972, § 31-25)~~

~~Sec. 31-26. Rules, regulations.~~

⁴³ Legal or Editorial Change: Code 1972, § 31-21. Filling of vacancies. **The city gave no instructions for this section. Therefore, it has been deleted as covered by former § 31-19, as revised. Please review.**

~~The board of public works is hereby empowered to adopt such rules and regulations as may be necessary for its government and the transaction of business, and to provide for amendment thereof.~~

~~(Code 1955, § 12-103; Code 1972, § 31-26)~~

~~Sec. 31-27. Chairman.~~

~~The mayor, by and with the consent of the city council, shall designate one of the members of the board of public works to be chairman thereof.~~

~~(Code 1955, § 12-101; Code 1972, § 31-27)~~

~~Sec. 31-28. Other officers, etc.~~

~~The board of public works shall select from its membership a secretary and may select such other officers, deputies and committees as may be deemed by such board to be necessary or expedient.~~

~~(Code 1955, § 12-103; Code 1972, § 31-28)~~

~~Sec. 31-29. Bond of employees.~~

~~The board of public works shall require of such of its clerks, assistants and employees as it shall deem necessary or proper a bond of such character and amount as shall be determined by the board, and said bonds, where required by the board, shall be approved by the board and filed with the city clerk treasurer.~~

~~(Code 1972, § 31-29)~~

Sec. 2-435. Powers, duties generally.

The board of public works shall have, and is hereby charged with, the duties of operating, managing, constructing, extending and maintaining the waterworks and sewage systems, and any and all property owned, leased or otherwise under the control of the city and used in connection with the same, except only such duties as are required by law to be exercised by the mayor and council. The board of public works shall exercise all duties as may be required of it by ordinance of the mayor and city council.

(a) The public works advisory board is an advisory board and its powers and duties are to advise and make recommendations to the director of public works.

(b) No member shall receive any pay or compensation for any services rendered as a member of the board. Board members may be reimbursed for approved continuing education events related to public works business.

(c) It shall be the duty of the public works clerk to keep minutes of all meetings, and to timely file the minutes with the city clerk as public record.

(d) The board shall work with the director of public works in regard to the management of infrastructure and utilities. The board is delegated the following specific responsibilities:

(1) To review and recommend policies and utility rates and fees that are developed by the director of public works. The director of public works implements the policies;

(2) To advise the director of public works regarding the preparation of an annual public works budget.

(Code 1955, § 12-102; Code 1972, § 31-30)

~~Sec. 31-31. Deposit into funds.~~

~~All monies received by the board of public works or its employees, arising from the ownership and operation of the public utilities shall be promptly paid over to the city clerk treasurer, and the amounts so received from the ownership and operation of said utilities shall be kept in a separate fund designated as "Utilities Fund".~~

~~(Code 1955, § 12-102; Code 1972, § 31-31)~~

Sec. 31-32. Surplus funds; investment of.

Any surplus funds remaining in the hands of the city treasurer to the credit of said waterworks fund may be invested by the board of public works, with the approval of the mayor and council, in interest-bearing securities of the state or any political subdivision thereof, or in interest-bearing securities of the United States of America, upon

~~an order for that purpose drawn by the board of public works upon the city treasurer. Such securities may be purchased, sold, or hypothecated by the board of public works upon the approval of the mayor and city council, at their fair market value and the interest earned by such securities shall be credited to the account of the waterworks from which the funds paid for the securities were originally drawn.~~

~~(Code 1955, § 12-103; Code 1972, § 31-32)~~

Secs. 2-436—2-453. Reserved.

DIVISION 4. CIVIL SERVICE COMMISSION

Sec. 2-454. Civil Service Act adopted.

(a) The Nebraska Civil Service Act is hereby adopted as set forth in R.R.S. 1943, § 19-1825 et seq.

(b) The civil service commission shall have three members. The commission shall function as provided by the Act, and carry out such duties and responsibilities as set forth in the Act.

Sec. 2-454. Disciplinary action procedure.

(a) No employee in the civil service who shall have been permanently appointed or inducted into civil service shall be removed, suspended, demoted or discharged except for cause and then only upon the written accusation of the police chief or fire chief, city administrator or any citizen or taxpayer.

(b) The written accusation shall set forth the alleged misconduct, charges, or grounds for investigation against the employee. The written accusation shall be filed by the complainant with the secretary of the commission, who shall cause a copy of such written accusation to be delivered within 72 hours after the filing to the police chief or fire chief, to the city administrator and to the employee personally or by certified mail, addressed to the employee at the residence address of the employee shown in the personnel records. The secretary of the commission shall cause a return showing such delivery or mailing to be executed and filed in the secretary's office.

(c) The police chief or fire chief shall have the authority to immediately suspend, with pay, an employee against whom such written accusation has been filed, pending the confirmation of the suspension, or a decision of the city administrator to reinstate the employee, remove, demote, discharge, or suspend the employee, with or without pay.

(d) Prior to the decision of the city administrator to reinstate the employee or remove, demote, discharge or suspend the employee, with or without pay, the police chief or fire chief shall within a reasonable period of time investigate the alleged misconduct, charges or grounds against the employee and explain the basis of the employer's evidence to the employee and provide the employee an opportunity to present their version of the circumstances which resulted in the filing of the written accusation. If the chief's investigation reveals other misconduct, charges or grounds the chief shall amend the written accusation to include the other misconduct, charges or grounds by filing an amendment to the written accusation with the secretary of the commission, who shall cause a copy of such amended accusation to be delivered within 72 hours after the filing to the police chief or fire chief, to the city administrator, and to the employee personally or by certified mail, addressed to the employee at the residence address of the employee shown in the personnel records. The secretary of the commission shall cause a return showing such delivery or mailing to be executed and filed in the secretary's office. In the event that a police chief or fire chief is being disciplined, the city administrator shall follow the same procedures as are followed by the police chief or fire chief in disciplining employees under the Act. Upon completion of this procedure within a reasonable period of time, the police chief or fire chief shall recommend in writing to the city administrator that the alleged misconduct, charges or grounds set forth in the written accusation be deemed:

- (1) To be without merit;
- (2) To not warrant disciplinary action;
- (3) To warrant disciplinary action less severe than removal, demotion, discharge or suspension, with or without pay, such as an oral or written reprimand; or
- (4) To warrant removal, demotion, discharge or suspension, with or without pay.

(e) Within five calendar days after receiving the written recommendation of the police chief or fire chief, the city administrator shall decide to accept the recommendation of the police chief or fire chief, or shall decide that the alleged misconduct, charges or grounds for investigation against the employee set forth in the written accusation be deemed:

- (1) To be without merit;
- (2) To not warrant disciplinary action;
- (3) To warrant disciplinary action less severe than removal, demotion, discharge or suspension, with or without pay, such as an oral or written reprimand; or
- (4) To warrant removal, demotion, discharge or suspension, with or without pay.

The city administrator shall file a copy of their decision within three calendar days after receiving the written recommendation of the police chief or fire chief with the secretary of the commission, who shall cause a copy of such decision to be filed within 72 hours after the filing to the police chief or fire chief, and to the employee personally or by certified mail, addressed to the employee at the residence address of the employee shown in the personnel records. The secretary of the commission shall cause a return showing such delivery or mailing to be executed and filed in the secretary's office.

(f) Any employee so removed, suspended, demoted or discharged may, within ten calendar days after receiving written notice of the city administrator's decision, file a written demand for an investigation and public hearing by the civil service commission. The employee shall file the request for the hearing with the secretary of the commission and simultaneously send a copy of the request to the city administrator. The failure to file such a request with the secretary of the commission within ten calendar days of receipt of notice of the action by the city administrator shall constitute a waiver of the employee's right to review by the civil service commission and the city administrator's decision shall become final.

(g) Within five calendar days of receipt of the employee's notice of appeal, the city administrator shall cause to be mailed or delivered the following notice to the employee and secretary of the civil service commission:

- (1) A statement of the charges;
- (2) The names of the witnesses who will be called on behalf of the city administrator and a general statement of the nature of their testimony;
- (3) Copies of the documents to be introduced.

(h) Within five calendar days of the filing of the written demand for an investigation and public hearing by the commission, the employee shall mail or deliver the following upon the city administrator and commission:

- (1) A response to the statement of the charges;
- (2) The names of the witnesses who will be called on behalf of the employee and a general statement of the nature of this testimony; and
- (3) Copies of the documents to be introduced.

(i) Upon receipt of a written demand, the commission shall conduct an investigation. The commission may be represented in such investigation and public hearing by the city attorney if authorized by the city administrator. If the city attorney does not represent the commission, the commission may be represented by special counsel appointed by the commission for any such investigation and hearing. The investigation shall consist solely of a review of the written submissions of the city administrator and employee to determine whether any individuals or documents should be subpoenaed by the commission for the subsequent public hearing before the commission ultimately to determine whether the city administrator acted in good faith for cause. Good faith for cause shall mean that the action was not arbitrary or capricious and was not for political or religious reasons.

(j) The commission shall schedule a public hearing no less than ten nor more than 20 calendar days from the date of filing of the employee's written demand for an investigation. The commission shall notify the city administrator and employee in writing at least five calendar days prior to the date of the hearing of the date, time and place of the hearing.

(k) The city administrator shall be permitted to appear in person and by counsel and to present the administrator's case. The city administrator may present evidence by testimony and documents and shall be permitted to cross examine the employee's witnesses. At the hearing, the employee shall be permitted to appear in person and by counsel and to present defense. The employee may present evidence by testimony and documents and shall be permitted to cross examine the witnesses called by the city administrator.

(l) The commission may affirm the action taken by the city administrator if such action is supported by a preponderance of the evidence. If the commission filed that the removal, suspension, demotion or discharge was made for political or religious reasons or was not made in good faith for cause, it shall order the immediate reinstatement or reemployment for such employee in the position or employment from which such employee was removed, suspended, demoted or discharged, which reinstatement shall, if the commission in its discretion so provides, be retroactive and entitle such person to compensation and restoration of benefits and privileges from the time of such removal, suspension, demotion or discharge.

(m) After the hearing, in lieu of affirming the removal, suspension, demotion or discharge, the commission may modify the order of removal, suspension, demotion or discharge by directing a suspension, with or without pay, for a given period and the subsequent restoration to duty or demotion in position or pay. No later than ten days after the hearing the commission shall certify its findings in writing to the employee and the city administrator who shall enforce them.

(Code 1972, § 11-35(c); Ord. No. 1518, § 3(5), 3-13-1986)

~~DIVISION 2. MAYOR~~

~~Sec. 2-40. Absence or disability; power of president.~~⁴⁴

~~In case of any vacancy in the office of mayor, or in case of his absence or disability, the president of the council shall exercise the powers and duties of the office of mayor until such vacancy shall be filled or such disability removed, or in case of temporary absence until the mayor returns, and shall perform such other duties as may be required by law.~~

~~(Code 1972, § 2-40)~~

~~Sec. 2-41. Duties generally.~~⁴⁵

~~The mayor shall have superintending control of all officers and affairs of the city and shall perform such duties as may be required by state law, this Code or ordinances or resolutions of the city.~~

~~(Code 1955, § 6-601; Code 1972, § 2-41)~~

~~Sec. 2-42. Recommendations to council.~~⁴⁶

~~The mayor shall from time to time, communicate to the council such information and recommend such measures as in his opinion may tend to the improvement of the finances of the city, the police, health, comfort and general prosperity of the city.~~

~~(Code 1955, § 6-604; Code 1972, § 2-42)~~

~~Sec. 2-43. Power to vote.~~⁴⁷

~~The mayor shall have the right to vote when his vote shall be decisive on any pending matter, legislation or~~

⁴⁴ Legal or Editorial Change: Code 1972, § 2-40. Absence or disability; power of president. Deleted as adequately covered by R.R.S. 1943, § 16-402.

⁴⁵ Legal or Editorial Change: Code 1972, § 2-41. Duties generally. Deleted as not needed or covered by R.R.S. 1943, § 16-312.

⁴⁶ Legal or Editorial Change: Code 1972, § 2-42. Recommendations to council. Deleted as covered by R.R.S. 1943, § 16-314.

⁴⁷ Legal or Editorial Change: Code 1972, § 2-43. Power to vote. Deleted as covered by (and not consistent with) R.R.S. 1943, § 16-312.

~~transaction.~~

~~(Code 1955, § 6-601; Code 1972, § 2-43)~~

~~State Law reference—Similar provisions, R.R.S. 1943, § 16-312.~~

Sec. 2-44. Veto—generally.⁴⁸

~~The mayor shall have the power to approve or veto any ordinance, order, bylaw, resolution, award of, or vote to enter into any contract, or the allowance of any claim passed, made or allowed by the council; provided, that any matter vetoed by the mayor may be passed over his veto by a vote of two thirds (2/3) of all members elected to the council, notwithstanding his veto, and should the mayor then refuse to approve and sign such ordinance, order, bylaw, award or vote to enter into a contract or the allowance of any claim and return the same with or without his objections in writing at the next regular meeting, the same shall become a valid and binding law or act of the city without his signature.~~

~~(Code 1955, § 6-602; Code 1972, § 2-44)~~

Sec. 2-45. Same—appropriation bills.⁴⁹

~~The mayor may veto any item or items of any appropriation bill and approve the remainder, and the items of the bill as approved by the mayor shall constitute the appropriation bill, unless the item or items therein vetoed shall be passed by the council over his veto as in other cases.~~

~~(Code 1955, § 6-602; Code 1972, § 2-45)~~

Sec. 2-46. Approval of council actions.

~~The mayor shall sign all ordinances, resolutions and orders which have been passed, approved and declared to be the law of this city.~~

~~(Code 1955, § 6-604; Code 1972, § 2-46)~~

Sec. 2-47. Sign minutes.⁵⁰

~~The mayor shall sign the clerk treasurer's minutes of all meetings of the council after they have been spread at large upon the journals and have been approved by the action or acquiescence of the council.~~

~~(Code 1955, § 6-604; Code 1972, § 2-47)~~

Sec. 2-48. Administer oaths.⁵¹

~~The mayor shall administer oaths and affirmations in all matters coming before him or the council.~~

~~(Code 1955, § 6-601; Code 1972, § 2-48)~~

Sec. 2-49. Approve bonds.

~~All official bonds shall be approved by the mayor.~~

~~(Code 1955, § 6-604; Code 1972, § 2-49)~~

Sec. 2-50. Sign warrants.

~~All warrants drawn upon the city treasury shall be signed by the mayor.~~

~~(Code 1955, § 6-604; Code 1972, § 2-50)~~

⁴⁸ Legal or Editorial Change: Code 1972, § 2-44. Veto—Generally. Deleted as covered by R.R.S. 1943, § 16-313.

⁴⁹ Legal or Editorial Change: Code 1972, § 2-45. Same—Appropriation bills. Deleted as covered by R.R.S. 1943, § 16-313.

⁵⁰ Legal or Editorial Change: Code 1972, § 2-47. Deleted as obsolete.

⁵¹ Legal or Editorial Change: Code 1972, § 2-48. Administer oaths. Deleted as covered by R.R.S. 1943, § 16-312.

Sec. 2-51. Supervision of police.⁵²

~~The mayor shall have full control of the police department and of the police of the city, and it shall be his special duty to exact and see that each and all members of the police force diligently and impartially perform and discharge their duties and that the ordinances of the city are enforced and complied with in all their essential parts. It is hereby made the duty of the mayor summarily to remove any police officer who fails, neglects or refuses diligently and impartially to perform and discharge his duties, whether the cause be nonfeasance, or misfeasance, indifference, incompetency or wrongful act.~~

~~(Code 1955, § 6-601; Code 1972, § 2-51)~~

Sec. 2-52. Reserved.**Sec. 2-53. Filling vacancies.**⁵³

~~The mayor shall fill such vacancies as may occur in any elective office, with the assent of the council, to hold until the next general municipal election.~~

~~(Code 1955, § 6-604; Code 1972, § 2-53)~~

Sec. 2-54. Sign requisitions.⁵⁴

~~The mayor shall sign monthly requisitions prepared by city clerk treasurer and addressed to the county treasurer for all money arising from taxes levied and belonging to city.~~

~~(Code 1955, § 6-604; Code 1972, § 2-54)~~

Sec. 2-55. Approve bonds of city depositories.⁵⁵

~~The mayor shall approve the bond of banks selected as depositories for city funds or securities placed in escrow in lieu thereof.~~

~~(Code 1955, § 6-604; Code 1972, § 2-55)~~

~~DIVISION 2. AMENDMENTS TO CODE~~⁵⁶

Sec. 2-83. Effect.

~~Any and all additions and amendments to this Code, when passed in such form as to indicate the intention of the city council to make the same a part hereof, shall be deemed to be incorporated in this Code so that reference to the "Code of the City of York, Nebraska," shall be understood and intended to include such additions and amendments.~~

~~(Code 1972, § 2-83; Ord. No. 918, § 10, 12-1-1955)~~

Sec. 2-84. Manner.

~~All ordinances passed subsequent to the adoption of this Code which amend, repeal or in any way affect this Code may be numbered in accordance with the numbering system of this Code and printed for inclusion herein, or in the case of repealed chapters, sections and subsections or any part thereof, subsequent ordinances, such repealed portions may be excluded from the Code by omission from reprinted pages affected thereby, and the subsequent ordinances as numbered and printed or omitted, in the case of repeal, shall be prima facie evidence of such~~

⁵² Legal or Editorial Change: Code 1972, § 2-51. Supervision of police. Deleted as obsolete.

⁵³ Legal or Editorial Change: Code 1972, § 2-53. Filling vacancies. Deleted as covered by R.R.S. 1943, § 16-217.

⁵⁴ Legal or Editorial Change: Code 1972, § 2-54. Sign requisitions. Deleted per instructions.

⁵⁵ Legal or Editorial Change: Code 1972, § 2-55. Approve bonds of city depositories. Deleted per instructions.

⁵⁶ Legal or Editorial Change: Code 1972, §§ 2-83—2-88. Deleted as covered by revisions to Code chapter 1.

~~subsequent ordinances until such time that this Code and subsequent ordinances numbered or omitted are readopted as a new Code of Ordinances by the city council.~~

~~(Code 1972, § 2-84; Ord. No. 918, § 10, 12-1-1955)~~

Sec. 2-85. Language.

~~Amendments to any of the provisions of this Code should be made by amending such provisions by specific reference to the section of this Code in substantially the following language:~~

~~"That section _____ of the Code of the City of York, Nebraska, is hereby amended to read as follows:...~~
~~(Set out new provisions in full) ..."~~

~~(Code 1972, § 2-85; Ord. No. 918, § 10, 12-1-1955)~~

Sec. 2-86. New material.

~~_____ In the event a new section not heretofore existing in the Code is to be added, the following language may be used:~~

~~"That the Code of the City of York, Nebraska is hereby amended by adding a section (or article, chapter or other designation as the case may be), to be numbered _____, which reads as follows:... (Set out new provisions in full)"~~

~~_____ In lieu of subsection (a) hereof, when the city council desires to enact an ordinance of a general and permanent nature embracing a subject not previously existing in the Code, which the council desires to incorporate into the Code, a provision in substantially the following language may be made part of such ordinance:~~

~~"It is the intention of the city council, and it is hereby ordained, that the provisions of this ordinance shall become and be made part of the Code of the City of York, Nebraska, and the sections of this ordinance may be renumbered to accomplish such intention."~~

~~(Code 1972, § 2-86; Ord. No. 918, § 10, 12-1-1955)~~

Sec. 2-87. Repeal.

~~All sections, articles, chapters or other provisions of this Code desired to be repealed should be specifically repealed by section number, article number, chapter or other number, as the case may be.~~

~~(Code 1972, § 2-87; Ord. No. 918, § 10, 12-1-1955)~~

Sec. 2-88. Subject to general penalty.

~~In case of the amendment by the city council of any section of this Code for which a penalty is not provided, the general penalty as provided in section 1-8 of this Code shall apply to the section as amended; or in case such amendment contains provisions for which a penalty, other than the aforementioned general penalty is provided in another section in the same chapter, the penalty so provided in such other section shall be held to relate to the section so amended, unless such penalty is specifically repealed therein.~~

~~(Code 1972, § 2-88; Ord. No. 918, § 10, 12-1-1955)~~

Sec. 2-137. City treasurer; bond or insurance; premium.⁵⁷

~~The city treasurer shall be required to give bond or evidence of equivalent insurance of not less than twenty-five thousand dollars (\$25,000.00), or he or she may be required to give bond in double the sum of money estimated by the city council at any time to be in his or her hands belonging to the city. The city treasurer shall be the custodian of all money belonging to the city. The city shall pay the actual premium of the bond or insurance coverage of the treasurer. (Neb. Rev. Stat. § 16-318 (2019 Supp)).~~

~~(Code 1955, § 6-608; Code 1972, § 2-137; Ord. No. 2282, § 2, 3-18-21)~~

⁵⁷ Legal or Editorial Change: Code 1972, § 2-137. City treasurer; bond or insurance; premium.
 Deleted as covered by R.R.S. 1943, § 16-318.

Sec. 2-138. Separate accounts; receipts.⁵⁸

~~The city treasurer shall keep a separate account of each fund or appropriation and the debts and credits belonging thereto. He or she shall give every person paying money into the treasury a receipt therefor, specifying date of payment and on what account paid. He or she shall also file copies of such receipts, except tax receipts, with his or her monthly reports, and he or she shall at the end of each month, and as often as may be requested, render an account to the city council, under oath, showing the state of the treasury at the date of such account, the amount of money remaining in each fund and the amount paid therefrom, and the balance of money in the treasury. The city treasurer shall also accompany such account with a statement of all receipts and disbursements, together with all warrants redeemed and paid by him or her, which warrants, with all vouchers held by him or her, shall be filed with his or her account in the city clerk's office. He or she shall produce and show all funds shown by such report to be on hand, or satisfy the city council or its committee that he or she has such funds in his or her custody or under his or her control. If the city treasurer fails to render his or her account within 20 days after the end of the month, or by a later date established by the city council, the mayor with the consent of the city council may consider this failure as cause to remove the city treasurer from office. (Neb. Rev. Stat. § 16-318 (2019 Supp.).~~

~~(Code 1955, § 6-608; Code 1972, § 2-138; Ord. No. 2282, § 2, 3-18-21)~~

Sec. 2-139. Bonds and warrants, records.⁵⁹

~~The city treasurer shall keep a record of all outstanding bonds against the city, showing the number and amount of each bond, for and to whom the bonds were issued, and the date upon which any bond is purchased, paid, or canceled.~~

~~He or she shall prepare and publish annually within 60 days after the close of the fiscal year a statement of the receipts and expenditures of funds of the city for the proceeding fiscal year. He or she shall accompany this annual statement with a description of the bonds issued and sold in that year and the terms of sale, with every item of expense thereof. (Neb. Rev. Stat. §§ 16-318(3), 19-1101 (2019 Supp.).~~

~~(Code 1955, § 6-606; Code 1972, § 2-139; Ord. No. 2282, § 2, 3-18-21)~~

Sec. 2-142. Preparation of paving, curbing tax lists.⁶⁰

~~The city treasurer shall prepare all paving and curbing tax lists and collect the paving and curbing taxes therein; provided that nothing contained in this section shall be construed to relieve any county officer from performing any duty with respect to the collection of city taxes or special assessments as provided by law.~~

~~(Code 1955, § 6-608; Code 1972, § 2-142; Ord. No. 2282, § 2, 3-18-21)~~

DIVISION 3. DEPOSITORIES*

Sec. 2-254. Use required.⁶¹

~~The city treasurer shall deposit, and at all times keep on deposit, for safekeeping, in state or national banks, of approved and responsible standing, all money collected, received or held by him as such city treasurer. Such deposits shall be subject to all regulations imposed by law or adopted by the city council for the receiving and holding thereof. The fact that a stockholder, director, or other officer of such banking institution shall also be serving as mayor, member of the city council, member of a board of public works, or as any other officer, shall not disqualify such bank from acting as a depository for funds.~~

⁵⁸ Legal or Editorial Change: Code 1972, § 2-138. Separate accounts; receipts. Deleted as covered by R.R.S. 1943, § 16-318.

⁵⁹ Legal or Editorial Change: Code 1972, § 2-139. Bonds and warrants, records. Deleted as covered by R.R.S. 1943, § 16-318, 19-1101.

⁶⁰ Legal or Editorial Change: Code 1972, § 2-142. Preparation of paving, curbing tax lists. Deleted per instructions.

⁶¹ Legal or Editorial Change: Code 1972, § 2-254. Use required. Deleted as covered by (and in conflict with) R.R.S. 1943, § 16-712.

(Code 1955, § 6-717; Code 1972, § 2-254)

Sec. 2-255. Certificates of deposit, security required.⁶²

~~The city treasurer may, upon resolution of the mayor and council authorizing the same, purchase certificates of deposit from and make time deposits in banks selected as depositories of city funds under the provisions of this division. The certificates of deposit purchased and time deposits shall bear interest, and shall be secured as set forth in this division; provided, that the penal sum of such bond or the sum of such pledge of assets shall be reduced in the amount of the time deposit or certificate of deposit insured by the federal deposit insurance corporation.~~

(Code 1955, § 6-717; Code 1972, § 2-255)

Sec. 2-256. Depository bond.⁶³

~~For the security of the fund deposited, the city treasurer shall require each depository bank to give bond for the safekeeping and payment of such deposits and the accretions thereof, which bond shall run to the city and be approved by the mayor. Such bond shall be conditioned that such a depository shall, at the end of every quarter, render to the treasurer a statement in duplicate, showing the several daily balances, the amount of money of the city held by it during the quarter, the amount of the accretion thereto, and how credited. The bond shall also be conditioned that the depository shall generally do and perform whatever may be required by the provisions of this division, and faithfully discharge the trust reposed in such depository. No person in any way connected with any depository bank, as officer or stockholder, shall be accepted as a surety on any bond given by the bank of which he is an officer or stockholder. Such bond shall be deposited with the city clerk.~~

(Code 1955, § 6-717; Code 1972, § 2-256)

Sec. 2-257. Securities in lieu of bond.⁶⁴

~~In lieu of the bond required by this division, any bank making application to become a depository may deposit with the city clerk, United States government bonds, bonds of this state or of any state whose bonds are purchased by the board of educational lands and funds of this state for investment of the permanent school fund, warrants of the state, county bonds, municipal bonds or school district bonds of any county, city, village or school district in the state issued under the direction of and with the approval of the auditor of public accounts, bonds and debentures issued either singly or collectively by any of the 12 federal land banks, the 12 intermediate credit banks, or the 13 banks for cooperatives under the supervision of the farm credit administration, or warrants of the county or any city, village or school district in the county; provided, that the penal sum of said bond or the sum of said pledge of assets shall be double the amount of the deposit, but may be reduced in the amount of said deposit insured by the federal deposit insurance corporation. The depository bank furnishing securities above described shall have the right to substitute other approved securities herein provided for in lieu of securities already pledged if it so desires at any time.~~

(Code 1955, § 6-717; Code 1972, § 2-257)

Sec. 2-258. Maximum deposits; liability of treasurer.⁶⁵

~~The treasurer shall not have on deposit in any bank at any time more than the maximum amount of the bond given by said bank if the bank gives a surety bond, nor in any bank giving a personal bond, more than one half of the amount of the bond of such bank; and the amount so on deposit any time with any such bank shall not in either case exceed the paid-up capital stock and surplus of such bank, nor more than 90 percent of the par value of the~~

⁶² Legal or Editorial Change: Code 1972, § 2-255. Certificates of deposit, security required.

Deleted as covered by (and in conflict with) R.R.S. 1943, § 16-713.

⁶³ Legal or Editorial Change: Code 1972, § 2-256. Depository bond. Deleted as covered by (and in conflict with) R.R.S. 1943, § 16-714.

⁶⁴ Legal or Editorial Change: Code 1972, § 2-257. Securities in lieu of bond. Deleted as covered by (and in conflict with) R.R.S. 1943, § 16-715.

⁶⁵ Legal or Editorial Change: Code 1972, § 2-258. Maximum deposits; liability of treasurer. Deleted as covered by (and in conflict with) R.R.S. 1943, § 16-716.

~~securities furnished by said bank in cases where the bank deposits approved securities in lieu of a bond. The city treasurer shall not be liable for any loss sustained by reason of the failure of any such bonded depository whose bond shall have been duly approved by the mayor as herein provided, or which has, in lieu of a surety bond, deposited approved securities as herein provided.~~

~~(Code 1955, § 6-717; Code 1972, § 2-258)~~

ARTICLE VII. DEFERRAL OF SPECIAL ASSESSMENTS—AGRICULTURAL USE ZONES

Sec. 2-301. Improvement districts; land within agricultural zone.⁶⁶

~~Whenever the City of York creates an improvement district, such as sewer, paving, water, water extension, or sanitary extension districts, which shall include within such district land adjacent to the City of York and such adjacent land is within an agricultural use zone and is used exclusively for agricultural use, the owners of record title may apply for a deferral from any such special assessment as provided for R.R.S. 1943, §§ 19-2428—19-2431 or as provided for in this article.~~

~~For purposes of this article, the term agricultural use zone shall have the meaning specified in R.R.S. 1943, § 77-1343.~~

~~(Code 1972, § 2-301; Ord. No. 1578, § 1, 8-11-1988)~~

Sec. 2-302. Agricultural land within improvement district—deferral of special assessment; procedure.

~~Any owner of record title eligible for the deferral granted by R.R.S. 1943, §§ 19-2428—19-2431 or by this article, shall, to secure such assessment, make application to the city council within 90 days after creation of any improvement district as specified in this article which includes land adjacent to the City of York which is within an agricultural use zone and is used exclusively for agricultural use.~~

~~Any owner of record title who makes application for the deferral provided for by R.R.S. 1943, §§ 19-2428—19-2431, or pursuant to this article, shall notify the county register of deeds of such application in writing prior to the approval by the city council.~~

~~The city council shall approve the application of any owner of record title upon determination that the property (a) is within an agricultural use zone and is used exclusively for agricultural use and (b) the owner has complied with subsection (b) of this section.~~

~~(Code 1972, § 2-302; Ord. No. 1578, § 1, 8-11-1988)~~

Sec. 2-303. Same—deferral of special assessment; when terminated.

The deferral provided for in this article shall be terminated upon any of the following events:

- ~~Notification by the owner of record title to the city council to remove such deferral;~~
- ~~Sale or transfer to a new owner who does not make a new application within 60 days of the sale or transfer, except as provided in subsection (3) of this section;~~
- ~~Transfer by reason of death of a former owner to a new owner who does not make application within one hundred twenty five (125) days of the transfer;~~
- ~~The land is no longer being used as agricultural land; or~~
- ~~Change of zoning to other than agricultural zone.~~

~~(Code 1972, § 2-303; Ord. No. 1578, § 1, 8-11-1988)~~

Sec. 2-304. Same—payment of special assessments; when; interest; lien.

~~Whenever property which has received a deferral pursuant to this article or pursuant to R.R.S. 1943, §§ 19-2428—19-2431 becomes disqualified for such deferral, the owner of record title of such property shall thereafter~~

⁶⁶ Legal or Editorial Change: Code 1972, §§ 2-301—2-305. Deferral of special assessments—Agricultural use zones. Deleted per instructions.

~~pay to the City of York an amount equal to:~~

~~— The total amount of any such special assessments levied, plus interest at the rate of six percent per annum from the date of such disqualification from deferral, in ten annual equal installments on the first day of the month following such disqualification from deferral, and consecutive equal installments thereafter on the first day of January of each year until paid in full.~~

~~— In cases where the deferral provided by this article or by R.R.S. 1943, §§ 19-2428–19-2431 is terminated as a result of a sale or transfer described in subsections (2) or (3) of section 2-303, the lien for any assessment plus interest shall attach as of the day preceding such sale or transfer of property.~~

~~(Code 1972, § 2-304; Ord. No. 1578, § 1, 8-11-1988)~~

Sec. 2-305. Retroactive effect.

~~— Any deferral heretofore granted to any owner of record title pursuant to R.R.S. 1943, §§ 19-2428–19-2431 by the city council shall be governed by the provisions of this article, and no interest shall accrue on any such deferred assessment during the period of time such deferral remains in full force and effect from the effective date of the assessment, pursuant to law.~~

~~— It is the intention of the City of York to promote and encourage the eventual sale and development of those lands that may be specially benefitted by a special assessment that are adjacent to the City of York and are within an agricultural use zone and used exclusively for agricultural purposes. In accordance with that intent, the City of York waives any interest upon any special assessments as otherwise may be provided for by R.R.S. 1943, § 19-2431(1)(b), that otherwise requires interest upon such special assessments not paid each year at the rate of six percent from the date at which such assessment would have been payable if no deferral had been granted.~~

~~(Code 1972, § 2-305; Ord. No. 1578, § 1, 8-11-1988)~~

Chapter 11

CIVIL SERVICE⁶⁷

ARTICLE I. IN GENERAL*

***State Law reference**—Civil service commission generally, R.R.S. 1943, § 19-1825 et seq.

Sec. 11-1. Positions covered.

~~The Civil Service Act (R.R.S. 1943, § 19-1825 et seq.) shall apply to all present full-time fire fighters or full-time police officers of the city, including any paid full-time police or fire chief of such department, and future appointees to such full-time positions. Full-time police officers shall mean police officers in positions which require certification by the Nebraska Law Enforcement Training Center, who have the power of arrest, who are paid regularly by the city, and for whom law enforcement is a full-time career, but shall not include clerical, custodial, or maintenance personnel. Full-time firefighters shall mean duly appointed firefighters who are paid regularly by the city and for whom firefighting is a full-time career, but shall not include clerical, custodial, or maintenance personnel who are not engaged in fire suppression.~~

~~(Code 1972, § 11-1; Ord. No. 1518, § 1(1), 3-13-1986)~~

Sec. 11-2. Position creation and elimination.

~~All positions subject to the Civil Service Act (R.R.S. 1943, § 19-1825 et seq.) shall be created or eliminated by the mayor and council.~~

~~(Code 1972, § 11-2; Ord. No. 1518, § 1(2), 3-13-1986)~~

Sec. 11-3. Establishment of salaries and compensation.

⁶⁷ Legal or Editorial Change: Code 1972, Ch. 11, arts. I—III. Civil service. Deleted as covered by R.R.S. 1943, § 19-1825 et seq.

~~The Civil Service Act (R.R.S. 1943, § 19-1825 et seq.) shall not be construed to infringe upon the power and authority of the mayor and council to establish salaries and compensation of all employees within the compensation schedule or ranges established by the mayor and council for the positions.~~

~~(Code 1972, § 11-3; Ord. No. 1518, § 1(3), 3-13-1986)~~

~~Sec. 11-4. Payment of compensation for services.~~

~~No treasurer, auditor, comptroller, or other officer or employee of the city shall, subject to the Civil Service Act (R.R.S. 1943, § 19-1825 et seq.), approve the payment of or be in any manner concerned in paying, auditing or approving any salary, wage or other compensation for services to any person subject to the jurisdiction and scope of the Civil Service Act (R.R.S. 1943, § 19-1825 et seq.) unless the person to receive such salary, wage or other compensation has been appointed or employed in compliance with such act.~~

~~(Code 1972, § 11-4; Ord. No. 1518, § 1(4), 3-13-1986)~~

~~Sec. 11-5. City's duty to commission.~~

~~The mayor and council shall provide the commission with suitable and convenient rooms and accommodations and cause the same to be furnished, heated, lighted and supplied with all office supplies and equipment necessary to carry on the business of the commission and with such clerical assistance as may be necessary. It shall be the duty of the city to appropriate each fiscal year, from the general funds of the city, a sum of money sufficient to pay the necessary expenses involved in carrying out the purposes of such act, including, but not limited to, reasonable attorney's fees for any special counsel appointed by the commission when the city attorney is not authorized by the city administrator to represent the commission. The city administrator may establish the hourly or monthly rate of pay of such special counsel. The city shall afford the commission, its members and employees all reasonable facilities and assistance to inspect all books, papers, documents and accounts applying or in any way appertaining to any and all positions and employments subject to civil service and shall produce such books, papers, documents and accounts. All city officers and employees shall attend and testify whenever required to do so by the commission, the accused or the city administrator.~~

~~(Code 1972, § 11-5; Ord. No. 1518, § 1(5), 3-13-1986)~~

~~Sec. 11-6. Political fund contribution and political service.~~

~~No person holding any position subject to civil service shall be under any obligation to contribute to any political fund or to render any political service to any person or party whatsoever. No person shall be removed, reduced in position or salary or otherwise prejudiced for refusing so to do. No public officer, whether elected or appointed, shall discharge, promote, demote, or in any manner change the official rank, employment or compensation of any person under civil service, or promise or threaten to do so for giving, withholding or neglecting to make any contribution of money, services or any valuable thing for any political purposes.~~

~~(Code 1972, § 11-6; Ord. No. 1518, § 1(6), 3-13-1986)~~

~~Sec. 11-7. Obstructing examinations.~~

~~No commissioner or any other person shall by himself or herself or in cooperation with one or more persons:~~

- ~~___ Defeat, deceive or obstruct any person in respect to the right of examination according to the rules and regulations made pursuant to the Civil Service Act;~~
- ~~___ Falsely mark, grade, estimate or report upon the examination and standing of any person examined or certified in accordance with such act or aid in so doing;~~
- ~~___ Make any false representation concerning the same or concerning the persons examined;~~
- ~~___ Furnish any person any special or secret information for the purpose of improving or injuring the prospects or chances of any person so examined or certified to be examined or certified;~~ or
- ~~___ Persuade any other person or permit or aid in manner any other person to impersonate him or her in connection with any examination, application, or request to be so examined.~~

~~(Code 1972, § 11-7; Ord. No. 1518, § 1(7), 3-13-1986)~~

~~Secs. 11-8—11-15. Reserved.~~

~~ARTICLE II. CIVIL SERVICE COMMISSION*~~

~~*Editor's note—Ord. No. 1518, § 2, adopted March 13, 1986, enacted new provisions for Art. II which have been treated as superseding former §§ 11-16—11-27. The aforesaid sections derived from the 1972 codification of the Code.~~

~~Sec. 11-16. Created; composition.~~

~~There is hereby created in the city, a civil service commission which shall have three members who shall each be a citizen of the United States, a resident of such city for at least three years immediately preceding such appointment, and an elector of the county wherein such person resides.~~

~~(Code 1972, § 11-16; Ord. No. 1518, § 2(1), 3-13-1986)~~

~~Sec. 11-17. Appointment of members.~~

~~The members of the civil service commission shall be appointed by the mayor and confirmation of the appointment shall be made by a majority vote of those elected to the city council. At the time of any appointment, not more than two members of the civil service commission, including the one or ones to be appointed, shall be registered electors of the same political party.~~

~~(Code 1972, § 11-17; Ord. No. 1518, § 2(2), 3-13-1986)~~

~~Sec. 11-18. Term of members.~~

~~The first persons appointed to the civil service commission shall be for terms of two years, four years and six years respectively. Thereafter, all appointments shall be for six years.~~

~~(Code 1972, § 11-18; Ord. No. 1518, § 2(3), 3-13-1986)~~

~~Sec. 11-19. Removal of members.~~

~~Any member of the civil service commission may be removed from office for incompetency, dereliction of duty, malfeasance in office, or other good cause by a majority vote of those elected to the city council, except that no member of the civil service commission shall be removed until written charges have been preferred, due notice given such member, and a full hearing had before the governing body of the City of York.~~

~~(Code 1972, § 11-19; Ord. No. 1518, § 2(4), 3-13-1986)~~

~~Sec. 11-20. Compensation of members.~~

~~Members of the civil service commission shall serve without compensation.~~

~~(Code 1972, § 11-20; Ord. No. 1518, § 2(5), 3-13-1986)~~

~~Sec. 11-21. Meetings.~~

~~The civil service commission shall hold meetings as may be required for the proper discharge of its duties.~~

~~(Code 1972, § 11-21; Ord. No. 1518, § 2(6), 3-13-1986)~~

~~Sec. 11-22. Chairperson.~~

~~The civil service commission shall annually elect one of its members as chairperson.~~

~~(Code 1972, § 11-22; Ord. No. 1518, § 2(7), 3-13-1986)~~

~~Sec. 11-23. Secretary and chief examiner.~~

~~The civil service commission shall appoint a secretary and a chief examiner who shall keep the records of the commission, preserve all reports made to it, superintend and keep a record of all examinations held under its direction, and perform such other duties as the commission may prescribe. The commission may merge the positions of secretary and chief examiner and appoint one person to perform the duties of both positions. The commission shall appoint the city's personnel officer as secretary and chief examiner, if requested to do so by the city administrator. The secretary and chief examiner shall be subject to suspension or discharge upon the vote of a majority of the appointed members of the commission.~~

(Code 1972, § 11-23; Ord. No. 1518, § 2(8), 3-13-1986)

Sec. 11-24. Quorum.

Two members shall constitute a quorum for the transaction of business.

(Code 1972, § 11-24; Ord. No. 1518, § 2(9), 3-13-1986)

Sec. 11-25. Powers and duties.

~~— The commission shall adopt and promulgate procedural rules and regulations which shall provide in detail the manner in which examination may be held and any other matters assigned to it by the city administrator. At least one copy of the rules and regulations, and any amendments, shall be made available for examination and reproduction by members of the public. One copy of the rules and regulations and any amendments shall be given to each full-time firefighter and full-time police officer.~~

~~— The commission shall provide that all tests shall be practical and consist only of subjects which will fairly determine the capacity of persons who are to be examined to perform the duties of the position to which an appointment is to be made and may include, but not be limited to, tests of physical fitness and of manual skill and psychological testing.~~

~~— The commission shall provide, by the rules and regulations, for a credit of ten percent in favor of all applicants for administrator, under civil service who, in time of war or in any expedition of the armed forces of the United States, have served in and been honorably discharged from the armed forces of the United States and who have equaled or exceeded the minimum qualifying standards established by the city administrator.~~

~~— The commission may conduct an investigation concerning, and report upon all matters regarding, the enforcement and effect of the Civil Service Act and the rules and regulations prescribed.~~

~~— The commission may inspect all institutions, departments, positions and employments affected by such act to determine whether such act and all such rules and regulations are being obeyed. Such investigations may be conducted by the commission or by any commissioner designated by the commission for that purpose. The commission shall also make a like investigation on the written petition of a citizen, duly verified, stating that irregularities or abuses exist or setting forth, in concise language, the necessity for such an investigation. The commission may be represented in such investigations by the city attorney, if authorized by the city administrator. If the city attorney does not represent the commission, the commission may be represented by special counsel appointed by the commission in any such investigation. In the course of such an investigation, the commission, designated commissioner, or chief examiner shall have the power to administer oaths, issue subpoenas to require the attendance of witnesses and the production by them of books, papers, documents, and accounts appertaining to the investigation, and to cause the deposition of witnesses, residing within or without the state, to be taken in the manner prescribed by law for like depositions in civil actions in the courts of this state. The oaths administered and subpoenas issued shall have the same force and effect as the oaths administered by a district judge in a judicial capacity and subpoenas issued by the district courts of Nebraska. The failure of any person so subpoenaed to comply shall be deemed a violation of the Civil Service Act and be punished as such. No investigation shall be made pursuant to this section if there is a written accusation concerning the same subject matter against a person in the civil service. Such accusation shall be handled pursuant to section 11-35 of Article III of this chapter.~~

~~— The commission shall provide that all hearings and investigations before the commission, designated commissioner or chief examiner shall be governed by the Civil Service Act and the rules of practice and procedure to be adopted by the commission. In the conduct thereof, they shall not be bound by the technical rules of evidence. No informality in any proceedings or hearing or in the manner of taking testimony shall invalidate any order, decision, rule or regulation made, approved or confirmed by the commission, except that no order, decision, rule or regulation made by any designated commissioner conducting any hearing or investigation alone shall be of any force or effect unless it is concurred in by a majority of the of the appointed members of the commission, including the vote of any commissioner making the investigation.~~

~~— The commission shall establish and maintain a roster of officers and employees.~~

~~— The commission shall provide for, establish and hold competitive tests to determine the relative qualifications of persons who seek employment in any position, and, as a result thereof, establish eligible lists for~~

~~the various positions.~~

~~— The commission shall make recommendations concerning a reduction in force policy to the mayor and council.~~

~~— The commission shall keep such records as may be necessary for the proper administration of the Civil Service Act.~~

~~— The commission, upon request of the city administrator, shall establish and maintain a list of names and of those eligible for appointment to or promotion within the department.~~

~~— The commission, upon request of the city administrator, shall certify the names of the persons who are the three highest on the eligible list, following the most recent examination, and whose qualifications have been validated by the commissioner for the vacant position.~~

~~— The commission shall begin and conduct all civil suits which may be necessary for the proper enforcement of the Civil Service Act and of the rules of the commission. The commission may be represented in such suits and all investigations pursuant to the act by the city attorney if authorized by the city administrator. If the city attorney does not represent the commission, the commission may be represented by special counsel appointed by it in any particular case.~~

~~(Code 1972, § 11-25; Ord. No. 1518, § 2(10), 3-13-1986)~~

~~Sees. 11-26—11-30. Reserved.~~

ARTICLE III. CIVIL SERVICE PROVISIONS

Sec. 11-31. Appointments and promotions.

~~All appointments to and promotions in the police or fire department shall be made solely on merit, efficiency and fitness, which shall be ascertained by open competitive examination and impartial investigation by the commission. Appointments shall mean all means of selecting, appointing or employing any person to hold any position or employment subject to civil service. Promotion or demotion shall mean changing from one position to another, accompanied by a corresponding change in current rate of pay. Position shall mean an individual job which is designated by an official title indicative of the nature of the work.~~

~~(Code 1972, § 11-31; Ord. No. 1518, § 3(1), 3-13-1986)~~

Sec. 11-32. Requirements for position applicants.

~~An applicant for a position of any kind under civil service shall be able to read and write the English language, meet the minimum job qualifications of the position as established by the city administrator, and be of good moral character. An applicant shall be required to disclose his or her employment history and his or her criminal record, if any. Prior to certifying to the city administrator the names of the persons eligible for the position or positions, the commission shall validate the qualifications of such persons.~~

~~(Code 1972, § 11-32; Ord. No. 1518, § 3(2), 3-13-1986)~~

Sec. 11-33. Filling of vacant positions.

~~— *Considerations.* If the city administrator fills a vacancy in a position subject to the Civil Service Act, he or she shall consider factors including, but not limited to:~~

~~— The multiple job skills recently or currently being performed by the applicant which are necessary for the position.~~

~~— The knowledge, skills and abilities of the applicant which are necessary for the position.~~

~~— The performance appraisals of any applicant who is already employed in the department, including any recent or pending disciplinary actions involving the employee.~~

~~— The employment policies and staffing needs of the department together with contracts, ordinances and statutes related thereto.~~

~~— Required federal, state or local certifications or licenses necessary for the position.~~

~~— The qualifications of the applicants who are already employed in the department and have successfully completed all parts of the examination for the position. No persons shall be reinstated in or transferred, suspended or discharged from any such position or employment contrary to the Civil Service Act.~~

~~— *Procedure for filling vacant positions.* Whenever a position subject to the Civil Service Act becomes vacant, the city administrator shall make requisition upon the commission for the names and addresses of the persons eligible for appointments and may decline to fill such vacancy for an indefinite period. If the commission certifies fewer than three names for each vacancy to the city administrator, the city administrator may appoint one of such persons to fill the vacancy, may decline to fill the vacancy or may order that another examination be held by the civil service commission.~~

~~— *Temporary appointments.* If a vacancy occurs and there is no eligible list for the position or if the commission has not certified persons from the eligible list, a temporary appointment may be made by the city administrator. Such temporary appointment shall not continue for a period longer than four months. No person shall receive more than one temporary appointment or serve more than four months as a temporary appointee in any one fiscal year.~~

~~(Code 1972, § 11-33; Ord. No. 1518, § 3(3), 3-13-1986)~~

Sec. 11-34. Probationary period.

~~To enable the city administrator to exercise the choice in the filling of a position, no appointment, employment or promotion in any position in the service shall be deemed complete until after the expiration of a period of three to six months probationary service for firefighters and not less than six months nor more than one year after certification by the Nebraska Law Enforcement Training Center for police officers, as may be provided in the rules of the civil service commission, during which time the city administrator may terminate the employment of the person appointed by him or her if, during the performance test thus afforded and upon an observation or consideration of the performance of duty, the city administrator deems such person unfit or unsatisfactory for service in the department. The city administrator may appoint one of the other persons certified by the commission and such person shall likewise enter upon such duties until some person is found who is fit for appointment, employment or promotion for the probationary period provided and then the appointment, employment or promotion shall be complete.~~

~~(Code 1972, § 11-34; Ord. No. 1518, § 3(4), 3-13-1986)~~

Sec. 11-35. Disciplinary actions.

~~— *Tenure of employment.* The tenure of a person holding a position of employment under the Civil Service Act shall be only during good behavior.~~

~~— *Causes for disciplinary action.* Any such person may be removed or discharged, suspended with or without pay, demoted, reduced in rank, or deprived of vacation, benefits, compensation, or other privileges, except pension benefits, for any of the following reasons:~~

~~— Incompetency, inefficiency, or inattention to or dereliction of duty.~~

~~— Dishonesty, prejudicial conduct, immoral conduct, discourteous treatment of the public or a fellow employee, any act of omission or commission tending to injure the public service, any willful failure on the part of the employee to properly conduct himself or herself, or any willful violation of the Civil Service Act or the rules and regulations adopted pursuant to such act.~~

~~— Mental or physical unfitness for the position which the employee holds.~~

~~— Drunkenness or the use of intoxicating liquors, narcotics or any other habit forming drug, liquid or preparation to such an extent that the use interferes with the efficiency or mental or physical fitness of the employee or precludes the employee from properly performing the functions and duties of his or her position.~~

~~— Conviction of a felony or misdemeanor tending to injure the employee's ability to effectively perform the duties of his or position.~~

~~— Any other act or failure to act which, in the judgment of the civil service commission, is sufficient to~~

~~justify the offender to be an unsuitable and unfit person to be employed in the public service.~~

~~(Code 1972, § 11-35; Ord. No. 1518, § 3(5), 3-13-1986)~~

Sec. 11-36. Reduction in force policy.

~~— *Establishment.* The mayor and council in establishing a reduction in force policy shall consider recommendation from the civil service commission, but shall not be bound by them. Prior to the adoption of a reduction in force policy, the mayor and council shall, after giving reasonable notice to each police officer and firefighter by first class mail, conduct a public hearing.~~

~~— *Factors.* The mayor and council shall adopt a reduction in force policy which shall consider factors including, but not limited to:~~

- ~~— The multiple job skills recently or currently being performed by the employee;~~
- ~~— The knowledge, skills and abilities of the employee;~~
- ~~— The performance appraisal of the employee including any recent or pending disciplinary actions involving the employee;~~
- ~~— The employment policies and staffing needs of the department together with contracts, ordinances and statutes related thereto;~~
- ~~— Required federal, state or local certifications or licenses; and~~
- ~~— Seniority.~~

~~(Code 1972, § 11-36; Ord. No. 1518, § 3(6), 3-13-1986)~~

Sec. 11-37. Leave of absence.

~~A leave of absence with or without pay may be granted by the city administrator to any person under civil service. The city administrator shall give notice of such leave to the commission. All appointments for temporary employment resulting from such leaves of absence shall be made from the eligible list, if any, of the civil service.~~

~~(Code 1972, § 11-37; Ord. No. 1518, § 3(7), 3-13-1986)~~

Chapter 12

ELECTIONS*⁶⁸

~~*State Law reference— Election of officers generally, R.R.S. 1943, § 16-302.01 et seq.; elections generally, R.R.S. 1943, Ch. 32.~~

Sec. 12-1. Governed by statutes.

~~Councilmen and other elective city officers shall file for office and be elected, and all elections in this city shall be held in the manner provided by the statutes of this state relating to elections in cities of the first class. In matters in which such special statutes, or the ordinances of the city, lawfully enacted, make no specific provisions, the general election laws of the state so far as they are applicable to the situation, shall prevail. All municipal elections held within the City of York either general or special including municipal elections held on the date of the statewide primary shall be held in accordance with the appropriate sections of the Nebraska Revised Statutes as amended, and the precincts for such voting by the electors of the city shall be as designated in published notices prior to such elections as required by law.~~

~~(Code 1972, § 12-1; Ord. No. 1223, 2-10-1972)~~

Sec. 12-3. Initiative and referendum law accepted.

~~The City of York, Nebraska, does hereby accept the initiative and referendum law for said city as contained in sections 18-101 to 18-129, Revised Statutes of Nebraska, 1943, as amended, said statutory sections to become~~

⁶⁸ Legal or Editorial Change: Code ch. 12. Deleted as obsolete or not needed.

~~operative and in full force and effect in said city as law.~~

~~(Code 1972, § 12-3; Ord. No. 1225, § 1, 5-9-1972)~~

Sec. 12-3.1. Ward defined.

~~The City of York shall and hereby is divided into four wards. Each of the ward boundaries shall be designated as nearly as possible by corporate limits lines or by the centerline of streets and avenues of the city as hereinafter described:~~

~~— A line running generally north and south beginning at the northeast corner of the corporate limits, said corner also being the northeast corner of Irregular Tract 18 of Section 30, Township 11 North, Range 2 West of the 6th P.M., York County, Nebraska; thence south to the southeast corner of said Irregular Tract 18; thence southwesterly to the southwest corner of Irregular Tract 19 of said Section 30; thence south along a line parallel to the west line of the northeast quarter of said Section 30 to a point on the south line of the northeast quarter of said Section 30; thence east along the south line of Section 30 to a point 200 feet east of the south quarter corner of Section 30; thence south along a line which is 200 feet east of and parallel to the east line of the northwest quarter of Section 31, Township 11 North, Range 2 West of the 6th P.M., York County, Nebraska, to the point of intersection with the east-west quarter section line of said Section 31; thence west to the center point of said Section 31; thence south to the centerline of Fourteenth Street; thence west to the centerline of Iowa Avenue; thence south along the centerline of Iowa Avenue to the point of intersection with the west line of the south half of the southwest quarter of the southeast quarter of Section 6, Township 10 North, Range 2 West of the 6th P.M., York County, Nebraska; thence south to the corporate limits, all of which shall constitute line "A."~~

~~— A line running generally east and west and described as follows: Beginning at the west corporate limits and the centerline of Eighth Street; thence east to the centerline of Division Avenue; thence north to the centerline of Ninth Street; thence east to the centerline of Kiplinger Avenue; thence south to the centerline of Eighth Street; thence east to the centerline of Delaware Avenue; thence north to the centerline of Ninth Street; thence east to the corporate limits, all of which shall constitute line "B."~~

~~— The two above-described lines, one running generally north and south as line "A" and one running generally east and west as line "B," intersect at Ninth Street and Iowa Avenue, which shall constitute point of intersection.~~

~~All of that portion of the city lying east of line "A" and north of line "B" shall constitute the first ward of said city. All of that portion of the city lying west of line "A" and north of line "B" shall constitute the second ward of said city. All of that portion of the city lying west of line "A" and south of line "B" shall constitute the third ward of said city. All of that portion of the city lying east of Line "A" and south of line "B" shall constitute the fourth ward of said city.~~

~~(Code 1972, § 12-3.1; Ord. No. 1433, § 1, 11-12-1981)~~

Sec. 12-4. First ward precincts.

~~The first ward of the city is hereby divided into two voting precincts for county commissioner district voting purposes, to wit: That portion of the first ward lying north of the centerline of Twelfth Street east of the centerline of East Avenue and north of the centerline of Eleventh Street west of the centerline of East Avenue shall constitute the voting precinct to be known as "One-A." That portion of the first ward lying south of the centerline of Twelfth Street east of the centerline of East Avenue and south of the centerline of Eleventh Street west of the centerline of East Avenue shall constitute the voting precinct to be known as "One-B."~~

~~(Code 1972, § 12-4; Ord. No. 1433, § 1, 11-12-1981)~~

Sec. 12-5. Third ward precincts.

~~The third ward of the city is hereby divided into two voting precincts for county commissioner district voting purposes, to wit: That portion of the third ward lying south of the centerline of Sixth Street and west of the centerline of Beaver Avenue shall constitute the voting precinct to be known as "Three-A." That portion of the third ward lying north of the centerline of Sixth Street and east of the centerline of Beaver Avenue shall constitute the voting precinct to be known as "Three-B."~~

(Code 1972, § 12-5; Ord. No. 1433, § 1, 11-12-1981)

PROOFS

Chapter 3
RESERVED

PROOFS

Chapter 4

ALCOHOLIC BEVERAGES*

***State law reference**—Intoxicating liquors generally, R.R.S. 1943, ch. 53; authority of cities regarding retail sale, R.R.S. 1943, § 53-134 et seq.

ARTICLE I. IN GENERAL**Sec. 4-1. Definition of terms.**

(a) Unless the context otherwise requires, the words and phrases defined in state law are hereby adopted for the purposes of construing this chapter; and said words and phrases are hereby incorporated by reference the same as though copied at full length herein.

(b) Whenever the term "minor" appears in ~~sections 5-14, 5-15, 5-16, 4-4, and 5-18, Chapter 5, General Revision Ordinance No. 1228 of the City of York, Nebraska, this chapter,~~ it shall be construed as referring to the following definition:

Minor means any person, male or female, under 21 years of age, regardless of marital status; all as set forth in R.R.S. 1943, § 53-103.23, ~~Revised Statutes of Nebraska, Reissue of 1984.~~

(Code 1955, § 5-101; Code 1972, § 5-1; Ord. No. 1245, § 1, 5-10-1973; Ord. No. 1515, § 1, 2-13-1986)

State law reference—Definitions, R.R.S. 1943, § 53-103 et seq.

Sec. 4-2. Right of entry for enforcement.

All police officers of the city are hereby authorized to enter at any time upon the premises of any licensee under the Liquor Control Act within the city to determine whether any of the provisions of such Act or this chapter or any rules or regulations adopted by the city or by the state liquor control commission have been or are being violated and at such time to examine sufficiently said premises of said licensee in connection therewith.

(Code 1955, § 5-117; Code 1972, § 5-4)

Sec. 4-3. Alcoholic beverages; hours of sale.

It shall be unlawful for any licensed person or their agent to sell any alcoholic beverages within the corporate limits of the city except during the hours provided herein.

<i>Hours of Sale</i>	
Alcoholic liquor (except beer and wine)	
Secular days	
Off sale	6:00 a.m. to 1:00 a.m.
On sale	6:00 a.m. to 1:00 a.m.
Sunday	
Off sale	12:00 noon to 1:00 a.m.
On sale	12:00 noon to 1:00 a.m.
Beer and wine	
Secular days	
Off sale	6:00 a.m. to 1:00 a.m.
On sale	6:00 a.m. to 1:00 a.m.

Sunday	
Off sale	6:00 a.m. to 1:00 a.m.
On sale	6:00 a.m. to 1:00 a.m.

- (1) No alcoholic liquor, including beer, shall be sold at retail or dispensed on any day between the hours of 1:00 a.m. and 6:00 a.m.
- (2) No provision herein shall be construed to prohibit licensed premises from being open for other business on days and hours during which the sale or dispensing of alcoholic beverages is prohibited by this section.
- (3) It shall be unlawful, on property licensed to sell alcoholic liquor, at retail to allow alcoholic liquor in open containers to remain or be in possession or control of any person for purposes of consumption between the hours of 1:15 a.m. and 6:00 a.m. on any day.

(Code 1972, § 5-5; Ord. No. 1198, § 2, 11-12-1970; Ord. No. 1579, § 1, 8-11-1988; Ord. No. 1632, § 1, 9-12-1991; Ord. No. 2140, § 2, 9-3-2015)

State law reference—Authority to regulate hours of sale, R.R.S. 1943, § 53-179.

Sec. 5-11. Closure of premises.⁶⁹

~~No person shall permit or allow any alcoholic liquors, including beer, bottles, glasses or containers of any kind to be or remain on any table, booth, counter or bar on any licensed premises for a period of time longer than 15 minutes after the time that the sale of alcoholic liquors is prohibited on such premises. No person except the licensee or his employees shall remain on such licensed premises for a period of time longer than 15 minutes after such closing hour.~~

(Code 1972, § 5-11; Ord. No. 1198, § 2, 11-12-1970)

Sec. 4-4. Entrance to premises restricted.

No person who holds a license to sell alcoholic liquors by the drink, excluding a license to sell beer only, shall allow any minor under the age of 21 years to enter or remain in the licensed premises unless such minor is accompanied by said minor's parent or legal guardian, provided nothing herein contained shall be construed to prohibit a minor from making use of the nonalcoholic facilities of any business where the sale of alcoholic liquors is an accessory or incidental use of the premises. Such businesses shall include, but not be limited to, bowling alleys, hotels, motels, golf courses and restaurants. For purposes of this section, the term "restaurant" means a business that primarily serves food and of which the service of alcoholic beverages is an accessory or incidental service. Nothing herein contained shall be construed to permit a minor to do any of the prohibited acts set forth in R.R.S. 1943, § 53-180.02, as amended, and the provisions of this Code; provided, further, that nothing herein contained shall be construed to prohibit minors from being employed on such premises as permitted by the Nebraska Liquor Control Act (R.R.S. 1943, § 53-101 et seq.).

(Code 1972, § 5-17; Ord. No. 1025, § 8, 8-12-1963; Ord. No. 1876, § 1, 12-18-2003)

Sec. 5-21. Premises, resorts operated in violation of act or chapter; declared common nuisances; violations; penalty.⁷⁰

~~Any room, house, building, boat, structure or place of any kind where alcoholic liquors are sold, manufactured, bartered or given away in violation of this chapter or of the Nebraska Liquor Control Act (R.R.S. 1943, § 53-101 et seq.), or where persons are permitted to resort for the purpose of drinking same in violation of~~

⁶⁹ Legal or Editorial Change: Code 1972, § 5-11. Closure of premises. Deleted as covered by R.R.S. 1943, § 59-179(3).

⁷⁰ Legal or Editorial Change: Code 1972, § 5-21. Premises, resorts operated in violation of act; declared common nuisances; violations; penalty. Deleted as covered by R.R.S. 1943, § 59-198.

~~this chapter or the Nebraska Liquor Control Act (R.R.S. 1943, § 53-101 et seq.), or any place where such liquors are kept for sale, barter or gift in violation of this chapter or the Nebraska Liquor Control Act (R.R.S. 1943, § 53-101 et seq.), and all such liquors, and all property kept in and used in maintaining such a place, are each and all them hereby declared to be a common nuisance, and any person who maintains or assists in maintaining such common nuisance shall be guilty of a violation of this section. If it shall be proved that the owner of any building or premises has knowingly suffered the same to be used or occupied for the manufacture, sale or possession of such liquors, contrary to the provisions of this chapter or the Nebraska Liquor Control Act (R.R.S. 1943, § 53-101 et seq.), such building or premises shall be subject to a lien for and may be sold to pay all fines and costs assessed against the occupant of such building or premises for any violation of this chapter or the Nebraska Liquor Control Act (R.R.S. 1943, § 53-101 et seq.), and such lien shall be immediately enforced by civil action, in any court having jurisdiction, by the city attorney or by one of his deputies.~~

~~— Upon conviction for violation of this section such persons shall be fined in an amount not less than one hundred dollars (\$100.00) and not more than five hundred dollars (\$500.00), and for a second or subsequent offense shall be sentenced to jail for a period of not more than six months and shall be fined in an amount not more than one thousand dollars (\$1,000.00), or both such fine and imprisonment.~~

~~(Code 1972, § 5-21; Ord. No. 1548, §§ 1, 2, 5-14-1987)~~

~~State law reference—Penalties authorized, R.R.S. 1943, § 16-225.~~

~~Secs. 4-5--4-27. Reserved.~~

ARTICLE II. LICENSE*

~~*State law reference—Authority of cities regarding retail sale, R.R.S. 1943, § 53-134 et seq.~~

Sec. 4-27. Required.

~~It shall be unlawful for any person to manufacture for sale, sell, keep for sale, or to barter or exchange, under any pretext, any alcoholic liquor within the city unless said person shall have in full force and effect a license therefor as provided by the Nebraska Liquor Control Act (R.R.S. 1943, § 53-101 et seq.).~~

~~(Code 1955, § 5-102; Code 1972, § 5-32)~~

Sec. 4-28. Fees.⁷¹

~~There is hereby levied an occupation tax on all persons subject to license under the Nebraska Liquor Control Act (R.R.S. 1943, § 53-101 et seq.) in the maximum amount authorized by such Act.~~

~~The following occupation taxes shall be paid before any license is issued under the provisions of this article:~~

- ~~— Alcoholic liquor distributor\$1,000.00~~
- ~~— Beer distributor500.00~~
- ~~— Retail beer sale only for consumption on premises100.00~~
- ~~— Retail beer sale only for consumption off premises, sale of original package only50.00~~
- ~~— Retail alcoholic liquors, including beer, sale in original packages, both on and off premises, Class "C"500.00~~
- ~~— Retail alcoholic liquors including beer, sale in original packages only off premises, Class "D"300.00~~
- ~~— Nonprofit corporations, Class "H"200.00~~
- ~~— Bottle club250.00~~
- ~~— Pursuant to Section (1) of Section 53-124 Nebraska Revised Statutes, 1978 Cum. Supp., a license~~

⁷¹ Legal or Editorial Change: Code 1972, § 5-34. Fees. As the fees in this section no longer represented the maximum fees authorized under R.S. 1943, §§ 53-132(5), 53-124.01, revised to levy the maximum fees authorized.

~~concerning the consumption of alcoholic liquors including beer on the premises to a municipal corporation, a fine arts museum incorporated as a nonprofit corporation, or religious or fraternal nonprofit corporation which has been exempted from payment of federal income taxes and does not hold a retail liquor license under said statutory section, shall be issued subject to the following conditions:~~

~~— The license authorized in said section (1) of said statutory section shall not be applied for and used by the same municipal corporation or nonprofit corporation on more than three occasions in one calendar year;~~

~~— The license shall be valid only for the occasion or the date of such occasion indicated on the license and shall only be used on three calendar days in one calendar year;~~

~~— The fee for such license shall be twenty dollars (\$20.00) for each such occasion and shall be submitted with the application for the license to the State of Nebraska Liquor Control Commission under the provisions of said Subsection (1) of said statutory section.~~

~~— Beer and wine only for consumption on premises of restaurants only250.00~~

~~— Non beverage user,~~

~~Class 15.00~~

~~Class 225.00~~

~~Class 350.00~~

~~Class 4100.00~~

~~Class 5250.00~~

(Code 1955, § 5-118; Code 1972, § 5-34; Ord. No. 950, § 1, 12-5-1957; Ord. No. 1025, § 1, 8-12-1963; Ord. No. 1196, § 1, 11-12-1970; Ord. No. 1369, § 2, 3-15-1979)

State law reference—Occupation tax, R.R.S. 1943, § 53-132(5).

Sec. 5-35. Sanitary conditions on premises.⁷²

~~The applicant for a license required by the provisions of this article shall satisfy the health inspector that the toilet facilities and other sanitary conditions on the licensed premises are adequate and convenient for customers and patrons thereon; and said licensed premises shall be subject to all health ordinances and inspections from time to time by the health inspector of the board of health. All applications for licenses shall bear the endorsement of the chief of police to the effect that the proposed licensed premises are satisfactory from a standpoint of the sanitary conditions before said application shall be considered by the mayor and council.~~

~~(Code 1955, § 5-102; Code 1972, § 5-35)~~

Sec. 5-37. Full payment required.⁷³

~~No occupation tax imposed by this article in an amount less than the sum herein provided for a yearly period shall be accepted regardless of the time within the tax year when the occupation is commenced.~~

~~(Code 1955, § 5-118; Code 1972, § 5-37)~~

Sec. 4-29. Payment of tax, refund.⁷⁴

~~The occupation tax levied and imposed by this section shall in no case exceed double the amount required to be paid for a license for the same period of time under the provisions of the Nebraska Liquor Control Act (R.R.S.~~

⁷² Legal or Editorial Change: Code 1972, § 5-35. Sanitary conditions on premises. Deleted per instructions.

⁷³ Legal or Editorial Change: Code 1972, § 5-37. Full payment required. Deleted per instructions.

⁷⁴ Legal or Editorial Change: Code 1972, § 5-38. Payment of tax, refund. Delete the first sentence as covered by R.R.S. 1943, § 52-132(5) and provisions added to this chapter.

~~1943, § 53-101 et seq.)~~

(a) The amount of occupation tax required by this article shall be deposited with the city clerk at the time the application for license is made or within 24 hours after said application has been filed with the state liquor control commission. The city clerk shall hold said occupation tax as a trust fund until application is finally passed upon and if the application is refused and license denied, then the amount thereof shall be returned to the applicant. The city clerk, as city treasurer, acting in the clerk's capacity, shall credit the same to the general fund of said city.

(b) Upon the failure of any such applicant to pay said occupation tax, as herein provided, it shall be mandatory upon the council to pass a resolution denying the application for a license or requesting the state liquor control commission to deny said application and said resolution shall state the reason therefor and shall be forwarded to the state liquor control commission.

(Code 1955, § 5-118; Code 1972, § 5-38; Ord. No. 1369, § 3, 3-15-1979)

~~Sec. 5-39. Evasion of tax payment.~~⁷⁵

~~It shall be unlawful for any person in this city to evade or attempt to evade the payment of tax or duty on any alcoholic liquor in any manner whatever and upon conviction thereof, in addition to any penalty prescribed for the violation in this article, such person shall forfeit said alcoholic liquor.~~

~~(Code 1955, § 5-119; Code 1972, § 5-39)~~

~~Sec. 5-40. Stamp required.~~⁷⁶

~~It shall be unlawful for any person in this city to have in his possession or transport any cask, package, bottle or bottles of any alcoholic liquor, without having thereon each mark and stamp for tax as required by the Nebraska Liquor Control Act (R.R.S. 1943, § 53-101 et seq.); and such cask, package, bottle or bottles of alcoholic liquor not having the mark or stamp for tax as so provided shall be forfeited to the city.~~

~~(Code 1955, § 5-119; Code 1972, § 5-40)~~

~~Sec. 5-41. Duration.~~⁷⁷

~~The occupation tax year under this article shall commence on the first day of May of each year and end on the thirtieth day of April next succeeding.~~

~~(Code 1955, § 5-118; Code 1972, § 5-41)~~

~~Sec. 5-42. Display.~~⁷⁸

~~Every licensee under the state liquor control act within said city shall cause his license or licenses to be framed and hung in plain public view in a conspicuous place on the licensed premises.~~

~~(Code 1955, § 5-111; Code 1972, § 5-42)~~

~~Sec. 5-43. Violations by managers, agents and employees.~~⁷⁹

~~Every act or omission of whatsoever nature constituting a violation of any of the provisions of this chapter, by any officer, director, manager or other agent or employee of any licensee, if said act is committed or omission is made with the authorization, knowledge or approval of the licensee, shall be deemed and held to be the act of such employer or licensee and said employer or licensee shall be punishable in the same manner as if said act or omission had been done or omitted by him personally.~~

⁷⁵ Legal or Editorial Change: Code 1972, § 5-39. Evasion of tax payment. Deleted per instructions.

⁷⁶ Legal or Editorial Change: Code 1972, § 5-40. Stamp required. Deleted per instructions.

⁷⁷ Legal or Editorial Change: Code 1972, § 5-41. Duration. Deleted per instructions.

⁷⁸ Legal or Editorial Change: Code 1972, § 5-42. Display. Deleted per instructions.

⁷⁹ Legal or Editorial Change: Code 1972, § 5-43. Violations by managers, agents and employees. Deleted per instructions.

~~(Code 1955, § 5-116; Code 1972, § 5-43)~~

Sec. 5-44. Authority to revoke license.⁸⁰

~~Any license issued under the provisions of this article may be revoked by the council for the violation by the licensee, his manager, agent, or employee, of any applicable provision of this Code, state law or city ordinance, rule or regulation.~~

~~(Code 1955, § 5-115; Code 1972, § 5-44)~~

Sec. 5-49. Spiking beer.⁸¹

~~No licensee holding a license for the manufacture, distribution or sale of alcoholic liquors under the Nebraska Liquor Control Act (R.R.S. 1943, § 53-101 et seq.) and no agent or employee of such licensee shall sell or offer for sale within the city any beer to which has been added any alcohol or shall permit any person to add any alcohol to any beer on the licensed premises of such licensee.~~

~~(Code 1955, § 5-121; Code 1972, § 5-49)~~

Sec. 4-30. Special designated permit licenses; city clerk appointed agent for the city.

Pursuant to Nebraska Liquor Control Act (R.R.S. 1943, § 53-101 et seq.), the city clerk is hereby appointed agent for the city for making recommendation to approve or deny applications for special designated permit licenses to the state liquor control commission. Said appointment shall apply for all applications for special designated permit applications for the city auditorium, York Senior Center, Cornerstone Event Center and Holthus Convention Center for private parties within the city. In making their recommendation, the city clerk shall consult with the mayor and chief of police and follow guidelines established by state law and the ordinances of the city for the issuance of said licenses.

(Code 1972, § 5-51; Ord. No. 1769, § 1, 4-16-1998; Ord. No. 1934, § 1, 4-7-2005; Ord. No. 2087, § 1, 12-5-2013; Ord. No. 2107, § 1, 7-3-2014)

Secs. 4-31--4-48. Reserved.

ARTICLE III. EXAMINATION OF RETAIL LIQUOR LICENSE APPLICANTS

Sec. 4-49. Application—Municipal examination generally.

Any person desiring to obtain a license to sell alcoholic liquors at retail shall file with the liquor control commission. The commission shall then notify the city clerk by registered or certified mail. The city council shall then meet and determine the desirability of the application and report its recommendation for approval or denial of the application in writing to the state liquor control commission within 45 days of receipt from the state liquor control commission. The city council may examine, or cause to be examined, under oath, any applicant; examine, or cause to be examined, the books and records of any such applicant; to hear testimony, and to take proof for its information in the performance of its duties. For the purpose of obtaining any of the information desired, the city council may authorize its agent or the city attorney, to act on its behalf. The city council may conduct the examination and hold the hearing upon the receipt from the commission of the notice and copy of the application. The city council shall fix a time and place at which a hearing will be held, and at which time the city council shall receive evidence under oath, either orally, or by affidavit, from the applicant and any other person concerning the propriety of the issuance of such license. Notice of the time and place of such hearing shall be published in a legal newspaper in, or of general circulation in, the municipality one time not less than seven, nor more than 14 days before the time of the hearing. Such notice shall include, but not be limited to, a statement that all persons desiring to give evidence before the local city council in support of or in protest against the issuance of such license may do so at the time of the hearing. Such hearing shall be held not more than 21 days after the receipt of notice from the commission. After such hearing, the city council shall cause to be spread at large in the minute record of its

⁸⁰ Legal or Editorial Change: Code 1972, § 5-44. Authority to revoke license. Deleted as in conflict with R.R.S. 1943, § 53-134.02.

⁸¹ Legal or Editorial Change: Code 1972, § 5-49. Spiking beer. Deleted per instructions.

proceedings a resolution recommending either issuance or refusal of such license. The city clerk shall thereupon mail to the commission by first class mail, postage prepaid, a copy of the resolution which shall state the cost of the published notice.

(Code 1972, § 5-60; Ord. No. 1525, § 1, 7-10-1986)

Sec. 4-50. Application—Notice and hearing.

(a) *Notice.* Notice of a hearing held pursuant to R.R.S. 1943, § 53-134 shall be given to the applicant by the city clerk and shall contain the date, time, and location of the hearing. Two or more proceedings which are legally or factually related may be heard and considered together unless any party thereto makes a showing sufficient to satisfy the council that prejudice would result therefrom.

(b) *Procedure.*

(1) The hearings will be informal and conducted by the mayor or authorized appointed agent. The intent is an inquiry into the facts, not any adversary action. Each witness may present their testimony in narrative fashion or by question and answer.

(2) The city council or the applicant may order a transcript at the expense of the applicant.

(3) The city council and its representatives shall not be bound by the strict rules of evidence and shall have full authority to control the procedures of the hearing including the admission or exclusion of testimony or other evidence. The city council may admit and give probative effect to evidence which possesses probative value commonly accepted by reasonably prudent individuals. The hearing officer may limit testimony where it appears incompetent, irrelevant, or unduly repetitious. If there is opposition to any application and such opposition desires the opportunity to present arguments and to cross examine the applicant and any witnesses in favor of such application, they shall choose a spokesperson to perform such function who shall notify the hearing officer of their representation prior to the start of the hearing.

(4) The order of the proceeding is as follows:

- a. Exhibits will be marked in advance by the clerk and presented to the hearing officer during the presentation.
- b. Presentation of evidence, witnesses, and arguments by applicant.
- c. Testimony of any other citizens in favor of such proposed license.
- d. Examination of applicant, witnesses or citizens by city attorney, city administration, any member of the city council, or duly appointed agent.
- e. Cross examination of applicant, witnesses or citizens by city attorney or other municipal official.
- f. Cross examination of applicant, witnesses or citizens by spokesperson for opposition, if any.
- g. Presentation of evidence and witnesses by opposition.
- h. Testimony of any other citizens in opposition to such proposed license.
- i. Presentation of evidence by the city and law enforcement personnel.
- j. Cross examination by applicant.
- k. Rebuttal evidence by both parties, and by the city administrator and agent.
- l. Summation by applicant and opposition spokesperson, if any.

(5) Burden of proof and persuasion.

- a. In all cases, the burden of proof and persuasion shall be on the party filing the application.
- b. Any member of the city council and the city attorney may question any witness, call witnesses, or request information.
- b. All witnesses shall be sworn.
- d. The city council may make further inquiry and investigation following the hearing.

(Code 1972, § 5-61; Ord. No. 1525, § 1, 7-10-1986)

Sec. 4-51. Application—Retail licensing standards.

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

- (1) The adequacy of existing law enforcement resources and services in the area.
- (2) The recommendation of the city police department or any other law enforcement agency.
- (3) Existing motor vehicle and pedestrian traffic flow in the vicinity of the proposed licensed premises, potential traffic and parking problems, and the proximity and availability of on-street and off-street parking.
- (4) Zoning restrictions and the city's zoning and land use policies.
- (5) Sanitation or sanitary conditions on or about the proposed licensed premises.
- (6) The existence of a citizen's protest and any other evidence in support of or in opposition to the application.
- (7) The existing population, and projected growth, both citywide and within the area to be served.
- (8) The existing liquor licenses, the class of such licenses, and the distance and times of travel to such licenses.
- (9) The nature and needs of the neighborhood or community where the proposed premises are located as well as its projected growth.
- (10) Whether the type of business or activity proposed to be operated in conjunction with the proposed license is and will be consistent with the public interest.
- (11) Whether the applicant can ensure that all alcoholic beverages, including beer and wine, will be handled by persons in accordance with ~~Nebraska Revised Statutes section 53-102 of the Nebraska Liquor Control Act~~ R.R.S. 1943, § 53-168.06.
- (12) Whether the applicant has taken every precaution to protect against the possibility of shoplifting of alcoholic beverages, which must be displayed, kept, and sold from an area which is secured to the greatest extent possible.
- (13) Whether the applicant is fit, willing and able to properly provide the service proposed in conformance with all provisions, requirements, needs, and regulations provided for in the Nebraska Liquor Control Act (R.R.S. 1943, § 53-101 et seq.).
- (14) Whether the applicant has demonstrated that the type of management and control exercised over the licensed premises will be sufficient to ensure that the licensee can conform to all the provisions, requirements, rules and regulations provided for in the Nebraska Liquor Control Act (R.R.S. 1943, § 53-101 et seq.).
- (15) The background information of the applicants established by information contained in the public records of the state liquor control commission and investigation conducted by the city police department.
- (16) Past instances of discrimination involving the applicant as evidenced by findings of fact before any administrative board or agency of the city or any other governmental unit or any court of law.
- (17) Past compliance with state laws and liquor regulations and municipal ordinances and regulations.
- (18) If the application is for an on-sale license, whether it is adjunct to a legitimate food service operation as evidenced by percent of gross income allocated to food and liquor, and the type and extent of kitchen facilities.
- (19) Whether the applicant or its representatives has suppressed any facts or provided any nonfactual information to the city council or its employees in regard to the license application or liquor

investigations. The applicant is required to cooperate in providing a full disclosure to the investigating agents of the city.

- (20) Whether the application will provide an improvement to the neighborhood, a betterment to the municipality, or a true increase in service to the public at large.
- (21) Proximity of and impact on schools, hospitals, libraries and public institutions.
- (22) Whether the type of entertainment to be offered, if any, will be appropriate and nondisruptive to the neighborhood where the premises are located and to the community at large.
- (23) Whether the application is for a business, and the sole purpose for which is the sale or dispensing of liquor, or when the sale or dispensing of liquor is a substantial integral part of the business, and not just incidental thereto.
- (24) Whether or not the applicant has ever forfeited bond to appear in court to answer charges of having committed a felony, or charges of having violated any law or ordinance enacted in the interest of good morals and decency or has been convicted of violating or forfeiting bond to appear in court and answer charges for violating any law or ordinance relating to alcoholic liquors.
- (25) Other information and data that may reasonably be considered pertinent to the issuance of the license.

(b) The city council may fix certain requirements and prescribe certain conditions upon a license when it is granted or permitted to continue in full force and effect whether such requirements or conditions are imposed at a formal hearing, by a written notice, or in a written stipulation, and such requirements or conditions shall be deemed to be a part of the license as though fully endorsed therein; and any violation or breach of any requirement or condition is prohibited.

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

(Code 1972, § 5-62; Ord. No. 1525, § 1, 7-10-1986)

Chapter 5
RESERVED

PROOFS

Chapter 6
AMUSEMENTS*

*State law reference—Authority relative to amusements, R.R.S. 1943, § 16-226.

Sec. 6-1. Lottery; sales outlet locations; approval required; qualification standards.

(a) The lottery operator with whom the city contracts to conduct its lottery shall not operate the lottery at a sales outlet location without prior written approval of the sales outlet location by the city council. The city council shall approve or disapprove each sales outlet location and individual, sole proprietorship, partnership, limited liability company or corporation which desires to conduct the lottery at its sales outlet locations solely on a basis of the qualification standards described in subsection (c) of this section.

(b) The following qualification standards are hereby established by the city and shall be met by any individual, sole proprietorship, partnership, limited liability company or corporation seeking to have its location qualify as an authorized sales outlet location for conducting the city keno lottery.

(c) Any individual, sole proprietorship, partnership, limited liability company or corporation which seeks to have its location approved as an authorized sales outlet location shall meet the following requirements and submit the required documentation to the city:

- (1) Obtain a retail liquor license for consumption on the premises and provide proof of the same to the city;
- (2) Provide a copy of the completed Nebraska Schedule II/Form 50g-County/City Lottery Sales Outlet Location application as required by the division of charitable gaming of the state department of revenue;
- (3) Provide a copy of the written agreement between the lottery operator and the sales outlet location;
- (4) Not have been convicted of, forfeited bond upon a charge of, or pleaded guilty or nolo contendere to any offense or crime, whether a felony or a misdemeanor, involving any gambling activity or fraud, theft, willful failure to make required payments or reports, or filing false reports with a governmental agency at any level;
- (5) Not have been convicted of, forfeited bond upon a charge of, or pleaded guilty or nolo contendere to any felony other than those described in subsection (c)(4) of this section within the ten years preceding the filing of this application;
- (6) Not have had a gaming license revoked or cancelled under the Nebraska Bingo Act (R.R.S. 1943, § 9-201 et seq.), the Nebraska County and City Lottery Act (R.R.S. 1943, § 9-601 et seq.), the Nebraska Lottery and Raffle Act (R.R.S. 1943, § 9-401 et seq.) or the Nebraska Pickle Card Lottery Act (R.R.S. 1943, § 9-301 et seq.);
- (7) Be fit, willing and able to properly provide the service proposed in conformance with all provisions and requirements of the Nebraska County and City Lottery Act (R.R.S. 1943, § 9-401 et seq.) and the rules and regulations adopted and promulgated pursuant to the Act; and
- (8) Any other information reasonably requested by the city.

(d) If the person or entity seeking to have its location approved as an authorized sales outlet location is a partnership, limited liability company or corporation, the qualification standards shall apply to every partner of such partnership, every member of such limited liability company, every officer of such corporation and every stockholder owning more than ten percent of the stock of such corporation.

(e) The city clerk shall be immediately notified of any interruption or cessation of operations at any sales outlet location.

(f) The city shall notify the state department of revenue of all approved sales outlet locations within 30 days of approval.

- (g) Sales outlet location criteria.

- (1) All locations shall provide the number of street parking stalls required by the regulations of the city.
- (2) All locations shall provide seating capacity sufficient to accommodate persons who may wish to come to the location to observe or play keno or to engage in any other activities conducted on the premises.
- (3) All locations shall have sufficient facilities to permit the sale of keno tickets.
- (4) All locations shall have a board or other monitor, clearly visible to players, on which the winning numbers are displayed.
- (5) All locations shall have proper security for the keno lottery operations and associated activities.
- (6) All persons with any direct or indirect financial interest in the operation of keno at any location must be of good character and financially responsible.
- (7) The operation of the keno lottery at any sales outlet location must not create any undue impact on the surrounding neighborhood due to noise, congestion or other circumstances.
- (8) The lottery operator shall not be in material default under the lottery operator agreement at the time the application is acted upon by the city council.
- (9) All locations and operations at all locations must meet all requirements of applicable federal, state and local law.

(Code 1972, § 6-1; Ord. No. 2062, §§ 1, 2, 8-2-2012)

Sec. 6-2. Lotteries; participation, restrictions.

- (a) No person under 19 years of age shall play or participate in any way in the lottery established and conducted by the city.
- (b) No owner or officer of a lottery operator with whom the city contracts to conduct its lottery shall play the lottery conducted by the city.
- (c) No owner or officer of an authorized sales outlet or their spouses shall play the lottery conducted by the city at their own sales outlet.
- (d) No employee or agent of the city, lottery operator or authorized sales outlet location shall play the lottery of the city for which such employee or agent performs work during such time as such employee or agent is actually working at such lottery or while on duty.
- (e) The mayor, city administrator, clerk, police chief and city attorney shall not play the lottery conducted by the city.
- (f) No person shall knowingly permit an individual under 19 years of age to play or participate in the lottery conducted by the city.

(Code 1972, § 6-2; Ord. No. 2063, § 1, 8-2-2012)

State law reference—Age limitation for participation in lottery, R.R.S. 1943, § 9-430.

Chapter 7
RESERVED

PROOFS

Chapter 8
ANIMALS*

*State law reference—Authority relative to animals, R.R.S. 1943, §§ 16-206, 16-235 et seq.; dangerous dogs, R.R.S. 1943, § 54-617 et seq.

ARTICLE I. IN GENERAL

Sec. 7-1. Cruelty to animals.⁸²

~~It shall be unlawful for any person to unnecessarily or cruelly beat, injure, overload, overwork, insufficiently feed, turn out to die, abandon or otherwise abuse any animal within the limits of this city.~~

~~(Code 1955, § 2-202; Code 1972, § 7-1)~~

Sec. 8-1. Animals and fowl running at large.

No person in charge, custody or control thereof, shall permit any horse, mule, cow, sheep, or any other animal to go loose or run at large in any of the public ways, or upon the property of another, in the city, 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. The running at large within the corporate limits of the city, except in enclosed places on private property, of poultry, chickens, turkeys, ducks, geese or other like fowl, is hereby declared to be a common nuisance, and the same is hereby prohibited.

(Code 1955, § 2-201; Code 1972, § 7-2)

State law reference—Regulation of animals and fowl running at large, R.R.S. 1943, § 16-235.

Sec. 8-2. Proximity of animals and fowl to residences.

(a) No person, whether as owner, bailee, keeper or custodian shall keep or maintain any horse, mule, sheep, goat, or rabbit within 100 feet of any part of any building used by another as a residence or place of dwelling or place of business, provided no swine or bovine shall be kept or maintained within the corporate limits of the city.

(b) No person, whether as owner, bailee, keeper or custodian shall keep or maintain any chickens, ducks, turkeys, geese, or any similar fowl within 50 feet of any building used by another as a residence, a place of dwelling or a place of business.

(c) The restrictions set forth in subsections (a) and (b) of this section shall not be construed to apply to the use or employment of any building or premises now or hereafter erected or existing in the city if temporarily used for the weighing, loading or unloading of fowls of any description, immediately preceding or during transportation; nor shall the foregoing restrictions be construed to prevent the processing of animals or fowls for commercial purposes; nor shall the foregoing restrictions apply to animals kept or maintained on any school property.

(d) Any use of property within the city that complied with the requirements of this section and any amendments to the section shall be allowed to continue as long as the use of such property complies with any applicable requirements contained in the city zoning ordinance. However, the use of such property shall only be allowed to continue to the extent that the property was used at the time of the enactment of the ordinance from which this section is derived or amendment of this section, and no expansion of such use shall be permitted.

(Code 1955, § 2-203; Code 1972, § 7-3; Ord. No. 2149, § 1, 3-3-2016; Ord. No. 2296, § 1, 8-19-2021)

Sec. 8-3. Dangerous animals.

It shall be unlawful for any person to permit any bear, wolf or other noxious or dangerous animals to run at

⁸² Legal or Editorial Change: Code 1972, § 7-1. Cruelty to animals. Deleted per instructions. See R.R.S. 1943, § 28-1009.

large, or to lead any such animal with a chain or rope or other appliances, whether such animal be muzzled or unmuzzled, in any street, avenue, lane, highway, or public place, within limits of the city.

(Code 1955, § 11-435; Code 1972, § 7-4)

Secs. 8-4--8-24. Reserved.

ARTICLE II. DOGS AND CATS*

*State law reference—Regulation of dogs generally, R.R.S. 1943, § 16-206; dangerous dogs, R.R.S. 1943, § 54-617 et seq.

DIVISION 1. GENERALLY

Sec. 8-25. Terms defined.

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

Animal rescue organization shall be a person or entity designated by the animal shelter to house or contain animals for the purpose of providing temporary kenneling and finding permanent adoptive homes for the animals. Only one animal rescue organization may be designated by the animal shelter. Such facility must be licensed as required by the Nebraska Commercial Dog and Cat Operators Inspection Act (R.R.S. 1943, § 54-625 et seq.).

Animal shelter means a facility that is used to house or contain animals and is owned, operated, or maintained by a nonprofit organization for the purpose of providing temporary kenneling and finding permanent adoptive homes for animals, which is approved as an animal shelter by the city and which receives funding from the city. Such facility must be licensed as required by the Nebraska Commercial Dog and Cat Operators Inspection Act (R.R.S. 1943, § 54-625 et seq.).

Cat means any male or female cat of the age of six months or more, except as is otherwise more specifically defined.

Dog means any male or female dog of the age of six months or more, except as is otherwise more specifically defined.

Kennel means any house, yard, enclosure or place where three or more dogs or four or more cats are kept, harbored or maintained.

(Code 1955, § 2-108; Code 1972, § 7-16; Ord. No. 1190, § 1, 8-13-1970; Ord. No. 1890, § 1, 9-16-2004)

Sec. 8-26. Who deemed owner.

Any person who shall harbor or permit any dog to be for ten days or more or let the same habitually remain to be fed for a period of ten days or more in or about said person's house, store, or enclosure, shall be deemed the owner and possessor of such dog and shall be liable to the penalties prescribed for the violation of this Code.

(Code 1955, § 2-109; Code 1972, § 7-17)

Sec. 8-27. Running at large prohibited.⁸³

No person who owns, harbors, keeps or maintains any dog or cat shall permit such dog or cat to be off the premises where the dog or cat is owned, kept, harbored or maintained or to otherwise run at large unless the dog or cat is under the control of a competent person. Any dog or cat shall be deemed to be running at large unless the same is securely chained or tied on a leash or kept in a pen or within doors in a building, or is on the premises where it is owned, kept, harbored or maintained. Anyone permitting a dog or cat to run at large shall be subject to a minimum fine of five dollars (\$5.00) and a maximum fine of one hundred dollars (\$100.00) penalty as provided in section 1-9 and in addition thereto shall be liable for the payment of all fees and expenses incurred in the impoundment of such dog or cat, which fees and expenses shall be imposed as a part of the penalty for the violation of this section.

⁸³ Legal or Editorial Change: Code 1972, § 7-18. Running at large prohibited. Altered so as to tie penalty to Code chapter 1.

(Code 1955, § 2-107; Code 1972, § 7-18; Ord. No. 1053, § 1, 5-14-1964; Ord. No. 1085, § 1, 5-14-1970; Ord. No. 1314, § 1, 5-13-1976; Ord. No. 1891, § 1, 9-16-2004)

Sec. 8-28. Poisoning or injuring dogs or cats.

It shall be unlawful for any person to administer or cause to be administered poison of any sort to any dog or cat regardless of the age of the dog or cat, or to in any manner injure, maim or destroy, or to in any manner attempt to injure, maim or destroy any dog or cat that belongs to another, regardless of the age of said dog or cat, or to place any poison or poisoned food where the same is accessible to any dog or cat, regardless of the age of said dog or cat.

(Code 1955, § 2-113; Code 1972, § 7-20; Ord. No. 1892, § 1, 9-16-2004)

Sec. 8-29. Barking, howling or yelping dogs.⁸⁴

No person shall own, keep or harbor any dog which by loud, continued or frequent barking, howling or yelping shall annoy or disturb any neighborhood or person of reasonable sensibilities, ~~or which habitually barks or chases pedestrians, horses or any vehicle whatsoever to the annoyance of such pedestrians, drivers or owners of horses or vehicles while on any public sidewalks, streets, alleys, avenues or boulevards in the city; provided, however, the provisions of this section shall not apply to the animal shelter.~~

(Code 1955, § 2-114; Code 1972, § 7-21)

Sec. 7-22. Dog fighting.⁸⁵

~~It shall be unlawful for any person within this city by agreement or otherwise, to set dogs to fighting, or, by any act, gesture or word, to encourage or urge any dog or dogs to fight.~~

~~(Code 1955, § 2-118; Code 1972, § 7-22)~~

Sec. 8-30. Harboring dangerous dogs prohibited; dangerous, vicious dogs at large prohibited.

(a) It shall be unlawful for the owner or other person having a dog in said person's possession or under said person's control to keep or harbor any dog of dangerous, vicious or fierce propensities or tendencies within the limits of the city.

(b) No person who owns, harbors, keeps or maintains any dog of dangerous, vicious or fierce propensities shall permit such dog to be off the premises where the dog is owned, kept, harbored or maintained or to otherwise run at large. Any dog shall be deemed to be running at large when it is off the premises where it is owned, kept, harbored or maintained unless it is securely chained or tied on a leash or kept in a pen or within doors in a building.

(c) If any dog bites or attempts to bite any person, then such dog shall be conclusively presumed to be a dangerous dog and a dog of dangerous propensities and tendencies, except as provided in subsection (e) of this section.

(d) If any dog attacks or attempts to attack any other dog or other animal while such dog is at large or chases a person in an aggressive manner while the dog is at large, then the dog shall be conclusively presumed to be a vicious dog and to have vicious propensities and tendencies.

(e) No dog may be declared dangerous or vicious that inflicts injury or damage on a person committing a willful trespass or other tort, or crime, or attempting to commit such trespass, tort or crime upon premises occupied by the owner of the dog. No dog may be declared dangerous or vicious for taking any action to defend or protect a human being or itself from an unjustified attack or assault by another animal or person. In any prosecution under this section in which it is claimed that the exception created by this subsection exists, such claim shall be an affirmative defense, and the person charged with the violation of this section shall have the burden to prove the existence of facts supporting this claim by a preponderance of the evidence.

⁸⁴ Legal or Editorial Change: Code 1972, § 7-21. Barking, howling or yelping dogs. So as to avoid constitutional problems, altered to impose a reasonable person standard and otherwise altered per instructions.

⁸⁵ Legal or Editorial Change: Code 1972, § 7-22. Dog fighting. Deleted per instructions.

(f) If a dog is determined to be a dangerous or vicious dog under this section, and such dog has not previously been determined to be a dangerous or vicious dog under this section or any other similar ordinance or statute, then, upon conviction under this section, the court may order the police department to dispose of the dangerous dog in an expeditious and humane manner, or it may require the owner or person in possession or control of such dog to remove the dog from the city limits. In the event that the dog has previously been determined to be a dangerous or vicious dog under this section or any other similar ordinance or statute, then the court shall order the police department to dispose of the dangerous dog in an expeditious and humane manner or it shall require the owner or person in possession or control of such dog to permanently remove the dog from the city limits.

(g) Any officer or agent of the police department may immediately confiscate a dog of dangerous, vicious or fierce propensities that is found to be in violation of this section, and upon confiscation and placement of such dog by an officer or agent of the police department, the owner shall be responsible for the reasonable costs incurred for the care of such dog confiscated or for the destruction of any dangerous dog that has been confiscated or destroyed pursuant to this section. The court is further authorized to order any individual who is convicted for a violation of this section to pay the reasonable costs incurred for the care of the dangerous dog that has been confiscated or for the costs of the destruction of such dangerous dog.

(h) **Penalty.** Any person who violates this section shall be punished by a fine of not more than \$100.00 plus the costs of placement and/or destruction of the dog and may further be ordered to pay restitution to any person for medical expenses or veterinary expenses incurred by such person as a result of the actions of such dangerous dog.

(Code 1955, § 2-110; Code 1972, § 7-23; Ord. No. 1519, § 1, 3-13-1986; Ord. No. 1893, § 1, 9-16-2004; Ord. No. 1937, § 1, 4-21-2005; Ord. No. 2050, §§ 1, 2, 4-7-2011)

State law reference—Dangerous dogs, R.R.S. 1943, § 54-617 et seq.

Sec. 8-31. Destruction of dangerous, vicious dogs.

Any dangerous or vicious dog or dog having dangerous or vicious propensities and tendencies may be killed by any police officer of the city without such officer having to catch or impound such dog.

(Code 1972, § 7-24; Ord. No. 1519, § 1, 3-13-1986)

Sec. 7-25. Destruction of property.⁸⁶

~~No person shall own, keep or harbor or allow to be in, or upon any premises occupied by him, or under his charge or control, any dog that in any manner injures or destroys any real or personal property of any description belonging to another. If upon the trial of any offense mentioned in this section, it shall appear to any police judge that the person be guilty as charged in said complaint, said judge may, in addition to the usual judgment of conviction, order the person so offending to make restitution to the party injured in amount equal to the value of the property so injured or destroyed.~~

~~(Code 1955, § 2-115; Code 1972, § 7-25)~~

Sec. 8-32. Limitation on number of dogs and cats.⁸⁷

(a) *Maximum number; exemptions.* It shall be unlawful and a public nuisance for any person to allow more than two dogs and/or more than three cats to be kept, harbored, or maintained at any property in the city unless one of the following conditions have been met:

- (1) The property is located in the industrial district and a special use permit is obtained; or
- (2) The person, entity or facility is an animal shelter animal kennel or animal rescue organization.

(b) *Exception to requirements.* Any person who presently owns, keeps, or maintains more than three licensed cats other than as authorized by this section may retain their licensed cats. If for any reason one of the cats is lost,

⁸⁶ Legal or Editorial Change: Code 1972, § 7-25. Destruction of property. Deleted per instructions.

⁸⁷ Legal or Editorial Change: Code 1972, § 7-26. Limitation on number of dogs and cats. 1. Add an exemption for a kennel. See Code § 7-1 (definition of kennel). 2. Deleted subsection (c) as obsolete and deleted subsection (d) so as to tie penalty to Code chapter 1.

sold, given away, dies, or is removed or leaves the premises, then such cat may not be replaced if three or more cats remain on the premises.

~~(c) *Deadline for compliance with requirements.* Any person who presently owns, keeps or maintains more than three cats other than as authorized by this section shall be required to license each of the cats by January 1, 2005 in order to qualify for the exception provided by this section.~~

~~— *Penalty for violations.* Any person who is found to be in violation of this section shall be punished by a fine of not less than twenty five dollars nor more than one hundred dollars. Each day in violation of this section shall constitute a separate offense.~~

(Code 1972, § 7-26; Ord. No. 1889, § 1, 9-16-2004)

Sec. 8-33. Interference with capture of dogs or cats.

It shall be unlawful for any person to hinder, delay, interfere with or obstruct a member of the police department or its agent while engaged in capturing, securing or taking to the animal shelter, any dog or cat to be impounded, or to break open or in any manner directly or indirectly to aid, counsel, or advise another in entering any animal shelter, or vehicle used for the collection or transportation of such dog or cat without the authorization of the police department or its designated agent or the animal shelter.

(Code 1972, § 7-27; Ord. No. 1910, § 1, 9-16-2004)

Sec. 8-34. Duty to place dog or cat under observation.

(a) Any person who owns, keeps, harbors, or maintains a dog or cat shall immediately place the dog or cat under the care and observation of a licensed veterinarian when the owner has received notification or has knowledge that the dog or cat has bitten or attacked a person or other animal or that the dog or cat has been bitten by a rabid animal. If the owner does not immediately submit the dog or cat to a veterinarian after receiving such notification or acquiring such knowledge, then the police department shall impound the dog or cat for care and observation. The expenses of such care and observation shall be the responsibility of the person who owns, keeps, harbors, or maintains such dog or cat. The impoundment period shall be no less than ten days.

(b) In the event that the person who owns, keeps, harbors or maintains such dog or cat provides proof that such animal has been immunized against rabies by a licensed veterinarian and that such vaccination is current, as determined by the police department, then the department shall authorize such person to keep the animal at the owner's premises and impound such animal in isolation by the owner for care and observation for a period of not less than ten days. In the event that such dog or cat owner is unable to provide assurance to the police department that the dog or cat will be impounded in isolation on the owner's premises for the specified period, then the police department shall require that such dog or cat be impounded and placed under the care and observation of a licensed veterinarian for a period of not less than ten days.

(Code 1972, § 7-28; Ord. No. 1911, § 1, 9-16-2004; Ord. No. 1938, § 1, 4-21-2005)

Sec. 8-35. Duty of owner in case of dog or cat bite or injury to another person.

Any person who owns, keeps, harbors, or maintains any dog or cat that bites or causes bodily injury to another person shall take immediate action to prevent further bites or injury by such dog or cat and shall immediately furnish to the other person injured, or in the case of a juvenile, to the parent or guardian of such juvenile, the name and address of the person who owns, keeps, harbors, or maintains such dog or cat and the rabies tag number or license tag number of the dog or cat.

(Code 1972, § 7-29; Ord. No. 1912, § 1, 9-16-2004)

Sec. 8-36. Disposal of dog and cat waste.

(a) Any person having custody or control of any dog or cat shall have the responsibility for the disposal of feces or manure of the dog or cat in a sanitary manner. The provisions of this section shall not apply to law enforcement officers while using the dog to perform law enforcement functions or rescue activity.

(b) It shall be unlawful for any dog or cat to discharge feces or manure on public property or private property of another unless it is promptly removed by the person having custody or control of the dog or cat and placed in an appropriate garbage or refuse container on public property or on private property with the consent of the owner of

such private property.

(Code 1972, § 7-30; Ord. No. 1913, § 1, 9-16-2004)

Secs. 8-37--8-60. Reserved.

DIVISION 2. LICENSE

Sec. 8-61. Transient dogs and cats exempt.

The licensing requirements of this division shall not apply to any dog or cat belonging to any person while traveling through the city or to any person who stays in the city with such dog or cat for a period of less than 90 days.

(Code 1955, § 2-117; Code 1972, § 7-32; Ord. No. 1894, § 1, 9-16-2004)

Sec. 8-62. License required.⁸⁸

~~(a) License required.~~ Any person who shall own, keep or harbor any dog or cat over the age of six months within the city, shall require a license from the police department for each dog and cat annually.

~~— Exceptions. Every dog guide, hearing aid dog, and service dog shall be licensed as otherwise required in this chapter, except that the license fee shall be waived upon a showing that the dog is a graduate of a recognized training school for dog guides, hearing aid dogs, or service dogs. Upon the retirement or discontinuance of the dog as a dog guide, hearing aid dog, or service dog, the owner shall, beginning with the next license renewal, be liable for the payment of the license fee provided in this section.~~

(Code 1955, § 2-102; Code 1972, § 7-33; Ord. No. 1053, § 1, 5-14-1964; Ord. No. 1185, § 1, 5-14-1970; Ord. No. 1895, § 1, 9-16-2004; Ord. No. 1973, §§ 1, 2, 11-16-2006)

Sec. 8-63. Rabies shot required.

A certificate that a dog or cat to be licensed under the provisions of this division has had a rabies shot effective for the license year shall be presented when such license is applied for. Such certificate shall state that such rabies shot was administered to such dog or cat in accordance with state law.

(Code 1955, § 2-102; Code 1972, § 7-34; Ord. No. 1053, § 1, 5-14-1964; Ord. No. 1185, § 1, 5-14-1970; Ord. No. 1896, § 1, 9-16-2004)

Sec. 8-64. Fees.

Before any license is issued under this division, the applicant shall pay to the police department for each dog and each cat to be licensed a fee as follows:

- (1) Each neutered male or spayed female dog or cat: \$7.00.
- (2) Each unneutered male or unspayed female dog or cat: \$27.00.

(Code 1955, § 2-102; Code 1972, § 7-35; Ord. No. 1053, § 1, 5-14-1965; Ord. No. 1185, § 1, 5-14-1970; Ord. No. 1897, § 1, 9-16-2004; Ord. No. 2182, § 1, 12-7-2017)

Sec. 8-65. Tag.

Along with the license receipt, the police department shall issue to each person obtaining a license under the provisions of this division a tag made from some suitable material bearing the license number shown on the license receipt and the year of issuance. Such tag shall be securely attached to a collar or harness of durable material and worn by such dog or cat at all times.

(Code 1955, § 2-101; Code 1972, § 7-36; Ord. No. 1898, § 1, 9-16-2004)

⁸⁸ Legal or Editorial Change: Code 1972, § 7-33. License required. Deleted subsection (b) per instructions.

Sec. 8-66. When license due.

The license period shall expire on the last day of the month one year from the month of issuance.

(Code 1955, § 2-102; Code 1972, § 7-37; Ord. No. 1899, § 1, 9-16-2004)

Sec. 8-67. Issuance of license.⁸⁹

Upon compliance with the provisions of this division by the applicant for a license, the police department shall issue to such applicant a license receipt, ~~prepared in duplicate~~, stating the applicant's name and address and the description of the dog or cat so licensed as may be required for the purpose of identification.

(Code 1955, §§ 2-101, 2-102; Code 1972, § 7-38; Ord. No. 1900, § 1, 9-16-2004)

Sec. 8-68. Replacement of lost tag.

Upon satisfactory showing made by the owner or person who owns, harbors, keeps or maintains any dog or cat that the original tag issued in accordance with the provisions of this division has been lost, the police department shall issue a duplicate or new tag for the balance of the year for which the fee has been paid, and may charge and collect a fee of \$1.00 for each such duplicate or new tag so issued.

(Code 1955, § 2-103; Code 1972, § 7-39; Ord. No. 1901, § 1, 9-16-2004)

Sec. 8-69. Licensing prohibitions.

No person owning, keeping, harboring or maintaining any dog or cat shall permit or allow such dog or cat to wear any license tag other than the identical one issued by the police department for such for such dog or cat, and for the period of the licensing year in which the tag was issued, nor shall such person knowingly license a neutered male dog or cat or spayed female dog or cat and use a license tag received for an unneutered male dog or cat or an unspayed female dog or cat.

(Code 1955, § 2-116; Code 1972, § 7-40; Ord. No. 1902, § 1, 9-16-2004)

Sec. 8-70. Removal of collar, harness or tag.

No person shall remove or cause to be removed the collar, harness or tag from any licensed dog or cat without the consent of the person who owns, keeps, harbors or maintains such dog or cat.

(Code 1955, § 2-112; Code 1972, § 7-42; Ord. No. 1903, § 1, 9-16-2004)

Secs. 8-71--8-98. Reserved.

DIVISION 3. IMPOUNDMENT

Sec. 8-99. Impoundment authorized.

Any dog or cat found in violation of any of the provisions of this article may be seized and impounded by any police officer or designated agent of the police department. Impoundment may be in any animal shelter designated by the police department.

(Code 1955, § 2-107; Code 1972, § 7-51; Ord. No. 1053, § 1, 5-14-1964; Ord. No. 1185, § 1, 5-14-1970; Ord. No. 1832, § 1, 4-4-2002; Ord. No. 1904, § 1, 9-16-2004)

Sec. 8-100. Notice of impoundment to owner.

The owner of any dog or cat impounded under any of the provisions of this article, if the owner's identity and location can be determined and contact with such owner made by reasonable means, shall, within 24 hours, be notified that their dog or cat has been impounded.

(Code 1955, § 2-107; Code 1972, § 7-52; Ord. No. 1053, § 1, 5-14-1964; Ord. No. 1185, § 1, 5-14-1970; Ord. No. 1905, § 1, 9-16-2004)

⁸⁹ Legal or Editorial Change: Code 1972, § 7-38. Issuance of license. Altered per instructions.

Sec. 8-101. Redemption of unvaccinated, unlicensed dog or cat.

The owner of any impounded dog or cat which has not been vaccinated or licensed as required by this article, upon satisfactory proof of ownership, may redeem their dog or cat by obtaining a license for such dog or cat. No dog or cat that has been impounded shall be released until a license is obtained for it and all fees and expenses for the care of such animal have been paid.

(Code 1955, § 2-107; Code 1972, § 7-53; Ord. No. 1053, § 1, 5-14-1964; Ord. No. 1085, § 1, 5-14-1970; Ord. No. 1314, § 2, 5-13-1976; Ord. No. 1906, § 1, 9-16-2004)

Sec. 8-102. Redemption by person other than owner.

If the owner of any dog or cat impounded under this article shall fail to redeem such dog or cat within three days after impoundment, any other person may, redeem such dog or cat and be the lawful owner of such animal thereafter by paying all fees and expenses incurred in the care of the animal and obtaining a license for the dog or cat.

(Code 1955, § 2-107; Code 1972, § 7-55; Ord. No. 1053, § 1, 5-14-1964; Ord. No. 1185, § 1, 5-14-1970; Ord. No. 1907, § 1, 9-16-2004)

Sec. 8-103. Disposition of unredeemed dogs or cats.

All dogs, cats, puppies and kittens impounded under this article which have not been redeemed or purchased as authorized by this division within 72 hours may be disposed of in a humane manner by the police department or the animal shelter.

(Code 1955, § 2-107; Code 1972, § 7-56; Ord. No. 1053, § 1, 5-14-1964; Ord. No. 1185, § 1, 5-14-1970; Ord. No. 1190, § 1, 8-13-1970; Ord. No. 1908, § 1, 9-16-2004)

Sec. 8-104. Disposition of dog or cat at owner's request.

Any person who owns, keeps, harbors or maintains or sustains any dog or cat that said person wishes to dispose of may take and place the same in the animal shelter designated by the city to be disposed of as provided by this division. The animal shelter may require the payment of the expense of the disposition of the dog or cat to be paid by such person.

(Code 1955, § 2-107; Code 1972, § 7-57; Ord. No. 1909, § 1, 9-16-2004)

Chapter 9
RESERVED

PROOFS

Chapter 10
AVIATION*

***State law reference**—Aviation, R.R.S. 1943, § 3-101 et seq.; aviation fields, R.R.S. 1943, § 18-1501 et seq.

ARTICLE I. IN GENERAL

Sec. 10-1. Adoption of regulations.

The federal aviation regulations promulgated by the Federal Aviation ~~Agency~~ Administration are hereby referred to, adopted and made a part of this Code, not less than three copies of which are on file in the office of the city clerk.

(Code 1972, § 4-1)

State law reference—Local ordinances authorized, R.R.S. 1943, § 18-1508.

Sec. 10-2. Joint airport zoning board.

The city does hereby participate with the county in the creation of a joint airport zoning board, to be known as the city joint airport zoning board, which said board is hereby created and shall have and exercise all the powers conferred and perform all the duties enjoined upon it by the Airport Zoning Act (R.R.S. 1943, § 3-301 et seq.), as provided by law.

(Code 1972, § 4-2; Ord. No. 1585, § 2, 2-9-1989)

Secs. 10-3--10-22. Reserved.

ARTICLE II. AVIATION BOARD*

***State law reference**—Airport authority, R.R.S. 1943, § 3-501 et seq.

Sec. 10-23. Created.

There is hereby created in and for the city an aviation board.

(Code 1955, § 6-1201; Code 1972, § 4-12)

Sec. 10-24. Composition.

The aviation board shall consist of five members, two of whom shall be members of the city council. The mayor shall serve as an ex officio member of the board.

(Code 1955, § 6-1201; Code 1972, § 4-13)

Sec. 10-25. Appointment.

The mayor, with the consent of the city council, shall appoint the members of the aviation board.

(Code 1955, § 6-1201; Code 1972, § 4-14)

Sec. 10-26. Terms.

The councilmembers appointed to the aviation board shall serve for a term concurrent with their term of office as councilmembers. The other three members of the board shall serve for terms of three years each; provided, however, that the terms of such members originally appointed to such board shall be staggered so that one member's term shall expire each year.

(Code 1955, § 6-1201; Code 1972, § 4-15)

Sec. 10-27. Removal of member.

The city council may remove any member of the aviation board for any cause that renders such member incapable or unfit to discharge the member's duties.

(Code 1955, § 6-1201; Code 1972, § 4-16)

Sec. 10-28. Filling of vacancies.

Whenever any vacancy shall occur in the membership of the aviation board due to expiration of term, resignation or otherwise, such vacancy shall be filled by appointment by the mayor, with the consent of the council, for the unexpired term.

(Code 1955, § 6-1201; Code 1972, § 4-17)

Sec. 10-29. Organization.

Immediately upon their appointment, the members of the aviation board shall organize and shall elect one member as chairperson of the board, and one member as secretary.

(Code 1955, § 6-1202; Code 1972, § 4-18)

Sec. 10-30. Rules, regulations.

The aviation board is authorized to adopt all necessary rules for the performance of its duties, subject to the approval by the city council.

(Code 1955, § 6-1202; Code 1972, § 4-19)

Sec. 10-31. Investigations generally.

The aviation board shall have the right to investigate generally, on its own initiative, any and all matters relating to the subject of aviation and the city airport.

(Code 1955, § 6-1203; Code 1972, § 4-20)

Sec. 10-32. Recommendations.⁹⁰

The aviation board shall make recommendations on such matters relating to the airport and aviation generally independently or as may be referred to it either by the state aviation department or by the city council at such times as it may seem desirable to do so. ~~All recommendations of the board shall be made in writing in duplicate form, one copy to be filed with the city clerk, the other to be filed with the secretary of the board and preserved in the records of the board.~~

(Code 1955, § 6-1203; Code 1972, § 4-21)

Sec. 10-33. Application of state law.

All of the provisions of state law, and amendments thereto, which apply to airport boards for cities of the first class shall be applicable and govern the aviation board and are incorporated in this article by this reference and are as binding and to be applied as though set out in full herein.

(Code 1972, § 4-22)

~~Sec. 4-23. Jurisdiction generally.⁹¹~~

~~The aviation board shall have full and exclusive jurisdiction and control over all facilities owned or acquired by the city for the purpose of aviation operation, air navigation and air safety operation.~~

~~(Code 1972, § 4-23)~~

Secs. 10-34--10-54. Reserved.

ARTICLE III. AIRPORT HAZARD AREA RESTRICTIONS*

*State law reference—Airport zoning, R.R.S. 1943, § 3-301 et seq.; when adoption of airport zoning regulations required, R.R.S. 1943, § 3-303.

⁹⁰ Legal or Editorial Change: Code 1972, § 4-21. Recommendations. Altered per instructions.

⁹¹ Legal or Editorial Change: Code 1972, § 4-23. Jurisdiction generally. Deleted per instructions.

Sec. 10-55. Airport hazard area zoning.

(a) In accordance with R.R.S. 1943, § 3-303, every political subdivision having an airport hazard area within the area of its zoning jurisdiction, must adopt, administer, and enforce, at a minimum, the following regulations for such airport hazard area as herein defined.

(b) The airport hazard area, as defined in R.R.S. 1943, § 3-301, consists of operation zones, approach zones, transition zones, and turning zones. The outer boundary of the hazard area is constituted by the outer boundary of the approach zones and the turning zones. To assist in identifying the hazard area and the four zones, see 17 NAC 2.005.01 through 2.005.04.

(Code 1972, § 4-41; Ord. No. 2125, § 1, 4-16-2015)

Sec. 10-56. Height restriction.

No building, transmission line, communication line, pole, tower, smokestack, chimney, wire, or other structure or appurtenance thereto of any kind or character shall hereafter be erected, constructed, repaired, or established, nor shall any tree or other object of natural growth be allowed to grow, above the heights described in section 10-55.

(Code 1972, § 4-42; Ord. No. 2125, § 2, 4-16-2015)

Sec. 10-57. Permit; required and exceptions.

(a) *Permit required.* It shall hereafter be unlawful to erect, construct, reconstruct, repair, or establish any building, transmission line, pole, tower, chimney, wire, or any other structure or appurtenance within the hazard area without first obtaining a permit from the director of public works. It shall also be unlawful to plant or replant any tree or other object of natural growth without the necessary permit.

(b) *Permit exceptions.*

- (1) Within the outer area of the approach zones, as shown on illustrations 005.01 through 005.04, and within the turning zones, no permit shall be required for any construction or planting that is not higher than 75 feet above the nearest existing or proposed runway end.
- (2) The repair, reconstruction, or replacement of nonconforming electric facilities will be permitted in compliance with R.R.S. 1943, § 3-311.

(Code 1972, § 4-43; Ord. No. 2125, § 2, 4-16-2015)

Sec. 10-58. Location sketch and zoning map.

The boundaries, approach zones, operations zone, transition zones, and turning zones of the airport are indicated on the zoning map that accompanies and is hereby made a part hereof by reference. A copy of the airport hazard area zoning regulations shall at all times be on file in the office of the city clerk, 100 East 4th Street, York, Nebraska.

(Code 1972, § 4-44; Ord. No. 2125, § 2, 4-16-2015)

Chapter 11
RESERVED

PROOFS

Chapter 12

BUILDINGS AND BUILDING REGULATIONS*

***State law reference**—Building regulations authorized, R.R.S. 1943, § 16-234.

ARTICLE I. IN GENERAL**Sec. 12-1. Barbed wire fences prohibited; exception.**

It shall be unlawful for any person to erect, or cause to be erected or maintained any barbed wire fence within the limits of the city, except as hereinafter permitted and allowed, provided upon application to and permit in writing from the building inspector barbed wire fences may be erected or suffered to remain in the industrial district of the city as defined in this Code, and if built at least three feet inside the lot line so as not to endanger the public use of street or sidewalk.

(Code 1955, § 11-434; Code 1972, § 34-6)

Secs. 12-2--12-20. Reserved.**ARTICLE II. BUILDING CODE***

***State law reference**—State building code, R.R.S. 1943, § 71-6401 et seq.; local adoption of building codes, R.R.S. 1943, § 71-6406.

Sec. 12-21. Adopted.

The International Building Code, 2018 edition, including appendix chapters B, C, H and I, and the International Residential Code, 2018 edition for One- and Two-Family Dwellings, as published by the International Code Council, Inc., one copy of which is on file in the office of the city clerk, are hereby adopted as the building code, incorporated in and made a part of the provisions of this Code, as the same as though spread at large herein.

(Code 1972, § 9-16; Ord. No. 1129, § 1, 8-14-1968; Ord. No. 1337, § 1, 6-13-1977; Ord. No. 1415, § 2, 4-9-1981; Ord. No. 1503, § 1, 4-11-1985; Ord. No. 1603, § 1, 3-23-1990; Ord. No. 1698, § 1, 9-7-1995; Ord. No. 1816, § 1, 2-1-2001; Ord. No. 1943, § 1, 8-4-2005; Ord. No. 2033, § 1, 6-17-2010; Ord. No. 2054, § 1, 9-1-2011; Ord. No. 2305, § 1, 11-18-2021)

State law reference—Adoption by reference, R.R.S. 1943, § 18-132; applicability in extraterritorial zoning jurisdiction, R.R.S. 1943, § 19-922.

Sec. 9-17. Subsequent editions.⁹²

~~Subsequent editions or revisions of the code adopted by the provisions of this article shall be considered adopted and of full force and effect within the city upon the approval thereof by the council and the filing of three copies thereof in the office of the city clerk treasurer.~~

(Code 1972, § 9-17; Ord. No. 1129, § 1, 8-14-1968; Ord. No. 2054, § 1, 9-1-2011)

Sec. 12-22. Conflicts.

In the event of any conflict between the provisions of the code adopted by this article and applicable provisions of this Code of Ordinances, rules or regulations, the provisions of this Code of Ordinances, state law or city ordinances, rules or regulations shall prevail and be controlling.

(Code 1972, § 9-18)

Sec. 12-23. Definitions.

(a) Whenever the term "municipality" or the term "city" is used in the code adopted by this article, it shall be construed to mean the City of York, Nebraska, and the area within two miles thereof.

⁹² Legal or Editorial Change: Code 1972, § 9-17. Subsequent editions. Delete as not needed.

(b) Whenever the term "corporate counsel" or "city attorney" is used in the code adopted by this article, it shall be construed to mean the city attorney of the city.

(Code 1972, § 9-19; Ord. No. 1503, § 1, 4-11-1985; Ord. No. 2054, § 1, 9-1-2011)

Sec. 12-24. Building code amendments.⁹³

The International Building Code, 2018 edition, adopted by the provisions of this article, is hereby amended, altered and changed in the following respects:

- (1) Section 105.2 shall be amended as follows:

Sec. 105.2. Work exempt from permit.

Building:

1. One-story detached playhouses and similar uses, provided the floor area does not exceed 120 square feet (11.15m).
2. Delete in its entirety.
6. Delete in its entirety.
12. Delete in its entirety.

- (2) Existing section 08.2.1 shall be amended and renumbered as follows:

Sec. 109.2. Fees. In accordance with section 109.2, the building permit fees shall be as follows:

Building Permit Fee Schedule

Total Valuation	Fee
\$1.00—\$2,000.00	\$25.00
\$2,000.00 and up	\$3.00 per \$1,000.00, including any fraction thereof

- (3) Existing section 109.2.2 shall be amended and renumbered as follows:

Sec. 109.2.2. Certificate of insurance. In accordance with section 105.3-7, every person applying for a permit required by this article shall present to the deposit evidence with the city clerk that such person has an insurance policy providing public liability and property damage insurance for the general public in the amount of \$300,000.00 public liability and \$100,000.00 property damage, such coverage shall name the city as an additional insured, which shall provide liability insurance coverage for all claims arising out of all work done by such person or under such person's supervision in the city and within two miles of the corporate limits thereof, and shall be executed by an insurance company, authorized to do business in the state and acceptable to the city and providing 30 days' written notice to be given to the city clerk in the event of expiration or of proposed cancellation of the insurance policy.

If the permit holder seeking the permit is a corporation, firm or partnership, then the certificate of insurance must also include as a named insured the employee or partner whose name appears on the certificate of registration for such corporation, firm or partnership.

Separate certificates of insurance showing the permit holder to be covered under one policy and the city to be covered under another policy may be deposited in lieu of a single certificate, at the option of the permit holder. All certificates of insurance shall provide that in the event of expiration or cancellation, of any of said minimum insurance requirements, the city clerk of the City of York shall be given 30 days' advance written notice thereof. Expiration or cancellation of any insurance coverage required by this

⁹³ Legal or Editorial Change: Code 1972, § 9-20. Building code amendments. Altered per instructions.

section shall constitute an automatic and immediate termination of the permit holder's privilege to be issued permits under the provisions of this code, unless other insurance meeting the requirements of this section is provided and in full force and effect at the time of such expiration or cancellation. All insurance coverage required by this section shall be approved by the city attorney prior to the issuance of any permit authorized under this code.

- (4) Section 113.1 is amended to read as follows:

Sec. 113.1. General. The board of appeals shall consist of the members of the city council.

- (5) Section 113.3. is repealed.

- (6) Existing section 114.4 shall be amended and renumbered as follows:

Sec. 114.4.1. Violation penalties. Persons who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or who shall erect, install, alter or repair mechanical work in violation of the approved construction documents or directive of the code official, or of a permit or certificate issued under the provisions of this code, shall be guilty of a misdemeanor, punishable ~~by a fine of not more than Five Hundred Dollars (\$500.00) or by imprisonment not exceeding 15 days, or both such fine and imprisonment~~ as provided in section 1-9. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

- (7) Existing section 115 shall be amended and renumbered as follows:

Sec. 115. Stop work orders. Upon notice from the code official that mechanical work is being done contrary to the provisions of this code or in a dangerous or unsafe manner, such work shall immediately cease. Such notice shall be in writing and shall be given to the owner of the property, or to the owner's agent, or to the person doing the work. The notice shall state the conditions under which work is authorized to resume. Where an emergency exists, the code official shall not be required to give a written notice prior to stopping the work. Any person who shall continue any work on the system after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe conditions, shall be ~~liable for a fine of not more than Five Hundred Dollars (\$500.00) or by imprisonment not exceeding 15 days, or both such fine and imprisonment~~ punished as provided in section 1-9. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

- (8) That chapter 9, fire protection systems, of the International Building Code is deleted.

- (9) That chapter 11, accessibility, of the International Building Code is deleted.

(Code 1972, § 9-20; Ord. No. 1129, § 1, 8-14-1968; Ord. No. 1261, § 1, 1-10-1974; Ord. No. 1415, § 3, 4-9-1981; Ord. No. 1503, § 1, 4-11-1985; Ord. No. 1512, § 1, 7-1-1985; Ord. No. 1553, § 1, 6-11-1987; Ord. No. 1603, § 1, 3-23-1990; Ord. No. 1698, § 1, 9-7-1995; Ord. No. 1768, § 1, 4-16-1998; Ord. No. 1816, § 1, 2-1-2001; Ord. No. 1943, § 1, 8-4-2005; Ord. No. 2033, § 1, 6-17-2010; Ord. No. 2054, § 1, 9-1-2011; Ord. No. 2305, § 1, 11-18-2021)

Sec. 12-25. Penalty for violation.

Any person who shall violate any provision of the ordinance and code adopted by the provisions of this article shall be deemed guilty of a misdemeanor and shall be punished as provided by section 1-9. Each day such violation continues shall be deemed a separate offense.

(Code 1972, § 9-22; Ord. No. 1503, § 1, 4-11-1985; Ord. No. 2054, § 1, 9-1-2011)

Sec. 12-26. International Residential Code; amendments.⁹⁴

The International Residential Code, ~~2009-2018~~ 2018 edition, adopted by this article is amended as follows:

- (1) Chapter 1, administration, shall be amended as follows:

⁹⁴ Legal or Editorial Change: Code 1972, § 9-23. International Residential Code—Amendments. Delete as obsolete. As the city now operates under the 2018 *IRC*, altered to amend the 2018 *IRC*.

- a. Section R105.2, work exempt from permit, shall be amended as follows:

Building:

1. One story detached playhouses and similar uses, provided the floor area does not exceed 120 square feet (11.15m).
2. Deleted.
5. Sidewalks and driveways not in the public right-of-way.
6. Deleted.
10. Deleted.

- b. Sec. R108.2 shall be amended as follows:

Sec. R108.2. Schedule of permit fees. On buildings, structures, electrical, gas, mechanical, and plumbing systems or alterations requiring a permit, a fee for each permit shall be paid as required, in accordance with the schedule as established in section 109.2.1 of the International Building Code, as amended.

Certificate of insurance shall be provided as established in section 109.2.2 of the International Building Code, as amended.

- c. Section R112.1 is amended to read as follows:

The board of appeals shall consist of the members of the city council.

- d. Section R112.3 is repealed.

- e. Section R114.4, violation penalties, is amended to read the same as amended section 114.4.1 of the International Building Code.

- f. Section 114 is amended to read the same as section 115 of the International Building Code.

~~(2) Part VII, plumbing, of the International Residential Code is deleted.~~

(2) Part VIII, electrical, of the International Residential Code is deleted.

(Code 1972, § 9-23; Ord. No. 1816, § 1, 2-1-2001; Ord. No. 1943, § 1, 8-4-2005; Ord. No. 2033, § 1, 6-17-2010; Ord. No. 2054, § 1, 9-1-2011; Ord. No. 2305, § 1, 11-18-2021)

Secs. 12-27--12-55. Reserved.

ARTICLE III. ELECTRICITY*

*State law reference—State Electrical Act, R.R.S. 1943, § 81-2101 et seq.

DIVISION 1. GENERALLY

Sec. 12-56. Definitions.⁹⁵

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

Electric equipment means all wires, wiring, materials, machinery, appliances, equipment, fixtures and apparatus used or designed to be used in the utilization of electricity when connected with a source of electromotive force for the purpose of producing light, heat or power.

Electrician means the person licensed by the state electrical board and under the provisions of this chapter to install electrical apparatus.

Electricians, classes of, means:

⁹⁵ Legal or Editorial Change: Code 1972, § 13-1. Definitions. Altered per instructions.

- (1) ~~Class A~~ Electrical contractor.
- (2) ~~Class A~~ Master electrician.
- (3) ~~Class A~~ Journeyman electrician.
- (4) Apprentice electrician.
- (5) Installer.

Install, installed or installation means the construction and placing in position for service and use of any new electric apparatus, and the alteration, modification or repair of existing electric apparatus.

Installer means any person holding a state installer's license may lay out and install electrical wiring, apparatus and equipment for major electrical home equipment on the load side of the main service.

(Code 1972, § 13-1; Ord. No. 983, §§ 4-301.2, 4-303.10, 3-27-1961; Ord. No. 1503, § 2, 4-11-1985)

Sec. 12-57. Application of article.

The provisions of this article shall apply to all installations of electrical conductors, fittings, devices, appliances or fixtures made within the city, or within two miles thereof, with the following exceptions:

- (1) Installations in mines, ships or railway cars, or automotive equipment;
- (2) Installations used by electricity supply or communication agencies in the generation, transmission or distribution of electricity or for the transmission of intelligence, and located within or on buildings or premises used exclusively by such an agency or on public thoroughfares;
- (3) Electrical equipment used for radio transmission in amateur radio transmitting stations, but it shall apply to all electrical equipment used for power supply to such radio transmitting equipment;
- (4) The assembly, erection and connection of electrical apparatus and equipment, but not including any electric wiring, other than that involved making electrical connections on the apparatus or equipment itself or between two or more parts of such apparatus or equipment.

(Code 1972, § 13-2; Ord. No. 983, § 4-301.02, 3-27-1961; Ord. No. 1503, § 2, 4-11-1985)

State law reference—Authority to regulate electrical installations outside city limits, R.R.S. 1943, § 16-901.

Sec. 12-58. Liability for damages.

This article shall not be construed to relieve from or lessen the responsibility of liability of any party owning, operating, controlling or installing any electrical equipment for damages to persons or property caused by any defect therein, nor shall the city be held as assuming any such liability by reason of the inspection or reinspection authorized herein, or the certificate of approval issued as herein provided, or by reason of the approval or disapproval of any equipment authorized herein.

(Code 1972, § 13-3; Ord. No. 983, § 4-305.07, 3-27-1961)

Sec. 12-59. Right of entry.

The electrical inspector shall, upon proper identification, have the right, during reasonable hours, to enter any building, manhole, or subway within the city in the discharge of official duties, or for the purpose of making any test of the electric apparatus or appliances therein contained, and for that purpose, the electrical inspector shall be given prompt access to all buildings, private or public, and to all manholes and subways, on application to the company or individual owning or in charge or control of the same.

(Code 1972, § 13-4; Ord. No. 983, § 4-302.03, 3-27-1961)

Sec. 12-60. Interference.

It shall be unlawful for any person to interfere with the electrical inspector while in the performance of the electrical inspector's official duties.

(Code 1972, § 13-5)

Sec. 13-6. Regular inspections.⁹⁶

~~The electrical inspector shall make an inspection of all places of business in the city at least once each calendar year.~~

~~(Code 1972, § 13-6; Ord. No. 983, § 4-302.02, 3-27-1961)~~

Sec. 12-61. Notice of defects.

The electrical inspector shall notify the owner of the premises on which any electrical apparatus has been installed, or the electrician installing the same, of any work done contrary to the provisions of this article, and of any defective workmanship or material therein.

(Code 1972, § 13-7; Ord. No. 983, § 4-302.03, 3-27-1961)

Sec. 12-62. Duty to correct.

It shall be the duty of the owner of the premises on which any electrical apparatus has been installed, or the electrician installing the same, to immediately remedy or correct the work done contrary to the provisions of this article or any defective workmanship or material therein.

(Code 1972, § 13-8; Ord. No. 983, § 4-302.03, 3-27-1961)

Sec. 12-63. Disconnection authorized; emergency.

If the owner of the premises on which any electrical apparatus has been installed, or the electrician installing the same, shall fail to remedy or correct any defective workmanship or material or work done contrary to the provisions of this article within ten days following notice so to do, the electrical inspector shall disconnect such electrical apparatus from its electrical power supply, provided if such defect is such as to endanger life or property, then the electrical inspector shall disconnect such electrical apparatus immediately.

(Code 1972, § 13-9; Ord. No. 983, § 4-302.03, 3-27-1961)

Sec. 12-64. Reconnection restricted.

When any electric apparatus shall have been disconnected from the electric power supply, it shall be unlawful for any person to again connect the same with the electric supply until all defects have been remedied or until the installation complies strictly with the provisions of this article.

(Code 1972, § 13-10)

Sec. 12-65. Installation of electrical by owner.

(a) All electrical equipment installed by the homeowner shall comply with the requirements of this article, and in such event, the term "homeowner" shall be substituted for the term "electrician" throughout this article provided that said homeowner shall:

- (1) Apply for and secure a permit.
- (2) Pay the required fees.
- (3) Do the work in accordance with this article.
- (4) Apply for an inspection.
- (5) Receive approval of the electrical inspector.
- (6) Receive a certificate of approval.

(b) Personal installation of the electrical equipment shall be by the homeowner in the homeowner's own home/primary residence and shall exclude commercial and industrial installation, installation in a public use building or facility, and shall be without compensation from any other person for such labor or installation. A

⁹⁶ Legal or Editorial Change: Code 1972, § 13-6. Regular inspections. Delete as obsolete and creating potential tort liability problems.

homeowner who installs electrical equipment in their own home and primary residence shall not employ any other electricians but shall perform all installation by themselves.

(Code 1972, § 13-11; Ord. No. 2301, § 1, 10-21-2021)

Sec. 12-66. Duty of owner of premises.⁹⁷

It shall be unlawful for any owner or other person to cause or to permit any installation of electrical equipment unless the installer is ~~licensed~~registered as required by this article. Any person causing or permitting any installation to be done in violation of this section shall be subject to prosecution and penalties as provided by section 1-9.

(Code 1972, § 13-12; Ord. No. 2301, § 1, 10-21-2021)

Secs. 12-67--12-90. Reserved.

DIVISION 2. ELECTRICAL INSPECTOR

Sec. 12-91. Office created.

There is hereby created in and for the city the office of electrical inspector.

(Code 1972, § 13-23; Ord. No. 983, § 4-302.01, 3-27-1961)

Sec. 12-92. Qualifications.⁹⁸

~~The person chosen to fill the office of electrical inspector shall possess an electrical contractor or journeyman license from the state, shall be of good moral character, shall be possessed of such executive ability as is required for the performance of his duties and shall have a thorough knowledge of the standard materials and methods used in the installation of electrical equipment; shall be well versed in approved methods of construction for safety to persons and property, the statutes of the state relating to electrical work and any orders, rules and regulations issued by authority thereof, and the National Electrical Code, as approved by the American Standards Association, and considered competent by the city council.~~

(Code 1972, § 13-24; Ord. No. 983, § 4-302.01, 3-27-1961)

Sec. 12-93. Appointment.

The mayor, with the consent of the city council, shall appoint some competent person to fill the office of electrical inspector.

(Code 1972, § 13-25; Ord. No. 983, § 4-302.01, 3-27-1961)

Sec. 12-94. Duties generally.

The electrical inspector shall have such powers and perform such duties as are prescribed by this article and state law, and such other powers and duties as may be required of the electrical inspector by the city council.

(Code 1972, § 13-26; Ord. No. 983, § 4-302.02, 3-27-1961)

Sec. 12-95. Records.

The electrical inspector shall make and keep a record of all inspections, giving the location, date, name of electrician, for whom installed, and also a general description of the inspection. All documents, records and other papers coming into the possession of the electrical inspector by virtue of the electrical inspector's office shall be deemed public records, the property of the city.

(Code 1972, § 13-27)

⁹⁷ Legal or Editorial Change: Code 1972, § 13-12. Duty of owner of premises. Change licensed to registered. See Code 1972, § 13-58.

⁹⁸ Legal or Editorial Change: Code 1972, § 13-24. Qualifications. Altered per instructions.

Secs. 12-96--12-118. Reserved.**DIVISION 3. REGISTRATION OF ELECTRICIANS***

***State law reference**—Licensing of electricians by state, R.R.S. 1943, § 81-2101 et seq.; local licensing state-licensed electricians prohibited, R.R.S. 1943, § 81-2130.

Sec. 12-119. Required.

It shall be unlawful for any person to engage in business or work as an electrician within the city or within two miles thereof, without first having registered with the city clerk.

(Code 1972, § 13-58; Ord. No. 983, § 4-302.04, 3-27-1961; Ord. No. 1503, § 2, 4-11-1985)

State law reference—Authority to adopt electrical ordinance applicable outside city limits, R.R.S. 1943, § 16-901.

Sec. 12-120. When not required.⁹⁹

(a) The following acts, work and conduct shall be expressly permitted without examination or license as an electrician:

- (1) Minor repair work such as, but not limited to, repairing flush and snap switches, replacing fuses, changing lamp sockets and receptacles, taping joints and repairing drop cords, the repairing of appliances, motors and other devices when not attached to permanent wiring; the wiring which is an integral part of machinery, appliances or vehicles; experimental work of a temporary nature in testing laboratories or electrical shops, educational institutions and the like; wiring supplied with current by approved bell-ringing transformers; and the attaching of portable appliances to existing outlets.
- (2) The installation, alteration or repair of electrical equipment for the operation of signals for the transmission of intelligence by wire.
- (3) The installation, alteration or repair of electrical equipment installed by or for an electricity supply agency for the use of such agency in the generation, transmission, distribution or metering of electricity.

~~— Installation, alteration or repairs made to electrical equipment, not located in an area classed as hazardous by the National Electrical Code, where such equipment operates at a voltage not exceeding fifty (50) watts of energy.~~

- (4) Any work involved in the manufacture, test or repair of electrical materials, devices, appliances or apparatus, but not including any permanent wiring other than that required for testing purposes.
- (5) Repair or replacement of fixed motors or fixed approved appliances of the same type and rating in the same location.
- (6) The adjustment, repair or maintenance of appliances designed to consume natural or artificial gas, fuel oils, or coal, provided this exception shall not permit the replacement of an existing motor with one of a different rating.

(b) The provisions of this section shall not be construed to exempt any person from compliance with the standards prescribed by this article for the installation of electrical equipment, or from inspection as provided by this article.

(Code 1972, § 13-59; Ord. No. 983, § 4-302.04, 3-27-1961)

Sec. 12-121. Application.

Application for registration under the provisions of this division shall be made in writing to the city clerk and shall show the name, residence and business location of the applicant, previous experience, copy of state license, and such other information as may be required.

(Code 1972, § 13-60; Ord. No. 983, § 4-302.05, 3-27-1961; Ord. No. 1503, § 2, 4-11-1985)

⁹⁹ Legal or Editorial Change: Code 1972, § 13-59. When not required. Altered per instructions.

Sec. 12-122. ~~Persons eligible for automatic city registration Licenses.~~¹⁰⁰

Any person duly licensed by the state electrical board and who holds a state ~~Class A~~ contractor's, ~~Class A~~ master electrician's, ~~Class A~~ journeyman electrician's, apprentice electrician's, or installer's registration will automatically be granted a city registration of equal classification without an additional fee, upon filing application for registration with the city clerk.

~~For those not licensed by the state, fees to be paid to the city clerk treasurer for licenses shall be charged as follows:~~

Classification Fee

~~Electrical contractor's license fee\$100.00~~

~~Master electrician's license fee\$100.00~~

~~Journeyman electrician's license fee\$25.00~~

~~Apprentice electrician's license fee\$5.00~~

(Code 1972, § 13-61; Ord. No. 1503, § 2, 4-11-1985; Ord. No. 2301, § 1, 10-21-2021)

Sec. 12-123. Registration—Generally.

Any corporation, firm or partnership which may be registered as electrical contractors in the name of such corporation, firm or partnership shall have a master electrician licensed under this division as a bona fide officer of such corporation or a member of such firm or partnership. Before such corporation, firm or partnership shall be registered in its corporate, firm or partnership name, as a master electrician, there shall be filed with the city clerk a certificate from the board showing the fitness and competency of such officer of such corporation, or such member of such firm or partnership to engage in the business or calling of master electrician; provided, further, that if, after a certificate of registration is issued to such corporation, firm, or partnership, such master electrician as an officer of such corporation or a member of such firm or partnership, shall withdraw therefrom and cease to be connected therewith, then and in the event, the city council shall forthwith revoke the certificate of registration of such corporation, firm or partnership.

(Code 1972, § 13-62; Ord. No. 983, § 4-302.11, 3-27-1961; Ord. No. 1503, § 2, 4-11-1985)

Sec. 12-124. Registration—Other electricians.¹⁰¹

Each ~~Class A~~ electrical contractor and ~~Class A~~ master electrician when registering as required by this division shall register with the city clerk the name of each ~~Class A~~ journeyman electrician and electrician's apprentices or helpers who shall be working under such master electrician's license. A ~~Class A~~ journeyman electrician or electrician's apprentice or helper must be registered before doing work.

(Code 1972, § 13-63; Ord. No. 983, § 4-302.18, 3-27-1961; Ord. No. 1503, § 2, 4-11-1985)

Sec. 12-125. Current licenses—License granted without examination.

Any person duly licensed by the city and who has been registered and engaged in the occupation of master electrician, journeyman electrician or apprentice electrician in accordance with the respective classification shall be granted a license at this level of qualification.

(Code 1972, § 13-64; Ord. No. 1503, § 2, 4-11-1985)

Sec. 12-126. Current licenses—Renewal.

Certificates of registration, at the time of their expiration, may be renewed upon payment of the required registration fee.

(Code 1972, § 13-65; Ord. No. 983, § 4-302.13, 3-27-1961; Ord. No. 1503, § 2, 4-11-1985)

¹⁰⁰ Legal or Editorial Change: Code 1972, § 13-61. Fees for licenses. Altered per instructions.

¹⁰¹ Legal or Editorial Change: Code 1972, § 13-63. Same—Other electricians. Altered per instructions.

Sec. 12-127. Lapsed registrations.

Any person registered under the provisions of this division who does not renew said person's certificate of registration for a period of six months after the expiration of the same, shall be required to take an electricians licensing examination offered by the state electrician division before such person can be again registered hereunder.

(Code 1972, § 13-66; Ord. No. 983, § 4-302.14, 3-27-1961; Ord. No. 1503, § 2, 4-11-1985)

Sec. 12-128. Registered electricians not to permit another person to work on certificate.

No registered electrician shall allow their name to be used by another person, directly or indirectly, to obtain a permit for the installation of any work, and if any registered electrician violates this provision, the city council shall forthwith revoke the certificate of registration issued to such electrician. In addition to having their certificate of registration revoked, such master electrician may be prosecuted under section 1-9.

(Code 1972, § 13-67; Ord. No. 983, § 4-302.16, 3-27-1961; Ord. No. 1503, § 2, 4-11-1985)

Sec. 12-129. Certificate of insurance.¹⁰²

(a) Every person applying for a permit required by this division shall present to and deposit evidence with the city clerk that the person has an insurance policy providing public liability and property damage insurance for the general public in the amount of \$300,000.00 for public liability and \$100,000.00 for property damage, such coverage shall name the city as an additional insured, which shall provide liability insurance coverage for all claims arising out of all work done by such person or under such person's supervision in the city and within two miles of the corporate limits thereof, and shall be executed by an insurance company authorized to do business in the state and acceptable to the city, and providing 30 days' written notice to be given to the city clerk in the event of expiration or of proposed cancellation of the insurance policy.

(b) If the permit holder seeking the permit is a corporation, firm or partnership, then the certificate of insurance must also include as a named insured the employee or partner whose name appears on the certificate of registration for such corporation, firm or partnership.

(c) Separate certificates of insurance showing the permit holder to be covered under one policy and the city to be covered under another policy may be deposited in lieu of a single certificate, at the option of the permit holder. All certificates of insurance shall provide that in the event of expiration or cancellation of any of said minimum insurance requirements, the city clerk shall be given at least 30 days' advance written notice thereof. Expiration or cancellation of any insurance coverage required by this section shall constitute an automatic and immediate termination of the permit holder's privilege to be issued permits under the provisions of this Code, unless other insurance meeting the requirements of this section is provided and in full force and effect at the time of such expiration or cancellation. ~~All insurance coverage required by this section shall be approved by the city attorney prior to the issuance of any permit authorized under this code.~~

(Code 1972, § 13-69; Ord. No. 1503, § 2, 4-11-1985; Ord. No. 1512, § 2, 7-1-1985; Ord. No. 1553, § 2, 6-11-1987)

State law reference—Authority to regulate electrical applicable outside city limits, R.R.S. 1943, § 16-901.

Sec. 12-130. Year.

No registration shall be issued under this division for more than one year; and the registration shall begin on May 1 of each year.

(Code 1972, § 13-70; Ord. No. 983, § 4, 3-27-1961; Ord. No. 1503, § 2, 4-11-1985)

Secs. 12-131--12-158. Reserved.

DIVISION 4. PERMITS AND INSPECTIONS*

***State law reference**—Local electrical inspection ordinances authorized, R.R.S. 1943, § 81-2130.

¹⁰² Legal or Editorial Change: Code 1972, § 13-69. Certificate of insurance. Deleted the last sentence per instructions.

Sec. 12-159. Required.

No person shall install any electrical apparatus within the city or within two miles thereof, without first obtaining a written permit therefor from the city clerk.

(Code 1972, § 13-96; Ord. No. 983, § 4-304.01, 3-27-1961; Ord. No. 1503, § 2, 4-11-1985)

State law reference—Authority to regulate electrical installations outside city limits, R.R.S. 1943, § 16-901.

Sec. 12-160. When not required.¹⁰³

(a) No permit shall be required by the provisions of this division for the following work:

- (1) Minor repair work such as, but not limited to, repairing flush and snap switches, replacing fuses, changing lamp sockets and receptacles, taping joints and repairing drop cords, the repairing of appliances, motors and other devices when not attached to permanent wiring; the wiring which is an integral part of machinery, appliances or vehicles; experimental work of a temporary nature in testing laboratories or electrical shop, educational institutions and the like; wiring supplied with current by approved bell-ringing transformers; and the attaching of portable appliances to existing outlets.
- (2) The installation, alteration or repair of electrical equipment for the operation of signals for the transmission of intelligence by wire.
- (3) The installation, alteration or repair of electrical equipment installed by or for an electricity supply agency for the use of such agency in the generation, transmission, distribution or metering of electricity.

~~Installation, alteration or repairs made to electrical equipment, not located in an area classed as hazardous by the National Electrical Code, where such equipment operates at a voltage not exceeding fifty (50) watts of energy.~~

- (4) Any work involved in the manufacture, test or repair of electrical materials, devices, appliances or apparatus, but not including any permanent wiring other than that required for testing purposes.
- (5) Repair or replacement of fixed motors or fixed approved appliances of the same type and rating in the same location.
- (6) The adjustment, repair or maintenance of appliances designed to consume natural or artificial gas, fuel oils, or coal, provided this exception shall not permit the replacement of an existing motor with one of a different rating.

(b) The provisions of this section shall not be construed to exempt any person from compliance with the standards prescribed by this article for the installation of electrical equipment, or from inspection as provided by this article.

(Code 1972, § 13-97; Ord. No. 988, § 4-304.01, 3-27-1961)

Sec. 12-161. Application.¹⁰⁴

Application for a permit required by this division, describing the work to be done, shall be made to the city clerk by an Class A electrical contractor, ~~class A~~ master electrician or installer who is responsible for supervising the installation of the work. The application showing the name of the owner, agent or occupant of the premises shall be accompanied by such plans and schedules as may be necessary to determine whether the installation as described will be in conformity with the requirements of this article.

(Code 1972, § 13-98; Ord. No. 983, § 4-304.02, 3-27-1961; Ord. No. 118, § 1, 8-10-1967; Ord. No. 1503, § 2, 4-11-1985)

Sec. 12-162. Inspection fees.

(a) The applicant for a permit required by the provisions of this division shall pay an inspection fee charge as follows:

¹⁰³ Legal or Editorial Change: Code 1972, § 13-97. When not required. Altered per instructions.

¹⁰⁴ Legal or Editorial Change: Code 1972, § 13-98. Application. Altered per instructions.

- (1) Minimum inspection fee: \$15.00.
- (2) For the issuance of each permit: \$10.00.
- (3) Service entrance:
 - a. Zero ampere through 200 ampere: \$15.00.
 - b. 200 ampere through 400 ampere: \$15.00.
 - c. For each additional 100 ampere capacity or fraction thereof: \$2.50.
 - d. Branch circuit, each: \$5.00.
- (4) Temporary electrical service: \$15.00.
- (5) Mobile home hookup: \$15.00.
- (6) Reinspection fee (wrong address, work not complete, inaccessibility of equipment, and equipment that does not pass inspection): \$50.00.

(b) Where work for which a permit is required by this Code is started to prior to obtaining the prescribed permit, the fees above specified shall be doubled, provided in the event of an emergency where it is absolutely necessary to perform the electrical work immediately before a permit can be secured, such as on nights, weekends, or holidays, said fees shall not be doubled if a permit is secured at the earliest possible time after the emergency electrical work has been performed. The payment of such double fees shall not relieve any person from fully complying with the requirements of this Code or from any penalties prescribed herein.

(Code 1972, § 13-99; Ord. No. 983, § 4-304.02, 3-27-1961; Ord. No. 1118, § 1, 8-10-1967; Ord. No. 1503, § 2, 4-11-1985; Ord. No. 1768, § 2, 4-16-1998; Ord. No. 2301, § 1, 10-21-2021)

Sec. 12-163. Issuance of permit.

If the initial plan or electrical work to be done under a permit required under this division complies in all respects with the provisions of this article, the city clerk shall issue a permit for the installation thereof.

(Code 1972, § 13-100; Ord. No. 983, § 4-304.02, 3-27-1961; Ord. No. 2301, § 1, 10-21-2021)

Sec. 12-164. Inspection, approval required.

No electric apparatus for the installation of which a permit is required by the provisions of this division shall be used until the same has been inspected by the electrical inspector, and a certificate issued by the electrical inspector approving the same and permitting its use.

(Code 1972, § 13-101; Ord. No. 983, § 4-305.04, 3-27-1961)

Sec. 12-165. Notice of work to be inspected.

Upon the completion of the installation of any electric apparatus for which an installation permit and inspection is by this article required, the electrician installing the same shall notify the electrical inspector, who shall inspect such electric apparatus and the installation thereof.

(Code 1972, § 13-102; Ord. No. 983, § 4-305.04, 3-27-1961)

Sec. 12-166. Work to be concealed from view.

When any electrical equipment is to be hidden from view by the permanent placement of parts of the building, the person installing the equipment shall not conceal such equipment until it has been inspected and approved by the electrical inspector, or until 24 hours, exclusive of Saturday, Sundays and holidays, shall have elapsed from the time of such notification, provided that on large installations where the concealment of equipment proceeds continuously, the person installing the electrical equipment shall give the electrical inspector due notice, and inspections shall be given not less than one day and not more than three days, exclusive of Saturday afternoons, Sundays and holidays, before the day on which the inspection is desired.

(Code 1972, § 13-103; Ord. No. 983, § 4-305.04, 3-27-1961)

Sec. 12-167. Defective installations.

If, upon inspection, the electrical installation is not found to be fully in conformity with the provisions of this article, the electrical inspector shall notify the licensee responsible for the installation, stating the defects which have been found to exist. If such licensee fails to correct such defects within such reasonable time as may be specified in the notice thereof by the electrical inspector, said licensee shall be deemed in violation of this article.

(Code 1972, § 13-104; Ord. No. 983, § 4-305.04, 3-27-1961)

Sec. 12-168. Issuance of certificate.

If, upon inspection of the installation or alteration, modification or repair of electric apparatus performed under a permit issued under this division, the electrical inspector shall determine that all the provisions of this article have been complied with, the electrical inspector shall issue a certificate of approval therefor.

(Code 1972, § 13-105; Ord. No. 983, § 4-305.04, 3-27-1961)

Sec. 12-169. Reinspection.

In order to alleviate hazards to life and property due to lack of maintenance, deterioration, unapproved alterations or additions, the electrical inspector shall reinspect electric wiring installations as and when the electrical inspector shall deem advisable or necessary.

(Code 1972, § 13-106; Ord. No. 983, § 4-305.05, 3-27-1961)

Sec. 12-170. Prerequisite to use.

All companies engaged in the business of distributing electrical current in the city are hereby prohibited from connecting to any new electrical installation, or any new alteration or repair in any electrical installation, unless and until the same has been inspected by the electrical inspector, and a certificate issued by the electrical inspector approving the same and permitting its use.

(Code 1972, § 13-107)

Sec. 12-171. Temporary use of current.

(a) The electrical inspector may permit, at the inspector's discretion, the temporary use of electrical energy for electric wiring, before final approval thereof, whenever any unnecessary hardship would otherwise result, and inspection can effectively be made after the commencement of the temporary use. A meter, when installed in the regular meter socket, if left unsealed, shall be considered as temporary use of electrical energy under this provision.

(b) The electrical inspector shall place those restrictions upon temporary use as necessary to ensure safety, to secure compliance with all other provisions of this article, and to facilitate inspection.

(c) No temporary use of electrical energy shall be permitted in any case where a hazard to life or property would be created.

(d) The temporary use of electrical energy may be ordered discontinued and the supply discontinued upon notice to the user.

(Code 1972, § 13-108; Ord. No. 983, § 4-305.06, 3-27-1961)

Secs. 12-172--12-195. Reserved.

DIVISION 5. ELECTRICAL CODE*

*State law reference—Electrical standards, R.R.S. 1943, §§ 81-2104(5), 81-2127.

Sec. 12-196. Adopted.

The National Electrical Code, 2017 edition, one copy of which is on file in the office of the city clerk, is hereby adopted as the electrical code, incorporated in and made a part of the provisions of this Code, as the same as though spread at large herein.

(Code 1972, § 13-120; Ord. No. 1297, § 1, 8-20-1975; Ord. No. 1416, § 1, 4-9-1981; Ord. No. 1495, § 1, 12-13-1984; Ord. No. 1542, § 1, 4-9-1987; Ord. No. 2174, § 1, 8-3-2017)

State law reference—Adoption by reference, R.R.S. 1943, § 18-132; applicability in extraterritorial zoning jurisdiction, R.R.S. 1943, § 19-922.

Sec. 12-197. Conflicts.

In the event of any conflict between the provisions of the electrical code adopted by the provisions of this article and the provisions of this Code, state law or city ordinance, rule or regulation, the latter provisions shall prevail and be controlling.

(Code 1972, § 13-121)

Sec. 13-122. Subsequent editions.¹⁰⁵

~~Subsequent editions or revisions of the electrical code adopted by the provisions of this article shall be considered adopted and of full force and effect within the city upon the approval thereof by the council and the filing of three copies thereof in the office of the city clerk treasurer.~~

~~(Code 1972, § 13-122)~~

Sec. 12-198. Standards for installation.

All electric heat, light and power wires, fixtures, appliances, conductors, apparatus and their supports placed or installed in or upon any building or other structure in the city shall be in strict conformity with approved standards of construction for safety to life and property and in accordance with the provisions of this division, provided that materials for wiring, appliances and equipment shall conform to the standards of the Underwriters Laboratories, Inc., and shall be prima facie evidence that the same comply with the provisions of this division.

(Code 1972, § 13-123)

Sec. 12-199. Extraterritorial application.

The provisions of the code adopted by the provisions of this division shall apply and be enforced to the unincorporated area two miles beyond and adjacent to the corporate boundaries of the city with the same force and effect as if such outlying area were within the corporate boundaries of the city, provided no such provision shall be extended or applied so as to prohibit, prevent or interfere with the conduct of existing farming, livestock operations, businesses or industry.

(Code 1972, § 13-124)

State law reference—Authority to extend provisions, R.R.S. 1943, § 16-901; applicability in extraterritorial zoning jurisdiction, R.R.S. 1943, § 19-922.

Sec. 12-200. Variations.

Whenever in the opinion of the electrical inspector, a variation from the code adopted by this division is consistent with public safety, a special permit in writing may be issued by the electrical inspector, permitting such variation, and prescribing specifically the method of installation that shall be followed.

(Code 1972, § 13-125)

Secs. 12-201--12-223. Reserved.

ARTICLE IV. MINIMUM LIGHTING AND THERMAL EFFICIENCY STANDARDS FOR BUILDINGS*

***State law reference**—Lighting and thermal energy efficiency standards, R.R.S. 1943, § 81-1608 et seq.; energy conservation code, R.R.S. 1943, § 72-804; local energy code authorized, R.R.S. 1943, § 81-1618.

Sec. 12-224. Short title; need.

- (a) This article shall be known as the minimum lighting and thermal efficiency standards for buildings.
- (b) The city finds that there is a present and continuing need to provide for the development and

¹⁰⁵ Legal or Editorial Change: Code 1972, § 13-122. Subsequent editions. Delete as not needed.

implementation of minimum lighting and thermal efficiency standards for buildings to ensure coordination with state policy under the state energy code to promote the conservation of our dwindling energy resources and to provide for the public health, safety and welfare.

(Code 1972, § 9-79; Ord. No. 1417, § 2, 4-9-1981; Ord. No. 1941, § 1, 7-7-2005)

Sec. 12-225. Definitions.

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

Addition means an extension or increase in the height, conditioned floor area or conditioned volume of a building or structure.

Architect or *engineer* means any person licensed as an architect or professional engineer under the Engineers and Architects Regulation Act (R.R.S. 1943, § 81-3401 et seq.).

Building means any new structure, renovated building, or addition which provides facilities or shelter for public assembly, educational, business, mercantile, institutional, warehouse, or residential occupancies, as well as those portions of factory and industrial facilities which are used primarily for human occupancy, such as office space, 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.

Contractor means the person or entity responsible for the overall construction of any building or the installation of any component which affects the energy efficiency of the building.

Economically justified means the initial cost is less than the percent discounted value of resulting savings over the life of a component or requirement using future actual dollars and a market rate of interest.

Equivalent or *equivalent code* means standards that meet or exceed the requirements of the Nebraska Energy Code.

Floor area means the total area of the floor of a building, expressed in square feet, which is within the exterior faces of the shell of the structure which is heated or cooled.

Local code means a lighting and thermal efficiency ordinance, resolution, code or standard which has been adopted by a county, city or village and which meets the requirements set forth in R.R.S. 1943, § 81-1618.

Office means the state energy office.

Prime contractor means the person or entity who has a contract with the owner and falls with the definition of contractor listed in R.R.S. 1943, § 81-1609. The term "prime contractor" may also mean a property owner who performs the work of a prime contractor or performs the work himself.

Renovation means alterations on an existing building which will cost more than 50 percent 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.

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

State energy code means the 2018 International Energy Conservation Code.

Traditional energy sources means electricity, petroleum-based fuels, uranium, coal and all nonrenewable forms of energy.

(Code 1972, § 9-80; Ord. No. 1417, § 2, 4-9-1981; Ord. No. 1477, § 1, 10-13-1983; Ord. No. 1941, § 1, 7-7-2005; Ord. No. 2305, § 1, 11-18-2021)

Sec. 12-226. Standards; applicability.

All new buildings, except those excluded by section 12-227, and additions and renovations to all existing buildings on which construction is initiated on or after July 1, 2005, shall be constructed so as to comply with the state energy code or a local equivalent code.

(Code 1972, § 9-81; Ord. No. 1417, § 2, 4-9-1981; Ord. No. 1477, § 2, 10-13-1983; Ord. No. 1941, § 1, 7-7-2005)

Sec. 12-227. 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 3.4 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 modular home unit as defined by R.R.S. 1943, § 71-1557(1).
- (5) Any manufactured housing unit as defined by R.R.S. 1943, § 71-4603.
- (6) Any building:
 - a. Listed on the National Register of Historic Places;
 - b. Determined to be eligible for the National Register of Historic Places by the state historic preservation officer; or
 - c. Designated as an individual landmark or heritage preservation site by a municipality or located within a designated landmark or heritage preservation district.

(Code 1972, § 9-82; Ord. No. 1417, § 2, 4-9-1981; Ord. No. 1941, § 1, 7-7-2005)

Sec. 12-228. Inspections; investigations.

(a) The building inspector or any person designated by the building inspector 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 R.R.S. 1943, §§ 29-830--29-835.

(b) During construction, the building inspector or person designated by the building inspector shall make periodic inspections to ensure compliance with this article.

(c) If the local code authority finds, within two years from the date a building is first occupied, that the building, at the time of construction, did not comply with the state energy code or equivalent code adopted by a county, city or village in effect at such time, the code authority may order the owner or prime contractor to take those actions necessary to bring the building into compliance.

(Code 1972, § 9-83; Ord. No. 1417, § 2, 4-9-1981; Ord. No. 1941, § 1, 7-7-2005)

Sec. 12-229. Building plans, submission for approval.

(a) Prior to the construction of, renovation of, or addition to any building covered by this article, the prime contractor shall file sufficient plans and specifications with the building inspector to enable the prime contractor to make a determination whether such building will comply with the standard. The building inspector shall, within 30 days of the filing, approve or disapprove the plans and specifications. If disapproved, the reasons shall be set forth in writing to the prime contractor. The prime contractor shall certify, on a form furnished by the city, that such contractor will build, to the best of the contractor's knowledge, according to the standard.

(b) If the building inspector determines that such construction, renovation or addition will comply with the standard, the building inspector will issue a written permit which the prime contractor shall display in a conspicuous place on the premises where the construction work is to be done. No construction, renovation or addition shall commence until a permit is issued and displayed as required by this section.

(Code 1972, § 9-84; Ord. No. 1417, § 2, 4-9-1981)

Sec. 12-230. When architect or engineer is retained.

If an architect or engineer is retained, the architect or engineer shall place their state registration seal on all construction drawings which shall indicate that the design meets the standard. The prime contractor shall certify that the contractor will build in accordance with the construction documents prepared by the architect or engineer.

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

(Code 1972, § 9-85; Ord. No. 1417, § 2, 4-9-1981; Ord. No. 1941, § 1, 7-7-2005)

Sec. 12-231. Violation; penalty; enforcement.¹⁰⁶

Any person violating any provision of this article shall be ~~subject to a maximum sentence of three months' imprisonment or a five hundred dollar (\$500.00) fine, or both punished as provided by section 1-9.~~ In addition, the city may by an action in the district court enforce the provisions of this article through equity and injunctive processes.

(Code 1972, § 9-86; Ord. No. 1417, § 2, 4-9-1981; Ord. No. 1941, § 1, 7-7-2005)

~~**Sec. 9-87. Validity.**~~¹⁰⁷

~~If any section in this article or any part of any section shall be declared invalid or unconstitutional, such declaration shall not affect the validity or constitutionality of the remaining portions thereof.~~

~~(Code 1972, § 9-87; Ord. No. 1417, § 2, 4-9-1981; Ord. No. 1941, § 1, 7-7-2005)~~

Secs. 12-232--12-255. Reserved.

ARTICLE V. HEATING, VENTILATING AND COOLING

DIVISION 1. GENERALLY

Sec. 12-256. Title.

This article shall be known as the city mechanical code and may be cited as such ~~and will be referred to herein as "this code."~~

(Code 1972, § 29-2; Ord. No. 1503, § 4, 4-11-1985)

Sec. 12-257. Adoption of the International Mechanical Code.

Except as hereinafter provided by specific change, the International Mechanical Code, 2018 edition, published by the International Code Council, is hereby adopted. One copy of this document shall be filed in the office of the city clerk in book form with the official records of the city.

(Code 1972, § 29-1; Ord. No. 1503, § 4, 4-11-1985; Ord. No. 1816, § 3, 2-1-2001; Ord. No. 1944, § 1, 8-4-2005; Ord. No. 2034, § 1, 6-17-2010; Ord. No. 2306, § 1, 11-18-2021)

State law reference—Adoption by reference, R.R.S. 1943, § 18-132; applicability in extraterritorial zoning jurisdiction, R.R.S. 1943, § 19-922.

Sec. 12-258. Amendments.¹⁰⁸

The International Mechanical Code adopted in section 12-257 shall be amended as follows:

(1) Section 106.5.2, fee schedule, is hereby amended so that the fees for mechanical work shall be as indicated in section 12-264.

(2) Section 106.5.3, fee refunds, shall be added as follows:

Sec. 106.5.3 Fee refunds. The code official is authorized to establish a refund policy.

(3) Section 108.4, violation penalties, shall be amended as follows:

Sec. 108.4 Violation penalties. Persons who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or who shall erect, install, alter, or repair mechanical work

¹⁰⁶ Legal or Editorial Change: Code 1972, § 9-86. Violation; penalty; enforcement. Tied penalty to Code chapter 1.

¹⁰⁷ Legal or Editorial Change: Code 1972, § 9-87. Validity. Deleted as covered by Code chapter 1.

¹⁰⁸ Legal or Editorial Change: Code 1972, § 29-1.1. Amendments. Altered per instructions.

in violation of the approved construction documents or directive of the code official, or of a permit or certificate issued under the provisions of this code, shall be ~~guilt of a misdemeanor, punishable by a fine of not more than Five Hundred Dollars (\$500.00) or by imprisonment not exceeding 15 days, or both such fine and imprisonment~~ punished as provided in section 1-9. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

- (4) Section 108.5, stop work order, is hereby amended to read:

Sec. 108.5. Stop work order. Upon notice from the code official that mechanical work is being done contrary to the provisions of this code or in a dangerous or unsafe manner, such work shall immediately cease. Such notice shall be in writing and shall be given to the owner of the property, or to the owner's agent, or to the person doing the work. The notice shall state the conditions under which work is authorized to resume. Where an emergency exists, the code official shall not be required to give a written notice prior to stopping the work. Any person who shall continue any work on the system after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe conditions, shall be ~~liable for a fine of not more than Five Hundred Dollars (\$500.00) or by imprisonment not exceeding 15 days, or both such fine and imprisonment~~ punished as provided in section 1-9. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

- (5) Section 109.2 is amended to read as follows:

- a. The board of appeals or examining board shall consist of the members of the city council.
- b. Section 109.2.1, qualifications, ~~shall be amended as follows: is repealed.~~

~~*Sec. 109.2.1 Qualifications.* The board of appeals shall consist of members who are qualified by experience and training to pass on matters pertaining to building construction and are not employees of the jurisdiction.~~

(Code 1972, § 29-1.1; Ord. No. 1816, § 3, 2-1-2001; Ord. No. 2306, § 1, 11-18-2021)

Sec. 12-259. Purpose.

The purpose of the mechanical code is to provide minimum standards to safeguard individual life, limb, health and property, and the public health, safety and welfare by regulation and controlling the design, quality of material and installation, alteration and repair of all heating, ventilating and cooling systems within the corporate limits of the city and within two miles thereof.

(Code 1972, § 29-3; Ord. No. 1503, § 4, 4-11-1985)

Sec. 12-260. Scope.

The provisions of the mechanical code shall apply to the installation, alteration or repair of all heating, ventilation and cooling systems, including the practice, materials and fixtures used in the installation and appurtenance thereto within the corporate limits of the city and within two miles thereof. Where, in any specific case, different sections of the mechanical code specify different materials, methods of installation or other requirements, the most restrictive shall govern.

(Code 1972, § 29-4; Ord. No. 1503, § 4, 4-11-1985)

Sec. 12-261. Liability for damages.

This article shall not be construed to relieve from or lessen the responsibility of any party, owning, operating, controlling or installing any heating, ventilating or cooling equipment for damages to persons or property caused by any defect therein, nor shall the city be held as assuming any such liability by reason of the inspection or reinspection authorized herein, or the certificate of approval issued, as herein provided, or by reason of the approval of any equipment authorized herein.

(Code 1972, § 29-5; Ord. No. 1503, § 4, 4-11-1985)

Sec. 12-262. Installation of heating, ventilating or cooling by owner.

- (a) All heating, ventilating or cooling installed by the owner shall comply with the requirements of this

article and in such event, the term "owner" shall be substituted for the term "mechanical contractor" throughout this article provided that said owner shall:

- (1) Apply for and secure a permit.
- (2) Pay the required fees.
- (3) Do the work in accordance with this article.
- (4) Apply for an inspection.
- (5) Receive approval of the inspector.
- (6) Receive a certificate of approval.

(b) Personal installation of the owner (other than a mechanical contractor) shall be by themselves for themselves, in their own home, without compensation or pay from any other person for such labor or installation. The owner exercising this privilege shall not set themselves up as a mechanical contractor.

(Code 1972, § 29-6; Ord. No. 1503, § 4, 4-11-1985)

Sec. 12-263. One in charge of premises to permit only registered mechanical contractor to do work.

It shall be unlawful for any person, firm, or corporation, as owner, agent or tenant of a premises to knowingly permit any heating, ventilating, cooling or refrigeration equipment to be installed, altered, reconstructed, or repaired, except as otherwise provided herein, by other than a registered mechanical contractor of the city.

(Code 1972, § 29-7; Ord. No. 1503, § 4, 4-11-1985)

Sec. 12-264. Permit fees.

(a) Any person desiring a permit required by the mechanical code shall pay a fee to the city clerk as set forth below:

- (1) Minimum inspection fee: \$10.00.
- (2) For issuance of each permit: \$10.00.
- (3) Installation or replacement of any type of heating equipment, including low pressure boilers:
 - a. Per unit for the first six units in any one building: \$12.00.
 - b. Per unit for each additional unit over six in any one building: \$6.00.
- (4) Installation or replacement of any type of cooling equipment:
 - a. Per unit for the first six units in any one building: \$6.00.
 - b. Per unit for each additional unit over six in any one building: \$3.00.
- (5) Installation or replacement of any type of combination heating, cooling equipment, or heat pumps with or without auxiliary heating systems:
 - a. Per unit for the first six units in any one building: \$18.00.
 - b. Per unit for each additional unit over six in any one building: \$9.00.
- (6) Installation or replacement of any type of solar equipment interconnected with heating equipment per unit (does not include back-up heating equipment): \$12.00.
- (7) Installation or replacement of any type of solar equipment connected with cooling equipment per unit (does not include back-up cooling equipment): \$12.00.
- (8) Air handling units not in conjunction with any of the above and with or without steam, water or DX coils:
 - a. Per unit for the first six units in any one building: \$18.00.
 - b. Per unit for each additional unit over six in any one building: \$9.00.
- (9) Installation of vent or chimney liner not in conjunction with the installation of any of the above: \$6.00.
- (10) Alteration of existing vent or ductwork: \$6.00.

- (11) Installation or replacement of any type of flue damper: \$6.00.
- (12) Installation or replacement of any type of electric ignition controls conversion: \$6.00.
- (13) Installation of circulating heaters: \$12.00.
- (14) Installation or replacement of any infrared pipe heating system: \$12.00.
- (15) Installation or replacement of conversion burners: \$12.00.
- (16) Installation of a ventilation system which is not a portion of any heating or cooling system authorized by permit:
 - a. Per unit for the first six fan units in any one building: \$12.00.
 - b. Per unit for each additional fan unit over six in any one building: \$6.00.
- (17) Installation of intracel vent heaters: \$12.00.
- (18) Installation of gas or decorative fireplace: \$12.00.
- (19) Installation of hood with or without mechanical exhaust including the ducts for such hood (per hood): \$12.00.
- (20) Underground ductwork: \$6.00.
- (21) Reinspection fee (wrong address, equipment that does not pass inspection, incomplete work, equipment inaccessibility, etc.): \$10.00.

(b) Where work for which a permit is required by the mechanical code is started prior to obtaining the prescribed permit, the fees above specified shall be doubled, provided in the event of an emergency where it is absolutely necessary to perform the heating, ventilating or cooling work immediately before a permit can be secured, such as on nights, weekends or holidays, said fees shall not be doubled if a permit is secured at the earliest possible time after the emergency heating, ventilating or cooling work has been performed. The payment of such double fees shall not relieve any person from fully complying with the requirements of the mechanical code or from any penalties prescribed herein.

(Code 1972, § 29-71; Ord. No. 1503, § 4, 4-11-1985; Ord. No. 1768, § 4, 4-16-1998)

~~Sec. 29-76. Amendments.~~¹⁰⁹

~~The following amendments to the Uniform Mechanical Code be made:~~

~~Section 106 of the Uniform Mechanical Code is amended to read as follows:~~

~~Section 106. Permit Fees. (See Article VI, section 29-71 of this chapter).~~

~~(Code 1972, § 29-76; Ord. No. 1503, § 4, 4-11-1985; Ord. No. 2306, § 1, 11-18-21)~~

Secs. 12-265--12-291. Reserved.

DIVISION 2. MECHANICAL INSPECTOR

Sec. 12-292. Office created.

There is hereby created and established in and for the city the office of the mechanical inspector.

(Code 1972, § 29-16; Ord. No. 1503, § 4, 4-11-1985)

Sec. 12-293. Scope of office.

The mechanical inspector shall act under the direction of the director of public works and shall have supervision of all heating ventilating and cooling installations in the city and shall perform such duties as are herein prescribed.

¹⁰⁹ Legal or Editorial Change: Code 1972, § 29-76. Amendments. Delete as obsolete. This is an amendment to the now obsolete Uniform Mechanical Code.

(Code 1972, § 29-17; Ord. No. 1503, § 4, 4-11-1985)

Sec. 12-294. Right of entry.

The mechanical inspector shall have the right, during reasonable hours, to enter any building in the city for the performance of mechanical inspector's duties.

(Code 1972, § 29-18; Ord. No. 1503, § 4, 4-11-1985)

Sec. 12-295. Inspection; approval of work.

It shall be the duty of the mechanical inspector to inspect all heating, ventilating and cooling work done in the city; and if, after having made the proper final inspection on any job of heating, ventilating and cooling work, the same is found to be properly done and to be perfectly tight, as required by this article, it shall be the duty of the mechanical inspector to issue to the mechanical contractor in charge of the work a certificate of completion, setting forth the fact that the work has been tested and inspected and the same found to have been done according to the requirements of this article.

(Code 1972, § 29-19; Ord. No. 1503, § 4, 4-11-1985)

Sec. 12-296. Investigation of cases.

It shall be the duty of the mechanical inspector to investigate all cases reported to or referred to the mechanical inspector of the use of imperfect material or workmanship on any job of heating, ventilating or cooling work or the violation of the provisions of this article by a mechanical contractor, builder or owner, to stop such work, to order the same removed and replaced in a proper and workerlike manner to conform to the spirit and intent of this article; and the mechanical inspector may further request the city attorney to file complaint against any person for violation of the provisions, or any of the provisions of this article, and it shall be the duty of the city attorney to prosecute the same without unnecessary delay.

(Code 1972, § 29-20; Ord. No. 1503, § 4, 4-11-1985)

Sec. 12-297. Inspection of old heating, ventilating and cooling work.

It shall be the duty of the mechanical inspector to make inspection of old heating, ventilating and cooling work at the request of the agent, owner or occupant of any building or premises where said heating, ventilating and cooling work is located. The mechanical inspector shall have the right and authority to enter any building or upon any premises at all reasonable hours to ascertain if the provisions of this article or any ordinance relating to heating, ventilating and cooling have been or are being violated or being complied with. Also, where the mechanical inspector has reason to believe that defective or unsafe heating, ventilating or cooling exists and whenever defective or unsafe heating, ventilating or cooling is found, it shall be the duty of said mechanical inspector to notify the agent or owner of the premises on which the same is found to forthwith cause such heating, ventilating or cooling to be changed, and to conform with the terms and requirements of this article or any existing ordinance, or to be changed and made safe in such other manner as said mechanical inspector may authorize and direct, and such owner or agent is hereby required within ten days after receiving such notification to comply therewith, or failing or neglecting to do so, the owner or agent shall be considered as maintaining unsafe heating, ventilating or cooling and violating the requirements hereof, and it shall be the duty of the mechanical inspector to make complaint against such owner or agent and cause such owner or agent to be prosecuted.

(Code 1972, § 29-21; Ord. No. 1503, § 4, 4-11-1985)

Sec. 12-298. Record of inspections and tests made.

The mechanical inspector shall keep a complete record of all inspections and tests made by them as mechanical inspector and make such reports as may be required by superintendents of other departments, except it shall not be necessary to report the tests made on old work.

(Code 1972, § 29-22; Ord. No. 1503, § 4, 4-11-1985)

Sec. 12-299. Assistants.

The mechanical inspector shall have such assistants as the city council may provide and when appointed by the mayor and approved by the city council, such assistants shall have the same powers and duties as the mechanical

inspector.

(Code 1972, § 29-23; Ord. No. 1503, § 4, 4-11-1985)

Sec. 12-300. Not to engage in heating, ventilating or cooling business.

It shall be unlawful for the mechanical inspector to engage in the business of heating, ventilating or cooling or to perform any work as a mechanical contractor in the city during the term of office as mechanical inspector.

(Code 1972, § 29-24; Ord. No. 1503, § 4, 4-11-1985)

Secs. 12-301–12-318. Reserved.

DIVISION 3. MECHANICAL CONTRACTOR REGISTRATION

Sec. 12-319. Required.

No person shall engage in or work at the business, trade or calling of a mechanical contractor in the city, until the person shall have obtained a license from the mayor and city council so to do, without having first paid the annual registration fee therefor, and without having first satisfied the provisions of this division.

(Code 1972, § 29-35; Ord. No. 1503, § 4, 4-11-1985)

Sec. 12-320. Application.

Application for registration required by this division shall be made in writing at the office of the city clerk, upon blanks furnished by the city clerk, which show the name and residence of the applicant, the business location of the applicant, and such other information as may be required.

(Code 1972, § 29-36; Ord. No. 1503, § 4, 4-11-1985)

Sec. 12-321. Examining board for mechanical contractors.¹¹⁰

There is hereby created an examining board for mechanical contractors, which shall consist of the director of public works, ex officio; one mechanical contractor; one master plumber; and the mechanical inspector. The mechanical contractor and master plumber members of the examining board shall be appointed by the mayor and approved by the city council for a period of two years and shall serve without pay, and should either member be sooner removed from office or resign, or a vacancy occur, a new member to fill such vacancy shall be appointed by the mayor and approved by the city council. The director of public works shall be the secretary of the examining board and shall have custody of all records of the same. The examining board is hereby authorized, empowered and directed to prescribe, amend and enforce an advisory board that is to make recommendations in regard to the rules and regulations pertaining to this article for the registration of mechanical contractors.

(Code 1972, § 29-37; Ord. No. 1503, § 4, 4-11-1985)

Sec. 12-322. License required; examination.

(a) *Examination.*

- (1) Examinations for a mechanical contractor license will not be administered by the city. Examination information may be located at iccsafe.org, under the contractor's testing section. An applicant for a mechanical contractor's license shall provide proof that the applicant has passed an examination as approved and authorized by the International Code Council, Inc.
- (2) An applicant for a license shall provide proof to the city clerk that the applicant has passed the examination authorized and approved by the International Code Council, Inc.
- (3) Metropolitan licensee. The holder of a valid mechanical contractor's license issued by a metropolitan city in the state will be accepted in the city without the examination requirements listed previously in this section.

¹¹⁰ Legal or Editorial Change: Code 1972, § 28-37. Examining board for mechanical contractors. Altered per instructions.

(b) *Issuance of license.* At the time of approval by the office of the city clerk and the payment of a license fee for a master or journeyman, the office of the city clerk shall issue a license to do mechanical work in the city. (Code 1972, § 29-38; Ord. No. 1503, § 4, 4-11-1985; Ord. No. 2306, § 1, 11-18-2021)

Sec. 12-323. Duration.

All registration and licenses issued under the provisions of this division shall continue in force to May 1 of each year after the date on which they are granted, unless sooner revoked. (Code 1972, § 29-39; Ord. No. 1503, § 4, 4-11-1985)

Sec. 12-324. Registration of corporations, firms, partnerships.

Any corporation, firm or partnership may be registered under this division, provided that such corporation, firm or partnership shall have a mechanical contractor who has submitted to the examination given by the examining board and has thereby shown himself fit, competent and qualified to engage in the business, trade or calling of a mechanical contractor as a bona fide officer of such corporation or a member of such firm or partnership. Before such corporation, firm or partnership shall be registered in its corporate, firm or partnership name as a mechanical contractor, there shall be filed with the city clerk a certificate from the examining board showing the fitness and competency of such officer of such corporation, or such member of such firm or partnership to engage in the business or calling of mechanical contractor; provided, further, that if, after the certificate of registration is issued to such corporation, firm or partnership, such mechanical contractor as an officer of such corporation or a member of such firm or partnership shall withdraw therefrom and cease to be connected therewith, then and in that event, the city council shall forthwith revoke the certificate of registration of such corporation, firm or partnership. (Code 1972, § 29-40; Ord. No. 1503, § 4, 4-11-1985)

Sec. 12-325. Revocation of certificate.

The city council by a majority vote shall have the power to revoke any mechanical contractor's certificate of registration, upon the recommendation of the examining board, if the same was obtained through error or fraud, or if the recipient thereof is shown to be grossly incompetent or has a second time willfully violated any of the provisions of this article. If a certificate of registration is revoked, the holder of the same shall not apply for registration for one year after such revocation. (Code 1972, § 29-41; Ord. No. 1503, § 4, 4-11-1985)

Sec. 12-326. Renewal of certificate.¹¹¹

Certificates of registration issued under this division, at the time of their expiration, may be renewed ~~upon recommendation of the examining board without any examination~~ upon payment of the required registration fee and maintenance of applicable licenses. (Code 1972, § 29-42; Ord. No. 1503, § 4, 4-11-1985)

Sec. 12-327. Lapsed registrations.

Any person registered under the provisions of this division as a mechanical contractor, who does not renew their certificate of registration for a period of six months after the expiration of the same, shall ~~pay the examination fee required by this chapter for a mechanical contractor and shall submit himself to an examination by the examining board before such person can be again registered hereunder~~ comply with the requirements in sections 12-319 through 12-322. (Code 1972, § 29-43; Ord. No. 1503, § 4, 4-11-1985)

Sec. 12-328. Registered mechanical contractors not to permit another to work on certificate.

No registered mechanical contractor shall allow their name to be used by another person, directly or indirectly, to obtain a permit for the installation of any work, and if any registered mechanical contractor violates this provision,

¹¹¹ Legal or Editorial Change: Code 1972, § 29-42. Renewal of certificate. Altered per instructions.

the city council shall forthwith revoke the certificate of registration issued to such mechanical contractor. In addition to having the contractor's certificate of registration revoked, such mechanical contractor shall be deemed guilty of a misdemeanor.

(Code 1972, § 29-44; Ord. No. 1503, § 4, 4-11-1985)

Sec. 12-329. Fees.

The following fee shall be charged for registration and subsequent renewal under the provisions of this article:

- (1) Mechanical contractor: \$100.00.

(Code 1972, § 29-45; Ord. No. 1503, § 4, 4-11-1985)

Sec. 12-330. Certificate of insurance.

(a) Every person applying for a permit required by this division shall present to and deposit evidence with the city clerk that said person has an insurance policy providing public liability and property damage insurance for the general public in the amount of \$300,000.00 for public liability and \$100,000.00 for property damage; such coverage shall name the city as an additional insured, which shall provide liability insurance coverage for all claims arising out of all work done by such person or under such person's supervision in the city and within two miles of the corporate limits thereof and shall be executed by an insurance company authorized to do business in the state and acceptable to the city, and providing 30 days' written notice to be given to the city clerk in the event of expiration or of proposed cancellation of the insurance policy.

(b) If the permit holder seeking the permit is a corporation, firm or partnership, then the certificate of insurance must also include as a named insured the employee or partner whose name appears on the certificate of registration for such corporation, firm or partnership.

(c) Separate certificates of insurance showing the permit holder to be covered under one policy and the city to be covered under another policy may be deposited in lieu of a single certificate, at the option of the permit holder. All certificates of insurance shall provide that in the event of expiration or cancellation of any of said minimum insurance requirements, the city clerk shall be given at least 30 days' advance written notice thereof. Expiration or cancellation of any insurance coverage required by this section shall constitute an automatic and immediate termination of the permit holder's privilege to be issued permits under the provisions of the mechanical code, unless other insurance meeting the requirements of this section is provided and in full force and effect at the time of such expiration or cancellation. All insurance coverage required by this section shall be approved by the city attorney prior to the issuance of any permit authorized under the mechanical code.

(Code 1972, § 29-47; Ord. No. 1503, § 4, 4-11-1985; Ord. No. 1512, § 4, 7-1-1985; Ord. No. 1553, § 4, 6-11-1987)

Secs. 12-331–12-348. Reserved.

ARTICLE VI. PLUMBING*

*State law reference—Plumbing, R.R.S. 1943, § 18-1901 et seq.

DIVISION 1. GENERALLY

Sec. 12-349. Title.

This article shall be known as the city plumbing code and may be cited as such ~~and will be referred to herein as "this code."~~

(Code 1972, § 28-2; Ord. No. 1418, § 2, 4-9-1981)

Sec. 12-350. Purpose.

The purpose of the plumbing code is to provide minimum standards to safeguard individual life, limb, health and property, and the public health, safety and welfare by regulating and controlling the design, quality of material and installation, alteration and repair of all plumbing and drainage systems within the corporate limits of the city and within two miles thereof.

(Code 1972, § 28-3; Ord. No. 1418, § 2, 4-9-1981)

Sec. 12-351. Scope.

(a) The provisions of the plumbing code shall apply to the installation, alteration or repair of all plumbing and drainage systems including the practice, materials and fixtures used in the installation and appurtenances thereto within the corporate limits of the city and within two miles thereof.

(b) Where, in any specific case, different sections of the plumbing code specify different materials, methods of installation or other requirements, the most restrictive shall govern.

(Code 1972, § 28-4; Ord. No. 1418, § 2, 4-9-1981)

Sec. 12-352. Alternate materials or methods of installation.

The provisions of the plumbing code are not intended to prevent the use of any material or method of installation not specifically prescribed by the plumbing code, provided any such alternate has been approved by the administrative authority. The administrative authority may approve any such alternate, provided the administrative authority finds that the proposed design is satisfactory and complies with the provisions of the plumbing code, and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in the plumbing code in quality, strength, effectiveness, durability and safety. The administrative authority shall require that sufficient evidence or proof be submitted by a qualified testing laboratory to substantiate any claims that may be made regarding its use.

(Code 1972, § 28-5; Ord. No. 1418, § 2, 4-9-1981)

Sec. 12-353. Liability for damages.

This article shall not be construed to relieve from or lessen the responsibility of any party owning, operating, controlling or installing any plumbing equipment for damages to persons or property caused by any defect therein, nor shall the city be held as assuming any such liability by reason of the inspection or reinspection authorized herein, or the certificate of approval issued as herein provided, or by reason of the approval of any equipment authorized herein.

(Code 1972, § 28-6; Ord. No. 1418, § 2, 4-9-1981)

Sec. 12-354. Installation of plumbing by owner.

(a) All plumbing installed by the owner shall comply with the requirements of this article, and in such event, the term "owner" shall be substituted for the term "plumber" throughout this article, provided that said owner shall:

- (1) Apply for and secure a permit.
- (2) Pay the required fees.
- (3) Do the work in accordance with this article.
- (4) Apply for an inspection.
- (5) Receive approval of the plumbing inspector.
- (6) Receive a certificate of approval.

(b) Personal installation of the owner (other than a master plumber) shall be by themselves for themselves, in their own home, without compensation or pay from any other person for such labor or installation. The owner exercising this privilege shall not set themselves up as a master plumber, nor shall the owner employ journeyman plumbers.

(Code 1972, § 28-7; Ord. No. 1418, § 2, 4-9-1981)

Sec. 12-355. One in charge of premises to permit only registered plumber to do work.

It shall be unlawful for any person to cause or permit any job of plumbing or drain laying or making any connection with or opening into any private or public sewer, water distribution system, or lay any drain or do any plumbing in connection with any property owned, managed or controlled by such person unless the plumber doing said work has been registered, as required by this article, and has received a permit from the plumbing inspector for said particular plumbing or drain laying work; and any such person causing or permitting any such work to be done in violation of the provisions hereof shall be guilty of a violation of this article and subject to the penalties provided

for violation of the plumbing code.

(Code 1972, § 28-8; Ord. No. 1418, § 2, 4-9-1981)

Secs. 12-356--12-383. Reserved.

DIVISION 2. PLUMBING INSPECTOR

Sec. 12-384. Office created.

There is hereby created and established in and for the city the office of the plumbing inspector.

(Code 1972, § 28-16; Ord. No. 1418, § 2, 4-19-1981)

Sec. 12-385. Scope of office.

The plumbing inspector shall act under the direction of the director of public works and shall as such observe all plumbing and drain laying in the city and shall perform such duties as are herein prescribed.

(Code 1972, § 28-17; Ord. No. 1418, § 2, 4-9-1981; Ord. No. 1503, § 3, 4-11-1985)

Sec. 12-386. Right of entry.

The plumbing inspector shall have the right, during reasonable hours, to enter any building in the city for the performance of the plumbing inspector's duties.

(Code 1972, § 28-18; Ord. No. 1418, § 2, 4-9-1981)

Sec. 12-387. Inspection, approval of plumbing work.

It shall be the duty of the plumbing inspector to inspect all plumbing work done in the city, and if, after having made the proper final inspection on any job of plumbing work, the same is found to be properly done and to be perfectly tight, as required by this division, it shall be the duty of the plumbing inspector to issue to the plumber in charge of the work a certificate of completion, setting forth the fact that the work has been tested and inspected and the same found to have been done according to the requirements of this division.

(Code 1972, § 28-19; Ord. No. 1418, § 2, 4-9-1981)

Sec. 12-388. Investigation of cases.

It shall be the duty of the plumbing inspector to investigate all cases reported to or referred to the plumbing inspector, of the use of imperfect material or workmanship on any job of plumbing work or the violation of the provisions of this article by a plumber, builder or owner, to stop such work, to order the same removed and replaced in a proper and workerlike manner to conform to the spirit and intent of this article, and the plumbing inspector may further request the city attorney to file complaint against any person for violation of the provisions, or any of the provisions, of this article, and it shall be the duty of the city attorney to prosecute the same without unnecessary delay.

(Code 1972, § 28-20; Ord. No. 1418, § 2, 4-9-1981)

Sec. 12-389. Inspection of old plumbing work.

It shall be the duty of the plumbing inspector to make inspection of old plumbing work at the request of the agent, owner or occupant of any building or premises where said plumbing work is located. In order to ascertain whether or not the plumbing in said building or premises is in a sanitary condition, the plumbing inspector shall have the right and authority to enter any building or upon any premises at all reasonable hours to ascertain if the provisions of this article or any ordinance relating to plumbing have been or are being violated or being complied with, also where the plumbing inspector has reason to believe that defective or unsanitary plumbing exists and whenever defective or unsanitary plumbing is found, it shall be the duty of said plumbing inspector to notify the agent or owner of the premises on which the same is found to forthwith cause such plumbing to be changed and to conform with the terms and requirements of this article or any existing ordinance, or to be changed and made sanitary in such other manner as said plumbing inspector may authorize and direct, and such owner or agent is hereby required within ten days after receiving such notification to comply therewith, or failing or neglecting to do so the owner shall be considered as maintaining unsanitary plumbing and violating the requirements hereof, and it

shall be the duty of the plumbing inspector to make complaint against such owner or agent and cause such owner or agent to be prosecuted.

(Code 1972, § 28-21; Ord. No. 1418, § 2, 4-9-1981)

Sec. 12-390. Record of inspection and tests made.

The plumbing inspector shall keep a complete record of all inspections and tests made by them as plumbing inspector and make such reports as may be required by superintendents of other departments, except it shall not be necessary to report the tests made on old work.

(Code 1972, § 28-22; Ord. No. 1418, § 2, 4-9-1981)

Sec. 12-391. Assistants.

The plumbing inspector shall have such assistants as the city council may provide and when appointed by the mayor and approved by the city council, such assistants shall have the same powers and duties as the plumbing inspector.

(Code 1972, § 28-23; Ord. No. 1418, § 2, 4-9-1981)

Sec. 12-392. Not to engage in plumbing business.

It shall be unlawful for the plumbing inspector to engage in the business of plumbing or to perform any work as a plumber in the city during the term of office as plumbing inspector.

(Code 1972, § 28-24; Ord. No. 1418, § 2, 4-9-1981)

Secs. 12-393--12-412. Reserved.

DIVISION 3. PLUMBER LICENSING AND REGISTRATION*

*State law reference—Licensing of plumbers, R.R.S. 1943, § 18-1907 et seq.

Sec. 12-413. Classification.¹¹²

There shall be ~~three~~ classes of registration as follows:

- (1) "Master plumber" is hereby defined to be any person skilled in the planning, superintending and material installation of plumbing and drainage, and who is familiar with the ordinances and regulations governing the same, and who is competent to install, repair, alter or remove plumbing or drainage with the full responsibility of supervision, whether doing such work by themselves or employing journeyman plumbers and plumbing apprentices to assist the master plumber.
- (2) "Journeyman plumber" is hereby defined to be any person employed by a master plumber, other than a plumber's apprentice, who as the journeyman plumber's principal occupation is engaged in the practical installation, alteration, repair or removal of plumbing and drainage.
- (3) "Plumber's apprentice" is hereby defined to be a person, other than a master plumber or journeyman plumber, who as the plumber's apprentice's principal occupation is engaged in learning and assisting in the installation, repair, alteration or removal of plumbing and drainage as an employee under the direct supervision of a master plumber or journeyman plumber.
- (4) "Grade VI certified water operator contractor" is hereby defined to be a person who has successfully completed the certification requirements of the state department of health for a Grade VI certified water operator, and who, as the contractor's principal occupation, is engaged in the inspecting, installation, testing and repairing of backflow prevention devices with the full responsibility of supervision, whether doing such work by themselves or employing Grade VI certified water operators to assist.
- (5) "Grade VI certified water operator" is hereby defined to be a person who has successfully completed the

¹¹² Legal or Editorial Change: Code 1972, § 28-35. Classification. Deleted subsections (f) and (g) per instructions.

certification requirements of the state department of health for a Grade VI certified water operator, and who is engaged in assisting in the inspecting, installation, testing and repairing of backflow prevention devices as an employee under the direct supervision of a master plumber or Grade VI water operator contractor.

~~"Water conditioning contractor" is defined to be a person other than a master plumber, journeyman plumber or plumber's apprentice, who, as his principal occupation, is engaged in the installation, repair, alteration, or removal of water conditioning equipment with the full responsibility of supervision, whether doing such work by himself or employing water conditioning installers to assist him.~~

~~"Water conditioning installer" is hereby defined to be a person other than a master plumber, journeyman plumber or plumber's apprentice who is engaged in learning and assisting in the installation, repair, alteration or removal of water conditioning equipment as an employee under the direct supervision of a master plumber or water conditioning contractor.~~

- (6) "Utility contractor" is hereby defined to be a person, other than a master plumber, journeyman plumber or plumber's apprentice, who, as the contractor's principal occupation, is engaged in the installation of sanitary sewer mains and service lines, water mains, and service mains; natural gas mains and service lines; storm sewers; and underground conduits with the full responsibility of supervision, whether doing such work by themselves or employing plumbers to assist.

(Code 1972, § 28-35; Ord. No. 1418, § 2, 4-9-1981; Ord. No. 1503, § 3, 4-11-1985; Ord. No. 1689, § 2, 4-13-1995)

Sec. 12-414. License required.¹¹³

No person shall engage in or work at the business, trade or calling of a master plumber, ~~grade VI certified water operator/contractor, water conditioning contractor~~ or utility contractor in the city, until said person shall have obtained a license from the ~~mayor and city council~~ so to do director of public works, without having first paid the annual registration fee therefor, and without having first satisfied the provisions of this division.

(Code 1972, § 28-36; Ord. No. 1418, § 2, 4-9-1981)

Sec. 12-415. Application.

Application for registration required by this division shall be made in writing at the office of the city clerk, upon blanks furnished by the city clerk, which show the name and residence of the applicant, the business location of the applicant, and such other information as may be required.

(Code 1972, § 28-37; Ord. No. 1418, § 2, 4-9-1981)

Sec. 12-416. Examining board. ~~for plumbers and water conditioning contractors.~~¹¹⁴

There is hereby created an examining board for master plumbers, journeyman plumbers, ~~water conditioning contractors~~ and utility contractors, which shall consist of the director of public works, ex officio; one master plumber; one mechanical contractor; and the plumbing inspector. The mechanical contractor and master plumber members of the examining board shall be appointed by the mayor and approved by the city council for a period of two years and shall serve without pay and should either member be sooner removed from office or resign, or a vacancy occur, a new member to fill such vacancy shall be appointed by the mayor and approved by the city council. The director of public works shall be secretary of the examining board and shall have custody of all records of the same. The examining board is ~~hereby authorized, empowered and directed to prescribe, amend, and enforce an advisory board that is authorized to make recommendations in regard to rules and regulations pertaining to this~~

¹¹³ Legal or Editorial Change: Code 1972, § 28-36. Required. Alter per instructions. N.B. the words "grade VI certified" were not struck out the version furnished to the author. It is assumed that they were supposed to be struck out.

¹¹⁴ Legal or Editorial Change: Code 1972, § 28-38. Examining board for plumbers and water conditioning contractors. Altered per instructions. **N.B. the deletions (or lack of deletions) herein relative to water conditioning contracts appear inconsistent and should be reviewed carefully.**

article for the registration of master plumbers, ~~and journeymen plumbers and water conditioning contractors.~~

(Code 1972, § 28-38; Ord. No. 1418, § 2, 4-9-1981; Ord. No. 1503, § 3, 4-11-1985)

State law reference—Plumbing board, R.R.S. 1943, § 18-1901 et seq.

Sec. 12-417. Prerequisite examination required.

(a) The applicant for a master plumbing registration certificate shall be the holder of a valid city journeyman registration certificate for at least one year or shall be a graduate mechanical engineer from an accredited college or university in addition to having at least two years' practical experience in the planning, layout, supervising and installing of plumbing equipment or shall be a registered professional mechanical engineer in the state. The applicant must have also passed a master plumbing exam as outlined in section 12-418.

(b) The applicant for a journeyman plumber's registration certificate shall provide evidence of completing at least four years of practical experience as follows:

- (1) An apprentice, while regularly employed by a person, firm or corporation regularly engaged in the installations of plumbing materials and equipment, shall receive one year's practical experience credit for each year of full-time employment. The practical experience credited for part-time employment and applicants working for a person, firm or corporation engaged in part-time plumbing installations shall be determined by the board.
- (2) An applicant graduating from a four-year mechanical engineering course of an accredited college or university, will receive two years of practical experience credit as required above.
- (3) An applicant completing a two-year plumbing course, approved by the board, will receive one year of practical experience credit as required above.
- (4) The plumbing education and training received from military service, extension courses, adult education classes, etc., may account for practical experience credit at the discretion of the board.
- (5) The applicant must have also passed a journeyman's plumbing exam as outlined in section 12-418.

(c) The applicant for a water conditioning contractor's registration certificate shall submit evidence of at least six months of practical experience while regularly employed by a person, firm, or corporation regularly engaged in the installation of water conditioning equipment or plumbing materials and equipment. The practical experience credited for part-time employment and experience shall be determined by the board. The applicant must have also passed a journeyman's plumbing exam as outlined in section 12-418.

(d) The applicant for Grade VI water operator registration certificate shall submit evidence of currently holding a state department of health Grade VI certified water operator certificate.

(e) The applicant for a utility contractor's registration certificate shall submit evidence of at least two years of practical experience while regularly employed by a person, firm or corporation regularly engaged in the installation of water mains and service lines; sanitary sewer mains and service lines; natural gas mains and service lines; storm sewers and underground conduits. The practical experience credited for part-time employment and experience shall be determined by the board. The applicant must have also passed a master plumbing exam as outlined in section 12-418.

(Code 1972, § 28-39; Ord. No. 1418, § 2, 4-9-1981; Ord. No. 1453, § 1, 11-15-1982; Ord. No. 1503, § 3, 4-11-1985; Ord. No. 1689, § 2, 4-13-1995; Ord. No. 2307, § 1, 11-18-2021)

Sec. 12-418. License required; examination.

(a) *Examination.*

- (1) Examinations will not be administered by the city. Each applicant for a license shall provide proof that the applicant has passed an examination as provided by the International Code Council, Inc. Examination information may be located at iccsafe.org under the contractor's testing section.
- (2) Upon completion of the required exam, an applicant for license shall provide proof of passage of the examination to the city clerk as required by subsection (a)(1) of this section.
- (3) Metropolitan licensee. The holder of a valid plumber's license issued by a metropolitan city in the state

will be accepted by the city without proof of examination as provided above.

(b) *Issuance of license.* At the time of approval by the office of the city clerk and the payment of a license fee for master plumbers, journeymen plumbers and water conditioning contractors, the building official shall issue a license to do plumbing work in the city.

(Code 1972, § 28-40; Ord. No. 1418, § 2, 4-9-1981; Ord. No. 1503, § 3, 4-11-1985; Ord. No. 2307, § 1, 11-18-2021)

Sec. 12-419. Duration.

All registrations and licenses issued under the provisions of this division shall continue in force to May 1 of each year first after the date on which they are granted, unless sooner revoked.

(Code 1972, § 28-42; Ord. No. 1418, § 2, 4-9-1981)

Sec. 12-420. Registration of corporations, firms, partnerships.

Any corporation, firm or partnership may be registered under this division, provided that such corporation, firm or partnership shall have a master plumber who has submitted to the examination given by the examining board and has thereby shown himself fit, competent and qualified to engage in the business, trade or calling of a master plumber as a bona fide officer of such corporation or a member of such firm or partnership. Before such corporation, firm or partnership shall be registered in its corporate, firm or partnership name as a master plumber, there shall be filed with the city clerk a certificate from the examining board showing the fitness and competency of such officer of such corporation, or such member of such firm or partnership to engage in the business or calling of master plumber; provided, further, that if, after a certificate of registration is issued to such corporation, firm or partnership, such master plumber as an officer of such corporation or a member of such firm or partnership shall withdraw therefrom and cease to be connected therewith, then and in that event the city council shall forthwith revoke the certificate of registration of such corporation, firm or partnership.

(Code 1972, § 28-43; Ord. No. 1418, § 2, 4-9-1981)

Sec. 12-421. Revocation of certificate.

The city council by a majority vote shall have the power to revoke any master plumber's certificate of registration, upon the recommendation of the examining board, if the same was obtained through error or fraud, or if the recipient thereof is shown to be grossly incompetent or has a second time willfully violated any of the provisions of this article. If a certificate of registration be revoked, the holder of the same shall not apply for registration for one year after such revocation.

(Code 1972, § 28-44; Ord. No. 1418, § 2, 4-9-1981)

Sec. 12-422. Renewal of certificate.¹¹⁵

Certificates of registration issued under this division, at the time of their expiration, may be renewed ~~upon recommendation of the examining board without any examination~~ upon payment of the required registration fee and maintenance of applicable licenses.

(Code 1972, § 28-45; Ord. No. 1418, § 2, 4-9-1981)

Sec. 12-423. Lapsed registrations.¹¹⁶

Any person registered under the provisions of this division as a master plumber or journeyman plumber ~~or water conditioning contractor~~, who does not renew said person's certificate of registration for a period of six months after the expiration of the same, shall ~~pay the examination fee required by this chapter for a master plumber and shall submit himself to an examination by the examining board before such person can be again registered hereunder~~ comply with the requirements in section 12-418.

(Code 1972, § 28-46; Ord. No. 1418, § 2, 4-9-1981; Ord. No. 1503, § 3, 4-11-1985)

¹¹⁵ Legal or Editorial Change: Code 1972, § 28-45. Renewal of certificate. Altered per instructions.

¹¹⁶ Legal or Editorial Change: Code 1972, § 28-46. Lapsed registrations. Altered per instructions.

Sec. 12-424. Registered plumbers not to permit another to work on certificate.

No registered plumber shall allow their name to be used by another person, directly or indirectly, to obtain a permit for the installation of any work, and if any registered plumber violates this provision, the city council shall forthwith revoke the certificate of registration issued to such plumber. In addition to having their certificate of registration revoked, such master plumber shall be deemed guilty of a misdemeanor.

(Code 1972, § 28-47; Ord. No. 1418, § 2, 4-9-1981)

Sec. 12-425. Fees.

The following fees shall be charged for registration under the provisions of this division:

- (1) Master plumber registration: \$100.00.
- (2) Journeyman plumber registration: \$25.00.
- (3) Plumber's apprentice registration: \$5.00.
- (4) Grade VI certified water operator/contractor registration: \$100.00.
- (5) Grade VI certified water operator registration: \$25.00.
- (6) Water conditioning contractor registration: \$100.00.
- (7) Water conditioning installer registration: \$5.00.
- (8) Utility contractor registration: \$100.00.

(Code 1972, § 28-48; Ord. No. 1418, § 2, 4-9-1981; Ord. No. 1503, § 3, 4-11-1985; Ord. No. 1589, § 2, 4-13-1995)

Sec. 12-426. Certificate of insurance.

(a) Every person applying for a permit required by this division shall present to and deposit evidence with the city clerk that said person has an insurance policy providing public liability and property damage insurance for the general public in the amount of \$300,000.00 for public liability and \$100,000.00 for property damage, such coverage shall name the city as an additional insured, which shall provide liability insurance coverage for all claims arising out of all work done by said person or under said person's supervision in the city and within two miles of the corporate limits thereof and shall be executed by an insurance company authorized to do business in the state and acceptable to the city and providing 30 days' written notice to be given to the city clerk in the event of expiration or of proposed cancellation of the insurance policy.

(b) If the permit holder seeking the permit is a corporation, firm or partnership, then the certificate of insurance must also include as a named insured the employee or partner whose name appears on the certificate of registration for such corporation, firm or partnership.

(c) Separate certificates of insurance showing the permit holder to be covered under one policy and the city to be covered under another policy may be deposited in lieu of a single certificate, at the option of the permit holder. All certificates of insurance shall provide that in the event of expiration or cancellation of any of said minimum insurance requirements, the city clerk shall be given at least 30 days advance written notice thereof. Expiration or cancellation of any insurance coverage required by this section shall constitute an automatic and immediate termination of the permit holder's privilege to be issued permits under the provisions of the plumbing code, unless other insurance meeting the requirements of this section is provided and in full force and effect at the time of such expiration or cancellation. All insurance coverage required by this section shall be approved by the city attorney prior to the issuance of any permit authorized under the plumbing code.

(Code 1972, § 28-50; Ord. No. 1503, § 3, 4-11-1985; Ord. No. 1512, § 3, 7-1-1985; Ord. No. 1553, § 3, 6-11-1987)

Sec. 12-427. Registration for journeyman plumbers, plumber's apprentice, helper.

Each master plumber, when registering, shall register with the city clerk the name of each plumber's apprentice or helper who shall be working under such master plumber's license. A journeyman plumber or plumber's apprentice or helper must be registered before doing work.

(Code 1972, § 28-51; Ord. No. 1418, § 2, 4-9-1981; Ord. No. 1503, § 3, 4-11-1985)

Sec. 12-428. Registration of water conditioning installers.

~~Each water conditioning contractor, when registering, shall register with the city clerk, the name of each water conditioning installer or helper who will be working under such water condition contractor's license. A water conditioning installer must be registered before doing work.~~

~~(Code 1972, § 28-52; Ord. No. 1689, § 2, 4-13-1995)~~

Sec. 12-428. Registration of Grade VI certified water operator/contractor.

Each Grade VI certified water operator/contractor, when registering, shall register with the city clerk, the name of each Grade VI certified water operator who will be working under such Grade VI certified water operator/contractor's license. A Grade VI certified water operator must be registered before doing work.

(Code 1972, § 28-53; Ord. No. 1689, § 2, 4-13-1995)

Secs. 12-429--12-456. Reserved.

DIVISION 4. PERMITS AND INSPECTIONS*

*State law reference—Permits and inspections, R.R.S. 1943, § 18-1912 et seq.

Sec. 12-457. Required.

No installation of any plumbing shall be made without first obtaining a written permit from the city clerk so to do.

(Code 1972, § 28-71; Ord. No. 1418, § 2, 4-9-1981)

Sec. 12-458. Minor repairs.

No permit shall be required for minor repair work. Minor repair work, as used in this section, is hereby defined to be repairing leaks in pipes, traps or opening up waste or supply pipes, traps or trenches, or repairing broken fixtures or frozen pipes inside the walls of buildings; but where alterations or changes are made either in soil, waste or vent pipes, or where the location or kind of fixtures is changed, permits will be required.

(Code 1972, § 28-72; Ord. No. 1418, § 2, 4-9-1981)

Sec. 12-459. Application.

The application for a permit required by this division shall be made in writing and shall set forth the name of the owner, agent or occupant of the premises, giving the lot, block, addition, street and street number, the name and business location of the plumber having charge of the work and a description of the work to be done, setting forth the number and kind of fixtures.

(Code 1972, § 28-73; Ord. No. 1418, § 2, 4-9-1981)

Sec. 12-460. Fees.

(a) A fee for each plumbing permit or inspection as provided by this division shall be paid as follows:

- (1) Minimum inspection fee: \$10.00.
- (2) For the issuance of each permit: \$10.00.
- (3) For each plumbing fixture or trap, set of fixtures on one trap, including water, drainage piping and backflow protection therefor (Note: A plumbing fixture shall be construed as any unit which has waste and/or water connections. A combination shower over a tub shall be construed as one plumbing fixture.): \$5.00.
- (4) For each water replacement and/or vent: \$5.00.
- (5) For each indirect waste connection (Note: Applies to appliance, device or apparatus not classed as a plumbing fixture but which has drip or drainage outlets): \$5.00.
- (6) For each domestic water supply connection to any boiler: \$5.00.
- (7) For change in location of plumbing fixture: \$5.00.

- (8) For change in location or alteration of any existing building sewer, drainage, or vent piping inside a building (Note: piping system fee shall only apply when there are no plumbing fixture changes): \$5.00.
- (9) For each roof drain of a rainwater system connected to an interior rainwater conductor which is connected to and a part of a storm sewer system: \$5.00.
- (10) For each building sanitary sewer inspection: \$5.00.
- (11) For each storm sewer tap inspection: \$5.00.
- (12) Reinspection fee (wrong address, plumbing work that does not pass inspection, work not complete, inaccessibility): \$50.00.
- (13) For each industrial waste pretreated interceptor, including its trap and vent, except kitchen-type grease interceptors functioning as plumbing fixture traps: \$5.00.
- (14) For each automobile garage-type mud trap and sand trap or basin for a car wash establishment: \$5.00.
- (15) For each mobile home unit or trailer unit sanitary sewer riser connection to the mobile home court or trailer court sewer system: \$5.00.
- (16) For each 100 lineal feet or fraction thereof of private sewer system: \$5.00.
- (17) For each individual mobile home unit or trailer unit water service riser connection from the mobile home court or trailer court water distribution system: \$5.00.
- (18) For each water tap on private water main or private water distribution system: \$5.00.
- (19) For each 100 lineal feet or fraction thereof of private water distribution system piping: \$5.00.
- (20) For any storm sewer or sanitary sewer replacement or repair work outside of a building: \$5.00.
- (21) For each fixture or piece of equipment regulated by the plumbing code but not listed herein (per unit): \$5.00.
- (22) For each water-conditioning installation: \$5.00.
- (23) For each underground lawn sprinkling system on any one meter including backflow prevention devices required: \$10.00.
- (24) For each water-cooled air conditioning or refrigeration condensing equipment unit: \$5.00.
- (25) For each swimming pool: \$10.00.
- (26) For each water well: \$10.00.

(b) Where work for which a permit is required by the plumbing code is started prior to obtaining the prescribed permit, the fees above specified shall be doubled, provided in the event of an emergency where it is absolutely necessary to perform the plumbing work immediately before a permit can be secured, such as on nights, weekends and holidays, said fees shall not be doubled if a permit is secured at the earliest possible time after the emergency plumbing work has been performed. The payment of such double fees shall not relieve any person from fully complying with the requirements of the plumbing code or from any penalties prescribed herein.

(Code 1972, § 28-74; Ord. No. 1418, § 2, 4-9-1981; Ord. No. 1503, § 3, 4-11-1985; Ord. No. 1689, § 2, 4-13-1995; Ord. No. 1768, § 3, 4-16-1998; Ord. No. 2307, § 1, 11-18-2021)

Sec. 12-461. Disposition of fees.

All fees collected under the provisions of this division shall be paid to the city treasurer and shall be kept by the city treasurer in the general fund of the city and shall be used to defray the expenses of the plumbing inspector and the inspector's assistants.

(Code 1972, § 28-75; Ord. No. 1418, § 2, 4-9-1981)

Sec. 12-462. Issuance restricted.

Permits shall be issued under the provisions of this division only to plumbers registered under this article.

(Code 1972, § 28-76; Ord. No. 1418, § 2, 4-9-1981)

Sec. 12-463. Inspection required.

All piping, traps and fixtures of a plumbing system shall be inspected by the plumbing inspector to ensure compliance with all the requirements of this article and the installation and construction of the system in accordance with the approved plans and the permit.

(Code 1972, § 28-77; Ord. No. 1418, § 2, 4-9-1981)

Sec. 12-464. Request for inspection.

Request for inspection shall be made at the office of the city clerk by the plumber not less than eight working hours in advance of inspection. No inspections shall be made on holidays or from 5:00 p.m. Friday to 8:00 a.m. Monday.

(Code 1972, § 28-78; Ord. No. 1418, § 2, 4-9-1981)

Sec. 12-465. Work must stand test.

It shall be the duty of the plumber to make sure that the plumbing work to be inspected will stand the test prescribed before requesting inspection.

(Code 1972, § 28-79; Ord. No. 1418, § 2, 4-9-1981)

Sec. 12-466. Inspection notices.

(a) It shall be the duty of each plumber on completing the roughing in of the plumbing work in any building within the city to immediately place or paste a notice thereon, which notice shall be in substantially the following form:

"WARNING

This plumbing has not been inspected and approved by the plumbing inspector and must not be covered until approved."

(b) No person other than the plumbing inspector shall remove such notice.

(Code 1972, § 28-80; Ord. No. 1418, § 2, 4-9-1981; Ord. No. 1503, § 3, 4-11-1985)

Sec. 12-467. Concealing plumbing work.

No person shall so cover or conceal from view any plumbing work in any building in the city so as to prevent a proper inspection thereof until the same has been inspected by the plumbing inspector, and until the plumbing inspector has placed thereon a notice or seal stating that the plumbing has been inspected and approved.

(Code 1972, § 28-81; Ord. No. 1418, § 2, 4-9-1981; Ord. No. 1503, § 3, 4-11-1985)

Sec. 12-468. Removing obstructions for inspection.

Whenever any plumbing work in any building has been so covered or concealed by lathing, plastering, flooring or otherwise, before the plumbing inspector has had ample opportunity to inspect the same, then the plumbing inspector shall have the right and authority to cut through or remove such obstruction sufficiently to afford an adequate means of making a proper inspection.

(Code 1972, § 28-82; Ord. No. 1418, § 2, 4-9-1981; Ord. No. 1503, § 3, 4-11-1985)

Sec. 12-469. Roughing-in plumbing tests.

All tests herein required must be applied by the plumber in charge of the work, in the presence of the plumbing inspector, and maintained for a sufficient length of time to allow the plumbing inspector to make a thorough and complete examination of the work, and if defective material or workmanship be found on the job, the same must be removed at the expense of the plumber having charge of the work and replaced with the proper kind of material and workmanship.

(Code 1972, § 28-83; Ord. No. 1418, § 2, 4-9-1981; Ord. No. 1503, § 3, 4-11-1985)

Sec. 12-470. Testing of part of roughing-in to be covered.

When it is necessary to cover over ground before all of the roughing-in is ready for inspection, the plumbing inspector must be notified and a test made by filling the same with water under a pressure that will equal to the entire plumbing system when filled to a point six feet above the highest outlet, and if the ground work is to be connected to the sewer, there shall be a suitable fitting left in the main soil pipe not more than one foot where main soil pipe enters the building, so that a testing plug can be inserted.

(Code 1972, § 28-84; Ord. No. 1418, § 2, 4-9-1981; Ord. No. 1503, § 3, 4-11-1985)

Sec. 12-471. Final inspection.

Within ten days after the setting of fixtures and the completion of any job of plumbing work and before the city water is permanently turned on, the plumber having charge of such work shall notify the plumbing inspector that such work is ready for final inspection.

(Code 1972, § 28-85; Ord. No. 1418, § 2, 4-9-1981; Ord. No. 1503, § 3, 4-11-1985)

Sec. 12-472. Notice of approval.

The plumbing inspector shall, on approving the roughing-in of any plumbing work in the city, place thereon a notice or sign stating that the plumbing has been inspected and approved.

(Code 1972, § 28-86; Ord. No. 1418, § 2, 4-9-1981; Ord. No. 1503, § 3, 4-11-1985)

Secs. 12-473--12-497. Reserved.

DIVISION 5. PLUMBING CODE*

*State law reference—Plumbing code, R.R.S. 1943, §§ 71-6402(1)(d), 71-6406(2)(d).

*Subdivision I. In General***Sec. 12-498. Adoption of the International Plumbing Code.**

Except as hereinafter provided by specific change, the International Plumbing Code, 2018 edition, published by the International Code Council, is hereby adopted. One copy of this document shall be filed in the office of the city clerk in book form with the official records of the city.

(Code 1972, § 28-1; Ord. No. 1418, § 2, 4-9-1981; Ord. No. 1816, § 2, 2-1-2001; Ord. No. 2032, § 1, 6-17-2010; Ord. No. 2307, § 1, 11-18-2021)

State law reference—Adoption by reference, R.R.S. 1943, § 18-132; applicability in extraterritorial zoning jurisdiction, R.R.S. 1943, § 19-922.

Sec. 12-499. Amendments to the International Plumbing Code.¹¹⁷

The plumbing code adopted by the provisions of this division is hereby amended, altered and changed in the following respects:

- (1) Administration sections of the International Plumbing Code are amended to read as follow:
 - a. Section 108.4, violation penalties, are amended as follows:

Sec. 108.4. Violation penalties. Persons who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or who shall erect, install, alter, or repair plumbing work in violation of the approved construction documents or directive of the code official, or of a permit or certificate issued under the provisions of this code, shall be ~~guilty of a misdemeanor, punishable by a fine of not more than Five Hundred Dollars (\$500.00)~~ punished as provided in section 1-9. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

¹¹⁷ Legal or Editorial Change: Code 1972, § 28-98. Amendments to the International Plumbing Code. Altered per instructions.

- b. Section 108.5, stop work order, is hereby added to read:
- Sec. 108.5. Stop work order.* Upon notice from the code official that plumbing work is being done contrary to the provisions of this code or in a dangerous or unsafe manner, such work shall immediately cease. Such notice shall be in writing and shall be given to the owner of the property, or to the owner's agent, or to the person doing the work. The notice shall state the conditions under which work is authorized to resume. Where an emergency exists, the code official shall not be required to give a written notice prior to stopping the work. Any person who shall continue any work on the system after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe conditions, shall be ~~liable for a fine of not more than Five Hundred Dollars (\$500.00)~~ punished as provided in section 1-9. Each day that a violation continues after due notice has been served shall be deemed a separate offense.
- c. Section 106.6.2, fee schedule, is amended to read: The fees for plumbing work shall be as indicated in ~~division IV, permits and inspections,~~ section 12-460 of the ~~existing~~ Code of Ordinances.
- d. Section 1.10.2, plan review, fees is deleted.
- e. Section 1.10.3, plan expiration, is deleted.
- f. Section 106.6.3, fee refunds, shall be amended to read as follows:
- Sec. 106.6.3. Fee refunds.* The code official is authorized to establish a refund policy.
- g. Section 109.2. is amended to read as follows:
- Sec. 109.2.* The board of appeals shall consist of the membership of the city council.
- h. Section 109.2.1 is hereby repealed.
- (2) Chapter 3, general regulations of the International Plumbing Code, are amended to read as follows:
- a. Section 305.4, freezing or overheating, shall be amended to read as follows:
- Sec. 305.4. Freezing or overheating.* The plumbing system shall be protected from freezing or overheating. The following conditions shall be met:
- (a) Water service piping shall be installed below recorded frost lines. Minimum earth cover shall be 60 inches.
 - (b) Minimum earth cover for building sewers shall be 48 inches.
 - (c) In systems which are used seasonally, water piping shall be installed to be drained.
 - (d) Piping shall be installed so that the contents will not be heated due to close proximity to any heat source or from direct solar radiation.
 - (e) In areas with seasonal freezing temperatures, all waste and water supply piping in exterior walls and other areas shall be protected from freezing.
- (3) Section 602.1, water supply and distribution, and section 701.2, sanitary drainage, shall be amended to read as follows:
- Sec. 602.1 Water required and 701.2 Connection to sewer required.* The water distribution and drainage systems of any building in which plumbing fixtures are installed shall be connected to a public water supply and sewer system respectively if the public water supply and/or public sewer is within 300 feet of any property line of the premises, or other reasonable distance as determined by the administrative authority. Private systems more than 300 feet from a public water supply or sewer system may be installed with the approval of the administrative authority.
- (4) Chapter 6, water supply and distribution, shall be amended to read as set forth on exhibit A, ~~attached hereto and made a part hereof as if stated in full herein,~~ and as follows:
1. Water service lines from the water main to the water meter inside the structure must be copper. Water distribution lines after the water meter may be PEX or copper.

2. All PEX materials and fittings must meet product code specifications and must be sized and installed strictly per manufacturer's instructions, which shall be provided to the building inspector.
 3. Water distribution lines that are two inch in diameter and larger must be copper.
 4. PEX may be used in residential, commercial, or industrial applications as specified above.
 5. PEX, PEX-AL-PEX, PE-AL-PE, or PE-RT tubing shall not be installed within the first 18 inches (457 mm) of piping connected to a water heater.
- (5) Chapter 8, indirect/special waste, is adopted as provided in the International Plumbing Code.

PROOFS

Exhibit A To Plumbing Code

A = Approved X = Not Approved

Table 3.4 Materials For Potable Water

		Private well	Water service (1), (6)	Cold water distribution (2), (7)	Hot water distribution (2), (7)	Pipe	Fittings
1	ABS plastic pipe, SDR	A	X	X	X	ASTM D2282	
2	ABS plastic pipe, schedule 40 or 80	A	X	X	X	ASTM D1527	
3	Brass pipe	A	X	X	X	ASTM B43	
4	Copper Pipe	A	A	A	A	ASTM B42	
5	Copper tube seamless type K or L	A	A	A	A	ASTM B88	ASME B16.22 (wrought, solder joint)
							ASME B16.18 (cast, solder, joint)
							ASME B16.50 (wrought, braze joint)
							ASME B16.24 (cast, flanged)
							ASSE 1061 (push fit)
							ASME B16.26 (cast, flared)
							Mechanically crimped (pressed) per section 4.2.6
							Split couplings per section 4.2.17
6	Copper tube, seamless, type M	A	X	X	X	ASTM B88	ASME B1622 (wrought solder joint)
							ASME B16.18 (cast, solder, joint)
							ASME B16.50 (wrought, braze joint)
							ASME B16.24 (cast, flanged)
							ASSE 1061 (push-fit)
							ASME B16.26 (cast, flared)

							Mechanically crimped (pressed) per section 4.2.6
							Split couplings per section 4.2.17
7	CPVC plastic pipe, schedule 40	A	X	X	X	ASTM F441	ASTM F438 (socket)
8	CPVC plastic pipe, schedule 80	A	X	X	X	ASTM F441	ASTM F437 (threaded), ASTM F-439 (threaded) (socket)
9	CPVC plastic pipe, SD9	A	X	X	X	ASTM F442	ASTM F438 (sch 40 socket) ASTM F439 (sch 80 socket)
10	CPVC plastic hot and cold water	A	X	X	X	ASTM D2846	ASTM D2846 (socket, metal transition)
	Distribution					(SDR 11) CTS	ASSE 1951 (push-fit)
11	Ductile iron pipe, cement-mortar line	A	A	X	X	ASTM (A377)	AWWA C110/A21.10, AWWA C153/A21.53 (compact)
						AWWA IC151/A21.50	AWWA C606 (split couplings)
12	Fiberglass pressure pipe	A	X	X	X	ASTM D3517,	ASTM D33517 AWWA C 950
						AWWA C950	
13	Flexible pre-insulated piping	A	X	X	X	ASTMC F2165	
14	Galvanized steel pipe & fittings	A	X+A	X	X	ASTM 453	ASME B16.3 (malleable, threaded)
							ASME B16.4 (gay iron, threaded)
							ASME B16.5 (cast forged, flanged)
							Split couplings per section 4.2.17
15	High-density polyethylene (HDPE)	A	X	X	X	ASTM F714 (SDR 11)	ASTM F714 (SDR 11)
	Plastic pipe						
16	PE plastic pipe, schedule 40	A	X	X	X	ASTM D2447	ASTM D3261 (butt heat fusion), ATM F1055 (electro fusion)
17	PE plastic pipe, schedule 80	A	X	X	X	ASTM D3055	ASTM F1055 (electro fusion)
18	PE plastic pipe, DR-PR	A	X	X	X	ASTM D3035	ASTM D3261 (butt heat fusion), ASTM D2683 (socket)

							fusion)
							ASTM F1055 (electro fusion)
19	PE plastic pipe, DR-PR	A	X	X	X	ASTM F714	ASTM (D3261 butt heat fusion), ASTM D2683 (socket fusion)
							ASTM F055 (electro fusion)
20	PE plastic tubing, CTS	A	X	X	X	ASTM D2737	ASTM D3261 (butt heat fusion) ASTM F1055 (electro fusion)
21	PE-AI-PE plastic pipe	A	X	X	X	ASTM F1282	ASTM F1974 (metal insert) ASTM F1282, ASTM F1281/1282
22	PEX plastic tubing	A	X	X	X	ASTM F876 (SDR 9)	ASTM F1807 (crimped metal insert)
							ASTM F1865 (mechanical cold expansion metal insert)
							ASTM F1960 (metal cold expansion insert)
							ASTM F1961 (metal mechanical cold flare compression)
							ASTM F2080 (metal cold expansion compression)
							ASTM F2434 (crimped metal insert)
							ASTM 1061 (push-fit)
23	PEX plastic hot and cold water distribution	A	X	X	X	ASTM F877 (SDR 9)	ASTM F1807 (crimped metal insert)
							ASTM F1865 (mechanical cold expansion metal insert)
							ASTM F1960 (metal cold expansion insert)
							ASTM F1961 (metal mechanical cold flare compression)
							ASTM F2080 (metal cold expansion compression)
							ASTM F2434 (crimped metal insert)
							ASTM 1061 (push-fit)
24	PEX-AL-Pex plastic pipe	A	X	X	X	ASTM F1281	ASTM F1974 (metal insert) ASTM F1281, ATM F 1281/1282
25	PEX-AL-Pex plastic tubing	A	X	X	X	ASTM F2262	ASTM F2434 (crimped metal insert)

						(SDR 9)	
26	PP plastic piping system	A	X	X	X	ASTM F2389	ASTM F2389 (socket weld)
						(IPS schedule 80)	
27	PVC plastic pipe (schedule 40)	A	X	X	X	ASTM D1785	ASTM D2466 (socket, threaded)
28	PVC plastic pipe (schedule 80)	A	X	X	X	ASTM D1785	ASTM D2464 (threaded), ATM D2467 (socket, threaded)
29	PVC plastic pipe, SDR	A	X	X	X	ASTM D2241	ASTM D3139 (flexible elastomeric seals)
							ASTM D2672 (bell end solvent cement)
30	Pressure-rated polypropylene (PP) piping						
	Systems—metric sizes	A	X	X	X	ASTM F2389	ASTM F2389 (socket weld)
31	Crosslinked polyethylene (PEX) pressure						
	Pipe for water service	A	X	X	X	AWWA C904	ASTM F1960 (metal cold expansion insert)
							ASTM F2080 (metal cold expansion compression)
							ASTM F1807 (crimped metal insert)
32	PE-AL-PE (composite pressure pipe)	A	X	X	X	AWWA C903	AWWA C800 (metal insert)
33	PEX-AL-PEX crosslinked pressure pipe	A	X	X	X	AWWA C903	AWWA C800 (metal insert)
34	Polyethylene of raised temperature						
	(PE RT) SDR 9 tubing	A	X	X	X	ASTM F2623	ASTM D3261 (butt heat fusion), ASTM D2683 (socket fusion)
							ASTM F1055 (electro fusion)

Notes for Table 3.4:

- (1) Piping for water service shall be water pressure rated for not less than 160 psi at 73 degrees Fahrenheit.
- (2) Piping for hot and cold water distribution shall be water pressure rated for not less than 160 psi at 73 degrees Fahrenheit and 100 psi at 180 degrees Fahrenheit.

- (3) Plastic piping materials shall comply with NSF 14 and NSF 61.
- (4) For trenchless water service replacement systems, minimum DR-11 (or lower) for 1600 HDB, DR-9.3 (or lower) for 1450 HDB, or DR-7.3 for 1250 HDB.
- (5) Permitted for trenchless replacement of underground portions of piping within buildings.
- (6) See table 3.4.2 for plastic water service piping.
- (7) See table 3.4.3 for plastic hot and cold water distribution piping.
- (8) Water service pipe of materials not approved for connection to the city water system cannot be interconnected.

<i>Exhibit A To Plumbing Code</i>						
A = Approved X = Not Approved						
Table 3.5 Materials For Sanitary Waste and Drain (3)						
		Sewers outside of buildings	Underground within buildings	Above ground within buildings	Pipe	Fittings
1	ABS plastic pipe and fittings	X	X	X	ASTM D2661 (DWV Schedule 40 IPS)	ASTM D2661 (socket, threaded)
2	ABS cellular core plastic pipe	X	X	X	ASTM F628 (DWV Schedule 40 IPS)	ASTM F628, ASTM D2661 (socket, threaded)
3	ABS sewer pipe and fittings	X	X	X	ASTM D2751 (SDR 23.5)	ASTM D2751 (SDS 23.5, socket)
4	ABS and PVC composite sewer pipe	X	X	X	ASTM D2680	ASTM D680 (socket) PVC (gasket)
5	Cast iron soil pipe and fittings (bell and spigot)	A	A	A	ASTM 74	ASTM A74
6	Cast iron soil pipe and fittings (no-hub)	A	A	A	CISPI 301, ASTM A888	CISPI 301, ASTM A888
7	Concrete sewer pipe, non-reinforced	X	X	X	ASTM C4	ASTM C14
8	Concrete sewer pipe, reinforced	X	X	X	ASTM C76	ASTM C76
9	Copper drainage tube, DWV	A	A	A	ASTM B306	ASTM B16.23 (cast copper solder joint)
10	Copper water tube, K.L.M.	A	X	X	ASTM B88	ASTM B16.23 (cast copper solder

						joint)
11	Fiberglass sewer pipe	A	X	X	ASTM D754	ASME D3840
12	Galvanized steel pipe	X	X	A	ASTM A53	ASME B16.12 (cast iron drainage)
13	PE plastic pipe	A	X	X	ASTM F714 (6)	
14	PVC plastic pipe and fittings, DWV	A	A	A	ASTM D2665	ASTM D2665 (socket) ASTM F1866 (socket)
15	PVC plastic pipe and fittings, 3.25-inch OD	X	A	A	ASTM D2949	ASTM D2949
16	PVC sewer and drainpipe (cellular core)	A	X	X	ASTM 1891	ASTM D2665 (socket) ASTM F1866 (socket)
17	PVC sewer and drainpipe (cellular core)	A	A	X	ASTM F891 (4)	ASTM D2665 (socket) ASTM F1866 (socket)
18	PVC IPA schedule 40 (cellular core)	A	A	A	ASTM F891	ASTM D2665 (socket) ASTM F1866 (socket)
19	PVC plastic sewer pipe (PSM) & fittings	A	X	X	ASTM D3034 (1)	ASTM D3034 (1)
20	Stainless steel DWV system—type 316(1)(5)	A	A	A	ASTM A112.3.1	ASTM A112.3.1
21	Stainless steel DWV system—type 304(5)	X	X	A	ASTM A112.3.1	ASTM A112.3.1
22	Vitrified clay pipe, standard strength	A	X	X	ASTM C700	ASTM C700
23	Vitrified clay pipe, extra strength	A	A	X	ASTM C700	ASTM C700

Notes for Table 3.5:

- (1) Plastic waste and drain piping classified by standard dimension ratio shall be SDR 26 or heavier (lower SDR number).
- (2) Plastic sewer pipe classified by pipe stiffness shall be PS-46 or stiffer (higher PS number).
- (3) Piping shall be applied within the limits of its listed standard and the manufacture's recommendations.
- (4) PS-100 pipe or stiffer (higher PS number is required for the underground cellular core PVC sewer and drain pie underground within buildings.
- (5) The alloy shall be marked on stainless steel DWV piping systems.
- (6) Minimum DR-17 is required for trenchless sewer replacement systems.

A = Approved X = Not Approved					
Table 3.6 Materials For Vent Piping (1)					
		Underground	Above Ground	Pipe	Fittings
1	ABS Plastic pipe and fittings	X	X	ASTM D2661 (DWV schedule 40 IPS)	ASTM D2661 (socket, threaded)
2	ABS cellular core plastic pipe	X	X	ASTM F628 (DWV Schedule 40 IPS)	ASTM F628, ASTM D2661 (socket, threaded)
3	Cast iron soil pipe and fittings (bell and spigot)	A	A	ASTM A74	ASTM A74
4	Cast iron soil pipe and fittings (no-hub)	A	A	CISPI 301, ASTM A888	CISPI 301, AWSTM A888
5	Copper drainage tube, DWV	A	A	ASTM B306	ASTM B16.23 (cast copper solder joint)
6	Copper water tube, K.L.M.	X	A	ASTM B88	ASTM B16.23 (cast copper solder joint)
7	Galvanized steel pipe	X	A	ASTM A53	ASME B16.12 (cast iron drainage)
8	PVC plastic pipe and fittings (DWV)	A	A	ASTM D2665	ASTM D2665 (socket) ASTM F1866 (socket)
9	PVC plastic pipe and fittings 3.25-inch OD	A	A	ASTM D2949	ASTM D2949
10	PVC sewer and drainpipe (cellular core)	A	X	ASTM F891	ASTM D2665 (socket) ASTM F1866 (socket)
11	PVC IPS schedule 40 (cellular core)	A	A	ASTM F891	ASTM D2665 (socket) ASTM F1866 (socket)
12	Stainless steel DWV systems—type 3161 (2)	A	A	ASME A112.3.1	ASME A112.3.1
13	Stainless steel DWV systems—type 304(2)	X	A	ASME A112.3.1	ASME A112.3.1
14	Vitrified clay pipe, extra strength	A	X	ASTM C700	ASTM C700

Notes for Table 3.6:

- (1) Piping shall be applied within the limits of its listed standard and the manufacturer's recommendations.
- (2) The alloy shall be marked on stainless steel DWV piping systems.

Exhibit A To Plumbing Code

A = Approved X = Not Approved

Table 3.7 Materials For Storm Drainage (1)

		Sewers Outside of Buildings	Underground Within Buildings	Above Ground Within Buildings	Pipe	Fittings
1	ABS plastic pipe and fittings	X	X	X	ASTM D2661 (DWV schedule 40 IPS)	ASTM D2661 (socket, threaded)
2	ABS cellular core plastic pipe	X	X	X	ASTM F628 (DWV schedule 40 IPS)	ASTM F628, ASTM D2661 (socket threaded)
3	ABS sewer pipe and fittings	X	X	X	ASTM D2751(2)(3)	ASTM D2751 (socket)(2)(3)
4	ABS and PVC composite sewer pipe	X	X	X	ASTM D2680	ASTM D2680 (socket) PVC (gasket)
5	Cast iron soil pipe and fittings (bell and spigot)	A	A	A	ASTM 74	ASTM A74
6	Cas iron soil pipe and fittings (no-hub)	A	A	A	CISPI 301, ASTM A888	CISPI 301, ASTM A888
7	Concrete sewer pipe, non-reinforced	A	X	X	ASTM C14	ASTM C14
8	Concrete sewer pipe, reinforced	A	X	X	ASTM C76	ASTM C76
9	Copper drainage tube, DWV	A	A	A	ASTM B306	ASTM B16.23 (cast copper solder joint)
10	Copper water tube, K.L.M.	A	A	A	ASTM B88	ASTM B16.23 (cast copper solder joint)
11	Fiberglass sewer pipe	A	X	X	ASTM D3754	ASME D3840
12	Galvanized steel pipe	X	X	A	ASTM A53	ASTM B16.12 (cast iron drainage)
13	PE plastic pipe SDR-PR	A	X	X	ASTM F714 (6)	
14	PVC plastic pipe and fittings DWV	A	A	A	ASTM D2665	ATM D2665 (socket) ASTM F1886 (socket)
15	PVC sewer and drain pipe (cellular core)	A	X	X	ASTM F891	ASTM D2665 (socket) ATM F1866 (socket)
16	PVC sewer and drain pipe (cellular core) (4)	X	A	X	ASTM F891 (4)	ASTM D2665 (socket) ATM F1866

						(socket)
17	PVC IPS schedule 40 (cellular core)	A	A	A	ASTM F891	ASTM D2665 (socket) ATM F1866 (socket)
18	PVC plastic sewer pipe (PSM) and fittings	A	X	X	ASTM D3034	ASTM D3034
19	Stainless steel DWV systems—type 316L (5)	A	A	A	ASTM A112.3.1	ASTM A112.3.1
20	Stainless steel DWV systems—type 304 (5)	X	X	A	ASTM A11.3.1	ASTM A112.3.1
21	Vitrified clay pipe, standard strength	A	X	X	ASTM C700	ASTM C700
22	Vitrified clay pipe, extra strength	A	A	X	ASTM C700	ASTM C700
23	PVC plastic pipe and fittings, DWV 3.25-inch OD	X	A	A	ASTM D2949	ASTM D2949

Notes for Table 3.7:

- (1) Piping shall be applied within the limits of its listed standard and the manufacturer's recommendations.
- (2) SDR 35 pipe or heavier (lower SDR number).
- (3) PS-46 or stiffer (higher PS number).
- (4) PS-100 pipe or stiffer (higher PS number).
- (5) The alloy shall be marked on stainless steel DWV piping systems.
- (6) Minimum SDR-17 is required for trenchless sewer replacement systems.

(Code 1972, § 28-98; Ord. No. 1816, § 2, 2-1-2001; Ord. No. 2032, § 1, 6-17-2010; Ord. No. 2218, § 1, 5-16-2019; Ord. No. 2307, § 1, 11-18-2021)

Secs. 12-500--12-521. Reserved.*Subdivision II. Sewer Connections Beyond City Limits***Sec. 12-522. Permit required.**

Any person owning or controlling premises located beyond the corporate limits of the city and desiring to install a plumbing system on said premises and have the same connected with the sanitary sewer system of the city shall have a registered plumber file a written application with the city clerk for a permit for such connection, setting forth in said application the information prescribed in sections 12-457 and 12-459.

(Code 1972, § 28-260; Ord. No. 1418, § 2, 4-9-1981)

Sec. 12-523. Permit fee.

At the time of filing an application for a permit required by the provisions of this subdivision, the applicant shall pay to the city treasurer a permit fee of \$25.00.

(Code 1972, § 28-261; Ord. No. 1418, § 2, 4-9-1981)

Sec. 12-524. Plans, specifications may be required.

The applicant for a permit required by this subdivision, if required by the director of public works, shall file plans and specifications of the proposed plumbing system.

(Code 1972, § 28-262; Ord. No. 1418, § 2, 4-9-1981)

Sec. 12-525. Conditions for issuance of permit.

If it shall satisfactorily appear to the director of public works that such proposed plumbing system is in conformity with all the provisions of this article, and that the sanitary sewer system of the city at the point of the proposed connection is of sufficient size and in a condition to adequately accommodate the sewage from such premises, the director of public works may grant such connection with the sewer system of the city.

(Code 1972, § 28-263; Ord. No. 1418, § 2, 4-9-1981)

Sec. 12-526. Conformity required.

Any plumbing system coming under the provisions of this subdivision shall be installed and maintained at all times in strict conformity with all the provisions of this article.

(Code 1972, § 28-264; Ord. No. 1418, § 2, 4-9-1981)

Sec. 12-527. Disconnection.

The city hereby reserves the right to disconnect any plumbing system coming under the provisions of this subdivision from the sewer system of the city upon violation of any of the provisions of this article without refunding the permit fee.

(Code 1972, § 28-265; Ord. No. 1418, § 2, 4-9-1981)

Secs. 12-528--12-547. Reserved.*Subdivision III. Gas Water Heaters***Sec. 12-548. Definitions.**

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

Gas water heater means any appliance or device for heating water for domestic purposes by the use of natural or artificial gas or fuel.

(Code 1972, § 28-270; Ord. No. 1418, § 2, 4-9-1981)

Sec. 12-549. Permit required to install or connect.

It shall be unlawful for any person to install or connect any hot water heater in any building or structure for

heating water in the same by the use of natural or artificial gas or fuel, within the city, without first having obtained a permit as hereafter provided.

(Code 1972, § 28-271; Ord. No. 1418, § 2, 4-9-1981)

Sec. 12-550. Application for permit.

Any person desiring to install or connect any gas water heater in a building or structure for heating water, for use of natural or artificial gas or fuel, shall file with the city clerk an application on a form furnished by the city clerk containing the name of the applicant and the street number of the building in which said heater is to be installed. No gas water heater shall be installed in any bedroom or toilet room.

(Code 1972, § 28-272; Ord. No. 1418, § 2, 4-9-1981)

Sec. 12-551. Issuance of permit fee.

If the application for a permit required by this subdivision is approved by the plumbing inspector, it shall be the plumbing inspector's duty to issue such permit to the applicant upon the payment of a fee of \$1.50.

(Code 1972, § 28-273; Ord. No. 1418, § 2, 4-9-1981)

Sec. 12-552. Structural requirements.

No person shall install or connect any gas water heater unless it be provided with a metallic hood to which there shall be connected a suitable ventilating pipe of not less diameter than the collar of the appliance which said pipe shall extend to a chimney flue or to the open air in such way as to carry off all escaping gas or fumes from such heater. In case such ventilating pipe shall extend to the open air, it shall be provided with a cap or cowl so as to prevent backdraft.

(Code 1972, § 28-274; Ord. No. 1418, § 2, 4-9-1981)

Sec. 12-553. Temperature and pressure relief valve.

All heaters shall meet A.G.A. Underwriters' Laboratories, or other approved standards and shall have an approved temperature and pressure relief valve installed on the hot water side of such heater.

(Code 1972, § 28-275; Ord. No. 1418, § 2, 4-9-1981)

Sec. 12-554. Automatic instantaneous gas water heaters.

All instantaneous gas water heaters, automatically controlled by pressure valve or thermostat shall conform to the foregoing structural requirements, except that they may have pilot lights located entirely within the casing and arranged for continuous burning, and that they may be set with the top of the burner not less than eight inches above the floor, provided that every such heater shall be set on non-combustible floor, or a sheet metal mat or pan and that the walls behind it shall be protected by sheet metal covering to the height of the heater.

(Code 1972, § 28-276; Ord. No. 1418, § 2, 4-9-1981)

Sec. 12-555. Installation governed by this chapter.

All gas water heaters installed in the city shall be installed subject to all the inspection and notification requirements of this article pertaining to plumbing.

(Code 1972, § 28-277; Ord. No. 1418, § 2, 4-9-1981)

Secs. 12-556--12-573. Reserved.

Subdivision IV. Air Conditioning and Refrigeration

Sec. 12-574. Permit required for connection.

No connection of any air conditioning or refrigeration equipment in any building within the city shall be made to any sewer or water system of the city without first having obtained a written permit for such connection from the city clerk.

(Code 1972, § 28-283; Ord. No. 1418, § 2, 4-9-1981)

Sec. 12-575. Application.

The application for such permit shall be made in writing at the office of the city clerk and shall conform in all details to the requirements of sections 12-457 and 12-459.

(Code 1972, § 28-284; Ord. No. 1418, § 2, 4-9-1981)

Sec. 12-576. Installation requirements.

The effluent from any air conditioning or refrigeration equipment installed in any building shall not be discharged into any street or alley but shall be discharged into a public storm sewer; provided, however, that where a storm sewer is not available, such effluent may be discharged onto lawns or private property. Recharge wells will not be permitted in the corporate limits of the city or within 300 feet of the municipal water system within the city's extraterritorial zone.

(Code 1972, § 28-285; Ord. No. 1418, § 2, 4-9-1981)

Sec. 12-577. Connections to water and sewer systems.

All connections of air conditioning and refrigeration equipment made to the city water or sewer systems shall be made in strict conformity with the provisions of the city ordinances relating to plumbing and water.

(Code 1972, § 28-286; Ord. No. 1418, § 2, 4-9-1981)

Secs. 12-578--12-602. Reserved.*Subdivision V. Backflow and Backsiphonage Requirement***Sec. 12-603. General definitions.**¹¹⁸

(a) *Definitions.* The following words, terms and phrases, when used in this subdivision, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Air gap separation means the unobstructed vertical distance through the free atmosphere between the lowest opening of any pipe or faucet supplying water to a tank, plumbing fixture, or other device and the flood level rim of the said receptacle. An approved air gap shall be at least double the diameter of the supply pipe, measured vertically, above the top of the rim of the receptacle and, in no case, less than one inch.

Antisiphon vacuum breaker is a device which restricts the backflow of water into a potable water system by a simple check valve. The vacuum is broken by allowing air to enter upstream of the check valve.

Approved means that a backflow prevention device or method has been accepted by the director of public works suitable for the intended use.

Auxiliary water system means any water supply system available to the premises other than the public water supply system and includes the water supplied by such system. These auxiliary water systems may include water from another owner's public water supply system; polluted or contaminated water, process fluids; used water; or other sources of water which the owner of the public water supply system does not have sanitary control.

Backflow or *backsiphonage* means the flow of water or other liquids, mixtures, or substances into the water distribution system from any other source than the intended source of the potable water supply.

Backflow prevention device means any device, method or type of construction intended to prevent backflow into a potable water system. Devices such as an approved air gap, double check valve assembly, antisiphon vacuum breaker or a reduced pressure principle device can be used which have been approved by the director of public works.

Consumer means the owner or person in control of any premises supplied by or in any manner connected to a public water supply system.

¹¹⁸ Legal or Editorial Change: Code 1972, § 28-300. General definitions. Altered definition of owner per instructions.

Consumers water supply system means any water supply system supplied by or in any manner connected to a public water supply system. A household plumbing system is considered to be a consumer's water supply system. A fire suppression system is also considered a consumer's water supply system.

Contamination means an impairment of the quality of the water by sewage, or waste to a degree which could cause an actual hazard to the public health through poisoning or through spread of disease by exposure.

Cross connection means any arrangement whereby contamination due to backflow or back siphonage can occur.

Degree of hazard is a term derived from an evaluation of the potential risk to health and the adverse effects upon the potable water system.

Director of public works means the director of public works or authorized representative.

Double check valve assembly means an assembly composed of two single, independently acting, check valves including 100 percent closing shutoff ball valves located at each end of the assembly and suitable connections for testing the watertightness of each check valve.

Grade VI certified water operator means a person who has successfully completed an examination approved by the state department of health on the subject of cross connections, backflow prevention operation, maintenance, testing and repair.

Health hazard means any condition, device, or practice in a water system or its operation that creates, a real or potential danger to the health and well-being of the consumer.

Interchangeable connection means an arrangement or device that will allow alternate but not simultaneous uses of two sources of water.

Licensed plumber means a person who has obtained the appropriate license from the mayor and council to perform plumbing-related work within the city limits and the two-mile exterritorial limits thereof.

Nonpotable water means water not safe for drinking, personal or culinary use, or which does not meet the requirements of the state department of health.

Owner means the person delivering water through a public water supply system. The owner is the city ~~operating through the board of public works.~~

Person means the state, any political subdivision, public or private corporation, individual, partnership, or other legal entity. ~~When the term he, or his is used, it shall mean any male or female person.~~

Plumbing hazard means a plumbing type cross connection in a consumer's potable water system that has not been properly protected by air gap separation or backflow prevention devices.

Pollution means the presence in water of any foreign substance (organic, inorganic, or biological) that degrades the quality of water to a degree which does not necessarily cause an actual hazard to the public health but which does adversely and unreasonably affect such waters for any desired use.

Pollution hazard means a condition through which an aesthetically objectionable or degrading material not dangerous to health may enter the public water supply system or the consumer's water supply system.

Potable water means water which is satisfactory for drinking, culinary, and domestic purposes and meets the requirements of the state department of health.

Public water supply system means a water supply system designed and intended to provide potable water to a designated consumer. The water supply shall include the water supply source and distribution piping network. The water supply source is defined as an artificial or natural accumulation of water used to supply the potable water system. The distribution piping network includes all piping, pumping and treatment devices used to convey an adequate quality and quantity of potable water to the consumer's service connection.

Reduced pressure zone backflow prevention device means a device containing a minimum of two independently acting check valves together with an automatically operated pressure differential relief valve located between two check valves. During normal flow and at the cessation of normal flow, the pressure between these two checks shall be less than the supply pressure. In case of leakage of either check valve, the differential relief valve,

by discharging to the atmosphere, shall operate to maintain the pressure between the check valves at less than the supply pressure. The unit must include 100 percent closing shutoff ball valves located at each end of the device, and each device shall be fitted with properly located test cocks.

Service connection means the point of attachment of a service line to the public water system.

System hazard means a condition posing an actual or potential threat of damage to the physical properties of the public's or the consumer's water supply system.

Used water means any water supplied by the public water supply system to a consumer's water supply system after it has passed through the service connection and is no longer under the sanitary control of the water supplier.

(b) *Responsibility*. The consumer, as defined in these regulations, if requested by the director of public works, shall designate an individual, who shall be responsible for contact and communications with the director of public works in matters relating to system alteration and construction, monitoring and sampling, maintenance, operation, recordkeeping, and reporting, as required by law and these regulations. Any change in assigned responsibilities or designated individuals shall be promptly reported to the director of public works.

(c) *Title*. This subdivision and any amendments pertaining thereto shall be known as the backflow prevention ordinance.

(Code 1972, § 28-300; Ord. No. 1642, § 1, 1-14-1993; Ord. No. 2307, § 1, 11-18-2021)

Sec. 12-604. Policy and purpose.

(a) The purpose of this subdivision is to protect the public water supply system of the city from the possibility of contamination by isolating real or potential sources of contamination or pollution which may backflow into the public water supply system. This division provides for the maintenance of a continuing program of cross connection control which will systematically and effectively prevent the contamination or pollution of the potable water supply systems.

(b) The director of public works shall be responsible for the implementation of the backflow prevention program as outlined within this subdivision. If, in the judgement of the director of public works, an approved backflow prevention device is required for the safety of the public water supply system, then the director of public works shall give notice in writing to the consumer to install said device at each recommended location. The director of public works shall inspect and approve all installation of the required backflow prevention devices. The costs for purchasing, installing, and maintaining a backflow prevention device shall be the responsibility and sole expense of the consumer. The installation of backflow prevention devices, except for outlet fixture vacuum breakers, shall be by a licensed plumber. Installation, testing, repair and annual testing of double check valves, reduced pressure zone devices, and other backflow prevention devices shall be performed by a certified water operator Grade VI. If deemed necessary by the certified water operator Grade VI that maintenance or repairs are necessary, the consumer shall make all necessary repairs or maintenance. The consumer shall complete all maintenance or repairs within 30 days; if not, the consumer shall be considered in violation of the backflow ordinance and will be subject to disconnection of the service as provided in section 12-612. All installations, repairs and testing of backflow and back siphonage devices shall be certified to be in compliance with this division and state department of health regulations by a certified water operator Grade VI. Said certification to be made to the city as required by the director of public works.

(c) No person shall install or maintain a water service connection, containing cross connections to a public water supply system or a consumer's potable water supply system unless such cross connections are abated or controlled in accordance with this rule, and as required by the laws and regulations of the state department of health.

(d) For the purposes of this subdivision, whenever the director of public works is to make any decision or interpretation, or whenever reference is made to the fact that the director of public works is to exercise judgment, such decision, interpretation or judgment shall be in accordance with the provisions of this subdivision, and any other applicable provisions of the York City Code, and state and federal law.

(Code 1972, § 28-301; Ord. No. 1642, § 1, 1-14-1993; Ord. No. 2307, § 1, 11-18-2021)

Sec. 12-605. Surveys and investigations.¹¹⁹

(a) It shall be the responsibility of the water consumer to conduct or cause to be conducted, periodic surveys of water use practices on said consumer's premises as necessary to determine whether there are actual or potential cross connections in the consumer's water supply system. The director of public works shall have the authority to conduct or cause to be conducted periodic surveys and investigations, of a frequency as determined by the director of public works, of water use practices within a consumer's premises to determine whether there are actual or potential cross connections to the consumer's water supply system through which contaminants or pollutants could backflow into the public water supply system. The director of public works may conduct these surveys to provide information in determining what level of protection will be necessary to protect the public health and safety.

(b) On request by the director of public works, the consumer shall furnish the director of public works information on water use practices within the consumer's premises. If the consumer refuses to submit the proper information or to cooperate in obtaining the proper information, the director of public works shall treat the premises as if no appropriate cross connection survey has been completed, and in such event, the consumer shall be required to install an approved backflow prevention device as required in section 12-606.

(c) The director of public works shall have the right to enter premises served by the public water supply system at all reasonable times for the purpose of making surveys and investigations of water use practices within the premises. In order to inspect premises, the director of public works shall give notice setting forth a proposed date and time to the consumer at least ten days in advance. If the consumer cannot make the premises available for inspection at the proposed date and time, the consumer shall contact the director of public works and arrange for another date and time for the inspection. If the director of public works and the consumer cannot agree on a date and time, then the director of public works shall treat the premises as if no appropriate cross connection survey has been completed, and in such event the consumer shall be required to install an approved backflow prevention device as required in section 12-606.

(d) The ~~board of public works~~ city council is hereby appointed as a hearing board to hear differences between the director of public works and the consumer on matters concerning interpretation and execution of the provision of this subdivision by the director of public works. Any consumer aggrieved by being required to pay the expense of installing, furnishing, and or maintaining a backflow prevention device may, within 14 days of the act or event causing the grievance, request a hearing in writing to present those grievances to the hearing board. The hearing board shall schedule the matter for hearing within 30 days and provide written notice of the meeting by first class mail to the consumer. The notice shall be mailed to the consumer at least seven and not more than 21 days before the hearing. At the hearing, the consumer shall first state the nature of the grievance, and the director of public works shall be entitled to respond thereto, whereupon the hearing board shall render its decision which will be binding upon the consumer and the director of public works.

(Code 1972, § 28-302; Ord. No. 1642, § 1, 1-14-1993; Ord. No. 2307, § 1, 11-18-2021)

Sec. 12-606. Where protection is required.

(a) An approved backflow prevention device shall be installed between the service connection and point of potential backflow into a consumer's water supply system when in the judgment of the director of public works a health, plumbing, pollution or system hazard exists.

(b) An approved backflow prevention device shall be installed when the following conditions are found by the director of public works to exist:

- (1) Premises on which any substance is handled in such a fashion as to create an actual or potential hazard to a public water supply system. This shall include premises having sources or systems containing process fluids or waters originating from a public water supply system which are no longer under the sanitary control of the owner;
- (2) Premises having internal cross connections that, in the judgment of the director of public works, are not

¹¹⁹ Legal or Editorial Change: Code 1972, § 28-302. Surveys and investigations. In subsection (d) changed board of public works to city council.

correctable, or there exist intricate plumbing arrangements which make it impractical to determine whether or not cross connections exist;

- (3) Premises where, because of security requirements or other prohibitions or restrictions, it is impossible or impractical to make a complete cross connection survey;
- (4) Premises having a repeated history of cross connections being established or re-established;
- (5) Premises having more than one customer service connection which could constitute a potential cross connection.

(c) An approved backflow prevention device shall be installed on each service line to a customer's water supply system serving the following types of facilities unless the director of public works determines that no health, pollution, or system hazard to the public water supply system exists:

- (1) Hospitals, mortuaries, dental clinics, nursing and convalescent homes, medical buildings;
- (2) Testing laboratories, film laboratories, film development facilities;
- (3) Sewage treatment plants, sewage pumping stations, or stormwater pumping stations;
- (4) Food or beverage processing plants;
- (5) Chemical plants;
- (6) Metal de-greasing, plating industries, machine tool plants, dye and metal processing or productions;
- (7) Chemical and petroleum processing or storage plants;
- (8) Car washes, automobile servicing facilities;
- (9) Lawn irrigation systems and swimming pools;
- (10) Laundries and dry cleaners;
- (11) Packing houses;
- (12) Power plants;
- (13) Premises having radioactive materials such as laboratories, industries, hospitals;
- (14) Rendering plants;
- (15) Premises having water recirculating system as used for boilers or cooling systems;
- (16) Veterinary establishments, kennels, feed yards, stables, rodeo grounds, stockyards, pet grooming salons;
- (17) Beauty salons, barbershops, massage parlors, health clubs;
- (18) Fire suppression systems;
- (19) Multi-storied buildings greater than three stories in height;
- (20) Schools, universities, colleges;
- (21) Other facilities which may constitute potential cross connection.

(Code 1972, § 28-303; Ord. No. 1642, § 1, 1-14-1993; Ord. No. 2307, § 1, 11-18-2021)

Sec. 12-607. Type of protection required.

(a) The type of protection required under sections 12-605 and 12-606 shall depend on the degree of hazard that exists as follows:

- (1) An approved air gap separation or an approved reduced pressure principal backflow prevention device shall be installed where a public water supply system may be contaminated with any substance that could cause a system hazard or health hazard;
- (2) An approved double check valve assembly shall be installed where a public water supply system may be contaminated with any substance that could cause a pollution hazard;
- (3) An approved reduced pressure principal backflow prevention device shall be installed at the service

connection where there exists a plumbing hazard;

- (4) In the case of any premises where, because of security requirements or other prohibitions it is impossible or impractical to make a complete cross connection survey of the consumer's potable water system, a reduced pressure principal backflow prevention device shall be installed at the service connection.

(b) An approved antisiphon vacuum breaker may be used as a backflow prevention device where it is not subjected to back pressures. This device shall not be used for application where water flow is expected to be continuous for 12 or more hours. The device shall be installed ahead of the potential source of contamination on the discharge side of the last control valve. It shall be placed at least 18 inches above the highest point reached by any water passing through the potential source of contamination. Typically, this type of device is used for such equipment as lawn sprinklers, water-cooled compressors, or other water-cooled equipment.

(Code 1972, § 28-304; Ord. No. 1642, § 1, 1-14-1993; Ord. No. 2307, § 1, 11-18-2021)

Sec. 12-608. Backflow prevention devices.

(a) An approved backflow prevention device required by section 12-606 shall be installed at a location and in a manner approved by the director of public works. The consumer, at the consumer's sole expense, shall obtain and install said approved backflow prevention device within 90 days of notice and as directed by the director of public works.

(b) Existing backflow prevention devices approved by the director of public works prior to the effective date of the ordinance from which this rule is derived and which are properly maintained shall, except for inspection, testing and maintenance requirement, be excluded from the requirements of subsection (a) of this section but only if the director of public works determines that the devices will satisfactorily protect the public water supply system. One hundred percent closing shut off ball valves for testing shall be provided on existing backflow prevention devices, if deemed necessary for proper testing by the director of public works. If deemed necessary by the director of public works that an existing backflow prevention device requires replacement, it shall be replaced with an approved backflow prevention device.

(Code 1972, § 28-305; Ord. No. 1642, § 1, 1-14-1993)

Sec. 12-609. Booster pumps.

(a) No person shall install or maintain a water service connection to any premises where a booster pump has been installed on the service line to or within such premises, unless such booster pump is equipped with a low pressure cut-off designed to shut off the booster pump when the pressure in the service line on the suction side of the pump drops to 20 pounds per square inch gauge or less.

(b) It shall be the duty of the water customer to maintain the low pressure cut-off device in proper working order.

(Code 1972, § 28-306; Ord. No. 1642, § 1, 1-14-1993)

Sec. 12-610. Yard hydrants.

(a) The installation of yard hydrants where water is available or accessible for drinking or culinary purposes and which have drip openings below the ground surface, is prohibited unless such hydrants are equipped with an approved device to prevent entrance of groundwater into chambers connected with the water supply.

(b) Yard hydrants or hose bibs which would be used by the consumer to provide water to mix pesticides, fertilizer, or other chemicals, for direct use or aerial application to surface areas shall be equipped with an antisiphon vacuum breaker.

(c) All underground lawn and garden sprinkler systems shall be equipped with an approved backflow prevention device.

(Code 1972, § 28-307; Ord. No. 1642, § 1, 1-14-1993)

Sec. 12-611. Fire suppression system.

(a) All proposed installations of fire suppression systems shall be reviewed by the director of public works to determine the appropriate type of backflow prevention device required.

(b) All proposed fire suppression systems requiring an antifreeze solution shall use a pharmaceutical grade antifreeze. The consumer shall provide to the director of public works a certification identifying the type of pharmaceutical grade antifreeze which shall be used. A double check valve backflow prevention device shall be installed in an approved manner.

(c) A double check valve of an approved type shall be installed on all proposed fire suppression systems not utilizing antifreeze, but this may be done only when there are no other cross connections.

(d) All existing fire suppression systems shall meet the requirements of subsections (b) or (c) of this section, whichever applies. An inspection by a certified fire suppression specialist shall be done to determine whether pharmaceutical grade antifreeze have been utilized. This shall be done at the expense of the consumer. If it cannot be certified that only pharmaceutical grade antifreezes have been used, then a reduced pressure principal backflow prevention device shall be installed as approved by the director of public works. This also shall be done at the expense of the consumer.

(e) In the event cross connections, such as those found in using auxiliary water supply systems or in providing other water additives such as foaming agents are necessary for the proper operation of the fire suppression system, then a reduced pressure zone backflow prevention device shall be installed in an approved manner.

(Code 1972, § 28-308; Ord. No. 1642, § 1, 1-14-1993; Ord. No. 2307, § 1, 11-18-2021)

Sec. 12-612. Violations.

(a) The director of public works shall deny or discontinue, after notice to the consumer thereof, the water service to any premises wherein:

- (1) Any backflow prevention device required by these regulations is not installed or maintained in a manner acceptable to the director of public works;
- (2) It is found that the backflow prevention device has been removed or bypassed;
- (3) An unprotected cross connection exists on the premises;
- (4) A low pressure cut-off required by section 12-609 is not installed and maintained in working order; or
- (5) The director of public works is denied entry to determine compliance with these regulations.

(b) The director of public works shall immediately deny or discontinue, without notice to the consumer thereof, the water service to any premises wherein a severe cross connection exists which constitutes an immediate threat to the safety of the public water system. The director of public works shall notify the consumer within 24 hours of said denial or discontinuation of service.

(c) Water service to such premises shall not be restored until the consumer has corrected or eliminated such conditions or defects in conformance with these regulations, and to the satisfaction of director of public works.

(Code 1972, § 28-309; Ord. No. 1642, § 1, 1-14-1993; Ord. No. 2307, § 1, 11-18-2021)

Sec. 12-613. Approval standards.

(a) Approved backflow prevention device.

- (1) Any backflow prevention device required herein shall be of a model and size approved by the director of public works. The term "approved backflow prevention device" means a device that has been manufactured, tested and approved or listed for the intended use by one of the organizations listed in the state department of health rules title 179, chapter 2, section 008.01E7.
- (2) Said standards and specifications have been adopted by the director of public works. Final approval shall be evidenced by a certificate of approval issued by an approved testing laboratory certifying full compliance with said standard and specifications.

(b) The director of public works shall keep a current list of all certified suppliers and their appropriate list of makes and models of backflow prevention devices which the director of public works has deemed approved.

(c) The director of public works may require a strainer of approved type and size to be installed in conjunction with required backflow prevention devices. The installation of strainers shall preclude the fouling of

backflow device due to foreseen and unforeseen circumstances occurring to the water supply system such as water main repairs, water main breaks, fires, periodic cleaning and flushing of mains. These occurrences may cause debris such as scale deposits and sand to flush through the mains causing fouling of backflow device.

(Code 1972, § 28-310; Ord. No. 1642, § 1, 1-14-1993)

Sec. 28-311. Liability claims.¹²⁰

~~The board and director of public works shall be relieved from personal liability. The city shall hold harmless the director of public works when acting in good faith and without malice, from all personal liability for any damage that may occur to any person or property as a result of any act required or authorized by this title, or by reason of any act of omission of the director of public works in the discharge of his duties hereunder. Any suit brought carrying out the provisions of the title shall be defended by the city, or the city's insurance carrier, if any, through final determination of such proceeding.~~

(Code 1972, § 28-311; Ord. No. 1642, § 1, 1-14-1993)

Secs. 12-614–12-644. Reserved.

ARTICLE VII. PROPERTY MAINTENANCE CODE

Sec. 12-645. Adopted; amendments.

(a) A certain document, three copies of which are on file in the office of the city clerk, being marked and designated as the 2018 International Property Maintenance Code as published by the International Code Council, Inc., is hereby adopted as the property maintenance code for the city for the control of buildings and structures, as herein provided, and each and all of the regulations, provisions, penalties, conditions and terms of said property maintenance code are hereby referred to, adopted, and made a part hereof as if fully set out in this section, with the additions, insertions, deletions and changes, if any, prescribed in subsection (b) of this section.

(b) The following sections are hereby revised:

(1) Section 101.1, insert: "The City of York."

(2) Section 103.5, amend to read: "fees will be collected to reimburse the City of York for expenses incurred."

(3) Section 304.14, insert: "January 1—December 31."

(4) Section 602.3, insert: "January 1—December 31."

(5) Section 602.4, insert: "January 1—December 31."

(6) Spas, hot tubs and swimming pools with a safety cover that complies with ASTM F1346 shall be exempt from the provisions of section 303.2, enclosures.

(c) Nothing in this section or in the property maintenance code hereby adopted, shall be construed to affect any suit or proceeding pending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed, nor shall any just or legal right or remedy of any character be lost, impaired or affected by this section.

(Code 1972, § 9-101; Ord. No. 1819, §§ 1—3, 6-21-2001; Ord. No. 1942, § 1, 8-4-2005; Ord. No. 2305, § 1, 11-18-2021; Ord. No. 2332, § 1, 7-21-2022)

State law reference—Adoption by reference, R.R.S. 1943, § 18-132; applicability in extraterritorial zoning jurisdiction, R.R.S. 1943, § 19-922.

Secs. 12-646–12-663. Reserved.

ARTICLE VIII. MOVING BUILDINGS*

***State law reference**—Authority to regulate and prevent the moving of buildings through or upon streets, R.R.S. 1943, § 16-

¹²⁰ Legal or Editorial Change: Code 1972, § 28-311. Liability claims. Deleted per instructions.

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DIVISION 1. GENERALLY

Sec. 12-664. Building limitations.

No building or other structure shall be moved over or across any street, alley, or public way in the city; provided, however, the director of public works may upon written application recommend the granting of a special permit for the moving of a building or structure, when in the opinion of the director of public works the route over which such structure may be moved will cause no exceptional hazard to person or property.

(Code 1955, § 5-401; Code 1972, § 9-33; Ord. No. 1583, § 1, 11-10-1988)

Sec. 12-665. Route prescribed.

The director of public works shall prescribe the time of moving of any building or other structure and shall specify the route to be followed in moving the same over and across the streets of the city. It shall be unlawful for any person having a permit issued under this article to digress from such specified route without the written consent of the director of public works. In prescribing such route, the director shall prescribe such route as will least interfere with the wires of the electrical system and other public service companies.

(Code 1972, § 9-34)

Sec. 12-666. Police may accompany.

When in the interest of public safety, it is deemed necessary that a member of the police department of the city accompany the house mover over the route prescribed, the chief of police shall take such designated action and any costs thereof shall be paid by the house mover.

(Code 1972, § 9-35)

Sec. 12-667. Notice of move.

The director of public works shall be given notice of the hour when the moving of any building or other structure will actually begin.

(Code 1972, § 9-36)

Sec. 12-668. Manner of work, condition of premises generally.

It is hereby declared unlawful for any mover of houses and buildings to move any building or structure in such a manner that there shall remain holes or depressions dangerous to life or limb; that there shall not remain debris or rubbish from which dust or offensive odors shall emanate detrimental to public health. Said premises shall be left in a safe and sanitary condition. When a building has been moved for the purpose of erecting thereon another building or structure, the building inspector, at the building inspector's discretion, may permit the owner of such property to maintain for a period not to exceed six months any remaining hole or depression; provided, however, that such hole or depression is maintained in a safe and sanitary condition and kept free of all rubbish and debris of any nature, that such hole or depression is surrounded and protected by strong and suitable barricades not less than four feet in height, and maintained in sound and proper condition, and that said owner shall covenant for himself, said owner's heirs and assigns to properly fill said holes and depressions at the termination of said six-month period, unless building operations have started thereon.

(Code 1972, § 9-37)

Sec. 12-669. Pneumatic tired equipment required.

No permit shall be issued by the director of public works to move any house or structure unless the moving equipment employed by the mover of houses and buildings is pneumatic tired in order to safeguard and protect streets, avenues, alleys, highways and public grounds from being damaged.

(Code 1972, § 9-38)

Sec. 12-670. Removal of wires, notice.

Whenever it shall become necessary during the moving of any building or structure to temporarily lift or

remove any overhead wires or conduits, or any poles supporting the same, in order to allow free passage for the moving of such building or structure, the person owning and operating such overhead wires or conduits shall lift or remove the same within 24 hours after written notice is served on the person authorized to accept the same. The cost of removing or altering any wiring or other utility service shall be borne by the house mover.

(Code 1972, § 9-39)

Sec. 12-671. Protection of the public—Generally.

It shall be the duty of the mover of houses and buildings to exercise due care at all times to protect the public from injury or accidents. It shall be the duty of such movers of houses and buildings to provide watchmen to warn the public if and when any wires, ropes or cables are extending across streets or alleys or public grounds so that the public will not be injured thereby.

(Code 1972, § 9-40)

Sec. 12-672. Protection of the public—When standing on streets.

If, during the moving of any house or structure, it shall become necessary to leave the same standing on any street, avenue, highway or public place, the same shall be left standing in a manner and position prescribed by the police department, and with the safety requirements prescribed by the police department. It shall further be the duty of the mover of houses and buildings to leave lighted flares about such house or structure or moving equipment left standing overnight in any such street, avenue, highway, or public place between the hours of sunset and sunrise.

(Code 1972, § 9-41)

Sec. 12-673. Duty to promptly remove from street or public grounds.

It shall be unlawful for any mover of houses or buildings or the owner of any house or building being moved under the provisions of this article to allow the same to remain standing on any street or public grounds longer than is reasonable and necessary, and any person violating the provisions of this section shall be deemed guilty of a misdemeanor and be punished as hereinafter provided.

(Code 1972, § 9-42)

Secs. 12-674--12-704. Reserved.

DIVISION 2. PERMIT

Sec. 12-705. Required.

It shall be unlawful for any person to move any building or other structure within the city without first obtaining a permit therefor. A separate permit shall be required for the moving of each building or other structure, except as provided in section 12-714.

(Code 1955, § 5-401; Code 1972, § 9-51; Ord. No. 1583, § 2, 11-10-1988; Ord. No. 1828, § 1, 10-4-2001)

Sec. 12-706. Application.

The person desiring a permit required by the provisions of this division shall make application therefor to the director of public works on a form provided therefor. Such application shall be accompanied by a certificate from the county treasurer showing that all taxes and special assessments then due against the building and lot on which it stands have been paid.

(Code 1955, § 5-401; Code 1972, § 9-52)

Sec. 12-707. Action by building inspector.

The application for a permit required by this division shall be referred to the building inspector, who shall review the same and recommend the issuance or denial thereof.

(Code 1955, § 5-401; Code 1972, § 9-53)

Sec. 12-708. Inspection of building.¹²¹

No permit for the moving of any building or structure shall be issued until the building inspector has ascertained that the size, condition, value, proposed use and proposed construction alterations are in accordance with the zoning. ~~The building inspector will also ascertain that the building or structure, when completed, will be compatible with and will not depreciate the surrounding properties.~~

(Code 1955, § 5-401; Code 1972, § 9-54; Ord. No. 1583, § 2, 11-10-1988)

Sec. 12-709. Fee.

The applicant for a permit required by this division shall pay a fee to the ~~city clerk~~/treasurer therefor as follows:

- (1) For the moving of a small building having a floor space of 100 square feet or less: \$10.00.
- (2) For the moving of any building or other structure larger than 100 square feet: \$25.00.
- (3) Annual permit for moving manufactured and/or modular homes (renewable annually): \$100.00.

(Code 1955, § 5-401; Code 1972, § 9-55; Ord. No. 1583, § 2, 11-10-1988; Ord. No. 1828, § 1, 10-4-2001)

Sec. 12-710. Certificate of insurance.

Every person applying for a permit required by this division shall present to and deposit evidence with the city clerk that such person has an insurance policy providing public liability and property damage insurance for the general public in the amount of \$300,000.00 for public liability and \$100,000.00 for property damage, such coverage shall name the city as an additional insured, which shall provide liability insurance coverage for all claims arising out of all work done by such person or under such person's supervision in the city and within two miles of the corporate limits thereof, and shall be executed by an insurance company authorized to do business in the state and acceptable to the city, and providing 30 days' written notice to be given to the city clerk in the event of expiration or of proposed cancellation of the insurance policy.

(Code 1955, § 5-401; Code 1972, § 9-56; Ord. No. 1553, § 1, 6-11-1987)

Sec. 12-711. Issuance.

The director of public works is hereby authorized to issue a permit required by this division upon the approval of the application therefor by the city council as provided in article XXIII, section 2 of the zoning ordinance set forth in appendix A to this Code and upon payment of the required fee. Such permit shall show the size and kind of buildings, its condition and proposed location.

(Code 1955, § 5-401; Code 1972, § 9-57; Ord. No. 1828, § 1, 10-4-2001)

Sec. 12-712. Duration.

Every permit issued under the provisions of this division shall be valid for a period of 60 days from the date of issuance thereof.

(Code 1955, § 5-401; Code 1972, § 9-58)

Sec. 12-713. Renewal.

Any permit issued under this division may be renewed by the permittee by the payment of an additional fee in the same amount as paid for the original permit.

(Code 1955, § 5-401; Code 1972, § 9-59)

Sec. 12-714. Annual permit.

An annual permit may be issued for moving manufactured and/or modular homes, manufactured to the HUD Manufactured Home Construction Safety Standards and inspected by the state, which do not exceed 16 feet in width, 16 feet in height and 80 feet in length and when the move destination is totally within the city or the two-

¹²¹ Legal or Editorial Change: Code 1972, § 9-54. Inspection of building. Deleted last sentence per instructions.

mile extraterritorial zone.

(Code 1972, § 9-60; Ord. No. 1828, § 1, 10-4-2001)

ARTICLE VI. TELEVISION AND RADIO ANTENNAS¹²²

DIVISION 1. GENERALLY

Sec. 13-137. Definitions.

For the purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them:

Antenna. ~~The outdoor portion of the receiving equipment used for receiving television or radio signals from space.~~

Height. ~~The overall vertical length of the antenna system then above the ground level of such building upon which the system rests.~~

Mast. ~~That portion of the outside antenna system to which the antenna is attached, and the support or extension required to elevate the antenna to a height deemed necessary for adequate operation.~~

(Code 1955, § 4-401; Code 1972, § 13-137)

Sec. 13-138. Application of article.

~~No television receiving antenna shall be erected, or any existing antenna increased in height, rebuilt, structurally altered or relocated, within this city by any person except in strict conformity with the provisions of this article.~~

(Code 1955, § 4-403; Code 1972, § 13-138)

Sec. 13-139. Authority of inspector.

~~— It shall be the duty of the electrical inspector to investigate all complaints from the general public pertaining to television and radio antennas to ascertain if the work has been done in a workmanlike manner.~~

~~— The electrical inspector is hereby empowered to inspect and reinspect any wiring, equipment or apparatus conducting or using electrical current for television or radio receiving service in city. If conductors, equipment or apparatus are found to be unsafe to life or property, or not in conformity with the provisions of this article, he shall notify in writing the person owning or operating such wiring or equipment to correct the condition within a specified time. Failure to correct violations within such specified time shall constitute a violation of this article.~~

(Code 1955, § 4-404; Code 1972, § 13-139)

Sec. 13-140. Materials to be approved.

~~No electrical material, devices, or equipment designed for attachment to or installation of any electrical circuit or system for television antennas, shall be installed or used in the city unless they are in conformity with the approved methods of construction for safety to life and property, and unless the electrical materials, devices or equipment conforms with the standards of the Underwriters' Laboratories, Inc., current as of the time of installation.~~

(Code 1955, § 4-408; Code 1972, § 13-140)

Sec. 13-141. Maker's name, etc., required on equipment.

~~The maker's name, trade mark, or other identification symbol shall be placed on all electrical devices or equipment that use 115 volts or more which are sold, offered for sale or use or used in the city. These markings and others such as voltage, amperage, wattage, and power factor or appropriate ratings described in the National Electrical Code shall be required, and are necessary to determine the character of the material, device or equipment and the use for which it is intended.~~

¹²² Legal or Editorial Change: Code 1972, ch. 13, art. Vi (§ 13-137 et seq). Television and radio antennas. Deleted as obsolete.

(Code 1955, § 4-409; Code 1972, § 13-141)

Sec. 13-142. Codes supplemental.

The National Electrical Code is hereby adopted and approved as a part of this article as a minimum standard. The provisions of this article shall also be deemed as supplemental to the building code of the city and any other pertinent laws or ordinances of the city, and all work shall conform to these requirements.

(Code 1955, § 4-411; Code 1972, § 13-142)

Sec. 13-143. Installations in automobiles.

It shall be unlawful for any person to install a television set forward of, or which is visible from the front seats of any motor operated vehicle. Otherwise the provisions of this article shall not apply to automobiles.

(Code 1955, § 4-412; Code 1972, § 13-143)

Secs. 13-144 — 13-150. Reserved.

DIVISION 2. LICENSE

Sec. 13-151. Required.

No person shall engage in the erection, maintenance or repair of television or radio antennas of any type for hire in the city unless he shall have a license therefor. Provided, the provisions of this section shall not apply to licensed electrical contractors.

(Code 1955, § 4-405; Code 1972, § 13-151)

Sec. 13-152. Duty of owner of premises.

It shall be unlawful for any owner, or other person, to cause or to permit any installation of television antenna unless the installer doing said work has been licensed as required by this article; and any such person causing or permitting any such installation to be done in violation of the provisions hereof shall be guilty of a violation of this division and subject to the penalties provided in section 1-8.

(Code 1955, § 4-410; Code 1972, § 13-152)

Sec. 13-153. Fee.

The fee for a license required by the provisions of this division shall be as follows:

- Original license\$10.00
- Each annual renewal2.00

(Code 1955, § 4-405; Code 1972, § 13-153)

Sec. 13-154. Bond required.

Every person engaged in the business of television or radio antenna installations, repairs and maintenance works shall annually file with the city a good and sufficient bond in the sum of one thousand dollars (\$1,000.00), executed by a bonding or surety company authorized to do business in the state, the form thereof to be approved by the city attorney. Said bond shall be conditioned upon the faithful observance of all laws and ordinances of the city and shall indemnify, save and keep harmless the city from any and all damages, judgments, costs or expenses which the city may incur or suffer by reason of the violation of this article. The maintenance of said bond in full force and effect shall be a requisite to the issuance of any permit required under the provisions of this article. Provided, that the provisions of this section shall not apply to licensed electrical contractors. This provision shall not apply to installations, repairs or maintenance of antennas by an owner or occupant of the real estate where such antenna is located.

(Code 1955, § 4-406; Code 1972, § 13-154)

Sec. 13-155. Duration.

Every license issued under the provisions of this division shall be valid from the first day of May to the following thirtieth day of April.

(Code 1955, § 4-405; Code 1972, § 13-155)

Chapter 18
HOUSING*

~~*State Law reference—Housing authorities, R.R.S. 1943, § 71-1518 et seq.~~

ARTICLE I. IN GENERAL (RESERVED)

~~Secs. 18-1—18-15. Reserved.~~

ARTICLE II. HOUSING CODE¹²³

~~Sec. 18-16. Adopted.~~

~~There is hereby adopted for the city for the purpose of prescribing regulations providing minimum requirements for the protection of life, limb, health, property, safety and welfare of the general public and the owners and occupants of residential buildings that certain code known as the Uniform Building Code, Volume III, Housing, 1970 edition, recommended by the International Conference of Building Officials, hereafter made thereto, to be known as the housing code of the city, three copies of which are on file in the office of the city clerk, and same is hereby incorporated and made a part of this Code as though spread at large herein.~~

~~(Code 1972, § 18-16; Ord. No. 1131, § 1, 8-8-1968)~~

~~State Law reference—Adoption of standard codes, R.R.S. 1943, § 18-132.~~

~~Sec. 18-17. Subsequent editions.~~

~~Subsequent editions or revisions of the code adopted by the provisions of this article shall be considered adopted and of full force and effect within the city upon the approval thereof by the council and the filing of three copies thereof in the office of the city clerk treasurer.~~

~~(Code 1972, § 18-17; Ord. No. 1131, § 1, 8-8-1968)~~

~~Sec. 18-18. Conflicts.~~

~~In the event of any conflict between the provisions of the code adopted by this article and applicable provisions of this Code of Ordinances, state law or city ordinance, rule or regulation, the provisions of this Code of Ordinances, state law or city ordinance, rule or regulation shall prevail and be controlling.~~

~~(Code 1972, § 18-18)~~

~~Sec. 18-19. Definitions.~~

~~Whenever the word "municipality" or the word "city" is used in the code adopted by this article, it shall be construed to mean the City of York, Nebraska.~~

~~Whenever the term "corporation counsel" or "city attorney" is used in the code adopted by this article, it shall be construed to mean the city attorney of this city.~~

~~(Code 1972, § 18-19)~~

~~Sec. 18-20. Penalty for violation.~~

~~Any person who shall violate any provision of the ordinance and code adopted by the provisions of this article shall be deemed guilty of a misdemeanor, and shall be punished as provided by section 1-8 of this Code. Each day such violation continues shall be deemed a separate offense.~~

~~(Code 1972, § 18-20; Ord. No. 1131, § 2, 8-8-1968)~~

¹²³ Legal or Editorial Change: Code 1972, ch. 18, art. II (§ 18-16 et seq.). 1970 Housing Code.
Deleted as obsolete.

Sec. 28-150. Chapter 22. Added: water conditioning installations and contractors.¹²⁴

The International Plumbing Code is amended by adding a new Chapter 22 to read as follows: "Water Conditioning Installations and Contractors."

(Code 1972, § 28-150; Ord. No. 1418, § 2, 4-9-1981; Ord. No. 2307, § 1, 11-18-21)

Sec. 28-151. General provisions.

The provisions of this chapter shall control the design and installation, alteration, removal or repair of water conditioning equipment, the registration of water conditioning contractors and the issuance of permits and collection of fees therefor.

(Code 1972, § 28-151; Ord. No. 1418, § 2, 4-9-1981)

Sec. 28-152. Definitions.

For the purpose of this chapter, the following definitions shall apply:

(a) "Water conditioning appliance" shall mean apparatus and equipment connected to a water supply other than by hose connection to existing faucets and designed to soften or filter or change the mineral content of water.

(b) "Water conditioning installation" shall mean only work incidental to the complete installation, repair, replacement, relocation or removal of water conditioning appliances, including piping to hot and cold water lines for such purposes.

(Code 1972, § 28-152; Ord. No. 1418, § 2, 4-9-1981)

Sec. 28-153. Permits and fees.

It shall be unlawful for any person to install, alter, remove or repair any water conditioning appliance, or cause the same to be done, without first obtaining a permit therefor from the administrative authority. No permit shall be required for minor repair work. Minor repair work is defined as repairing leaks in pipes, cleaning out supply or waste lines or repairing a water conditioning appliance.

A permit to install a water conditioning appliance may be issued only to a duly registered water conditioning contractor or registered master plumber or registered journeyman plumber. It shall be unlawful for any person, firm or corporation to cause or permit any water conditioning installation to be done on any property owned, managed or controlled by such person, firm or corporation unless such work is done by said duly registered conditioning contractor or registered plumber.

Application for a permit may be made in writing to the mayor and city council on a form furnished by the mayor and city council for that purpose.

A fee shall be paid as follows:

For each water conditioning installation\$25.00

Reinspection fee (wrong address, work that does not pass inspection, work not complete, inaccessibility)\$50.00

Water shall not be turned on to any water conditioning appliance until it has been inspected and approved by the administrative authority.

(Code 1972, § 28-153; Ord. No. 1418, § 2, 4-9-1981; Ord. No. 1503, § 3, 4-11-1985; Ord. No. 2307, § 1, 11-18-21)

Sec. 28-154. Installation and inspection.

The water piping to any water conditioning appliance shall be of materials and methods of installation approved for water distribution in this Code. Piping from any water conditioning appliance to the city sewer system shall be of any material approved by the administrative authority.

¹²⁴ Legal or Editorial Change: Code 1972, ch. 28, art. V, div. 3 (Code §§ 28-150—28-258). Water conditioning installations and contractors. Deleted per instructions.

~~All water conditioning installations shall be inspected by the administrative authority to ensure compliance with all the requirements of this Code. It shall be the duty of the person doing the work authorized by the permit to notify the administrative authority orally or in writing that said work is ready for inspection, and for said person doing the work to provide access and means for proper inspection. It shall be the duty of the person doing the work to call for inspection of the water conditioning installation not later than three days after the completion of the installation.~~

~~(Code 1972, § 28-154; Ord. No. 1418, § 2, 4-9-1981)~~

Sec. 28-155. Water conditioning board of examiners.

~~The examining board as created in section 28-38 of this Code shall serve as the examining board for water conditioning contractors.~~

~~(Code 1972, § 28-155; Ord. No. 1418, § 2, 4-9-1981)~~

Sec. 28-156. Registration of water conditioning contractors and installers.

~~— All persons installing water conditioning appliances shall be registered as water conditioning contractors or shall be registered as water conditioning installers. All water conditioning installers must be employed by a registered water conditioning contractor.~~

~~— Application for registration as a water conditioning contractor or water conditioning installer shall be made to the administrative authority on a form furnished by him for such purpose. Such form shall require the name and address of the applicant, the business location of the applicant, a statement of the practical experience of the applicant, and such other relevant information as may be required by the administrative authority.~~

~~— Any corporation may be registered as a water conditioning contractor in the name of such corporation, provided such corporation shall have a registered water conditioning contractor as a bona fide officer or employee of such corporation and who shall at all times be in actual charge of water conditioning work done by such corporation. The registration certificate shall also be issued in the name of the person registered as a water conditioning contractor. In the event such water conditioning contractor shall sever his relationship with such corporation as a bona fide officer or employee, he must immediately notify the administrative authority and the examining board who shall forthwith recommend to the mayor and city council that the certificate of registration of such corporation be revoked. It shall be unlawful for any corporation to act, engage in, advertise or to otherwise represent itself as a water conditioning contractor in the City of York unless a bona fide officer or employee of such corporation is duly registered as a water conditioning contractor as provided in this chapter.~~

~~— Any firm or partnership may be registered as a water conditioning contractor in the name of such firm or partnership, provided such firm or partnership shall have a registered water conditioning contractor as a bona fide employee or partner of such firm or partnership, and who shall at all times be in actual charge of the water conditioning work done by such firm or partnership. The registration certificate shall also be issued in the name of the person registered as the water conditioning contractor. In the event such water conditioning contractor shall sever his relationship with such firm or partnership as a bona fide employee or partner, he must immediately notify the administrative authority and the examining board who shall forthwith recommend to the mayor and city council that the certificate of registration of such firm or partnership be revoked. It shall be unlawful for any firm or partnership to act, engage in, advertise or otherwise represent themselves as a water conditioning contractor in the City of York unless a bona fide member or employee of such firm or partnership is duly registered as a water conditioning contractor as provided in this chapter.~~

~~— Application for registration as a water conditioning installer may be made to the administrative authority. Before a registration certificate shall be issued, the applicant shall be required to submit and pass a written examination to determine his qualifications and fitness for executing the class of work covered by the registration. Such examination shall be given under the direction of the examining board. Any applicant who fails to pass the required examination shall not be eligible to take another examination until at least six months shall have elapsed from the date of last examination.~~

~~(Code 1972, § 28-156; Ord. No. 1418, § 2, 4-9-1981)~~

Sec. 28-157. Bond.

~~Before any water conditioning contractor may be issued a permit or registered under the provisions of this chapter, such contractor shall deposit with the city clerk a bond, said bond coverage shall be subject to the same conditions and be in the same minimum amounts as specified in section 28-49 of this Code.~~

~~(Code 1972, § 28-157; Ord. No. 1418, § 2, 4-9-1981)~~

~~**Sec. 28-158. Suspension or revocation of registration.**~~

~~— The mayor and city council, upon the recommendation of the administrative authority and after a report of the examining board and hearing as hereinafter provided, may revoke any registration of a water conditioning contractor if the same was obtained by error or fraud, or if the holder thereof is shown to be no longer qualified, or if such holder fails, neglects or refuses to comply with the provisions of this chapter.~~

~~— If suspension or revocation of a water conditioning contractor's certificate of registration is recommended and the examining board has submitted a written report affirming such recommendation, the mayor and city council shall cause written notice to be served upon the water conditioning contractor whose registration is recommended for suspension or revocation, setting forth a time and place for a public hearing. Upon the conclusion of such hearing, the mayor and city council shall within 30 days thereafter render a written decision to such water conditioning contractor regarding suspension or revocation of his registration. Such written decision shall be served by mailing it to such water conditioning contractor by certified mail at his last known business address or by personal service. If a certificate of registration is revoked, the holder of the same shall not apply for registration until one year after the date of such revocation. Decisions of the mayor and city council concerning suspension or revocation of registration may be appealed as provided by law.~~

~~It shall be unlawful for any registered water conditioning contractor to allow his name to be used by another person, directly or indirectly, to obtain a permit for the installation, alteration or repair of any water conditioning equipment. Violation of the foregoing sentence shall be sufficient grounds for suspension or revocation of the registration provided in this chapter.~~

~~(Code 1972, § 28-158; Ord. No. 1418, § 2, 4-9-1981)~~

~~**Secs. 28-159—28-259. Reserved.**~~

Chapter 13
RESERVED

PROOFS

Chapter 14

COMMUNITY DEVELOPMENT*

***State law reference**—Community development law, R.R.S. 1943, § 18-2101 et seq.

ARTICLE I. IN GENERAL**Sec. 14-1. Participation In Southeast Nebraska Development District.**

The city is hereby authorized to join with any incorporated villages, cities or counties that are eligible and may wish to participate as a member of the Southeast Nebraska Development District through execution of an intergovernmental agreement. The mayor is hereby authorized for, and on behalf of, the city, as its corporate act and deed under its corporate name and seal, to execute an interlocal cooperation agreement for participation by the city in the Southeast Nebraska Development District, which said agreement shall be substantially in the words and figures set forth in that certain agreement, a copy of which is attached hereto and made a part hereof.

(Code 1972, § 27-4; Ord. No. 1916, § 1, 9-16-2004)

Secs. 14-2--14-20. Reserved.**ARTICLE II. COMMUNITY DEVELOPMENT AGENCY***

***State law reference**—Community development agency, R.R.S. 1943, § 18-2101.01 et seq.

Sec. 14-21. Community development agency; creation.

There is hereby created the community development agency as authorized by R.R.S. 1943, § 18-2101.1. Such agency may exercise all of the power and authority granted to a community redevelopment authority in R.R.S. 1943, §§ 18-2101 to 18-2144.

(Code 1972, § 27-61; Ord. No. 2192, § 1, 4-5-2018)

Sec. 14-22. Officers.

The community development agency shall consist of the city council.

(Code 1972, § 27-62; Ord. No. 2192, § 1, 4-5-2018)

Sec. 14-23. Director.

The city administrator shall serve as the director of the community development agency and shall perform such duties as may be assigned by the agency, including the necessary administrative functions described in the statutes under which the agency has been created. The city clerk shall serve as ex officio secretary of the agency.

(Code 1972, § 27-63; Ord. No. 2192, § 1, 4-5-2018)

Sec. 14-24. Funds.

All assets, liabilities and obligations of the former city community redevelopment authority are hereby transferred to and assumed by the community development agency of the city. All income, revenue, profits and other funds received by the agency shall be deposited with the city treasurer as ex officio treasurer of such agency without commingling such money with any other money under her control and disbursed by her by check or draft only upon warrants, orders, or requisitions by the chairperson of the agency or other person authorized by the agency, which shall state distinctly the purpose for which the same are drawn; and a permanent record shall be kept by the authority of any such activity.

(Code 1972, § 27-64; Ord. No. 2192, § 1, 4-5-2018)

Sec. 14-25. Financial review committee.

- (a) Review applications.

- (1) The committee will review applications to determine the necessity and appropriateness for tax increment finance (TIF) funds and shall make recommendations to the city council on such grant applications.
- (2) In reviewing applications for TIF funds and making recommendations to the city council, the committee shall consider the following factors:
 - a. Whether the proposed land uses and building requirements in the redevelopment project area are designed with the general purpose of accomplishing, in conformance with the general plan, a coordinated, adjusted, and harmonious development of the city and its environs which will, in accordance with present and future needs, promote health, safety, morals, order, convenience, prosperity, and the general welfare, as well as efficiency and economy in the process of development, including, among other things, adequate provision for traffic, vehicular parking, the promotion of safety from fire, panic, and other dangers, adequate provision for light and air, the promotion of the healthful and convenient distribution of population, the provision of adequate transportation, water, sewerage, and other public utilities, schools, parks, recreational and community facilities, and other public requirements, the promotion of sound design and arrangement, the wise and efficient expenditure of public funds, and the prevention of the recurrence of insanitary or unsafe dwelling accommodations or conditions of blight.
 - b. A cost-benefit analysis for each redevelopment project whose redevelopment plan includes the use of funds authorized by R.R.S. 1943, § 18-2147. In conducting the cost-benefit analysis, the authority shall use a cost-benefit model developed for use by local projects. Any cost-benefit model used by the authority shall consider and analyze the following factors:
 1. Tax shifts resulting from the approval of the use of funds pursuant to R.R.S. 1943, § 18-2147;
 2. Public infrastructure and community public service needs impacts and local tax impacts arising from the approval of the redevelopment project;
 3. Impacts on employers and employees of firms locating or expanding within the boundaries of the area of the redevelopment project;
 4. Impacts on other employers and employees within the city or village and the immediate area that are located outside of the boundaries of the area of the redevelopment project; and
 5. Any other impacts determined by the authority to be relevant to the consideration of costs and benefits arising from the redevelopment project.
- (b) The committee will consist of the following:
 - (1) Mayor;
 - (2) City council president;
 - (3) Chairperson of planning commission;
 - (4) County development corporation executive director;
 - (5) President of York State Bank;
 - (6) President of Cornerstone Bank;
 - (7) President of Midwest Bank;
 - (8) City administrator;
 - (9) City clerk;
 - (10) Authorized attorney.

(Code 1972, § 27-65; Ord. No. 2190, § 1, 3-1-2018)

Secs. 14-26--14-53. Reserved.

ARTICLE III. PROCUREMENT POLICY FOR ADMINISTRATION OF COMMUNITY DEVELOPMENT BLOCK GRANTS*

*State law reference—Community Block Grant Program, R.R.S. 1943, § 81-1201.18.

Sec. 14-54. Purpose.

The purpose of the procurement policy is to ensure that sound business judgment is utilized in all procurement transactions and that supplies, equipment, construction and services are obtained efficiently and economically and in compliance with applicable federal law and executive orders.

(Code 1972, § 2-270; Ord. No. 1554, § 1, 6-11-1987)

Sec. 14-55. Application.¹²⁵

This policy applies to the procurement of all supplies, equipment, construction and service of and for the city related to the implementation and administration of the community development block grant. All procurement will be done in accordance with ~~24 CFR 85 2 CFR 200.320~~ and applicable state statutes.

(Code 1972, § 2-271; Ord. No. 1554, § 2, 6-11-1987; Ord. No. 1951, § 1, 1-5-2006)

Sec. ~~2-272~~. Policy.¹²⁶

~~— Method of Procurement: Procurement under grants shall be made by one of the following methods, as described herein:~~

~~— Small purchase procedures. Small purchase procedures are relatively simple and informal procurement methods that are sound and appropriate for a procurement of services, supplies or other property costing in the aggregate not more than ten thousand dollars (\$10,000.00). The city shall comply with state or local small purchase dollar limits under ten thousand dollars (\$10,000.00). If small purchase procedures are used for a procurement under a grant, price or rate quotations shall be obtained from at least three qualified sources.~~

~~— Competitive sealed bids (formal advertising). In competitive sealed bids (formal advertising), sealed bids are publicly solicited and a firm fixed price contract (lump sum or unit price) is awarded to the responsible bidder whose bids, conforming with all of the material terms and conditions of the invitation for bids, is lowest in price.~~

~~— Appropriate conditions in order for formal advertising to be feasible must be present, including, as a minimum, the following:~~

~~— A complete, adequate and realistic specification or purchase description.~~

~~— Two or more responsible suppliers are willing and able to compete effectively for the city's business; and~~

~~— The procurement lends itself to a firm fixed price contract, and selection of the successful bidder can appropriately be made principally on the basis of price.~~

~~— When formal advertising is used for a procurement under a grant, the following requirements shall apply:~~

~~— A sufficient time prior to the date for opening of bids, bids shall be solicited from an adequate number of known suppliers. In addition, the invitation shall be publicly advertised.~~

~~— The invitation for bids, including specifications and pertinent attachments, shall clearly define the items or services needed in order for the bidders to properly respond to the invitation.~~

¹²⁵ Legal or Editorial Change: Code 1972, § 2-271. Application. Revised per instructions.

¹²⁶ Legal or Editorial Change: Code 1972, § 2-272. Policy. Deleted per instructions.

- ~~— All bids shall be opened publicly at the time and place stated in the invitation for bids.~~
- ~~— A firm fixed price contract award shall be made by written notice to that responsible bidder whose bid, conforming to the invitation for bids, is lowest. Where specified in the bidding documents, factors such as discounts, transportation costs and life cycle costs shall be considered in determining which bid is lowest. Payment discounts may only be used to determine low bid when prior experience of the city indicates that such discounts are generally taken.~~
- ~~— Any or all bids may be rejected when there are sound documented business reasons in the best interest of the program.~~
- ~~— *Competitive negotiation.* In competitive negotiation, proposals are requested from a number of sources and the request for proposal is publicized. Negotiations are normally conducted with more than one of the sources submitting offers, and either a fixed price or cost reimbursable type contract is awarded, as appropriate. Competitive negotiation may be used if conditions are not appropriate for the use of formal advertising. If competitive negotiation is used for a procurement under a grant, the following requirements shall apply:

 - ~~— Proposals shall be solicited from an adequate number of qualified sources to permit reasonable competition consistent with the nature and requirements of the procurement. The request for proposal shall be publicized and reasonable requests by other sources to compete shall be honored to the maximum extent practicable.~~
 - ~~— The request for proposal shall identify all significant evaluation factors, including price or cost where required and their relative importance.~~
 - ~~— The city shall provide mechanisms for technical evaluation of the proposals received, determination of responsible offerors for the purpose of written or oral discussions, and selection for contract award.~~
 - ~~— Awards may be made to the responsible offeror whose proposal will be most advantageous to the procuring party, price and other factors considered. Unsuccessful offerors will be notified promptly.~~
 - ~~— The city may utilize competitive negotiation procedures for procurement of architectural/engineering professional services, whereby competitor's qualifications as selected, subject to negotiation of fair and reasonable compensation.~~~~
- ~~— *Noncompetitive negotiation.* Noncompetitive negotiation is procurement through solicitation of a proposal from only one source, or after solicitation of a number of sources, competition is determined inadequate. Noncompetitive negotiation may be used when the award of a contract is infeasible under small purchase, competitive bids (formal advertising) or competitive negotiation procedures. Circumstances under which a contract may be awarded by noncompetitive negotiation are limited to the following:

 - ~~— The item is available from only one source;~~
 - ~~— After solicitation of a number of sources, competition is determined inadequate;~~
 - ~~— Public exigency or emergency when the urgency for the requirement will not permit a delay incident to competitive solicitation; and~~
 - ~~— Sole source procurement for supplies, equipment, construction and services valued at ten thousand dollars (\$10,000.00) or more must have prior approval of the Nebraska Office for Planning and Programming.~~~~
- ~~— *Other methods.* Any other method of procurement must have prior approval of the Nebraska Office for Planning and Programming.~~
- (B) ~~— Contract Pricing:

 - ~~— The cost plus percentage of cost and percentage of construction cost method of contracting shall not be used.~~~~

~~— The city shall perform some form of cost/price analysis for every procurement action, including modifications or change orders.~~

~~(C) — Small, Minority, and Women's Business Enterprises and Labor Surplus Area Firms:~~

~~— The city may solicit qualified small, minority and women's businesses whenever they are potential sources.~~

~~— The city will procure goods and services from labor surplus areas when economically feasible.~~

~~(D) — *Procurement Records*: The city shall maintain records sufficient to detail the significant listing of a procurement, including the rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the cost or price.~~

~~(Code 1972, § 2-272; Ord. No. 1554, § 3, 6-11-1987)~~

PROOFS

Chapter 15
RESERVED

PROOFS

Chapter 16

EMERGENCY MANAGEMENT AND EMERGENCY SERVICES*

***State law reference**—Emergency Management Act, R.R.S. 1943, § 82-829.36 et seq.; local government emergency management powers and duties, R.R.S. 1943, § 82-839.46 et seq.

ARTICLE I. IN GENERAL

Secs. 16-1--16-18. Reserved.

ARTICLE II. ALARM SYSTEMS*

***State law reference**—Authority to prevent noise, R.R.S. 1943, § 16-228.

Sec. 16-19. Definitions.¹²⁷

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

Alarm account means the physical street address at which an alarm system is installed.

Alarm business means the business by any individual, partnership, corporation, or other entity, of selling, leasing, maintaining, servicing, repairing, altering, replacing, moving, or installing any alarm system or causing to be sold, leased, maintained, serviced, repaired, altered, replaced, moved or installed, any alarm system in or on any building, structure or facility.

Alarm system means any assembly of equipment, mechanical or electrical, arranged to provide an external signal or advising a central location of the occurrence of an illegal entry, fire or other activity requiring urgent attention.

Alarm user means the person, firm, partnership, association, corporation, company or organization of any kind, in control of any building, structure or facility who purchases, leases, contracts for or otherwise obtains an alarm system or for the servicing of maintenance of an alarm system and thereafter contracts with or hires an alarm business to monitor and/or service the alarm device.

Alarm zone means an alarm detection point located at or within a physical location identified as an alarm account.

Answering service means a telephone answering business providing among its services the service of receiving on a continuous basis, through trained employees, emergency signals from alarm systems, and thereafter immediately relaying the message by live voice to the 911 communications center.

Automatic dial protection device means an electrically operated instrument composed of sensory apparatus and related hardware, which automatically sends over regular telephone lines an alarm, upon receipt of a stimulus from the sensory apparatus that has detected a force or condition characteristic of an unauthorized intrusion, fire or an emergency message indicating a need for emergency response.

Burglar alarm system means an alarm system signaling an entry or attempted entry into an area protected by the system.

Central station protective system means a system or group of systems operated by a person, firm or corporation, in which the operators of electrical protection circuits and devices are transmitted to, recorded in, and maintained and supervised from, a central station having operators in attendance at all times.

~~*City* shall mean the City of York, Nebraska.~~

¹²⁷ Legal or Editorial Change: Code 1972, § 4.5-1. Changed alarm coordinator to director throughout this chapter.

~~Alarm coordinator~~ Director means the ~~911 communications center supervisor~~ York County Communications Center Director.

False alarm means an alarm signal, eliciting an urgent public safety response when a situation requiring an urgent response does not, in fact, exist, but does not include an alarm signal caused by violent conditions of nature or other extraordinary circumstances not reasonably subject to control by the alarm business or alarm user. The burden of proving that such alarm was not a false alarm shall be on the alarm business or alarm user.

Fire alarm system means an alarm system signaling a fire, smoke or temperature condition whereby a fire may occur.

Firearm means any weapon which is designed to or may readily be converted to expel any projectile by the action of an explosive or frame or receiver of any such weapon.

Fire chief means the city fire chief or designated representative.

Local alarm system means an alarm system which when activated causes an audible and/or visual signaling device to be activated and is intended to be seen and/or heard by others outside of the protected premises.

Non-single-family dwelling means any building that does not qualify as a single-family dwelling.

Notice means written notice, given by personal service upon the addressee or given by United States mail, postage prepaid, addressed to the person to be notified at said person's last known address. Service of such notice shall be effective upon completion of personal service or upon placing of the same in the custody of the United States Postal Service.

Panic alarm means an alarm system installed or maintained for the purpose of summoning an urgent or emergency public safety response to an actual or attempted burglary, robbery, fire or medical emergency.

Permit year means a 12-month period from October 1 to September 30.

Police chief means the city chief of police or designated representative.

Proprietary system means an alarm system sounding and/or recording alarm signals to a control center located within the protected premises, the control center being under the supervision of the proprietor of the premises. If a proprietary system includes a signal line connected directly or by means of an automatic dialing device to the 911 communications center, a central station protective system or answering service, it thereby becomes an alarm system, as defined in this section.

Public safety means any law enforcement, fire or rescue service.

Robbery alarm system means an alarm system signaling a robbery or attempted robbery.

Single-family dwelling means a building having accommodations for and occupied exclusively by one family. The term "single-family dwelling" may include modular homes, manufactured homes and mobile homes.

(Code 1972, § 4.5-1; Ord. No. 2124, § 1.1, 2-19-2015)

Sec. 16-20. Permit required.

No person, firm or corporation, either as principal officer, agent, servant or employee, shall possess or operate an alarm system without first obtaining a permit for such alarm system from the ~~alarm coordinator~~ director; provided, however, the provisions of this section are not applicable to local alarm systems affixed to motor vehicles.

(Code 1972, § 4.5-2; Ord. No. 2124, § 1.2, 2-19-2015)

Sec. 16-21. Permit application; non-transferability; exceptions.

(a) Every alarm user shall obtain an alarm user's permit from the ~~alarm coordinator~~ director within 30 days after the effective date of the ordinance from which this article is derived or prior to use of an alarm system. Each alarm user must provide to the ~~alarm coordinator~~ director on a form provided by the 911 communications center the name, address and telephone number of the alarm user and of the alarm business, if any, with whom the alarm user has contracted for maintenance of the alarm system. Each alarm user shall also provide the names, addresses, and the telephone numbers of a minimum of two persons who can be contacted 24 hours a day and seven days a week to turn off or deactivate an alarm system. It shall be the obligation of the alarm user to keep this information

current and correct through supplementary notifications filed from time to time on the same form. Alarm permits are non-transferable. Each building, structure or facility maintaining one or more alarm systems must obtain an alarm user's permit. Each permit shall bear the signature of the ~~alarm coordinator~~ director and shall be physically upon the premises using the alarm system and shall be available for inspection by the police chief, fire chief or their designated representative or any police officer or firefighter.

(b) Alarm users shall submit, with their permit application to the ~~alarm coordinator~~ director, a release of liability releasing the city, and police officer, firefighter and any other city employee from all claims and suits for any damages, injury or loss to any person or to any property arising out of the use, activation, regulation or response to or of an alarm system.

(c) The issuance date of alarm permits shall be the actual date of issuance of said permit unless such alarm system has recorded a false alarm prior to obtaining a permit, then such date of issuance shall be the date of the first false alarm received; provided, however, that all such permits shall expire on September 30 of each year and shall be subject to renewal.

(d) An alarm user which is a governmental unit or entity shall be subject to this section. The city and its departments and divisions shall not be subject to the payment of any fees or imposition of any penalty as provided herein.

(Code 1972, § 4.5-3; Ord. No. 2124, § 1.3, 2-19-2015; Ord. No. 2126, § 1, 4-16-2015)

Sec. 16-22. Permit fees.¹²⁸

The following permit fees shall be paid with the permit application:

- (1) Single-family dwelling: \$10.00.
- (2) Non-single-family dwelling: \$25.00.

(Code 1972, § 4.5-4; Ord. No. 2124, § 1.4, 2-19-2015)

Sec. 16-23. Regulations; duties; unlawful acts.¹²⁹

(a) The chief of police and/or fire chief ~~or their designated representatives~~ may require the inspection of any or all alarm systems installed within the city.

(b) Local alarm systems installed within 30 days after the effective date of the ordinance from which this section is derived shall not emit a sound similar to that of an emergency vehicle or a civil defense warning siren.

(c) Local alarm systems, except fire alarm systems, shall be equipped to automatically discontinue emitting an audible sound within 15 minutes of activation.

(d) It shall be the responsibility of each alarm user to see that the standards of installation and maintenance set forth in this section are adhered to.

(e) It shall be the responsibility of any alarm business causing installation of or maintaining an alarm system to cause such installation or maintenance to conform to the requirements of the fire code and the electric code applicable to the city.

(f) Without the prior express consent of the ~~alarm coordinator~~ director, alarm systems shall not be tested so as to transmit a signal to the 911 communications center when an emergency or life hazard situation does not exist. It shall be the responsibility of each alarm user and alarm business not to make such tests.

(g) An alarm business, alarm user, employee of a central station protective system or employee of an answering service charged with the responsibility of relaying a live voice request for a public safety response, upon the activation of an alarm system, shall give the following information to the 911 communications center at the time

¹²⁸ Legal or Editorial Change: Code 1972, § 4.5-4. Permit fees. Please review the fees herein and advise as to any changes needed to make same current

¹²⁹ Legal or Editorial Change: Code 1972, § 4.5-5. Regulations; duties; unlawful acts. Altered per instructions.

of such request: Address of alarmed location; type of alarm system that has been activated; name of commercial business or resident; specific location of an area within the building, structure or facility protected by the activated alarm; name of the alarm business making request if applicable; name of person making the request; and a telephone number where the requesting party can be contacted. Unless specifically requested, it is the sole responsibility of the person making such request to notify authorized persons in control of such alarmed building, structure or facility that such alarm has been activated.

(h) The ~~alarm coordinator~~ director shall be responsible for determining which alarms constitute false alarms, as defined in section 16-19. A record of all false alarms shall be maintained by the ~~alarm coordinator~~ director.

(i) At the time of the second false alarm for any permit within any permit year, the ~~alarm coordinator~~ director shall notify the alarm permit holder by certified mail of such occurrence and that additional false alarms during the permit year will require the payment of fees as set forth in this section. Failure to receive notice shall not be deemed to extend the term of conditions of the permit.

(j) It is unlawful for any person to activate any burglary, robbery, fire or emergency alarm for the purposes of summoning public safety assistance, except in the event of any actual or attempted burglary, robbery, fire or medical emergency, or for such person notifying the 911 communications center of an activated alarm and having knowledge that such activation was apparently caused by an electrical or other malfunction of the alarm system to fail to notify the 911 communications center of such malfunction.

(k) Any premises with an alarm system shall provide address numbers which are clearly visible from a distance of 100 feet or more. The address numbers shall be posted to the left, right or overhead to the main entrance of the building, structure or facility and if such building, structure or facility is on a corner lot, address numbers shall face the street named in the official address, as designated by the city.

(l) The chief of police and fire chief shall establish, distribute and cause the enforcement of rules and regulations, subject to the provision of this section, as from time to time they deem it necessary for the implementation of this section.

(Code 1972, § 4.5-5; Ord. No. 2124, § 1.5, 2-19-2015)

Sec. 16-24. False alarms; false alarm fees required; grace period; appeals.¹³⁰

(a) Any alarm system which has recorded more than two false alarms within a permit year shall be subject to the following fees a fee of \$100.00 for each false alarm.

~~— False alarms occurring 3—5 times within a permit year\$25.00~~

~~— False alarms occurring 6—8 times within a permit year50.00~~

~~— False alarms occurring 9 or more times within a permit year75.00~~

(b) The payment of the fee provided for in this section shall be submitted to the city clerk's office within ten days of receiving notice that such fee is due.

(c) A grace period of 90 days from the date of activation of any new alarm systems or two false alarms, whichever occurs first, shall be allowed for the purpose of adjustments and corrections in the alarm system, prior to any accumulating of false alarms as provided herein.

(d) Any alarm user who has been assessed a fee, as provided for in this section, may appeal such assessment to the city council by filing a written notice of appeal with the city clerk, within ten days of receipt of the notice that such fee is due. The filing of such notice shall stay that effect of such assessment until a hearing is held before the city council at its next regular meeting. The city council shall have the power to uphold or set aside the assessment of such fees.

(Code 1972, § 4.5-6; Ord. No. 2124, § 1.6, 2-19-2015)

¹³⁰ Legal or Editorial Change: Code 1972, § . 4.5-6. False alarms; false alarm fees required; grace period; appeals. Revised per instructions.

Sec. 16-25. Designated telephone lines.

No person shall use or cause to be used an alarm system or device of any kind that automatically dials or calls any telephone line of the offices of the city or any department or division thereof except such telephone lines as may be designated by the 911 communications center for the specific purpose of receiving signals from alarm systems.

(Code 1972, § 4.5-7; Ord. No. 2124, § 1.7, 2-19-2015)

Sec. 16-26. Confidentiality; statistics.

(a) All information submitted in compliance with this section shall be held in strictest confidence, shall be deemed a public record exempt from disclosure except as may be required by the state public records laws, and shall be kept so that the contents thereof shall not be known except to persons authorized to carry out the administration and enforcement of this section. The ~~alarm coordinator~~ director shall be charged with the sole responsibility for the maintenance of all records of any kind whatsoever under this section.

(b) Subject to the requirements of confidentiality, the ~~alarm coordinator~~ director shall develop and maintain statistics for the purpose of assisting alarm system evaluation, for use by members of the public and city council.

(Code 1972, § 4.5-8; Ord. No. 2124, § 1.8, 2-19-2015)

State law reference—Records management, R.R.S. 1943, § 84-1201 et seq.

Sec. 16-27. No liability on part of the city.

This section shall not create a duty by the city or public safety personnel to respond to an address or location registering an alarm, or to respond to an alarm signal.

(Code 1972, § 4.5-9; Ord. No. 2124, § 1.9, 2-19-2015)

Sec. 16-28. Firearms dealers; burglary alarm systems required; exceptions.

Each business organization which engages in the retail sale of firearms, except those organizations that are open 24 hours a day or that have an employee or agent on the premises at all times, shall have a burglar alarm system installed on the premises. Such alarm system shall be monitored by a central station and shall activate upon unauthorized entry or interruption to such system. For the purposes of this section, the term "business organization" means sole proprietorship, partnership, firm, corporation or other form of business or legal entity. The provisions of this section shall not apply to any person who:

- (1) Sells or exchanges a firearm for the enhancement of a personal collection or as a hobby;
- (2) Sells all or part of a personal collection of firearms; or
- (3) Sells firearms from said person's own residence and keeps for sale not more than ten firearms.

(Code 1972, § 4.5-10; Ord. No. 2124, § 1.10, 2-19-2015)

Sec. 4.5-11. Penalty.¹³¹

~~Any person convicted of a violation of any of the provisions of, or failing to comply with any of the requirements of this section shall be guilty of an offense. Each person shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of the section is committed, continued or permitted by any such person. Any violation of this section shall be subject to the penalties provided in section 1-8 of this Code.~~

(Code 1972, § 4.5-11; Ord. No. 2124, § 1.11, 2-19-2015)

Chapter 10

¹³¹ Legal or Editorial Change: Code 1972, § 4.5-11. Penalty. Delete as not needed.

CIVIL DEFENSE*¹³²

~~*State Law reference— State civil defense act, R.R.S. 1943, § 81-829.05 et seq.~~

ARTICLE I. IN GENERAL**Sec. 10-1. Use of fire apparatus, personnel.**

~~The fire department of the city shall move its fire and other emergency equipment and personnel outside the city and place them in immediate operation whenever ordered to do so by the state civil defense agency and to such place as it shall direct, either in the event of an emergency as defined by the state Civil Defense Emergency Management Act (R.R.S. 1943, § 81-829.36 et seq.) or in connection with any program for practice and training.~~

~~The personnel of the fire department of this city shall be considered as fully protected by the state workmen's compensation law Nebraska Workers' Compensation Act (R.R.S. 1943, § 48-101 et seq.) in the course of any such movement and operation of the fire and other emergency equipment of the city; and the mayor be, and he hereby is, ordered to arrange with the insurance carrier that the policy of insurance against liability of the city arising under the state workmen's compensation law Nebraska Workers' Compensation Act (R.R.S. 1943, § 48-101 et seq.) shall be amended by rider or otherwise so as to cover such movement and operation of the fire and other emergency equipment and personnel of the city, if such insurance policy does not now include that coverage.~~

~~(Code 1972, § 10-1; Ord. No. 948, §§ 1, 2, 10-3-1957)~~

Sec. 10-2. Emergency succession.

~~The provisions of the Nebraska General Emergency Succession Act (R.R.S. 1943, § 84-1101 et seq.) are hereby invoked in this city; and shall be binding upon the officers of the municipal government, including each member of the city council, the chief of police, the police magistrate, the city clerk treasurer, the chief of the fire department, the director of public works, the city physician, each member of the board of public works and the city attorney.~~

~~(Code 1972, § 10-2)~~

Secs. 10-3—10-13. Reserved.**ARTICLE II. LOCAL ORGANIZATION***

~~*State Law reference— Local civil defense organization, R.R.S. 1943, § 81-829.46 et seq.~~

DIVISION 1. GENERALLY**Sec. 10-14. Created.**

~~There is hereby created a local organization for civil defense in accordance with the state civil defense plan and program.~~

~~(Code 1972, § 10-14)~~

Sec. 10-15. Name.

~~The local organization for civil defense shall be called York County Civil Defense Agency.~~

~~(Code 1972, § 10-15)~~

Sec. 10-16. Duties generally.

~~The local organization for civil defense shall have all the powers and duties authorized and prescribed by state law as amended and such portions of this state law applicable to cities of the first class are hereby incorporated and made a part of this section as though spread at large herein and are hereby adopted by reference.~~

~~(Code 1972, § 10-16)~~

¹³² Legal or Editorial Change: Code 1972, ch. 10. Civil Defense. Deleted as obsolete. See R.R.S. 1943, §§ 81-829.36 et seq, 84-1101 et seq.

~~Secs. 10-17—10-23. Reserved.~~

~~DIVISION 2. DIRECTOR*~~

~~*State Law reference— Director of local emergency management organization, R.R.S. 1943, § 81-829.46.~~

~~Sec. 10-24. Office created.~~

~~There is hereby created the office of director of the local organization for civil defense.~~

~~(Code 1972, § 10-24)~~

~~Sec. 10-25. Appointment.~~

~~The director of the local organization for civil defense shall be appointed by the mayor with the consent of the city council.~~

~~(Code 1972, § 10-25)~~

~~Sec. 10-26. Term.~~

~~The director of the local organization for civil defense shall serve at the pleasure of the mayor.~~

~~(Code 1972, § 10-26)~~

~~Sec. 10-27. Powers, duties generally.~~

~~The director of the local organization for civil defense shall have direct responsibility for the organization, administration, and operation of such local organization for civil defense, subject to the direction and control of the mayor and city council and such other duties as the state statutes may provide.~~

~~(Code 1972, § 10-27)~~

Chapter 17
RESERVED

PROOFS

Chapter 18

FIRE PREVENTION AND PROTECTION*

***State law reference**—Fire prevention regulations authorized, R.R.S. 1943, § 16-222.

ARTICLE I. IN GENERAL**Sec. 18-1. False fire alarm.**

It shall be unlawful for any person intentionally to and without reasonable cause to raise any false alarm of fire within the city.

(Code 1955, § 7-309; Code 1972, § 14-1)

Sec. 18-2. Custody of apparatus.

The chief of the fire department shall have the custody of all apparatus and property used in fire protection either belonging to or used by the city. The chief of the fire department shall have authority to direct how it shall be cared for and shall be responsible for its safe and proper keeping.

(Code 1955, § 7-107; Code 1972, § 14-2)

~~Sec. 14-3. Testing hose.~~¹³³

~~All fire hose of the fire department shall be pressure tested at least two times during each municipal year.~~

~~(Code 1955, § 7-110; Code 1972, § 14-3)~~

Sec. 18-3. Fireworks.¹³⁴

(a) *Prohibited.* It shall be unlawful for any person to possess, sell, offer for sale, bring into the city, or discharge any pyrotechnics, commonly known as fireworks, other than permissible fireworks as determined by the state fire marshal, provided that the provisions of this section shall not apply to:

- (1) Any fireworks for purposes of public exhibitions or displays purchased from a licensed distributor or the holder of a display license to be issued by the state fire marshal, which license shall be good only for the calendar year and which shall not authorize the holder to sell or hold for sale any permissible fireworks as defined by the fire marshal or any firecrackers of any description, whether soft shell or hard shell;
- (2) Any public exhibition or display by the city or its agents or employees;
- (3) Any fireworks brought into the state for storage by a licensed distributor and held for sale outside of the state.

(b) *Permit to sell fireworks.* It shall be unlawful for any person to sell or offer for sale permissible fireworks in the city without first having made application to the city clerk and obtaining a permit to do so from the clerk. The applicant for a permit shall pay a fee of \$100.00 at the time of submitting the application for each of the premises from which the fireworks are to be sold in the city and shall otherwise comply with all regulations and conditions as set forth herein, and all rules and regulations imposed by the state fire marshal, and all requirements under state statute. The application shall be filed with the city clerk and fee paid prior to June 24 of each year.

(c) *Dates and times of lawful sale.* Permissible fireworks may be sold or offered for sale in the city on June 28 through and including July 4 of each year between the hours of 9:00 a.m. and 11:00 p.m. A waiver of the restriction provided for by this section on the authorized time for the discharge of fireworks may be obtained only

¹³³ Legal or Editorial Change: Code 1972, § 14-3. Testing hose. Deleted as obsolete or not needed.

¹³⁴ Legal or Editorial Change: Code 1972, § 35-69.2. Fireworks. Altered per instructions.

by a governmental entity or a licensed distributor or the holder of a display license from the mayor.

(d) *Age limitation for selling fireworks.* Retail sales establishments shall, at all times, be supervised by a person of at least 19 years of age. Failure to comply with this regulation may result in the immediate revocation of the permit.

(e) *Discharging fireworks where sold.* It shall be unlawful for any person to discharge fireworks in or upon the premises where fireworks are sold.

(f) *Permit and insurance requirements.* Any person desiring to sell any permissible fireworks as set forth in this section shall make application on a form prepared by the city clerk and approved by the chief of the fire department. Said application for a permit to sell permissible fireworks shall provide the following information:

- (1) The name and residence address of the applicant;
- (2) Location of the premises for which the permit is sought;
- (3) The address or legal description of the premises, an accurate drawing or plat showing the location of the structure, and a description of the structure to be used and the location of the structure on the premises;
- (4) Where the inventory will be stored;
- (5) When the inventory will arrive;
- (6) Where the inventory will be stored during the off season;
- (7) A copy of the certificate of insurance for the premises in the amount of \$1,000,000.00 per occurrence/\$2,000,000.00 aggregate coverage, naming the city as an additional insured.

(g) *Dates and times of lawful discharge of fireworks.* Permissible fireworks may be discharged, exploded, or used in the city on June 28 through and including July 4 of each year, provided that on such days the discharge and explosion of fireworks shall be permitted during the following times:

- (1) June 28 through July 3: 9:00 a.m. to 11:00 p.m.
- (2) July 4: 9:00 a.m. to 12:00 midnight.

(h) *Penalty for unlawful discharge of fireworks.* The sale, discharge or exploding of fireworks within the city on any dates or times other than as set out in this section shall be unlawful and shall be subject to a penalty of ~~not less than twenty five dollars (\$25.00) nor more than one hundred dollars (\$100.00)~~ as provided in section 1-9. Each separate sale, discharge or explosion of fireworks within the city other than as permitted in this section shall constitute a separate offense.

(i) *Declaration of emergency.* The mayor, in the event of drought conditions, shall have the authority to make an emergency declaration banning the discharge of fireworks within the city. Said emergency declaration shall have the force of law and violations of the declaration shall be punishable as set forth in this section.

(Code 1972, § 35-69.2; Ord. No. 1020, § 2, 6-13-1963; Ord. No. 1914, §§ 1—9, 9-16-2004; Ord. No. 1982, §§ 1—6, 3-1-2007)

State law reference—Fireworks, R.R.S. 1943, §§ 28-1239.01, 28-1241 et seq.

Sec. 18-4. Fires in trash burners and incinerators regulated.

It shall be lawful to build or set out a fire on premises zoned and/or used for commercial or industrial purposes, provided that the person building such fire shall have the substance to be burned in a fireproof trash burner or incinerator with a metal fireproof screen of not more than one-inch mesh, and located at least 20 feet from any building. The incinerator shall be built in such a way as to not permit the escape of burning paper or other substance. If any person shall require a fire in the course of said person's trade such as a blacksmith or mechanic, such fire shall be built and maintained in the manner prescribed by the fire chief. All fires built pursuant to this section shall be built and maintained with the approval and permission of the fire chief and shall be permitted only to the extent allowed by the fire chief.

(Code 1972, § 14-64; Ord. No. 1586, § 2, 5-11-1989; Ord. No. 1960, § 1, 7-20-2006)

State law reference—Fire prevention, R.R.S. 1943, § 81-520.01.

Sec. 18-5. Fires in trash burners and incinerators regulated—Fires to be extinguished under certain conditions.

(a) In the event the fire chief or the fire chief's designee determine at any time that any burning under section 18-4 and this section constitutes a nuisance to the surrounding area or its occupants, the fire chief or designee shall have the authority to require that any such fire be extinguished until conditions are such that a burning would be acceptable and would not constitute a nuisance.

(b) Penalty. The violation of this section shall be punished as provided by section 1-9.

(Code 1972, § 14-65; Ord. No. 1586, § 3, 5-11-1989; Ord. No. 2122, § 1, 2-5-2015)

Sec. 18-6. Outdoor fireplaces.

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

Chimineas means an outdoor patio fireplace, usually made from clay, intended to confine and control outdoor wood fires.

Fire pits. Fire pits are usually constructed of steel, concrete and/or stones and constructed above ground with a heavy steel screen cover.

Fire rings means a fire constructed on the ground that is enclosed with a metal tube, partially buried in the ground, poured concrete, stones, or other type of material used for an enclosure.

Outdoor fireplaces includes fire pits, portable fire pits, chimineas, and fire rings. These outdoor fireplaces use wood as a fuel and are used for contained recreational fires for the purpose of outdoor cooking and personal enjoyment. The term "outdoor fireplaces" does not include barbeque grills that use propane or charcoal as a fuel and used primarily for outdoor cooking.

Portable fire pits means being commercially designed and intended to confine and control outdoor wood fires.

(b) All outdoor fireplaces shall meet the following requirements:

- (1) *Clearances*. A minimum ten-foot clearance shall be maintained between the outdoor fireplace and combustible walls, roofs, fences, and other combustible material. A minimum ten-foot clearance shall also be maintained between the outdoor fireplace and combustible balconies or decks unless the outdoor fireplace is placed on a stable, non-combustible surface such as a concrete pad.
- (2) *Construction*. Outdoor fireplaces shall be constructed of concrete or approved non-combustible materials. The fire fuel area and openings shall be completely enclosed by steel screening or an approved non-combustible screening material with openings in screening to be not larger than one-half-inch square. Vent stacks and chimneys shall have a steel screen cover made of heavy wire mesh or other non-combustible material with openings not larger than one-half-inch square or as approved by the fire chief. Fire fuel areas for fire pits shall be covered with a steel screen cover made of heavy wire mesh or other non-combustible material with openings not larger than one-half-inch square. Not permitted are barrels, half-barrels, drums or similarly constructed devices.
- (3) *Size*. The fuel area for a fire pit shall not be larger than three feet in diameter and a height of more than two feet.
- (4) *Location*. Outdoor fireplaces shall be placed on a stable non-combustible surface such as a concrete pad. Outdoor fireplaces shall not be located on combustible balconies or decks (unless they are located on a stable, non-combustible surface such as a concrete pad), or on any balcony above the first floor. Outdoor fireplaces shall not be located under any combustible balcony or any overhanging part of a structure.
- (5) *Type of materials being burnt*. Outdoor fireplaces shall only burn untreated wood. Petroleum products, rubbish, grass, leaves, cardboard, plastics, rubber or any material that may flow out of the containment or cause excessive heat, smoke, or offensive smell shall not be permitted.
- (6) *Amount of materials being burnt*. The amount of material being burnt shall be limited to ensure the flames are confined inside the fuel area of the outdoor fireplace and the flames do not extend into the chimney

or above the pit. The manufacture's recommendation on the maximum amount of fuel to be used at one time shall be followed.

- (7) *Supervision.* Outdoor fireplaces shall be under constant supervision by at least one responsible person of age 18 years or older from the ignition of the fire until the fire is completely extinguished and embers are cool and the fire will not rekindle.
- (8) *Provisions for protection.* A garden hose connected to a water supply or other approved fire extinguishing equipment shall be readily available for use.
- (9) *Wind and weather conditions.* Outdoor fireplaces shall not be operated when winds are blowing over 20 miles per hour and wind direction will cause smoke, embers, or other burning materials to be carried by the wind toward any building or other combustible materials. Outdoor fireplaces shall not be operated when weather conditions are extremely dry.
- (10) *Maintenance.* The owner is responsible to ensure proper maintenance and care is accomplished in accordance with manufacturer's instructions. The outdoor fireplace will be checked regularly for the appearance of cracks and other physical deterioration or loose parts.
- (11) *Smoke nuisance.* Smoke from any outdoor fireplace shall not create a nuisance for neighboring property owners. The fire shall be extinguished immediately upon the complaint of the neighboring property owner of any smoke nuisance. The fire chief is authorized to require outdoor fireplace use to be immediately discontinued if the use of the outdoor fireplace is determined by the chief to constitute a hazardous condition to occupants of surrounding property.
- (12) *Permit.* A site plan showing the location of the outdoor fireplace on the property and a detailed drawing of the construction of the outdoor fireplace shall be submitted to the fire department for review. Approved plans will serve as the permit. A permit will not be required for portable fire pits or chimineas, provided they are commercially designed and have been approved by an independent testing laboratory. Outdoor fireplaces shall comply with the city zoning and building ordinances.

(Code 1972, § 14-66; Ord. No. 1961, § 1, 7-20-2006)

Sec. 18-7. Key boxes for automatic fire alarm systems.

(a) *Mandatory key boxes for automatic alarm systems.* When a building is protected by an automatic alarm system or fire sprinkler system and/or access to or within a building, or an area within that building, is difficult because of secured openings, and where immediate access is necessary for lifesaving or firefighting purposes, the fire chief or designee may require a key lock box to be installed at a location approved by the fire chief. The key lock box shall be a UL type and size approved by the fire chief.

(b) *Key tamper box switch.* The fire chief may require a key box tamper switch connected to the building's fire alarm system.

(c) *Rapid response key boxes.* The rapid key boxes shall contain the following:

- (1) Keys to locked points of egress, whether in interior or exterior of such building;
- (2) Keys to the locked mechanical room;
- (3) Keys to the locked elevator room;
- (4) Keys to the elevator controls;
- (5) Keys to any fence or secured areas;
- (6) Keys to any other areas that may be required by the fire chief;
- (7) A card containing the emergency contact people and phone numbers for such building;
- (8) Floor plans of the rooms within the building as directed by the fire chief.

(d) *New construction requirements.* The requirements of this section shall be installed in all buildings zoned and/or used as commercial and/or industrial constructed after the adoption of the ordinance from which this section is derived, or upon the remodeling, renovation or addition to any existing commercial or industrial building that is

equal to or greater than 25 percent of the assessed value of the building.

(e) *Connection security cap.* When a structure is protected by an automatic sprinkler system or standpipe system and the fire department connection is exposed to potential vandalism, the fire chief or designee may require that a fire department connection security cap be installed. The fire department connection security cap shall be a type approved by the fire department.

(Code 1972, § 14-67; Ord. No. 1964, § 1, 7-20-2006)

Secs. 18-8--18-32. Reserved.

ARTICLE II. FIRE DEPARTMENT*

*State law reference—Fire department authorized, R.R.S. 1943, § 16-222; fire department tax, R.R.S. 1943, § 18-1201.

DIVISION 1. GENERALLY

Sec. 18-33. Control generally.

The exclusive control of the fire department in all matters, except expenditures of monies credited to the fire fund of city arising out of taxation, shall be in the chief of the fire department under the supervision and control of the mayor and council.

(Code 1955, § 7-106; Code 1972, § 14-16)

Sec. 18-34. Appointment of members.

The volunteer fire department shall have the authority to appoint members of such department as provided by law. Their selection shall first be submitted to the mayor and council and shall be approved by them. All vacancies occurring in the membership of the department shall be filled in like manner.

(Code 1955, § 7-104; Code 1972, § 14-17)

Sec. 18-35. Composition.

All volunteer fire companies which are organized according to law in the city shall, along with the paid fire department, be and constitute the fire department of the city.

(Code 1955, § 7-101; Code 1972, § 14-18)

Sec. 18-36. Compensation.

The compensation of the officers and members of the fire department of the city shall be such as may from time to time be fixed by the mayor and council.

(Code 1955, § 7-101; Code 1972, § 14-19)

Sec. 18-37. Rules and regulations.

The chief of the fire department shall make suitable rules and regulations for the organization, management and operation of the fire department, which rules and regulations shall be subject to the approval of the mayor and city council.

(Code 1955, § 7-101; Code 1972, § 14-20)

Sec. 18-38. Uniforms, badges.

The members of the fire department of the city shall be provided with appropriate uniforms and badges.

(Code 1955, § 7-101; Code 1972, § 14-21)

~~Sec. 14-22. Exemptions for volunteer firemen.~~¹³⁵

¹³⁵ Legal or Editorial Change: Code 1972, § 14-22. Exemptions for volunteer firemen. Deleted as covered by (and in conflict with) R.R.S. 1943, § 35-101.

~~All volunteer members in good standing in the city fire company shall be exempt from (1) serving upon all grand and petit juries and juries in justice of the peace courts in this county and (2) militia duty in time of peace; provided, that said certificate of exemption shall be approved and authorized by the council under the seal of the city. When any member shall have retired from such company after having served ten years or more he shall be furnished a certificate of exemption. He may claim exemption from serving upon all grand and petit juries and juries in justice of the peace courts in every county of this state; provided, that any member in good standing in the city fire company on September 20, 1957, shall be furnished a certificate of exemption after five years of service; and provided further, when a member serves in different fire companies or hook and ladder companies in this state, or at different times in the same company, he may add the years he previously served to his present membership in order to qualify for such exemption. Persons who received certificates of exemption for five years service prior to September 20, 1957, shall be entitled to all exemptions theretofore enjoyed by holders of such certificates.~~

~~(Code 1972, § 14-22)~~

~~State law reference—Similar provisions, R.R.S. 1943, § 35-101.~~

Sec. 14-23. Group life insurance for volunteer firemen.¹³⁶

~~The city council shall purchase and maintain in force a policy of group term life insurance to age sixty five (65) covering the lives of all of its volunteer firemen. Such policy shall provide a minimum death benefit of two thousand dollars (\$2,000.00) for death from any cause and shall, at the option of the individual fireman, be convertible to a permanent form of life insurance at age sixty five (65). The coverage of such policy shall terminate as to any individual who ceases to be an active volunteer fireman of the municipality or district.~~

~~(Code 1972, § 14-23)~~

~~State law reference—Similar provisions, R.R.S. 1943, § 35-108.~~

Sec. 14-24. Workmen's compensation for volunteer firemen.¹³⁷

~~The volunteer firemen of the city shall be covered by the Nebraska Workers' Compensation Act (R.R.S. 1943, § 48-101 et seq.).~~

~~(Code 1972, § 14-24)~~

Sec. 18-39. Roster.

The chief of the volunteer fire department of the city is hereby required to maintain a current roster of all members of such department in good standing and to certify same to the city clerk together with all changes to said roster. Such current roster and all subsequent appointments to be subject to the approval of the mayor and council.

(Code 1972, § 14-25)

Sec. 18-40. Eligibility Retirement age.¹³⁸

~~The city shall pension all city firemen whenever such firemen shall have first served in the fire department for a period of twenty one (21) years, and shall elect to retire from active service and go upon the retirement list; provided, no person entering the employment of the city as a member of the paid fire department after October 19, 1963, except those who while employed in such department enter military service in World War II shall be entitled to retire, elect to retire, or go upon the retired list until, after the completion of twenty one (21) years of active service, and he shall be fifty five (55) years of age. Mandatory retirement age for fire department personnel shall be 65 years of age.~~

~~(Code 1972, § 11-71)~~

¹³⁶ Legal or Editorial Change: Code 1972, § 14-23. Group life insurance for volunteer firemen. Deleted as covered by (and in conflict with) R.R.S. 1943, § 35-108.

¹³⁷ Legal or Editorial Change: Code 1972, § 14-24. Workmen's compensation for volunteer firemen. Deleted per instructions.

¹³⁸ Legal or Editorial Change: Code 1972, § 11-71. Eligibility. Altered per instruction.

Secs. 18-41--18-68. Reserved.

DIVISION 2. CHIEF*

*State law reference—Full-time fire chief authorized, R.R.S. 1943, § 16-222.02; annual report of fire chief, R.R.S. 1943, § 16-222.03.

Sec. 18-69. Office created.

There is hereby created in and for the city the office of chief of the fire department.

(Code 1972, § 14-32)

Sec. 18-70. Appointment.

The fire chief shall be appointed by the mayor, subject to the approval of the city council from a list of suitable persons supplied by the civil service commission.

(Code 1972, § 14-33)

Sec. 18-71. Powers, duties generally.

The fire chief shall have such powers and authority, and shall perform such duties, as are provided for the fire chief by the provisions of this Code, state law and city ordinances, rules and regulations.

(Code 1972, § 14-34)

Sec. 18-72. Removal.

The chief of the fire department shall be subject to removal from office by the mayor and council at any time.

(Code 1955, § 7-102; Code 1972, § 14-35)

Sec. 14-48. Adoption.¹³⁹

~~There is hereby adopted by the mayor and council for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion, that certain code known as the Fire Prevention Code recommended by the American Insurance Association, being particularly the 1970 edition thereof and the whole thereof, save and except such portions as are hereinafter deleted, modified or amended, of which code not less than three copies have been and now are filed in the office of the city clerk and the same is hereby adopted and incorporated as fully as if set out at length herein, and the provisions thereof shall be controlling within the limits of the city.~~

(Code 1972, § 14-48; Ord. No. 1130, § 1, 8-8-1968)

State law reference—Authority to adopt standard codes, R.R.S. 1943, § 18-132.

Sec. 14-49. Conflicts.

~~In the event of any conflict between the provisions of the code adopted by this article and the provisions of this Code, state law or city ordinance, rule or regulation, the provisions of this Code, state law or city ordinance, rule or regulation shall prevail and be controlling.~~

(Code 1972, § 14-49)

Sec. 14-50. Subsequent editions.

~~Subsequent editions or revisions of the fire prevention code adopted by the provisions of this article shall be considered adopted and of full force and effect within the city upon the approval thereof by the council and the filing of three copies thereof in the office of the city clerk-treasurer.~~

(Code 1972, § 14-50; Ord. No. 1130, § 1, 8-8-1968)

¹³⁹ Legal or Editorial Change: Code 1972, §§ 14-48—14-61. 1970 AIA Fire Prevention Code.
Deleted as obsolete.

Sec. 14-51. Extraterritorial application.

~~The provisions of the code adopted by the provisions of this article shall apply and be enforced to the unincorporated area two miles beyond and adjacent to the corporate boundaries of this city with the same force and effect as if such outlying area were within the corporate boundaries of this city; provided, no such provision shall be extended or applied so as to prohibit, prevent or interfere with the conduct of existing farming, livestock operations, businesses or industry.~~

~~(Code 1972, § 14-51)~~

~~State law reference—Authority to extend provisions, R.R.S. 1943, § 16-901.~~

Sec. 14-52. Definitions.

~~(a) Wherever the word "Municipality" is used in the Fire Prevention Code, it shall be held to mean the City of York, Nebraska.~~

~~(b) ——— Whenever the term "Corporation Counsel" is used in the Fire Prevention Code, it shall be held to mean the city attorney.~~

~~(Code 1972, § 14-52)~~

Sec. 14-53. Establishment of limits of districts in which storage of explosives and blasting agents is to be prohibited.

~~The limits referred to in section 12.5b of the Fire Prevention Code, in which storage of explosives and blasting agents is prohibited, are hereby established as follows: the city limits.~~

~~(Code 1972, § 14-53)~~

Sec. 14-54. Establishment of limits of districts in which storage of flammable liquids in outside aboveground tanks is to be prohibited.

~~——— The limits referred to in section 16.22a of the Fire Prevention Code in which storage of flammable liquids in outside aboveground tanks with a capacity of more than ten gallons is prohibited, are hereby established as follows: the city limits.~~

~~——— The limits referred to in section 16.61 of the Fire Prevention Code, in which new bulk plants for flammable or combustible liquids are prohibited are hereby established as follows: the city limits.~~

~~(Code 1972, § 14-54)~~

Sec. 14-55. Establishment of limits in which bulk storage of liquefied petroleum gases is to be restricted.

~~The limits referred to in section 21.6a of the Fire Prevention Code, in which bulk storage of liquefied petroleum gas is restricted, are hereby established as follows: the city limits.~~

~~(Code 1972, § 14-55)~~

Sec. 14-56. Establishment of motor vehicle routes for vehicles transporting explosives and blasting agents.

~~The routes referred to in section 12.7m of the Fire Prevention Code for vehicles transporting explosives and blasting agents shall be as designated by the mayor and city council.~~

~~(Code 1972, § 14-56)~~

Sec. 14-57. Establishment of motor vehicle routes for vehicles transporting hazardous chemicals or other dangerous articles.

~~The routes referred to in section 20.14 of the Fire Prevention Code for vehicles transporting hazardous chemicals and other dangerous articles shall be as designated by the mayor and city council.~~

~~(Code 1972, § 14-57)~~

Sec. 14-58. Penalty for violation.

~~Any person who shall violate any provision of the code adopted by the provisions of this article shall be deemed guilty of a misdemeanor, and shall be punished as provided by section 1-8 of this Code. Each day such~~

~~violation shall continue shall be deemed a separate offense.~~

~~(Code 1972, § 14-58; Ord. No. 1130, § 1, 8-8-1968)~~

~~Sec. 14-59. Modifications.~~

~~The chief of the bureau of fire prevention shall have power to modify any of the provisions of the fire prevention code upon application in writing by the owner or lessee, or his duly authorized agent, when there are practical difficulties in the way of carrying out the strict letter of the code, provided that the spirit of the code shall be observed, public safety secured, and substantial justice done. The particulars of such modification when granted or allowed and the decision of the chief of the bureau of fire prevention thereon shall be entered upon the records of the department and a signed copy shall be furnished the applicant.~~

~~(Code 1972, § 14-59)~~

~~Sec. 14-60. Appeals.~~

~~Whenever the chief of the bureau of fire prevention shall disapprove an application or refuse to grant a permit applied for, or when it is claimed that the provisions of the code do not apply or that the true intent and meaning of the code have been misconstrued or wrongly interpreted, the applicant may appeal from the decision of the chief of the bureau of fire prevention to the mayor and council within 30 days from the date of the decision appealed.~~

~~(Code 1972, § 14-60)~~

~~Sec. 14-61. New materials, processes or occupancies which may require permits.~~

~~The building inspector, the chief of the fire department and the chief of the bureau of fire prevention shall act as a committee to determine and specify, after giving affected persons an opportunity to be heard, any new materials, processes or occupancies, which shall require permits, in addition to those now enumerated in said code. The chief of the bureau of fire prevention shall post such list in a conspicuous place in his office, and distribute copies thereof to interested persons.~~

~~(Code 1972, § 14-61)~~

~~Sec. 14-62. Self-service gasoline, dispensers, pumps.~~¹⁴⁰

~~All pumps or any other mechanical measuring devices used for retailing or dispensing gasoline and other inflammable petroleum products shall be securely locked so that no liquid can be drawn therefrom except by the owner thereof or by a paid attendant of such owner and operator or by a customer of a self-service gasoline station within the city.~~

~~(Code 1972, § 14-62; Ord. No. 1170, § 1, 10-9-1969; Ord. No. 1366, § 1, 3-15-1979)~~

~~Sec. 14-63. Fire prevention—open burning ban, waiver.~~¹⁴¹

~~—*Open burning ban, waiver.* There shall be a statewide open burning ban on all bonfires, outdoor rubbish fires, and fires for the purpose of clearing land. In addition there shall be no burning of wood, lumber, trees or branches, trash, garbage, household waste, lawn or garden debris in barrels or other burn receptacles except as allowed below. The fire chief of the City of York, Nebraska, or his or her designee may waive an open burning ban issued under this section for an area under his or her jurisdiction by issuing a permit to a person requesting permission to construct and maintain a fire as permitted below. Said permit issued by the fire chief shall be in writing, signed by the fire chief or his designee, and on a form provided by the state fire marshal. It is to be left to the discretion of the fire chief whether to issue a permit pursuant to this section.~~

~~—*Waiver of ban, issuance of permit.* The burning ban provided in subsection (a) above may be waived pursuant to a permit issued by the fire chief or his designee for the following types of fires:~~

¹⁴⁰ Legal or Editorial Change: Code 1972, § 14-62. Self-service gasoline, dispensers, pumps.
Deleted as obsolete.

¹⁴¹ Legal or Editorial Change: Code 1972, § 14-63. Fire prevention—Open burning ban, waiver.
Deleted per instructions. See also R.R.S. 1943, § 81-520.01.

~~— A ceremonial fire for a particular event.~~

~~— A bonfire by an organization.~~

~~— Controlled burning conducted pursuant to training by the fire department.~~

~~— An area designated by the fire chief to burn downed branches and trees in the event of a major wind storm, tornado, or other act of nature.~~

~~— *Penalty.* The violation of this ordinance shall be punished as provided in section 1-8 of this Code.~~

~~(Code 1972, § 14-63; Ord. No. 1586, § 1, 5-11-1989; Ord. No. 1962, § 1, 7-20-2006; Ord. No. 2123, § 1, 2-5-2015)~~

~~State law reference — Open burning ban, R.R.S. 1943, § 81-520.01.~~

~~DIVISION 2. BUREAU OF FIRE PREVENTION~~

~~Sec. 14-71. Established.~~¹⁴²

~~A bureau of fire prevention in the fire department of the city is hereby established which shall be operated under the supervision of the chief of the fire department. The chief of the fire department is hereby designated as chief of the bureau of fire prevention.~~

~~(Code 1955, § 7-301; Code 1972, § 14-71)~~

~~Sec. 14-72. Duties generally.~~

~~It shall be the duty of the chief of the bureau of fire prevention to enforce all laws and ordinances covering the following:~~

~~— The prevention of fire;~~

~~— The storage and use of explosives and inflammables;~~

~~— The installation and maintenance of automatic and other fire alarm systems, and fire extinguishing equipment;~~

~~— The maintenance and regulation of fire escapes;~~

~~— The means and adequacy of exit, in case of fire, from factories, schools, hotels, lodginghouses, asylums, hospitals, churches, halls, theaters, amphitheaters, and all other places in which numbers of persons work, live or congregate, from time to time, for any purpose;~~

~~— The investigation of the cause, origin and circumstances of fires.~~

~~He shall have such other powers and perform such other duties as are set forth in other sections of this article, and as may be conferred and imposed from time to time by law.~~

~~(Code 1955, § 7-302; Code 1972, § 14-72)~~

~~Sec. 14-73. Fire investigations and reports.~~

~~The bureau of fire prevention shall investigate the cause, origin and circumstances of every fire occurring in the city by which property has been destroyed or damaged, and, so far as possible shall determine whether the fire is the result of carelessness or design. Such investigations shall be begun immediately upon the occurrence of such fire by the inspector and if it appears to the officer making such an investigation, that such fire is of suspicious origin, the chief of the fire department shall be immediately notified of the facts; he shall take charge immediately of the physical evidence, shall notify the proper authorities designated by law to pursue the investigation of such matters, and shall further cooperate with the authorities in the collection of evidence and in the prosecution of the case. Every fire shall be reported in writing to the bureau of fire prevention within two days after the occurrence of the same, by the officer in whose jurisdiction such a fire has occurred. Such report shall be in such form as shall be prescribed by the chief of the fire department and shall contain a statement of all facts relating to the cause, origin~~

¹⁴² Legal or Editorial Change: Code 1972, §§ 14-71—14-75. Bureau of fire prevention. Deleted as obsolete.

~~and circumstances of such fire, and extent of the damage thereof, and the insurance upon such property, and such other information as may be required.~~

~~(Code 1972, § 14-73)~~

Sec. 14-74. Record of fires.

~~The chief of the fire department shall keep, in the office of the bureau of fire prevention, a record of all fires and of all the facts concerning the same, including statistics as to the extent of such fires and the damage caused thereby, and whether such losses were covered by insurance, and if so, in what amount. Such record shall be made daily from the reports made by the inspectors under the provisions of this article. All such records shall be public.~~

~~(Code 1972, § 14-74)~~

Sec. 14-75. Annual report.

~~The annual report of the bureau of fire prevention shall be made on or before the first day of September in each year and transmitted to the mayor and council. It shall contain all proceedings under this division, with such statistics as the chief of the fire department may wish to include therein; the chief of the fire department shall also recommend therein any amendments to this article which, in his judgment, shall be desirable.~~

~~(Code 1972, § 14-75)~~

ARTICLE V. PENSION SYSTEM FOR FIREMEN^{*143}

~~*State law reference — Pension system for firemen, R.R.S. 1943, § 16-1020 et seq.~~

Sec. 11-69. Definition.

~~For the purpose of this article, the phrase, "regular pay," shall mean the retired fireman is receiving at the time he goes upon the pension list.~~

~~(Code 1972, § 11-69)~~

Sec. 11-70. Application of article.

~~The provisions of this article shall apply to all full time employed officers and firemen of the paid fire department of this city.~~

~~(Code 1972, § 11-70)~~

Sec. 11-72. Manner of funding.

~~The pension plan provided for by this article shall be funded by a municipal pension fund or by a group annuity or insurance contract, the mayor and council to determine which of the methods to employ and expend funds of the city in such amounts as are necessary therefor.~~

~~(Code 1972, § 11-72; Ord. No. 1299, § 3, 11-13-1975)~~

Sec. 11-73. Election to retire.

~~Any election or designation, permitted under the provisions of this article may be made by a fireman after he is eligible to retire, or within one year prior thereto.~~

~~(Code 1972, § 11-73)~~

Sec. 11-74. Revoking election.

~~Any election or designation, permitted under the provisions of this article, by a fireman, prior to retirement, may be revoked or changed by him, without the consent of any other person, or a new election or designation may be substituted by him, as often as such fireman may desire, but not later than the applicable final date on which he may make election.~~

¹⁴³ Legal or Editorial Change: Code 1972, ch. 11, art. V (§ 11-69 et seq.). Except for § 11-71 (which is modified per instructions), deleted as covered by R.R.S. 1943, § 16-1020 et seq.

(Code 1972, § 11-74)

Sec. 11-75. Mental incapacity.

In event of mental incapacity of a fireman, the right of election and designation, permitted under the provisions of this article, may be exercised by his guardian.

(Code 1972, § 11-75)

Sec. 11-76. Compulsory contribution; service after retirement age; termination of employment before retirement; return of contributions.

After August 7, 1965, every fireman subject to the provisions of Sections 35-201 to 35-203, Nebraska Revised Statutes, 1943, 1975 Supplement, shall contribute to the city an amount equal to five percent of his salary until he shall be entitled to retire or otherwise become eligible for a pension. No fireman continuing in the employment of the city as a member of such department after becoming eligible to retire shall be required to make any further contribution. Any fireman whose employment shall terminate, whether by discharge or otherwise, prior to the time he shall become entitled to a pension, and who shall have made contributions from his salary as provided in this section shall, upon demand, be reimbursed by the city for the amount of such contributions plus interest at five percent per annum.

(Code 1972, § 11-76; Ord. No. 1299, § 4, 11-13-1975)

Sec. 11-77. Manner of payment.

The pension provided for by this article shall be a straight life pension of fifty (50) percent of the regular pay of the retiring fireman and paid by the city in the same manner as firemen upon the active list are paid.

(Code 1972, § 11-77)

Sec. 11-78. Disability benefits.

In case any fireman shall become permanently and totally disabled from accident or other cause while in the line of duty, such fireman shall forthwith be placed upon the roll of pensioned firemen at the rate provided for in section 11-77 paid monthly.

In case of temporary total disability of a fireman received while in the line of duty, he shall receive his salary during the continuance of such disability for a period not to exceed 12 months; provided, if it be ascertained by the city council or other proper municipal authorities within 12 months that such disability has become permanent, then his salary shall cease and he shall be entitled to the benefits of this pension program as in the case of total and permanent disability. All payments of pension or salary provided by this section shall be subject to deduction of amounts paid under the workmen's compensation act.

(Code 1972, § 11-78)

Sec. 11-79. Death benefit generally.

In the event of the death of a retired fireman, he leaves a widow surviving him to whom he is legally married prior to his retirement, the same rate of pension that said retired fireman received, shall be paid to such widow of said deceased fireman during such time as she shall remain a widow of said deceased fireman. In case there shall be no such widow, but such deceased fireman shall leave surviving him children of a marriage occurring prior to his retirement who shall be less than 18 years of age, then such children of such deceased fireman shall be paid the pension to the age of 18; provided, as soon as a child of such deceased fireman shall become 18 years of age, such pension to such child shall cease.

(Code 1972, § 11-79)

Sec. 11-80. Death benefit for nonretired employee.

If a fireman covered by this article dies in the line of duty, or in case death is caused by or is the result of injuries received while in the line of duty, then the same pension as provided above, shall be paid to the widow or minor children of such deceased fireman as provided in section 11-79.

(Code 1972, § 11-80)

Sec. 11-81. Death other than in line of duty.

~~If any fireman covered by this article shall die other than in the line of duty after becoming fifty (50) years of age and before age fifty five (55), and shall have served on the fire department for at least twenty one (21) years, then a pension of twenty five (25) percent of the amount of his salary at the time of his death, shall be paid to his widow or to his minor children under 18 years of age, as provided above.~~

~~(Code 1972, § 11-81)~~

Sec. 11-82. Effect of workman's compensation on pension benefits.

~~Notwithstanding any provisions of this article, no fireman shall be entitled during any period of disability to receive, in full, both his pension or salary, as herein provided, and in addition benefits under the workmen's compensation act. All workmen's compensation act benefits shall be payable in full to such fireman or his dependents as provided in said act, but all amounts paid by the city or its insurer under said act to said fireman entitled to receive a salary or pension during such disability, or to the widow or children of any deceased fireman, shall be considered as payments on account of such salary or pension and shall be credited thereon. The remaining balance of such pension or salary, if any, shall be payable in accordance with this article.~~

~~(Code 1972, § 11-82)~~

PROOFS

Chapter 19
RESERVED

PROOFS

Chapter 20

FLOODS**ARTICLE I. IN GENERAL**

Secs. 20-1--20-18. Reserved.

ARTICLE II. SPECIAL FLOOD HAZARD AREAS**Sec. 20-19. Definitions.**

Unless specifically defined below, words or phrases used in this article shall be interpreted so as to give them the meaning they have in common usage and to give this article the most reasonable application. The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Appeal means a request for a review of the director of public works interpretation of any provision of this article or a request for a variance.

Appurtenant structure means a structure on the same parcel of property as the principal structure, the use of which is incidental to the use of the principal structure.

Area of shallow flooding means a designated AO or AH zone on a community's flood insurance rate map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Base flood means the flood having one percent chance of being equaled or exceeded in any given year.

Basement means any area of the building having its floor subgrade (below ground level) on all sides.

Development means any manmade change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

Existing construction (for the purposes of determining rates) means structures for which the start of construction commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. Existing construction may also be referred to as existing structures.

Existing manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is complete before the effective date of the floodplain management regulations adopted by a community.

FEMA regulations means the provision of 44 CFR 65.2.

Flood or flooding means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters.
- (2) The usual and rapid accumulation of runoff of surface waters from any source.

Flood fringe means that area of the floodplain, outside of the floodway, that on the average is likely to be flooded once every 100 years (i.e., that has a one percent chance of flood occurrence in any one year).

Flood insurance rate map (FIRM) means an official map of a community, on which the flood insurance study has delineated the flood hazard boundaries and the zones establishing insurance rates applicable to the community.

Flood insurance study means the official report provided by the Federal Emergency Management Agency.

The report contains flood profiles, as well as the flood boundary floodway map and the water surface elevation of the base flood.

Floodplain means any land area susceptible to being inundated by water from any source (see *Flooding*).

Floodway or regulatory floodway means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

Freeboard means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. Freeboard tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, clogged bridge openings, and the hydrological effect of urbanization of the watershed.

Highest adjacent grade means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic structure means any structure that is:

- (1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the secretary of the interior as meeting the requirements for individual listing on the National Register;
- (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- (4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - a. By an approved state program as determined by the Secretary of the Interior; or
 - b. Directly by the Secretary of the Interior in states without approved programs.

Lowest floor means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this article.

Manufactured home means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a recreational vehicle.

Manufactured home park or subdivision means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

New construction means structures for which the start of construction commenced on or after the effective date of the floodplain management regulations adopted by a community and includes any subsequent improvements to such structures.

Overlay district means a district in which additional requirements act in conjunction with the underlying zoning district. The original zoning district designation does not change.

Principally above ground means that at least 51 percent of the actual cash value of the structure is above ground.

Reasonably safe from flooding, as defined in FEMA regulations, means that base floodwater will not inundate the land or damage structures to be removed from the SFHA and that any subsurface waters related to the base flood will not damage existing or proposed buildings.

Recreational vehicle means a vehicle which is:

- (1) Built on a single chassis;
- (2) 400 square feet or less when measured at the largest horizontal projections;
- (3) Designed to be self-propelled or permanently towable by a light-duty truck; and
- (4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Special flood hazard area means the land in the floodplain within a community subject to one percent or greater chance of flooding in any given year.

Start of construction, for other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. 97-348), includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start shall mean the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction shall mean the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not the alteration affects the external dimensions of the building.

Structure means a walled and roofed building that is principally above ground, as well as a manufactured home, and a gas or liquid storage tank that is principally above ground.

Substantial damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial improvement means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before start of construction of the improvement. The term "substantial improvement" includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term "substantial improvement" does not, however, include either:

- (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to ensure safe living conditions; or
- (2) Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

Variations means a grant of relief to a person from the requirements of this article which permits construction in a manner otherwise prohibited by this article where specific enforcement would result in unnecessary hardship.

Violation means a failure of a structure or other development to be fully compliant with community's floodplain management regulations.

(Code 1972, § 9-77; Ord. No. 1921, § 2, 12-6-2004)

Sec. 20-20. Statutory authorization, findings of fact and purposes.

(a) *Statutory authorization.* The state legislature has delegated the responsibility to local governmental units to adopt zoning regulations designed to protect the public health, safety and general welfare. The legislature, in R.R.S. 1943, §§ 31-1001 to 31-1022, has further assigned the responsibility to adopt, administer, and enforce floodplain management regulations to the county, city or village with zoning jurisdiction over the floodprone area. Therefore, the mayor and city council ordain as follows.

- (b) *Findings of fact.*

- (1) *Flood losses resulting from periodic inundation.* The flood hazard areas ~~York, Nebraska, of the city~~ are subject to inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base all of which adversely affect the public health, safety and general welfare.
 - (2) *General causes of the flood losses.* These flood losses are caused by:
 - a. The cumulative effect of obstructions in floodplains causing increases in flood heights and velocities;
 - b. The occupancy of flood hazard areas by uses vulnerable to floods or hazardous to others, which are inadequately elevated or otherwise unprotected from flood damages.
 - (3) *Methods used to analyze flood hazards.* This article uses a reasonable method of analyzing flood hazards which consists of a series of interrelated steps as follows:
 - a. Selection of a regulatory flood which is based upon engineering calculations which permit a consideration of such flood factors as its expected frequency of occurrence, the area inundated, and the depth of inundation. The base flood is selected for this article. It is representative of large floods which are reasonably characteristic of what can be expected to occur on the particular streams subject to this article. It is in the general order of a flood which could be expected to have a one percent chance of occurrence in any one year, as delineated on the Federal Insurance Administration's Flood Insurance Study, and illustrative materials dated September 29, 1978, as amended, and any future revisions thereto.
 - b. Calculation of water surface profiles based on a hydraulic engineering analysis of the capacity of the stream channel and overbank areas to convey the base flood.
 - c. Computation of the floodway required to convey this flood without increasing flood heights more than one foot at any point.
 - d. Delineation of floodway encroachment lines within which no obstruction is permitted which would cause any water surface increase along the floodway profile.
 - e. Delineation of floodway fringe, i.e., that area outside the floodway encroachment lines, but which still is subject to inundation by the base flood.
- (c) *Statement of purpose.* It is the purpose of this article to promote the public health, safety, and general welfare and to minimize those losses described in subsection (b)(1) of this section by applying the provisions of this article to:
- (1) Restrict or prohibit uses which are dangerous to health, safety, or property in times of flooding or cause undue increases in flood heights or velocities.
 - (2) Require that uses vulnerable to floods, including public facilities which serve such uses, be provided with flood protection at the time of initial construction.
 - (3) Protect individuals from buying lands which are unsuited for intended purposes because of flood hazard.
 - (4) Ensure that eligibility is maintained for property owners in the community to purchase flood insurance in the National Flood Insurance Program.

(Code 1972, § 9-65; Ord. No. 1921, § 2, 12-6-2004)

Sec. 20-21. General provisions.¹⁴⁴

(a) *Lands to which article applies.* This article shall apply to all lands within the jurisdiction of the city identified on the flood insurance rate map (FIRM) dated September 29, 1978, and extraterritorial jurisdiction within the county (unincorporated area) identified on the flood insurance rate map (FIRM) community panel numbers

¹⁴⁴ Legal or Editorial Change: Code 1972, § 9-66. General provisions. Altered subsections (a) and (b) per instructions and deleted subsection (h) as covered by chapter 1.

3104860003A, 3104860004A, 3104860005A, 3104860006A dated November 1, 1997, and any revisions thereto, as numbered and unnumbered A zones (including AE zone) and within the zoning districts FW and FF established in section 20-23. In all areas covered by this article, no development shall be permitted except upon the issuance of a floodplain permit to develop, granted by the ~~mayor and city council or its duly designated representative under such safeguards and restrictions as the mayor and city council or the designated representative~~ director of public works, who may reasonably impose for the promotion and maintenance of the general welfare, health of the inhabitants of the community and where specifically noted in sections 20-24 through 20-26.

(b) *The enforcement officer.* The director of public works ~~and his authorized agent (building inspector) of the community~~ is hereby designated as the community's duly designated enforcement officer under this article.

(c) *Rules for interpretation of district boundaries.* The boundaries of the floodway and flood fringe overlay districts shall be determined by scaling distances on the official zoning map or on the flood insurance rate map or floodway map. Where interpretation is needed to the exact location of the boundaries of the districts as shown on the official zoning map, as for example where there appears to be a conflict between a mapped boundary and actual field conditions, the enforcement officer shall make the necessary interpretation. In such cases where the interpretation is contested, the board of adjustment will resolve the dispute. The regulatory flood elevation for the point in question shall be the governing factor in locating the district boundary on the land. The person contesting the location of the district boundary shall be given a reasonable opportunity to present the person's case to the board of adjustment and to submit the person's own technical evidence, if the person so desires.

(d) *Compliance.* Within identified special flood hazard areas of this community, no development shall be located, extended, converted or structurally altered without full compliance with the terms of this article and other applicable regulations.

(e) *Abrogation and greater restrictions.* It is not intended by this article to repeal, abrogate or impair any existent easements, covenants, or deed restrictions. However, where this article imposes greater restrictions, the provision of this article shall prevail. All other ordinances inconsistent with this article are hereby repealed to the extent of the inconsistency only.

(f) *Interpretation.* In their interpretation and application, the provisions of this article shall be held to be minimum requirements and shall be liberally construed in favor of the city council and shall not be deemed a limitation or repeal of any other powers granted by state statutes.

(g) *Warning and disclaimer of liability.* The degree of flood protection required by this article is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. Larger floods may occur on rare occasions or the flood height may be increased by manmade or natural causes, such as ice jams and bridge openings restricted by debris. This article does not imply that areas outside floodway and flood fringe district boundaries or land uses permitted within such districts will be free from flooding or flood damage. This article shall not create liability on the part of the city or any officer or employee thereof for any flood damages that may result from reliance on this article or any administrative decision lawfully made thereunder.

~~Severability. If any section, clause, provision or portion of this article is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this article shall not be affected thereby.~~

(h) *Appeal.* Where a request for a permit to develop or a variance is denied by the director of public works the applicant may apply for such permit or variance directly to the board of adjustment.

(Code 1972, § 9-66; Ord. No. 1921, § 2, 12-6-2004)

Sec. 20-22. Development permit.¹⁴⁵

(a) *Permit required.* No person, firm or corporation shall initiate any floodplain development or substantial improvement or cause the same to be done without first obtaining a separate permit for development as defined in section 20-19.

¹⁴⁵ Legal or Editorial Change: Code 1972, § 9-67. Development permit. Per instructions, changed director of public works to enforcement officer.

(b) *Administration.*

- (1) The ~~director of public works~~ enforcement officer is hereby appointed to administer and implement the provisions of this article.
- (2) Duties of the ~~director of public works~~ enforcement officer shall include, but not be limited to, the following:
 - a. Review all development permit applications to ensure that sites are reasonably safe from flooding and that the permit requirements of this article have been satisfied.
 - b. Review applications for proposed development to ensure that all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required.
 - c. Review all subdivision proposals and other proposed new development, including manufactured home parks or subdivision, to determine whether such proposals will be reasonably safe from flooding.
 - d. Notify adjacent communities and the state natural resources commission prior to any alteration or relocation of a watercourse and submit evidence of such notification to the Federal Emergency Management Agency.
 - e. Ensure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.
 - f. Verify, record and maintain record of the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures in special flood hazard areas.
 - g. Verify, record and maintain record of the actual elevation (in relation to mean sea level) to which new or substantially improved structures have been floodproofed.
 - h. When floodproofing is utilized for a particular structure the ~~director of public works~~ enforcement officer shall be presented certification from a registered professional engineer or architect.

(c) *Application for permit.* To obtain a floodplain development permit, the applicant shall first file an application in writing on a form furnished for that purpose. Every such application shall:

- (1) Identify and describe the development to be covered by the floodplain development permit.
- (2) Describe the land on which the proposed development is to be done by lot, block, tract and house and street address, or similar description that will readily identify and definitely locate the proposed building or development.
- (3) Indicate the use or occupancy for which the proposed development is intended.
- (4) Be accompanied by plans and specifications for proposed construction.
- (5) Be signed by the permittee or the permittee's 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 ~~director of public works~~ enforcement officer.

(Code 1972, § 9-67; Ord. No. 1921, § 2, 12-6-2004)

Sec. 20-23. Establishment of zoning districts.

Along watercourses where a floodway has been established, the mapped floodplain areas are hereby divided into the two following districts: A floodway overlay district (FW) and a flood fringe overlay district (FF) as identified in the flood insurance study and accompanying map. Within these districts all uses not meeting the standards of this article and those standards of the underlying zoning district shall be prohibited.

(Code 1972, § 9-68; Ord. No. 1921, § 2, 12-6-2004)

Sec. 20-24. Standards for floodplain development.

(a) No permit for development shall be granted for new construction, substantial improvements and other development including the placement of manufactured homes within all numbered and unnumbered A zones (including AE zone) unless the conditions of this section are satisfied.

(b) All areas identified as unnumbered A zones on the FIRM are subject to inundation of the base flood; however, the water surface elevation was not provided. The unnumbered A zones shall be subject to all development provisions of section 20-25. If flood insurance study data is not available, the community shall utilize any base flood elevation or floodway data currently available from federal, state or other sources.

(c) Until a floodway has been designated, no development or substantial improvement may be permitted within special flood hazard areas unless the applicant has demonstrated that the proposed development or substantial improvement, when combined with all other existing and reasonably anticipated developments or substantial improvements, will not increase the water surface elevation of the base flood more than one foot at any location as shown on the flood insurance study.

(d) New construction, subdivision proposals, substantial improvements, prefabricated buildings, placement of manufactured homes and other developments shall require:

- (1) Design or anchorage to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
- (2) New or replacement water supply systems and/or sanitary sewage systems be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters, and on-site waste disposal systems be located so as to avoid impairment or contamination.
- (3) Construction with materials resistant to flood damage, utilizing methods and practices that minimize flood damages, and with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- (4) All utility and sanitary facilities be elevated or floodproofed up to the regulatory flood protection elevation.

(e) Storage of material and equipment.

- (1) The storage or processing of materials that are in time of flooding buoyant, flammable, explosive, or could be injurious to human, animal or plant life is prohibited.
- (2) Storage of other material or equipment may be allowed if not subject to major damage by floods and firmly anchored to prevent flotation or if readily removable from the area within the time available after flood warning.

(f) Subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, are required to ensure that:

- (1) All such proposals are consistent with the need to minimize flood damage;
- (2) All public utilities and facilities, such as sewer, gas, electrical, and water systems are located, elevated and constructed to minimize or eliminate flood damage;
- (3) Adequate drainage is provided so as to reduce exposure to flood hazards; and
- (4) Proposals for development (including proposals for manufactured home parks and subdivision) of five acres or 50 lots, whichever is lesser, include within such proposals the base flood elevation.

(Code 1972, § 9-69; Ord. No. 1921, § 2, 12-6-2004)

Sec. 20-25. Flood fringe overlay district.

(a) *Permitted uses.* Any use permitted in section 20-26 shall be permitted in the flood fringe overlay district. No use shall be permitted in the district unless the standards of section 20-24 are met.

(b) *Standards for the flood fringe overlay district.* The standards for the flood fringe overlay district are as

follows:

- (1) Require new construction or substantial improvements of residential structures to have the lowest floor, including basement, elevated to or above one foot above the base flood elevation.
- (2) Require new construction or substantial improvements of nonresidential structures to have the lowest floor, including basement, elevated to or above one foot above the base flood elevation or, together with attendant utility and sanitary facilities, to be floodproofed so that below that level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the director of public works as set forth in section 20-22(b)(2).
- (3) Require for all new construction and substantial improvements that fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria: A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be not higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
- (4) Appurtenant structures of gross floor area of 400 square feet or less used for storage of motor vehicles, and storage of other items readily removable in the event of a flood warning may have their lowest floor below one foot above the base flood elevation provided the structure is capable of withstanding hydrostatic and hydrodynamic forces caused by the base flood as required in subsection (b)(3) of this section, and provided that no utilities are installed in the structure except elevated or floodproofed electrical fixtures. If the structure is converted to another use, it must be brought into full compliance with the minimum standards governing such use.
- (5) Within AH zones adequate drainage paths around structures on slopes shall be required in order to guide floodwaters around and away from proposed structures.
- (6) Manufactured homes.
 - a. All manufactured homes shall be anchored to resist floatation, collapse, or lateral movement. Manufactured homes must be anchored in accordance with local building codes or FEMA guidelines. In the event that over-the-top frame ties to ground anchors are used, the following specific requirements (or their equivalent) shall be met:
 1. Over-the-top ties shall be provided at each of the four corners of the manufactured home, with two additional ties per side at intermediate locations and manufactured homes less than 50 feet long requiring one additional tie per side;
 2. Frame ties shall be provided at each corner of the home with five additional ties per side at intermediate points and manufactured homes less than 50 feet long requiring four additional ties per side;
 3. All components of the anchoring system be capable of carrying a force of 4,800 pounds; and
 4. Any additions to the manufactured home be similarly anchored.
 - b. Require that all manufactured homes to be placed or substantially improved within special flood hazard areas on the community's FIRM on sites:
 1. Outside of a manufactured home park or subdivision;
 2. In a new manufactured home park or subdivision;
 3. In an expansion to an existing manufactured home park or subdivision; or

4. In an existing manufactured home park or subdivision on which a manufactured home has incurred substantial damage as the result of a flood; be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above one foot above the base flood elevation; and be securely anchored to an adequately anchored foundation system in accordance with the provisions of subsection (b)(6)a of this section.
- c. Require that manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within special flood hazard areas on the community's FIRM that are not subject to the provisions of subsection (b)(6)b of this section be elevated so that either:
 1. The lowest floor of the manufactured home is at or above one foot above the base flood elevation; or
 2. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade; and be securely anchored to an adequately anchored foundation system in accordance with the provisions of subsection (b)(6)a of this section.
- (7) Recreational vehicles placed on sites within the special flood hazard areas on the community's official map shall either be on the site for fewer than 180 consecutive days, be fully licensed and ready for highway use, or meet the permit requirements and the elevation and anchoring requirements for manufactured homes of this article. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect type utilities and security devices and has no permanently attached additions.

(Code 1972, § 9-70; Ord. No. 1921, § 2, 12-6-2004)

Sec. 20-26. Floodway overlay district.

(a) *Permitted uses.* Only uses having a low flood-damage potential and not obstructing flood flows shall be permitted within the floodway district to the extent that they are not prohibited by any other ordinance. The following are recommended uses for the floodway district:

- (1) Agricultural uses such as general farming, pasture, nurseries, forestry.
- (2) Residential uses such as lawns, gardens, parking and play areas.
- (3) Nonresidential areas such as loading areas, parking and airport landing strips.
- (4) Public and private recreational uses such as golf courses, archery ranges, picnic grounds, parks, wildlife and nature preserves.

(b) *Standards for the floodway overlay district.* New structures for human habitation are prohibited. All encroachments, including fill, new construction, substantial improvements and other development must be prohibited unless certification by a registered professional engineer or architect is provided demonstrating that the development shall not result in any increase in water surface elevations along the floodway profile during occurrence of the base flood discharge. These uses are subject to the standards of section 20-24 and 20-25. In Zone A unnumbered, obtain, review and reasonably utilize any flood elevation and floodway data available through federal, state or other sources or section 20-24(b), in meeting the standards of this section.

(Code 1972, § 9-71; Ord. No. 1921, § 2, 12-6-2004)

Sec. 20-27. Requests for removal from special flood hazard area.

- (a) *Community acknowledgement form.*
 - (1) The director of public works is authorized to certify community acknowledgement forms to the Federal Emergency Management Agency (FEMA) on behalf of the city.
 - (2) The director of public works shall not certify that any land or existing or proposed structures to be removed from the floodplain are reasonably safe from flooding unless:
 - a. Applicant provides a certificate from a registered professional engineer describing all existing and any proposed structures and stating that such structures as designed are reasonably safe from

flooding, including flooding from subsurface waters related to the base flood as set forth in FEMA regulations; or

- b. Applicant executes, acknowledges and records a building restriction agreement with the city incorporating the requirements of sections 20-24 through 20-26.
- (b) *Lands removed from the floodplain; building permit review.*
 - (1) The director of public works shall maintain a record of all lands removed from the floodplain as the result of the director's certification under this section.
 - (2) If a building permit application is received for any such lands, the director of public works shall determine whether the proposed structure is consistent with a certificate from a registered professional engineer that the proposed structure is reasonably safe from flooding, including flooding from subsurface waters related to the base flood as set forth in FEMA regulations, or whether the proposed structure is consistent with any building restriction agreement previously furnished to the city.
 - (3) No building permit shall be issued if the proposed structure is not consistent with such a certificate or building restriction agreement, but the applicant may submit a new certificate to obtain reconsideration of the application.

(Code 1972, § 9-72; Ord. No. 1921, § 2, 12-6-2004)

Sec. 20-28. Variance procedures.

(a) The board of adjustment shall hear and decide appeals and requests for variances from the requirements of this article.

(b) The board of adjustment shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the director of public works in the enforcement or administration of this article.

(c) Any person aggrieved by the decision of the board of adjustment or any taxpayer may appeal such decision to the district court as provided in R.R.S. 1943, § 19-912.

(d) In passing upon such applications, the board of adjustment shall consider all technical evaluation, all relevant factors, standards specified in other sections of this article, and:

- (1) The danger that materials may be swept onto other lands to the injury of others;
- (2) The danger to life and property due to flooding or erosion damage;
- (3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- (4) The importance of the services provided by the proposed facility to the community;
- (5) The necessity to the facility of a waterfront location, where applicable;
- (6) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
- (7) The compatibility of the proposed use with existing and anticipated development;
- (8) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
- (9) The safety of access to the property in times of flood for ordinary and emergency vehicles;
- (10) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
- (11) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

(e) Conditions for variances.

- (1) Generally, variances may be issued for new construction and substantial improvements to be erected on

a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the provisions of subsections (e)(2) through (6) of this section, have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.

- (2) Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- (3) Variances shall not be issued within any designated floodway if any increase in flood levels along the floodway profile during the base flood discharge would result.
- (4) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (5) Variances shall only be issued upon a showing of good and sufficient cause, a determination that failure to grant the variance would result in exceptional hardship to the applicant, and a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
- (6) The applicant shall be given a written notice over the signature of a community official that the issuance of a variance to construct a structure below the base flood level will result in increased premiums rates for flood insurance up to amounts as high as \$25.00 for \$100.00 of insurance coverage and such construction below the base flood level increases risks to life and property. Such notification shall be maintained with the record of all variance actions as required by this article.

(Code 1972, § 9-73; Ord. No. 1921, § 2, 12-6-2004)

Sec. 20-29. Nonconforming use.

(a) A structure or the use of a structure or premises which was lawful before the passage or amendment of the ordinance from which this article is derived, but which is not in conformity with the provisions of this article may be continued subject to the following conditions:

- (1) If such use is discontinued for 18 consecutive months, any future use of the building premises shall conform to this article. The utility department shall notify the director of public works in writing of instances of nonconforming uses where utility services have been discontinued for a period of 18 months.
- (2) Uses or adjuncts thereof that are or become nuisances shall not be entitled to continue as nonconforming uses.

(b) If any nonconforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than 50 percent of the market value of the structure before the damage occurred except that if it is reconstructed in conformity with the provisions of this article. This limitation does not include the cost of any alteration to comply with existing state or local health, sanitary, building, or safety codes or regulations or the cost of any alteration of a structure listed on the National Register of Historic Places or a state inventory of historic places, provided that the alteration shall not preclude its continued designation.

(Code 1972, § 9-74; Ord. No. 1921, § 2, 12-6-2004)

Sec. 20-30. Penalties for violation.¹⁴⁶

(a) Violation of the provisions of this article or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or special exceptions) shall constitute a misdemeanor. Any person who violates this article or fails to comply with any of its requirements shall upon conviction thereof be ~~fin~~ fined not more than five hundred dollars (\$500.00) punished as provided in section

¹⁴⁶ Legal or Editorial Change: Code 1972, § 9-75. Penalties for violation. Tied penalty to chapter 1.

1-9 and, in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense.

(b) Nothing herein contained shall prevent the city or other appropriate authority from taking such other lawful action as is necessary to prevent or remedy any violation.

(Code 1972, § 9-75; Ord. No. 1921, § 2, 12-6-2004)

Sec. 20-31. Amendments.

The regulations, restrictions, and boundaries set forth in this article may from time to time be amended, supplemented, changed, or repealed to reflect any and all changes in the National Flood Disaster Protection Act of 1973; provided, however, that no such action may be taken until after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. Notice of the time and place of such hearing shall be published in a newspaper of general circulation in the city. At least seven days shall elapse between the date of this publication and the public hearing. A copy of such amendments will be provided to the Federal Emergency Management Agency. The regulations of this article are in compliance with the National Flood Insurance Program Regulations as published in 44 CFR and the 1983 Nebraska Floodplain Management Act.

(Code 1972, § 9-76; Ord. No. 1921, § 2, 12-6-2004)

PROOFS

Chapter 21
RESERVED

PROOFS

Chapter 22

HEALTH*

*State law reference—Health regulations authorized, R.R.S. 1943, §§ 16-238, 16-240.

ARTICLE I. IN GENERAL

Secs. 22-1--22-18. Reserved.

Sec. 17-1. Spitting in public places.¹⁴⁷

~~It shall be unlawful for any person to spit or expectorate on any sidewalk, crosswalk or in any cellarway, window, door grating or entrance to any basement, excavation or area in or under or leading from any sidewalk space in city or to spit or expectorate on the floor, wall or stairway in any hall of any public building in city.~~

~~(Code 1955, § 8-501; Code 1972, § 17-1)~~

Sec. 17-2. State regulations adopted.¹⁴⁸

~~Three copies of the "Rules and Regulations of the Department of Health of the State of Nebraska relating to Communicable Disease, Quarantine and Schools and for the Control of Venereal Diseases," as revised, adopted and promulgated in pamphlet form, are in the hands of the city clerk treasurer, and such rules and regulations, together with any alterations or amendments thereto, if and when three copies of said alterations are likewise filed with the city clerk treasurer, are incorporated herein by reference, insofar as the same are applicable to cities of the first class having a population of more than five thousand (5,000) and less than twenty five thousand (25,000) inhabitants, the same as though copies at full length in this chapter.~~

~~(Code 1955, § 8-103; Code 1972, § 17-2)~~

Sec. 17-38. Emergency medical direction board (emdb).¹⁴⁹

~~There is hereby established an emergency medical direction board (EMDB) consisting of the city physician, one member of the York General Hospital active medical staff and one member of the Henderson Community Hospital active medical staff, each of whom shall be appointed by the mayor and confirmed by the city council, and whose term of office shall coincide with that of the mayor, and the fire chief of the City of York, who shall be an ex-officio and nonvoting member of said board. Such board shall have no management authority and whose function shall be to establish, maintain, and monitor protocol and standards of care for the various levels of emergency medical service to be provided by the York Fire Department as determined by the city council.~~

~~(Code 1972, § 17-38; Ord. No. 1617, § 1, 9-13-1990)~~

ARTICLE II. BOARD OF HEALTH*

*State law reference—City board of health, R.R.S. 1943, § 16-238.

Sec. 22-19. Created.

There is hereby created a board of health in and for the city.

¹⁴⁷ Legal or Editorial Change: Code 1972, § 17-1. Spitting in public places. Deleted as obsolete.

¹⁴⁸ Legal or Editorial Change: Code 1972, § 17-2. State regulations ("Rules and Regulations of the Department of Health of the State of Nebraska relating to Communicable Disease, Quarantine and Schools and for the Control of Venereal Diseases," adopted. Deleted as obsolete.

¹⁴⁹ Legal or Editorial Change: Code 1972, § 17-38. Emergency medical direction board. Deleted as obsolete.

(Code 1955, § 8-101; Code 1972, § 17-16)

Sec. 22-20. Composition.

The board of health shall consist of five members: the mayor, who shall be chairperson; the city physician, who shall reside permanently in the city and who shall be medical advisor; the chief of police, who shall be secretary, health inspector and quarantine officer; the president of the city council; and city administrator.

(Code 1955, § 8-101; Code 1972, § 17-17)

Sec. 22-21. Compensation.

The members of the board of health shall serve without compensation for their services on such board.

(Code 1972, § 17-18)

Sec. 22-22. Meetings.

The board of health shall hold meetings upon the call of the chairperson of any two members.

(Code 1972, § 17-19)

Sec. 22-23. Quorum.

A majority of the members of the board of health shall constitute a quorum for the transaction of business coming before the board.

(Code 1955, § 8-102; Code 1972, § 17-20)

Sec. 22-24. Appointment of substitute members.

In the absence or disability of the city physician to the board, the mayor may appoint some other physician to act in place of the medical advisor during such absence or disability, and to the end that the board of health may at all times be in position to function and perform its duties, there shall be a substitute appointed for any member thereof when absent, unable or disqualified to act, and the substitute so appointed shall have the power to do and perform each and every act as the regular member thereof while serving on said board.

(Code 1955, § 8-103; Code 1972, § 17-21)

Sec. 22-25. Records.

The board of health shall keep a record of all its transactions, orders, notices and of such other actions taken by it, which records shall be filed with the city clerk and be and are hereby made public records of the city and shall be accessible to the public for inspection in the office of the city clerk at all reasonable hours.

(Code 1955, § 8-103; Code 1972, § 17-22)

Sec. 22-26. Rules, regulations.

The board of health shall have the authority to enact rules and regulations, which shall have the force and effect of law to safeguard the health of the people of the city.

(Code 1972, § 17-23)

Sec. 22-27. Powers, duties generally.

The board of health shall have such powers and shall perform such duties as are prescribed by state law, this Code or city ordinances, rules and regulations.

(Code 1972, § 17-24)

Secs. 22-28--22-57. Reserved.

ARTICLE III. CITY PHYSICIAN

Sec. 22-58. Office created.

The office of city physician is hereby created in and for the city.

(Code 1972, § 17-31; Ord. No. 1617, § 1, 9-13-1990)

Sec. 22-59. Qualifications.

The person to be appointed city physician shall be a medical physician in the city, engaged in active practice of medicine.

(Code 1972, § 17-32; Ord. No. 1617, § 1, 9-13-1990)

Sec. 22-60. Health officer.

The person appointed as city physician shall also act and serve as the city health officer and medical director of the emergency medical services (EMS) provided by the city fire department.

(Code 1972, § 17-33; Ord. No. 1617, § 1, 9-13-1990)

Sec. 22-61. Appointment.

The city physician shall be appointed by the mayor, with the consent of the city council.

(Code 1972, § 17-34; Ord. No. 1617, § 1, 9-13-1990)

Sec. 22-62. Term.

The city physician shall serve a term of four years, or until the city physician's successor is appointed and qualified.

(Code 1972, § 17-35; Ord. No. 1617, § 1, 9-13-1990)

Sec. 22-63. Executive officer of board.¹⁵⁰

The city physician shall be the executive officer of the board of health, and chairman of the emergency medical direction board (EMDB) established under the terms of section 17-38 herein.

(Code 1972, § 17-36; Ord. No. 1617, § 1, 9-13-1990)

Sec. 22-64. Powers, duties generally.

The city physician shall have such powers and perform such duties as are provided by this Code, state law and city ordinances, rules and regulations for the city physician and for the health officer.

(Code 1972, § 17-37; Ord. No. 1617, § 1, 9-13-1990)

Chapter 15

FOOD AND FOOD HANDLERS^{*151}

~~*State law reference—Seizure of tainted meats, R.R.S. 1943, § 16-699.~~

ARTICLE I. IN GENERAL (RESERVED)

~~Secs. 15-1—15-15. Reserved.~~

ARTICLE II. MILK AND MILK PRODUCTS*

~~*State law reference—Graded milk law, R.R.S. 1943, § 81-263.50 et seq.~~

~~Sec. 15-16. Regulations adopted.~~

~~The production, transportation, processing, handling, sampling, examination, grading, labeling, and sale of all milk and milk products sold for ultimate consumption within the city or its police jurisdiction; the inspection of dairy herds, dairy farms and milk plants; the issuing and revocation of permits to milk producers, haulers and distributors shall be regulated in accordance with the provisions of Part II of the Grade A Pasteurized Milk~~

¹⁵⁰ Legal or Editorial Change: Code 1972, § 17-36. Executive officer of board. Altered per instructions.

¹⁵¹ Legal or Editorial Change: Code 1972, ch. 15. Food and Food Handlers. Deleted as obsolete.

~~Ordinance 1965 Recommendations of the United States Public Health Service, certified copies of which are on file in the office of the city clerk.~~

~~(Code 1955, § 8-401; Code 1972, § 15-16)~~

~~Sec. 15-17. Conflicts.~~

~~In the event of any conflict between the provisions of the ordinance and code adopted by this article and applicable provisions of this Code of Ordinances, state law or city ordinance, rule or regulation, the provisions of this Code of Ordinances, state law or city ordinance, rule or regulation shall prevail and be controlling.~~

~~(Code 1972, § 15-17)~~

~~Sec. 15-18. Subsequent editions.~~

~~Subsequent editions or revisions of the code adopted by the provisions of this article shall be considered adopted and of full force and effect within the city upon the approval thereof by the council and the filing of three copies thereof in the office of the city clerk-treasurer.~~

~~(Code 1972, § 15-18)~~

~~Sec. 15-19. Definition.~~

~~Whenever the word "city" or "municipality" is used in the ordinance and code adopted by the provisions of this article, the same shall be construed to mean the City of York, Nebraska.~~

~~(Rev. Ords. 1964, § 6.0504; Code 1972, § 15-19)~~

~~Sec. 15-20. Penalty for violation.~~

~~Any person who shall violate any provision of the ordinance and code adopted by the provisions of this article shall be deemed guilty of a misdemeanor, and shall be punished as provided by section 1-8 of this Code. Each day such violation continues shall be deemed a separate offense.~~

~~(Code 1972, § 15-20)~~

~~Sec. 15-21. Sale restricted.~~

~~Only Grade A pasteurized milk and milk products shall be sold to the final consumer, or to restaurants, soda fountains, grocery stores or similar establishments; provided, that in an emergency, the sale of pasteurized milk and milk products which have not been graded, or the grade of which is unknown, may be authorized by the health officer, in which case such milk and milk products shall be labeled "ungraded."~~

~~(Code 1955, § 8-402; Code 1972, § 15-21)~~

~~Secs. 15-22—15-32. Reserved.~~

ARTICLE III. FOOD SERVICE ESTABLISHMENTS

~~Sec. 15-33. Adoption.~~

~~For the purpose of regulating food service and food service establishments, the unabridged form of the 1962 Edition of the "United States Public Health Service Food Sanitation Ordinance and Code," three certified copies of which are on file in the office of the city clerk is hereby adopted and made a part of this Code as if fully set out herein, and the provisions thereof shall govern all matters covered therein within the city, except those provisions which may be in conflict with other provisions of this Code; provided however, that in said ordinance and code, the parenthetical phrases referring to grading shall be understood to be deleted; and provided further that subsections H.7 and H.8 shall be understood to be deleted.~~

~~(Code 1972, § 15-33)~~

~~Sec. 15-34. Subsequent editions.~~

~~Subsequent editions or revisions of the code adopted by the provisions of this article shall be considered adopted and of full force and effect within the city upon the approval thereof by the council and the filing of three copies thereof in the office of the city clerk-treasurer.~~

~~(Code 1972, § 15-34)~~

~~Sec. 15-35. Conflicts.~~

~~In the event of any conflict between the provisions of the code adopted by this article and applicable provisions of this Code of Ordinances, state law or city ordinances, rules or regulations, the provisions of this Code of Ordinances, state law or city ordinances, rules or regulations shall prevail and be controlling.~~

~~(Code 1972, § 15-35)~~

~~Sec. 15-36. Violation of provisions.~~

~~Any person violating any provision of the ordinance and code adopted by this article shall be punished as prescribed in section 1-8 of this Code of Ordinances.~~

~~(Code 1972, § 15-36)~~

PROOFS

Chapter 23
RESERVED

PROOFS

Chapter 24
LAW ENFORCEMENT
ARTICLE I. IN GENERAL

Secs. 24-1--24-18. Reserved.

ARTICLE II. POLICE DEPARTMENT*

***State law reference**—Authority to regulate police force, R.R.S. 1943, § 16-225; police retirement system, R.R.S. 1943, § 16-1001 et seq.; law enforcement training, R.R.S. 1943, § 81-1401 et seq.

Sec. 24-19. Enforcement of law.

It shall be the duty of the chief of police and all police officers of the city to enforce the provisions of this Code and ordinances of the city.

(Code 1955, §§ 6-107, 6-108; Code 1972, § 30-1)

Sec. 24-20. Arrest generally.

The chief of police and the members of the police department are empowered to arrest any person for the violation of the provisions of this Code, city ordinances or state laws in the same manner as other law enforcement officers are empowered by state law.

(Code 1955, §§ 6-107, 6-108; Code 1972, § 30-2)

Sec. 24-21. Oath.

All police officers and special police officers of the city shall take the usual oath of office which shall be in writing and filed in the office of the city clerk.

(Code 1955, § 6-110; Code 1972, § 30-3)

Sec. 24-22. Assistance.¹⁵²

~~Any police officer of the city shall have full power and authority to call on any person whenever necessary to assist the police officer in making an arrest, or to take any person before the police magistrate or to or from the jail or other place of confinement, and any person who shall fail, neglect or refuse to assist any such officer whenever called upon by the police officer so to do shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined in any sum not less than \$1.00 nor more than \$50.00.~~

~~(Code 1955, § 6-109; Code 1972, § 30-4)~~

Sec. 30-5. Special police.¹⁵³

~~In case of an emergency, the mayor may appoint such special police as shall be required, and he is hereby authorized to call on any male inhabitants of the city, between the ages of 18 and fifty (50), to aid in enforcing the law of said city.~~

~~(Code 1972, § 30-5)~~

Sec. 24-22. Eligibility Retirement age.¹⁵⁴

~~The city shall pension all city policemen whenever such policemen shall (1) have first served in the paid police~~

¹⁵² Legal or Editorial Change: Code 1972, § 30-4. Assistance. Deleted as obsolete.

¹⁵³ Legal or Editorial Change: Code 1972, § 30-5. Special police. Deleted per instructions.

¹⁵⁴ Legal or Editorial Change: Code 1972, § 11-44. Eligibility. Revised per instructions.

~~department for a period of twenty one (21) years, (2) have attained the age of 60 years, and (3) elect to retire from active service and to go upon the retired list; provided, no person entering the employment of the city as a member of its said police department after November 18, 1965, shall be entitled to retire, elect to retire, or to go upon the retired list until, after the completion of twenty five (25) years of service he or she shall be 60 years of age, unless he or she shall elect to retire upon having obtained fifty five (55) years of age. Mandatory retirement age for police officers shall be the full retirement age as determined by the Social Security Administration. A police officer shall be required to retire upon reaching such age. In the event that the officer fails to retire at such time, then the officer's employment shall be immediately terminated by the city. The manner of payment of retirement benefits shall be provided in section 11-50.)~~

(Code 1972, § 11-44; Ord. No. 2187, § 1, 1-18-2018)

ARTICLE IV. PENSION PLAN FOR POLICEMEN^{*155}

~~Sec. 11-42. Definition.~~

~~For the purposes of this article, the phrase, "regular pay," shall mean the average pay of a policeman for the five years preceding the date such policeman becomes eligible to retire or his death, whichever is earlier.~~

(Code 1972, § 11-42)

~~Sec. 11-43. Application of article.~~

~~The provisions of this article shall apply to all full-time employed officers and policemen and policewomen of the paid police department of this city, but shall not apply to other employees of the police department in special categories such as meter checkers, meter repairmen, secretaries, dog catcher or other such employees.~~

(Code 1972, § 11-43)

~~Sec. 11-45. Manner of funding.~~

~~The pension plan provided for by this article shall be funded by a municipal pension fund or by a group annuity or insurance contract, the mayor and council to determine which of the methods to employ and expend funds of the city in such amounts as are necessary therefor.~~

(Code 1972, § 11-45; Ord. No. 1299, § 1, 11-13-1975)

~~Sec. 11-46. Election to retire.~~

~~Any election or designation, permitted under the provisions of this article, may be made by a policeman after he is eligible to retire, or within one year prior thereto, or after he has served for at least 24 years and is at least fifty five (55) years of age.~~

(Code 1972, § 11-46)

~~Sec. 11-47. Revoking election.~~

~~Any election or designation, permitted under the provisions of this article, by a policeman, prior to retirement, may be revoked or changed by him, without the consent of any other person, or a new election or designation be substituted by him, as often as such policeman may desire, not later than the applicable final date on which he may make election.~~

(Code 1972, § 11-47)

~~Sec. 11-48. Mental incapacity.~~

~~In event of mental incapacity of a policeman, the right of election and designation, permitted under the provisions of this article, may be exercised by his guardian.~~

¹⁵⁵ Legal or Editorial Change: Code 1972, ch. 11, art. IV (§ 11-42 et seq). Pension plan for policemen. Except for § 11-44 (which is modified per instructions) delete as superseded by R.R.S. 1943, § 16-1001 et seq. This ordinance referenced repealed statutes. See Code § 11-49.

(Code 1972, § 11-48)

Sec. 11-49. Pension system for policemen; contributions from salary; return of contributions.

From and after October 19, 1963, every such policeman shall contribute to the city by payroll deduction an amount equal to six percent of his salary until such policeman becomes eligible for regular retirement at fifty (50) percent of his regular pay as defined in Section 16-330, Nebraska Revised Statutes, 1943, 1974 Supplement, at which time such contributions shall cease; provided, any policeman who retires early at forty (40) percent of his regular pay as defined in Section 16-330, Nebraska Revised Statutes, 1943, 1974 Supplement, and who shall have made contributions after becoming eligible therefor shall be reimbursed by the city for the amount of such excess contributions without interest. Any policeman whose employment shall terminate, whether by discharge or otherwise, prior to the time he shall become entitled to a pension, and who shall have made contributions from his salary, as provided in this section, shall, upon demand, be reimbursed by the city for the amount of such contributions without interest.

(Code 1972, § 11-49; Ord. No. 1299, § 2, 11-13-1975)

Sec. 11-50. Manner of payment.

The pension provided for by this article shall be a straight life pension of fifty (50) percent of the regular pay of the retiring policeman paid monthly; provided, that a policeman who elects to retire, having completed twenty-five (25) years of service and who has attained the age of fifty-five (55) shall be paid a pension of forty (40) percent of his regular pay; and provided further, that for each additional year of service after such policeman shall become eligible to retire, such pension shall be increased one dollar and fifty cents (\$1.50) per month, but not to exceed a total increase of seven dollars and fifty cents (\$7.50) per month. Such pension may be paid in the same manner as policemen on the active list are paid or any recognized method of funding a pension plan may be employed as the mayor and council shall determine.

(Code 1972, § 11-50)

Sec. 11-51. Optional pension payment.

On or prior to the effective date of retirement, but not thereafter, any policeman may elect, by written notice filed with the city, to receive his pension, or he may elect to receive the actuarial equivalent of his straight life pension in a reduced pension payable throughout his life, and nominate a survivor beneficiary, having an insurable interest, in accordance with the provisions of Option A or B, as hereinafter set forth:

- Under Option A, a retired policeman shall receive a reduced pension payable throughout his life and upon his death his said reduced pension shall be continued throughout the life of and paid to such person as he shall have nominated by written designation duly executed and filed with the city on or prior to the effective date of his retirement.
- Under Option B, a retired policeman shall receive a reduced pension payable throughout his life and upon his death one half (½) of his said reduced pension shall be continued throughout the life of and paid to such person as he shall have nominated by written designation duly executed and filed with the city on or prior to the effective date of his retirement.

(Code 1972, § 11-51)

Sec. 11-52. Disability benefits.

In case any policeman shall become permanently and totally disabled from accident or other cause while in the line of his duty and said policeman, because of such disability, is unable to resume the duties he was performing at the time of his injury, such policeman shall forthwith be placed upon the roll of pensioned policemen, at the rate provided for in section 11-50, paid monthly.

In case of the temporary total disability of a policeman received while in the line of duty, he shall receive his salary during the continuance of such disability for a period not to exceed 12 months; provided, if it shall be ascertained by the city council or other proper municipal authorities within 12 months that such disability has become permanent, then his salary shall cease and he shall be entitled to the benefits of the preceding section with reference to pensions in case of total and permanent disability. All payments of pension or salary shall be subject

~~to deduction of amounts paid under the state workmen's compensation act.~~

~~(Code 1972, § 11-52)~~

Sec. 11-53. Death benefit generally.

~~In the event a retired policeman and his survivor beneficiary, if any, die before the aggregate amount of pension payments received by the retired policeman and his survivor beneficiary, if any, equals the total amount of contributions made to the retirement plan by the retired policeman, without interest, the difference between the total amount of his contributions and the aggregate amount of pension payments received by the retired policeman and his survivor beneficiary, if any, shall be paid, in a single sum, to such person or persons as the retired policeman shall have nominated by his written designation duly executed and filed with the city. If there be no such designated person or persons surviving the retired policeman and his survivor beneficiary, if any, such difference, if any, shall be paid to his duly qualified personal representative; provided, that if the difference is less than three hundred dollars (\$300.00), the city may pay same to such claimant or claimants as the city, in its discretion shall determine to be entitled to same.~~

~~(Code 1972, § 11-53)~~

Sec. 11-54. Death benefit for nonretired employee.

~~When any policeman shall be eligible to retire, regardless of whether he may actually elect to do so, the pension provided by this article shall in any event be payable upon his death from any cause to his widow or upon her remarriage or death, to his minor child or children during said child or children's minority, or to him upon any other termination of his service as a member of said department whether by reason of resignation, discharge or otherwise.~~

~~(Code 1972, § 11-54)~~

Sec. 11-55. Death other than in line of duty.

~~If any policeman entering the employment of the city as a member of its paid police department, except those who shall have been formerly employed in such department who are now in military service, shall die other than in line of duty after becoming fifty five (55) years of age and before age 60, and after serving in the paid police department of this city for at least twenty one (21) years, then a pension of at least twenty five (25) percent of his regular pay shall be paid to the widow or minor children of such deceased policeman as provided in section 11-54.~~

~~(Code 1972, § 11-55)~~

Sec. 11-56. Death benefits due to on the job injury.

~~In case of the death of any policeman while in the line of duty, or in case death is caused by or is the result of injuries received while in line of duty, then the pension provided for by this article shall be paid to the widow or minor children of such deceased policeman as provided in section 11-54 subject to deduction of any amounts paid under the state workmen's compensation act on account of such death.~~

~~(Code 1972, § 11-56)~~

Sec. 11-57. Effect of workman's compensation on pension benefits.

~~Notwithstanding any provision of this article, no policeman shall be entitled during any period of disability to receive, in full, both in his pension or salary, and in addition thereto benefits under the state workmen's compensation act. All workmen's compensation benefits shall be payable in full to such policeman or his dependents as provided in said act, but all amounts paid by the city or its insurer under said act to any disabled policeman entitled to receive a salary or pension during such disability, or to the widow or children of any deceased policeman, shall be considered as payments on account of such salary or pension and shall be credited thereon. The remaining balance of such pension or salary, if any, shall be payable as otherwise provided by this article.~~

~~(Code 1972, § 11-57)~~

Chapter 25
RESERVED

PROOFS

Chapter 26

LIBRARIES*

***State law reference**—Municipal libraries, R.R.S. 1943, § 51-201 et seq.; establishment, maintenance of libraries, R.R.S. 1943, § 16-251.

Sec. 26-1. Library advisory board.¹⁵⁶

(a) There is hereby established in the city a public library which shall be known as the Kilgore Memorial Library.

(b) There is hereby established a citizen's library advisory board which shall consist of five appointed members who shall be residents of the city and who shall serve terms of five years. The mayor shall appoint the members of the board with the consent of the city council. The mayor, the city administrator, or any member of the council shall not be member of the board. The terms of members serving on the effective date of change in the number of members shall not be shortened, and any successors to those members shall be appointed as the terms of those members expire. In case of any vacancy by resignation, removal, or otherwise, the mayor shall fill the vacancy for the unexpired term with the consent of the council.

(c) The members of the board shall have such powers and perform such duties as may be conferred upon and required of them by the council. The board is an advisory board, thus having only those powers and duties to advise and recommend to the library director.

(d) No member shall receive any pay or compensation for any services rendered as a member of the board. Board members may be reimbursed for approved continuing education events related to library business.

(e) At the time of the board's first meeting in July of each year, the board shall organize by electing a president, vice-president, secretary and such other officers as may be necessary. No member of the board shall serve in the capacity of both president and secretary of the board. It shall be the duty of the secretary to keep minutes of all meetings and to timely file the minutes with the city clerk as public record.

(f) A majority of the board members shall constitute a quorum for the transaction of business. The board shall hold regular meetings and shall further meet as such times as the president shall direct or a majority of the members of the board may determine.

(g) The board may adopt all procedural rules necessary to provide for regular and special meetings of the board and for the conduct of its business. ~~The proceedings of the board shall be conducted in accordance with the Open Meeting Act, R.R.S. 1943, § 84-1407, as amended.~~

(h) The board will provide advice or recommendations as may be specifically requested by the library director.

(i) The board shall work with the library director in regard to the development of the public library. The board is delegated the following specific responsibilities:

- (1) To review and recommend library policies which are developed by the library director. The library director implements the policies;
- (2) To be responsible along with the library director for the collection policies for the intellectual content and collection development of the library;
- (3) To advise the library director regarding the preparation of an annual library budget, which budget shall be prepared by the library director in the format used by other city departments and divisions, ~~and to review library claims to ensure budgetary compliance;~~

¹⁵⁶ Legal or Editorial Change: Code 1972, § 20-1. Library advisory board. Delete the last sentence of subsection (g) as covered by R.R.S. 1943, § 84-1407 et seq.

- (4) To receive citizen input, comments and complaints regarding the materials collection, programs and services of the public library, and to report the same to the library director, with recommendations;
- (5) To encourage use of the public library and promote its programs and services;
- (6) To represent the city and public library within professional associations and at library functions;

(j) The library director shall be appointed by the mayor with the advice of the board and the consent of the city council and shall be subject to removal by the mayor with the consent of the city council. The library director shall generally supervise the property, operations and personnel of the public library. The library director shall report to the board but will work under the supervision of the city administrator.

(k) All recommendations of the board shall be subject to the review and control of the library director.

(Code 1955, § 9-101; Code 1972, § 20-1; Ord. No. 2055, § 1, 12-1-2011; Ord. No. 2304, § 1, 11-18-2021)

Sec. 20-2. Donations.¹⁵⁷

~~Any person may make any donation of money, lands or property for the benefit of the library, and the title to the property donated may be made to and shall vest in the city for the public library, and such property shall thereupon be exempt from taxation.~~

~~(Code 1955, § 9-108; Code 1972, § 20-2)~~

~~State law reference — Similar provisions, R.R.S. 1943, § 51-215.~~

Sec. 26-2. Library fund.

There is hereby created a public library fund which shall consist of the following:

- (1) The proceeds of the tax levy authorized for such purpose;
- (2) All funds donated for the maintenance and support of the library;
- (3) All monies collected for violation of rules and regulations established by the library board; and
- (4) All other monies received for the use and support of the library regardless of the source.

(Code 1955, §§ 9-104, 9-109; Code 1972, § 20-3; Ord. No. 1151, § 1, 2-13-1969)

Sec. 26-3. Expenditures.

The library fund created by this chapter shall be kept separate and apart from the other funds of the city and shall be drawn upon and paid out by the treasurer as in the case of other city funds and shall not be used or distributed for any other purpose or in any other manner.

(Code 1955, § 9-104; Code 1972, § 20-4; Ord. No. 1151, § 1, 2-13-1969; Ord. No. 2304, § 1, 11-18-2021)

ARTICLE II. LIBRARY BOARD¹⁵⁸

Sec. 20-15. Library board.

~~The library board shall consist of five members, to be chosen from the citizens at large. Neither the mayor nor the city administrator nor any member of the city council shall be a member of the library board.~~

~~(Code 1955, § 9-102; Code 1972, § 20-15; Ord. No. 1151, § 1, 2-13-1969; Ord. No. 1751, § 1, 9-11-1997)~~

Sec. 20-16. Appointment.

~~The directors of the library board shall be appointed by the council.~~

~~(Code 1965, § 9-102; Code 1972, § 20-16; Ord. No. 1151, § 1, 2-13-1969)~~

¹⁵⁷ Legal or Editorial Change: Code 1972, § 20-2. Donations. Delete as covered by (and in conflict with) R.R.S. 1943, § 51-215.

¹⁵⁸ Legal or Editorial Change: Code 1972, ch. 20, art. II (§ 20-15 et seq.). Deleted as obsolete or superseded by Code 1972, § 20-1.

Sec. 20-17. Terms.

~~The directors of the library board shall serve for terms of five years each with one director being chosen annually; provided that the first five directors shall be appointed for terms of one, two, three, four and five years respectively.~~

~~Terms shall commence on the first day of July following election.~~

~~(Code 195-5, § 9-102; Code 1972, § 20-17; Ord. No. 1151, § 1, 2-13-1969)~~

Sec. 20-18. Vacancies.

~~Vacancies occurring in the library board shall be filled for the unexpired term only.~~

~~(Code 1955, § 9-102; Code 1972, § 20-18; Ord. No. 1151, § 1, 2-13-1969)~~

Sec. 20-19. Officers.

~~At their first meeting in July the directors shall elect a president, secretary and such other officers as may be necessary.~~

~~The officers so elected shall perform such duties as may be required of them by state law, ordinance, or resolution of the library board.~~

~~(Code 1955, §§ 9-103, 9-108; Code 1972, § 20-19)~~

Sec. 20-20. Quorum.

~~Three members of the library board shall constitute a quorum; provided, any motion, resolution or order passed by the board in order to be valid shall require the vote or assent of three members of the library board.~~

~~(Code 1955, § 9-103; Code 1972, § 20-20)~~

Sec. 20-21. Powers, duties generally.

~~The library board shall have such powers and perform such duties as are conferred and required by state law.~~

~~(Code 1955, §§ 9-103, 9-105; Code 1972, § 20-21)~~

Sec. 20-22. Annual report.

~~The library board shall annually, on or before the second Monday in June each year, make to the city council and file with the city clerk a report, as required by state law, with such other matters as the council may by resolution require.~~

~~(Code 1955, § 9-106; Code 1972, § 20-22; Ord. No. 2304, § 1, 11-18-21)~~

~~State law reference—Annual report, R.R.S. 1943, § 51-213.~~

Sec. 20-23. Rules, regulations.

~~The library board shall, from time to time, make, adopt or amend, alter or revise, bylaws, rules or regulations for the use and government of the library, report the same to the city council and file a copy thereof with the city clerk and the same shall be by the clerk recorded at large and indexed in the records of his or her office.~~

~~(Code 1955, § 9-107; Code 1972, § 20-23; Ord. No. 2304, § 1, 11-18-21)~~

Chapter 27
RESERVED

PROOFS

Chapter 28

LICENSES, PERMITS AND MISCELLANEOUS BUSINESS REGULATIONS**ARTICLE I. IN GENERAL****Sec. 35-1. Rate filing fee for natural gas companies.**¹⁵⁹

~~The City of York shall charge and collect a filing fee from natural gas companies for a rate filing. The fee shall be one thousand dollars (\$1,000.00).~~

~~(Code 1972, § 35-1; Ord. No. 1562, § 1, 11-12-1987)~~

Secs. 28-1--28-18. Reserved.**ARTICLE II. PEDDLERS****DIVISION 1. GENERALLY****Sec. 28-19. Definitions.**

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

Peddler means any person, whether a resident of the city or not, who travels by foot, motor vehicle or other type of conveyance to any house or dwelling, for the purpose of selling or soliciting for sale, goods, wares, merchandise or services, other than agricultural products produced or processed in the state; and shall also mean and include any person transacting a temporary business within the city at an established place of business. The term "peddler" shall include the terms "solicitor" and "transient or itinerant merchant or vendor."

(Code 1972, § 26-1; Ord. No. 2333, § 2(1), 7-21-2022)

Sec. 28-20. Exceptions to article.

The provisions of this article shall not apply to solicitations, sales or distributions made by charitable, educational or religious organizations which have their principal place of activity in the city, nor to individuals calling on retail merchants in the city for the purpose of taking orders or selling of merchandise for resale by such merchants.

(Code 1972, § 26-2)

Sec. 28-21. Refusing to leave.

Any peddler who enters upon premises owned, leased or rented by another and refuses to leave such premises after having been notified by the owner or occupant of such premises, or the owner or occupant's agent, to leave the same and not return to such premises shall be deemed guilty of a misdemeanor.

(Code 1972, § 26-3)

Sec. 28-22. Entrance to premises restricted.

It shall be unlawful for any peddler to enter upon any private premises when the same are posted with a sign stating "No Peddlers Allowed" or "No Solicitations Allowed" or other words to such effect.

(Code 1972, § 26-4)

¹⁵⁹ Legal or Editorial Change: Code 1972, § § 35-1. Rate filing fee for natural gas companies.
Deleted as obsolete.

Sec. 28-23. Misrepresentation.

It shall be unlawful for any peddler to make false or fraudulent statements concerning the quality or nature of the peddler's goods, wares, merchandise or services for the purpose of inducing another to purchase the same.

(Code 1972, § 26-5)

Sec. 28-24. Hours of operation.

It shall be unlawful for any peddler to engage in the business of peddling within the city between the hours of one-half hour before sunset and 9:00 a.m. the following morning, or at any time on Sundays, except by specific appointment with or invitation from the prospective customer.

(Code 1972, § 26-6)

Secs. 28-25--28-51. Reserved.

DIVISION 2. PERMIT

Sec. 28-52. Required.

It shall be unlawful for any person to engage in business as a peddler within the city without first obtaining a permit so to do.

(Code 1972, § 26-19)

Sec. 28-53. Application.

The application for a permit required by the provisions of this division shall state:

- (1) The period of time the applicant wishes to engage in business within the city.
- (2) The local, and permanent, address of the applicant.
- (3) The local, and permanent, address and the name of the person or company, if any, that the applicant represents.
- (4) The kind of goods, wares, merchandise or services the applicant wishes to engage in such business within the city.
- (5) Such other relevant information as may be required for the investigation of the applicant.
- (6) The license plate for the motor vehicle used by the applicant.

(Code 1972, § 26-20; Ord. No. 2333, § 2(2), 7-21-2022)

Sec. 28-54. Driver's license.

At the time of filing the application for a permit required by this division, the applicant shall present the applicant's driver's license or other state-issued identification.

(Code 1972, § 26-21; Ord. No. 2333, § 2(3), 7-21-2022)

Sec. 28-55. False information.

It shall be unlawful for any person to give any false or misleading information in connection with the application for a permit required by this division.

(Code 1972, § 26-22)

Sec. 28-56. Fee.

Before any permit shall be issued under the provisions of this division, the applicant therefor shall pay a fee, based upon the duration the applicant desires to engage in business in the city, as follows:

- (1) Per day: \$5.00.
- (2) Per week: \$10.00.
- (3) Per month: \$25.00.

(Code 1972, § 26-24; Ord. No. 2333, § 2(4), 7-21-2022)

Sec. 28-57. Issuance.

No permit shall be issued under the provisions of this division until the applicant shall have complied with all the provisions and requirements of this article.

(Code 1972, § 26-26)

Sec. 28-58. Limitation.

No peddler's permit shall be issued to a corporation, partnership or other impersonal legal entity, but each individual person engaging in the business of peddling within the city shall be required to have a permit whether acting for themselves or as an agent or representative of another.

(Code 1972, § 26-27)

Sec. 28-59. Contents of permit.

Each permit issued under the provisions of this division shall be signed by the city clerk, shall be dated as of the date of its issuance, and shall state the duration or term of such permit on the face thereof. Any permit not dated and signed as herein provided, or which was issued in violation of this section, shall be void.

(Code 1972, § 26-28)

Sec. 28-60. Display.

Every peddler having a permit issued under the provisions of this division and doing business within the city shall display their permit upon the request of any person, and failure so to do shall be deemed a misdemeanor.

(Code 1972, § 26-29)

Sec. 28-61. Duration.

Every permit issued under the provisions of this division shall be valid for the period of time stated therein, but in no event shall any such permit be issued for a period of time in excess of 12 months.

(Code 1972, § 26-30)

Sec. 28-62. Revocation.

Any permit issued under the provisions of this division may be revoked for the violation by the permittee of any applicable provision of this Code, state law or city ordinance. Upon such revocation, such permit shall immediately be surrendered to the city clerk, and failure to do so shall be a misdemeanor.

(Code 1972, § 26-31)

Chapter 19

JUNK AND JUNKYARDS*¹⁶⁰

~~*State law reference — Junk and junkyards generally, R.R.S. 1943, §§ 39-2601 et seq., 81-1523 et seq.~~

~~Sec. 19-1. Fence required.~~

~~The premises on which the business of a junk dealer or the operation of a junkyard or auto salvage yard is conducted or operated shall be entirely enclosed with a tight, close fence of wood, or some other suitable material approved by the building inspector, at least six feet in height, and gates or doors in said fence shall be closed at all times, except when open for actual admittance of persons or material. Such fence shall be kept painted at all times. The provisions of this section shall apply to all junkyards and auto salvage yards within the jurisdiction of the city but shall not apply to those premises where the business is conducted entirely within a building.~~

~~(Code 1955, § 5-801; Code 1972, § 19-1)~~

¹⁶⁰ Legal or Editorial Change: Code 1972, ch. 19. Junk and junkyards. Deleted as obsolete.

Sec. 19-2. Bond.

Every person desiring to be licensed as a junk or auto salvage dealer, or junk collector, shall first file with the city clerk a bond with one or more sufficient sureties, running to the city approved by the city council, in the sum of five hundred dollars, (\$500.00), conditioned upon the faithful observance of the ordinances of the city and the proper conduct of said business in accordance with the provisions of this chapter, and further conditioned for the payment to any person of any damages such person may suffer by reason of the improper conduct of said business.

(Code 1955, § 5-802; Code 1972, § 19-2)

Sec. 19-3. Record of transactions.

Every person who shall engage in, or in any way aid or assist in carrying on, the business of a junk dealer in this city shall keep a book in which shall be written legibly in ink, at the time of the purchase, taking or receiving of the goods, articles or thing, an accurate account and description, in the English language, of the goods, articles or thing purchased, taken or received, the amount of money paid therefor at the time of purchasing, taking or receiving the same, the name and residence of the person selling or delivering such goods, articles or thing, and a description of such person.

(Code 1972, § 19-3)

Sec. 19-4. When records not required.

No junk dealer shall be required to keep or furnish any record or description of secondhand furniture purchased absolutely by such dealer or of goods or merchandise purchased from a manufacturer or wholesale dealer who has an established place of business.

(Code 1972, § 19-4)

Sec. 19-5. Record open to inspection.

The record book provided for in section 19-3 shall at all times, be open to the inspection of the city manager and chief of police or to any person authorized by either for that purpose.

(Code 1972, § 19-5)

Sec. 19-6. Items subject to inspection.

Any and all property purchased, taken or received by any junk dealer shall be subject to the inspection of the city administrator or chief of police or any person authorized by either for that purpose at any time.

(Code 1972, § 19-6)

Chapter 29
RESERVED

PROOFS

Chapter 30

MANUFACTURED HOMES AND TRAILERS*

*State law reference—Manufactured homes and recreational vehicles, R.R.S. 1943, § 71-4601 et seq.

Sec. 21-1. Definitions.¹⁶¹

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them as follows:

~~*Dependent mobile home.* A mobile home which does not have a flush toilet and a bath or shower.~~

~~*Independent mobile home.* A mobile home which has a flush toilet and a bath or shower.~~

~~*Mobile home.* Any vehicle, or similar portable structure designed for use as a conveyance upon highways, having no foundation other than wheels or removable jacks and so designed or constructed as to permit occupancy for dwelling or sleeping purposes.~~

~~*Mobile home park.* Any plot of ground upon which two or more mobile homes, occupied for dwelling or sleeping purposes, are located. No mobile home park shall be divided by any public street or highway.~~

~~*Mobile home space.* A plot of ground within a mobile home park, designated for the accommodation of one mobile home.~~

~~*Permit.* A written permit issued by the health officer permitting the mobile home park to operate under this chapter and regulations promulgated thereunder.~~

~~*Service building.* A building housing toilet and bathing facilities for men and women with laundry facilities and such other facilities as may be required by this chapter.~~

~~*To park or store.* The using, erecting, placing or locating any trailer on any plot of ground whether for unoccupied storage or for living or sleeping purposes.~~

(Code 1972, § 21-1; Ord. No. 978, § 8-601, 12-1-1960)

Sec. 30-1. Not located in mobile home park.¹⁶²

It shall be unlawful for the owner or lessee of private property not designated as a mobile home park to permit ~~the owner or occupant or occupants of any mobile home to park the same on such private property,~~ a mobile home owned by another and occupied by any person who does not reside in the primary dwelling to be placed on private property.

(Code 1972, § 21-2; Ord. No. 978, § 8-629, 12-1-1960)

Sec. 30-2. Mobile home parks.¹⁶³

An owner of a mobile home shall comply with all requirements of the state department of health applicable to mobile homes and all applicable zoning ordinances of the city.

ARTICLE II. MOBILE HOME PARK¹⁶⁴

¹⁶¹ Legal or Editorial Change: Code 1972, § 21-1. Definitions. Deleted per instructions.

¹⁶² Legal or Editorial Change: Code 1972, § Prohibited on private property. Altered per instructions.

¹⁶³ Legal or Editorial Change: Added per instructions.

¹⁶⁴ Legal or Editorial Change: Code 1972, §§ 21-13—21-56. Mobile home parks. Deleted per instructions.

DIVISION 1. GENERALLY

Sec. 21-13. Responsibility.

Every person owning, operating or caring for a mobile home park shall maintain such park and toilets, baths or other permanent equipment in connection therewith, in a clean and sanitary condition and shall maintain said equipment in a state of good repair; and shall in all respects comply with all the applicable provisions of this Code and ordinances of this city.

(Code 1972, § 21-13; Ord. No. 978, § 8-614, 12-1-1960)

Sec. 21-14. Authority of officers.

Any officers, officials or employee of the city shall have the right and is hereby empowered to enter upon the premises of any mobile home park within this city to inspect the same and all accommodations connected therewith and all mobile homes located therein.

(Code 1972, § 21-14; Ord. No. 978, § 8-628, 12-1-1960)

Sec. 21-15. Caretaker.

It shall be unlawful for any person to establish, maintain, conduct or operate a mobile home park within this city, unless said park shall be provided, at all times, with a caretaker whose duty it shall be to enforce all rules and regulations prescribed by city as to conduct, health and sanitary regulations for such parks.

(Code 1972, § 21-15; Ord. No. 978, § 8-612, 12-1-1960)

Sec. 21-16. Register required.

It shall be unlawful for any person, as permittee or caretaker of any mobile home park to fail to keep a record of all residents therein, specifying the date of arrival of the party, full name and permanent address of each person in the party; the name of the owner, make of automobile, registration number of automobile, including year, state and place of issuance; and said register shall at all times be open for inspection to all police officers or other officials of this city.

(Code 1972, § 21-16; Ord. No. 978, § 8-613, 12-1-1960)

Sec. 21-17. Service and inspection charges.

There is hereby imposed a service and inspection charge on the occupant or occupants of each unit of each mobile home park having a permit under this article in such sum per day or per month as the council may by resolution hereafter fix and determine. The permittee of each mobile home park shall collect this service and inspection charge, if and when imposed, for and on behalf of the city, and shall pay the same over to the city treasurer on or before the fifth day of each month after said permit has been issued, and the amount so paid to the city treasurer shall be in accordance and consistent with the record kept by the permittee in the park register.

(Code 1972, § 21-17; Ord. No. 978, § 8-611, 12-1-1960)

Sec. 21-18. Rules and regulations.

The mayor and the council may, from time to time, by resolution, prescribe such rules and regulations as may be deemed necessary governing the operation of mobile homes and mobile home parks, bearing on any matters of sanitation or housing.

(Code 1972, § 21-18; Ord. No. 978, § 8-615, 12-1-1960)

Sec. 21-19. Zoning regulations.

The location of any mobile home park within this city shall be in compliance with the zoning regulations of this city.

(Code 1972, § 21-19; Ord. No. 978, § 8-616, 12-1-1960)

Sec. 21-20. Removal of wheels or similar devices.

It shall be unlawful for any person owning or operating a mobile home park to remove or cause or permit to

~~be removed, the wheels from any mobile home located therein or to otherwise permanently fix it to the ground in a manner that would prevent the ready removal of said mobile home, without first obtaining a permit to do so from the chief of police. Any alterations to any mobile home, as above set forth, shall be construed as removing it from the requirements of this article and converting it into a dwelling and it shall thereupon be subject to the requirements of the building code of this city.~~

~~(Code 1972, § 21-20; Ord. No. 978, § 8-625, 12-1-1960)~~

Sec. 21-21. Animals at large.

~~It shall be unlawful for any person to permit any animal to run at large in any mobile home park.~~

~~(Code 1972, § 21-21; Ord. No. 978, § 8-626, 12-1-1960)~~

Sec. 21-22. Inflammable liquids.

~~It shall be unlawful for any person to have within any mobile home, any quantity of gasoline or other inflammable liquid in excess of one gallon; and it shall be unlawful for any person to have upon any unit or unit space any quantity of gasoline or other inflammable liquid in excess of two gallons; provided, this restriction shall not apply to the regular operating tanks upon motor vehicles.~~

~~(Code 1972, § 21-22; Ord. No. 978, § 8-627, 12-1-1960)~~

Secs. 21-23—21-30. Reserved.

DIVISION 2. PERMIT

Sec. 21-31. Required.

~~It shall be unlawful for any person to open, conduct, establish, or maintain any parcel of ground for the purpose of a mobile home park, unless a permit so to do shall have first been issued by the mayor and council.~~

~~(Code 1972, § 21-31; Ord. No. 978, § 8-602, 12-1-1960)~~

Sec. 21-32. Application.

~~Application for a permit for a mobile home park shall be made in writing to the city clerk, upon forms provided by the city for that purpose, giving:~~

- ~~___ The name and residence of the applicant;~~
- ~~___ The name and residence of the person who will be in direct control and management thereof;~~
- ~~___ The location and size of the grounds proposed to be used as a public camp;~~
- ~~___ A plat of said proposed location showing the number and location of each unit or unit space;~~
- ~~___ Whether the camp will serve dependent or independent mobile homes;~~
- ~~___ Water service available upon said grounds, toilet facilities on or proposed to be installed on said grounds;~~
- ~~___ Proposed means of disposing of garbage and sewage accumulating;~~
- ~~___ Electric facilities available;~~
- ~~___ The type of building, or buildings, to be erected thereon.~~

~~(Code 1972, § 21-32; Ord. No. 978, § 8-604, 12-1-1960)~~

Sec. 21-33. Investigation.

~~Before a permit is issued under this division, the board of health shall investigate the premises and determine whether or not said proposed site selected therefor conforms with the requirements of this article, the rules and regulations adopted hereunder, and the laws of the state. Before recommending the issuance of any such permit, the board of health shall ascertain in writing from the building inspector, whether or not all of the ordinances with respect to buildings and zoning regulations have been complied with, whether or not all of the provisions of this Code and city ordinances with respect to plumbing installations, sewer and water service have been complied with, whether or not all of the provisions of this Code and city ordinances with respect to electrical installations have~~

~~been complied with; provided, that approval of the person owning, controlling or managing said mobile home park shall be obtained from the chief of police. No permit shall be issued by the city unless all of the foregoing requirements of this section have been satisfactorily met and the mayor and council may, in their discretion, reject any proposed camp site.~~

~~(Code 1972, § 21-33; Ord. No. 978, § 8-605, 12-1-1960)~~

Sec. 21-34. Fee.

~~If the mayor and council grant a permit within the corporate limits under this division to any applicant, therefor, it shall thereupon direct the city clerk to issue such permit upon prepayment of a permit fee in the amount of three dollars (\$3.00) per unit space to the city treasurer, which fee shall be paid annually.~~

~~(Code 1972, § 21-34; Ord. No. 978, § 8-606, 12-1-1960)~~

Sec. 21-35. Bond required.

~~Before any permit shall be granted for the operation of any mobile home park, the person applying for said permit shall give a good and sufficient corporate surety bond to the city, in the sum of one thousand dollars (\$1,000.00), said bond to be approved by the mayor and council conditioned on the faithful performance of the trust imposed by the provisions of this article.~~

~~(Code 1972, § 21-35; Ord. No. 978, § 8-607, 12-1-1960)~~

Sec. 21-36. Expiration.

~~All permits granted under the provisions of this division shall expire on the thirtieth day of April following the date of issuance, unless sooner revoked.~~

~~(Code 1972, § 21-36; Ord. No. 978, § 8-603, 12-1-1960)~~

Sec. 21-37. Suspension, revocation.

~~Any permit issued under the provisions of this division may be revoked by the mayor and council for the violation by the permittee, his agents or employees, of any applicable provision of this Code, state law or city ordinance, rule or regulation.~~

~~(Code 1972, § 21-37; Ord. No. 978, § 8-608, 12-1-1960)~~

Sec. 21-38. Transfer.

~~Subject to all the provisions herein, any permit issued under the provisions of this division may be transferred, without payment of additional permit fee, upon the written application to, and approval by, the mayor and council.~~

~~(Code 1972, § 21-38; Ord. No. 978, § 8-609, 12-1-1960)~~

Sec. 21-39. Display.

~~It shall be unlawful for any person to establish, maintain, conduct, or carry on any mobile home park, unless there be, at all times, posted in a conspicuous place at said park, the permit issued therefor in accordance with the provisions of this division.~~

~~(Code 1972, § 21-39; Ord. No. 978, § 8-601, 12-1-1960)~~

Sees. 21-40 — 21-45. Reserved.

DIVISION 3. MINIMUM STANDARDS

Sec. 21-46. Minimum number of spaces.

~~Every mobile home park located within this city shall have at least 15 unit spaces.~~

~~(Code 1972, § 21-46; Ord. No. 978, § 8-617, 12-1-1960)~~

Sec. 21-47. Minimum space size.

~~Every mobile home park shall be laid out with an available unit space of not less than one thousand, six hundred (1,600) square feet for each mobile home space therein.~~

(Code 1972, § 21-47; Ord. No. 978, § 8-617, 12-1-1960)

Sec. 21-48. Space use restricted.

~~No greater number of mobile homes shall be allowed within any mobile home park than there are available spaces, and no more than one mobile home shall be permitted to occupy any unit or unit space.~~

(Code 1972, § 21-48; Ord. No. 978, § 8-617, 12-1-1960)

Sec. 21-49. Arrangement of units.

~~Mobile homes shall be arranged in rows abutting or facing on a driveway or clear unoccupied space of not less than 30 feet in width to be measured from unit line to unit line, which space shall have unobstructed access to a public street or alley. No mobile home shall be placed nearer to any unit lot line than five feet.~~

(Code 1972, § 21-49; Ord. No. 978, § 8-617, 12-1-1960)

Sec. 21-50. Drainage of premises.

~~Every mobile home park shall be located on a well drained area and the premises of every such park shall be property graded so as to prevent the accumulation of storm or casual waters.~~

(Code 1972, § 21-50; Ord. No. 978, § 8-618, 12-1-1960)

Sec. 21-51. Water supply.

~~An adequate supply of clean, pure water from the city's water system for drinking and domestic purposes shall be supplied to meet the requirements of each mobile home park. Said water supply shall be obtained from faucets only, located within two hundred (200) feet of any part of any such park. No dipping vessels or common cups shall be permitted.~~

(Code 1972, § 21-51; Ord. No. 978, § 8-619, 12-1-1960)

Sec. 21-52. Toilets.

~~Any mobile home park which rents space to dependent mobile homes shall provide flush water closets for each sex in separate compartments, within a reasonable distance of any part of any mobile home park. Not less than one water closet shall be provided for each 15 persons, or fractional part thereof, for each sex. The water closets shall be distinctly marked "MEN" and "WOMEN" and the location of the water closets shall be plainly indicated by signs. All water closets and compartments containing bathing facilities shall be connected with a public sewer and all plumbing installations shall be in compliance with the provisions of this Code and ordinances of city pertaining thereto. All water closets or compartments containing bathing facilities shall be kept clean and free from noxious odors, flies, or other insects and shall be well ventilated, and shall be provided with sufficient lighting facilities which shall be kept lighted during the time from one half (½) hour after sunset until one half (½) hour before sunrise.~~

(Code 1972, § 21-52; Ord. No. 978, § 8-620, 12-1-1960)

Sec. 21-53. Garbage.

~~There shall be provided in every mobile home park for each unit space, a tight receptacle with close fitting metal cover for garbage, ashes and rubbish, and such garbage receptacle shall at all times be maintained in a clean and sanitary condition. It shall be unlawful for any person to deposit any garbage, ashes, rubbish or other waste materials in any place within any mobile home park, except in a receptacle so provided.~~

(Code 1972, § 21-53; Ord. No. 978, § 8-621, 12-1-1960)

Sec. 21-54. Slop sinks.

~~There shall be provided for each unit space in every mobile home park which accepts dependent mobile homes, a receptacle for slop and waste water; and there shall also be provided in every mobile home park one or more slop sinks properly connected with the city sewer system, said sinks to be conveniently located at no greater distance than 100 feet from any unit space. It shall be unlawful for any person to throw or deposit any slops or waste liquids at any other place within such park than in such slop sinks.~~

(Code 1972, § 21-54; Ord. No. 978, § 8-622, 12-1-1960)

Sec. 21-55. Refuse and sewage disposal.

~~It shall be unlawful for any person to permit any waste water or material from sinks, baths, showers, or other plumbing fixtures in any mobile home park to be deposited upon the surface of the ground, and all such fixtures, when in use, must be connected to the city sewer system.~~

~~(Code 1972, § 21-55; Ord. No. 978, § 8-623, 12-1-1960)~~

Sec. 21-56. Lighting.

~~Every mobile home park shall be provided with means for adequately lighting the same at night by electricity, and shall be kept lighted during the night; each unit or unit space shall be provided with an electric service outlet, installed and maintained in accordance with the provisions of this Code and ordinances of city regulating the use of electrical energy in buildings or structures.~~

~~(Code 1972, § 21-56; Ord. No. 978, § 8-624, 12-1-1960)~~

PROOFS

Chapter 31
RESERVED

PROOFS

Chapter 32
NUISANCES*

***State law reference**—Prevention of nuisances, R.R.S. 1943, §§ 16-230 et seq., 18-1720.

Sec. 32-1. Definition.

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

Nuisance consists in any person doing an 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 or tends to obstruct or renders dangerous for passage any stream, public park, parkway, square, street or highway in the city;
- (5) In any way renders other persons insecure in life or the use of property; or
- (6) Essentially interferes with the comfortable enjoyment of life and property or tends to depreciate the value of the property of others.

(Code 1972, § 17-48)

Sec. 32-2. ~~Enumeration~~ Nuisance unlawful; definitions.

~~The maintaining, using, placing, depositing, leaving or permitting~~ It shall be unlawful for any owner or occupant of property to use, place, deposit, leave or permit to be or remain in or upon any private lot, building, structure or premises, or in or upon any street, avenue, alley, park or parkway, or at any other public or private place of any one or more of the following conditions or things are hereby declared to be and constitute nuisances, provided that this enumeration shall not be deemed to be conclusive:

- (1) Any putrid, unsound or unwholesome meat, hides, skins, feathers, 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, house-yards, barn-yards, stable-yards, factory-yards, vacant areas in rear of stores, 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 provision of this Code or ordinance of the city.
- (5) Liquid household waste, human excreta, garbage, butchers' trimmings and offal, parts of fish or any waste vegetable or animal matter in any quantity, provided nothing herein contained shall prevent the temporary retention of waste in receptacles in a manner provided by the health officer of the city, nor the dumping of nonputrifying 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 be kept in covered binds or galvanized iron receptacles approved by the health officer.
- (7) Trash, litter, rags, accumulations of barrels, boxes, crates, parking 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 material, 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) a. All places used or maintained as junkyards or dumping grounds, or for the wrecking and disassembling 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 buildings 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.
- b. It is hereby expressly found and determined that the practice of permitting unlicensed motor vehicles, motor vehicle bodies, and motor vehicle chassis or parts therefrom to be stored or accumulated on private premises is unsightly and unhealthy and constitutes a nuisance to the citizens and residents of the city; provided, the storage or accumulation of such motor vehicles, motor vehicle bodies, and motor vehicle chassis or parts therefrom in completely enclosed buildings shall not be considered a nuisance.
- c. No person shall store, retain, or keep on, or permit to be stored, retained, or kept on, any private premises any motor vehicle that has been unlicensed for a period in excess of four months under the laws of the state or any motor vehicle body or motor vehicle chassis or parts therefrom; provided, this section shall not apply to such motor vehicle, motor vehicle body, or motor vehicle chassis or parts therefrom that is kept in a completely enclosed building.
- d. Any person violating any of the provisions of this chapter, or obstructing or interfering with the execution thereof, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined in any sum not exceeding \$100.00 for each offense.
- e. ~~This section shall not apply to the premises for which permit has been granted to a junk dealer under the provisions of chapter 19 nor shall it apply to the premises where a licensed motor vehicle dealer or a farm implement dealer conducts business.~~
- (10) Stagnant water permitted or maintained on any lot or piece of ground.
- (11) Stockyards, pig pens, cattle pens, chicken pens or any other place, building or enclosure, in which animals or fowl of any kind are confined, or premises on which are stored tankage or any other animal or vegetable matter, when said places in which said animals are confined, or said premises on which said vegetable or animal matter is stored, are maintained and kept in such a manner that foul and noxious odors are permitted to emanate therefrom, to the annoyance of inhabitants of the city, or are maintained and kept in such a manner as to be injurious to the public health.
- (12) Pits or excavations within the city not being used for the purpose of building where such pits or excavations are made and the leaving of any such pits or excavations in an exposed condition for a period of 24 hours or longer.

(Code 1972, § 17-49; Ord. No. 1114, § 1, 6-8-1967; Ord. No. 1494, 10-11-1984)

Sec. 32-3. Enforcement.

The ~~mayor~~ director of public works and the chief of police shall enforce the provisions of this article against all nuisances within the city.

(Code 1972, § 17-50)

Sec. 32-4. Extraterritorial jurisdiction.

In the event any nuisance is found outside the limits of the city which shall constitute a menace to the health or safety of the inhabitants of the city, the jurisdiction of the mayor and chief of police shall extend to, and the

territorial application of this chapter shall include, all territory adjacent to the city limits, and within two miles thereof.

(Code 1972, § 17-51)

State law reference—Authority to extent property use regulations two miles outside of city, R.R.S. 1943, § 16-901.

Sec. 32-5. Abatement and removal authorized.

Notice to abate and remove nuisances and offensive conditions set forth in sections 32-1 and 32-2 shall be given to each owner of the lots and pieces of ground upon which such nuisances or offensive conditions exist or such owners duly authorized agent and to the occupant, if any, by personal service or certified mail. If no person can be found within the city to whom such notice can be given, the director of public works shall post a copy of such notice on the premises. Within five days after receipt of such notice or posting of such notice, if the owner or occupant of the said lot or piece of ground does not request a hearing with the city or fails to comply with the order to abate and remove such nuisance and offensive condition, the city 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.

(Code 1972, § 17-52; Ord. No. 1631, § 1, 9-12-1991)

PROOFS

Chapter 33
RESERVED

PROOFS

Chapter 34

OFFENSES AND MISCELLANEOUS PROVISIONS*

*State law reference—Crimes and punishments, R.R.S. 1943, § 28-101 et seq.

ARTICLE I. IN GENERAL**Sec. 34-1. Bail recognizance or conditional release; failure to appear; penalty.**¹⁶⁵

~~Whoever is charged with a misdemeanor or violation of city ordinance, conviction of which could carry a jail sentence of more than 90 days, who is released from custody under bail or recognizance or conditioned release and who willfully fails to appear before the court granting such release when legally required to surrender himself or herself within three days thereafter, shall be imprisoned in the county jail for not more than six months or shall be fined not more than one thousand dollars (\$1,000.00), or both such a fine and imprisonment, in addition to any other penalties or forfeitures provided by law.~~

(a) Whoever is charged with a ~~misdemeanor~~ violation of city ~~or village~~ ordinance, conviction of which could carry a jail sentence of 90 days or less or no jail sentence, who is released from custody under bail or recognizance or conditioned release and who willfully fails to appear before the court granting such release when legally required to surrender himself or within three days thereafter, ~~shall be imprisoned in the county jail for not more than three months or shall be fined not more than five hundred dollars (\$500.00) \$1,000.00, or both such a fine and imprisonment, in addition to any other penalties or forfeitures provided by law.~~

(b) Any person failing to appear or otherwise comply with the command of a citation shall be guilty of a ~~misdemeanor~~ an offense and shall, upon conviction thereof, be punished by a fine of not more than ~~five hundred dollars (\$500.00), \$1,000.00, or by imprisonment in the county jail for not more than three months, or by both such fine and imprisonment.~~

(Code 1972, § 24-6.1; Ord. No. 1566, § 1, 1-14-1988)

State law reference—Similar provisions, R.R.S. 1943, § 29-908; authority to prescribe penalties, R.R.S. 1943, § 16-225.

Sec. 34-2. Window peeping.

It shall be unlawful for any person to go upon the private premises of another within the city and look or peep into any window, door or other opening in any building located thereon, which is occupied by any person as a place of abode, or to go upon the private premises of another for the purpose of looking or peeping into any window, door or other opening in any building thereon, which is occupied by any person as a place of abode. Any person so offending shall be deemed guilty of a misdemeanor and punished as provided in section 1-9.

(Code 1972, § 24-14; Ord. No. 1368, 3-15-1979)

Secs. 34-3--34-22. Reserved.**ARTICLE II. OFFENSES INVOLVING PUBLIC PEACE AND ORDER****DIVISION 1. GENERALLY****Sec. 34-23. Disorderly conduct.**¹⁶⁶

(a) *Generally.* A person shall be guilty of disorderly conduct if, with the intent to cause public alarm,

¹⁶⁵ Legal or Editorial Change: Code 1972, § 24-6.1. Bail recognizance or conditional release; failure to appear; penalty. Altered per instructions.

¹⁶⁶ Legal or Editorial Change: Code 1972, § 24-25. Disorderly conduct. Deleted former subsection (3) so as to tie penalty to chapter 1.

nuisance or danger or recklessly creating a risk thereof, said person willfully does any one or more of the following acts:

- (1) Engages in fighting or threatening or in violent or tumultuous behavior;
- (2) Makes unreasonable noise or offensively course utterance, gesture or display, or addresses abusive or threatening language to any person including any law enforcement officer and any official or employee of the city who is engaged in the lawful performance of duties. Words merely causing displeasure, annoyance or resentment or language that is otherwise protected by the First Amendment to the U.S. Constitution are not prohibited;
- (3) Urinates or defecates in a public place or on private premises open to or visible to the public, provided this prohibition shall not apply to urinating or defecating in any restroom facility in a manner for which that facility was designed; and
- (4) Shines or directs a laser light beam on any law enforcement officer who is engaged in the lawful performance of said officer's duties.

(b) *Exemptions.* This section shall not be construed or applied to prohibit the right to lawful assembly, picketing, public speaking or other lawful means of expressing public opinion that is protected by the First Amendment to the U.S. Constitution.

~~(c) *Penalty.* Any person who violates this section shall be punished by a fine of not more than \$100.00 and/or jail of not more than 15 days.~~

(Code 1972, § 24-25; Ord. No. 1368, 3-15-1979; Ord. No. 2047, § 1, 5-5-2011)

State law reference—Authority to prescribe penalties, R.R.S. 1943, § 16-225.

Sec. 34-24. Loitering.¹⁶⁷

(a) It shall be unlawful for any person after first being warned by a law enforcement officer, or where no loitering signs have been posted, to loiter, stand, sit, lie, walk or remain in or upon any public sidewalk, street, curb, crosswalk, or walkway area so as to obstruct or hinder the free passage of persons or vehicles thereon; nor shall any person block or obstruct, or prevent the free access to the entrance to any building open to the public.

(b) No person shall enter or remain in or upon any property or premises open to the public after it has been closed without being invited, licensed or privileged to do so, if such property has been posted with one or more no trespassing signs.

~~— *Penalty.* Any person who violates this section shall be punished by imprisonment in the York County Jail for a term of not more than 15 days and/or a fine of not more than one hundred dollars (\$100.00).~~

(Code 1972, § 24-35.5; Ord. No. 2040, § 1, 10-21-2010)

Sec. 34-25. Unlawful to camp, occupy or remain in or on any city property.¹⁶⁸

(a) It shall be unlawful for any person to camp in or on or maintain a campsite in or upon any city property or right-of-way, unless specifically authorized by this Code.

(b) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Campsite means any place where any bedding, sleeping bag or other sleeping matter, or any stove or fire is placed, established or maintained, whether or not the place incorporates the use of any tent, lean-to, shack, or any other structure, or any vehicle or part thereof.

¹⁶⁷ Legal or Editorial Change: Code 1972, § 24-35.5. Loitering. Deleted subsection (c) so as to tie penalty to chapter 1.

¹⁶⁸ Legal or Editorial Change: Code 1972, § 25-2. Unlawful to camp, occupy or remain in or on any city property. Altered subsection (d) per instructions and eliminated redundancy.

To camp means to set up or to remain in or at a campsite or on any other property owned by the city, for the purpose of establishing or maintaining a temporary place to live.

~~(c) It shall be unlawful for any person to camp in or upon any public property or public right of way unless specifically authorized by this Code.~~

(c) The director of the city parks and recreation department may authorize temporary camping not to exceed 24-48 hours by written permit issued by the director in advance to any entity that engages in recreational camping, such as the Boy Scouts, Girl Scouts or similar organization. A temporary permit issued under this section may be reissued as authorized by the director.

(d) Any person who violates this section shall be subject to the penalties as provided by section 1-9. (Code 1972, § 25-2; Ord. No. 2205, §§ 1—4, 9-6-2018)

Secs. 34-26--34-53. Reserved.

DIVISION 2. NOISE*

*State law reference—Powers to prohibit noise, R.R.S. 1943, §§ 16-227, 16-228.

Sec. 34-54. Prohibited generally.¹⁶⁹

It shall be unlawful for any person to make, continue, or cause to be made or continued any loud, unnecessary, or unusual noise ~~or any noise which either annoys, disturbs, injures, or endangers the comfort, repose, health, peace or safety of others, within the city.~~ would annoy reasonable persons of ordinary sensibilities.

(Code 1972, § 23-1)

Sec. 34-55. Operation of power mowers; construction, demolition—Restricted.

It shall be unlawful for any person to operate a motor-driven or -operated lawn mower, or to engage in any construction or demolition work within the city between the hours of 10:00 p.m. and 6:00 a.m. the following day.

(Code 1972, § 23-2)

Sec. 34-56. Operation of power mowers; construction, demolition—Emergency permit.¹⁷⁰

In the event of an emergency, a permit may be issued exempting any person from section 34-55 for any period of time specified on the face of said permit. The permit may be issued free of charge by the police department, building inspector, or ~~board~~ director of public works, and the issuing agency shall notify the other two agencies enumerated herein of said permit.

(Code 1972, § 23-3)

Sec. 34-57. Operation of power mowers; construction, demolition—Government agencies, utilities.

Section 34-56 shall not apply to emergencies of any governmental subdivision or any public utility.

(Code 1972, § 23-4)

Sec. 23-6. Radios, phonographs, etc.¹⁷¹

~~The using, operating, or permitting to be played, used, or operated, any radio receiving set, television set, musical instrument, phonograph, or other machine or device for the producing or reproducing of sound, in such manner as to disturb the peace, quiet, and comfort of the neighboring inhabitants, or at any time with louder volume~~

¹⁶⁹ Legal or Editorial Change: Code 1972, § 23-1. Prohibited generally. So as to avoid constitutional problem, revised to reference reasonable persons of ordinary sensibilities.

¹⁷⁰ Legal or Editorial Change: Code 1972, § 3-3. Same—Emergency permit. Changed board of public works to director of public works.

¹⁷¹ Legal or Editorial Change: Code 1972, § 23-6. Radios, phonographs, etc. Deleted per instructions.

~~than is necessary for convenient hearing for the person or persons who are in the room, vehicle, or chamber in which such machine or device is operated and who are voluntary listeners thereto shall be deemed a violation of this chapter. The operation of any such set, instrument, phonograph, machine, or device between the hours of 11:00 p.m. and 7:00 a.m. in such a manner as to be plainly audible at a distance of fifty (50) feet from the building, structure, or vehicle in which it is located, shall be prima facie evidence of a violation of this section.~~

~~(Code 1972, § 23-6)~~

Sec. 34-58. Animals, fowl.¹⁷²

The keeping of any animal or bird which by causing frequent or long, continued noise shall disturb the comfort or repose of any person of ordinary sensibilities in the vicinity shall be deemed a violation of this division.

(Code 1972, § 23-8)

Sec. 34-59. Defect in vehicle or load.¹⁷³

The use of any automobile, motorcycle, or vehicle so out of repair, so loaded or in such manner as to create loud and unnecessary grinding, grinding, rattling, or other noise shall be deemed a violation of this division.

(Code 1972, § 23-9)

Sec. 34-60. Pile drivers, hammers, etc.

The operation between the hours of 10:00 p.m. and 7:00 a.m. of any pile driver, steam shovel, pneumatic hammer, derrick, steam or electric hoist or other appliance, the use of which attended by loud or unusual noise shall be deemed a violation of this division.

(Code 1972, § 23-11)

Sec. 34-61. Blowers.¹⁷⁴

The operation of any noise-creating blower or power fan or any internal combustion engine, the operation of which causes noise due to the explosion of operating gases or fluids, unless the noise from such blower or fan is muffled and such engine is equipped with a muffler device sufficient to deaden such noise shall be deemed a violation of this division.

(Code 1972, § 23-12)

Sec. 34-62. Screeching of tires.

The operation of any motor vehicle in such a way as to cause the tires thereof to screech except where the same is necessarily caused in an emergency in an attempt by the operator to avoid an accident or the causing of damage or injury shall be deemed a violation of this division.

(Code 1972, § 23-13)

Secs. 34-63--34-82. Reserved.

ARTICLE III. OFFENSES INVOLVING PUBLIC SAFETY

Sec. 34-83. Discharge of firearms in city limits.

No person, except an officer of the law in the discharge of the officer's duty, shall fire or discharge any rifle, gun, pistol, fowling piece or other firearm within the city, provided this section shall not apply to licensed shooting galleries or to private shooting ranges within buildings, approved by the mayor and council, nor shall it apply when

¹⁷² Legal or Editorial Change: Code 1972, § 23-8. Animals, fowl. So as to avoid constitutional problems, revised to reference persons of ordinary sensibilities.

¹⁷³ Legal or Editorial Change: Code 1972, § 23-9. Defect in vehicle or load. Deleted per instructions.

¹⁷⁴ Legal or Editorial Change: Code 1972, § 23-12. Blowers. Deleted per instructions.

necessary for the public or individual defense and safety, nor shall it apply when necessary for the carrying on of any business or the presentation of any play, theatrical or stage performance or public spectacle or exhibition duly authorized or licensed.

(Code 1972, § 24-42; Ord. No. 1368, 3-15-1979)

Sec. 24-46. Concealed handguns on city property.¹⁷⁵

~~— *Carrying concealed handguns prohibited on city property.* It shall be unlawful for any person to carry a concealed handgun into or onto any place, premises, building, or structure that is owned by or under the control of the City of York. It shall further be unlawful for any person to carry a concealed handgun onto any city park, field, grounds or property.~~

~~— *Exceptions.* This section shall not apply to any person who carries a concealed handgun as authorized by state law on any city street, alley, sidewalk, parking lot or right of way. It shall further not apply to law enforcement officers in the discharge of their duties, or such other persons as may be authorized by R.R.S. 1943, § 28-1202 (1)(b) or by federal law.~~

~~— *Penalty.* Any person who violates this section shall be punished by imprisonment in the York County jail for a term of not more than three months and/or a fine of not more than five hundred dollars (\$500.00).~~

(Code 1972, § 24-46; Ord. No. 1974, § 1, 1-18-2007)

Sec. 34-84. Air guns, dangerous missiles.

It shall be unlawful for any person to discharge, or cause to be discharged, any toy pistol, toy gun, air gun, blank cartridge, revolver or any other arm or arms, or any slingshot loaded with rock or leaden or other dangerous missiles at any time or under any circumstances, within the city.

(Code 1972, § 24-47; Ord. No. 1368, 3-15-1979)

Sec. 34-85. Abandoned airtight containers.

(a) It shall be unlawful for any person to abandon or store any icebox, refrigerator or other airtight container within the city where the same is accessible to children unless and until the door of said icebox, refrigerator or other airtight container shall have been removed.

(b) This section shall not apply to iceboxes, refrigerators or other airtight containers placed for storage in the storage warehouses or in the storage area of retail establishments in the business of selling refrigerators where such storage area is enclosed in a building or warehouse, locked and inaccessible to the public.

(Code 1972, § 24-48; Ord. No. 1368, 3-15-1979)

Secs. 34-86--34-113. Reserved.

ARTICLE IV. OFFENSES INVOLVING PUBLIC MORALS

Sec. 34-114. Public indecency.¹⁷⁶

(a) It shall be unlawful for any person to knowingly or intentionally expose their person in a state of nudity or semi-nudity with the intent to affront or alarm any person, or to knowingly or intentionally appear in a public place or in any place open to the public in a state of nudity or semi-nudity.

(b) The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

¹⁷⁵ Legal or Editorial Change: Code 1972, § 24-46. Concealed handguns on city property. Deleted as preempted by R.R.S. 1943, § 18-1703.

¹⁷⁶ Legal or Editorial Change: Code 1972, § Sec. 24-8. Public indecency. Deleted subsection (e) per instructions.

Nudity or a state of nudity means the showing of the human male or female genitals, pubic area, vulva, anus, anal cleft or cleavage with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering of any part of the nipple, or the showing of the covered male genitals in a discernibly turgid state.

Semi-nudity or a state of semi-nudity means the showing of the female breast below a horizontal line across the top of the areola at its highest point or the showing of the male or female buttocks. The term "semi-nudity" or "a state of semi-nudity" includes the entire lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breast, exhibited by a dress, blouse, skirt, leotard, bathing suit, or other wearing apparel provided the areola is not exposed in whole or in part.

(c) This section shall not apply to:

- (1) Any theater, concert hall, art center, museum, or similar establishment which is primarily devoted to the arts or theatrical performances and in which any of the circumstances contained in this section were permitted or allowed as part of such art exhibit or performance;
- (2) Any dressing/changing room or restroom facility open to the public, unless a person exposes their person in a state of nudity or semi-nudity in such place with the intent to affront or alarm any person, or with the intent to sexually arouse themselves or any other person;
- (3) Mothers who are breast feeding; or
- (4) Sexually oriented businesses and employees of such businesses as authorized and permitted by the city zoning ordinance.

~~— Penalty. Any person who violates this section shall be subject to a fine of not more than one thousand dollars (\$1,000.00) and/or jail of not more than 30 days and any combination of such fine and jail.~~

(Code 1972, § 24-8; Ord. No. 1368, 3-15-1979; Ord. No. 1929, § 1, 4-7-2005)

~~Sec. 24-9. Mashing, molesting of females.~~¹⁷⁷

~~Any male person who shall wrongfully molest or force or attempt to force his presence or attentions upon any female person against her desire or consent shall be deemed guilty of a misdemeanor. Any person so offending shall be punished pursuant to Code section 1-8.~~

(Code 1972, § 24-9; Ord. No. 1368, 3-15-1979)

Secs. 34-115--34-141. Reserved.

ARTICLE V. ASSEMBLIES, PARADES AND PROCESSIONS*

***State law reference**—Authority to regulate or prohibit processions or assemblages on the highways, R.R.S. 1943, § 60-680(1)(c).

Sec. 34-142. Enforcement.¹⁷⁸

Nothing contained in this article shall prohibit the authority of any officer to arrest a person engaged in any act or activity granted a permit under this article, if the conduct of such person violates the laws of the state, provisions of this Code or ordinances of the city, or unreasonably obstructs the public streets and sidewalks of the city, or engages in acts that cause, ~~or would tend to cause,~~ a breach of the peace.

(Code 1972, § 24-133)

Sec. 34-143. Permit required.

It shall be unlawful for any person to organize or hold or participate in any parade, meeting, assembly or procession of persons and/or vehicles on the streets or sidewalks of the city unless such activity shall have first been

¹⁷⁷ Legal or Editorial Change: Code 1972, § 24-9. Mashing, molesting of females. Deleted as obsolete.

¹⁷⁸ Legal or Editorial Change: Code 1972, § 24-133. Enforcement. Altered per instructions.

authorized by a written permit therefor.

(Code 1972, § 24-134)

Sec. 34-144. Application for permit.

Any person desiring a permit required by the provisions of this article shall make application therefor to the chief of police, which application shall contain the following information:

- (1) The name and address of the applicant.
- (2) The name and address of the person the applicant represents.
- (3) The exact time and date of commencement and termination of each act or activity desired.
- (4) The purpose, location and route of such act or activity, if applicable.
- (5) The person, group, association or body to be authorized under the permit to do such act or activity and the number of persons to participate.
- (6) The age of any minors who may participate in such activity, and the name of the person who will be responsible for such minors.
- (7) Such other relevant information as the chief of police may require for the investigation of the applicant.

(Code 1972, § 24-135)

Sec. 34-145. Contents of permit.

Upon issuance of a permit required by this article, the same shall contain therein all information contained in the application therefor and be signed by the chief of police and a signed copy of the same shall be kept with the application, both on file in the office of the chief of police.

(Code 1972, § 24-136)

Sec. 34-146. Matters considered in determining issuance of permit.

In deciding whether to issue a permit under the provisions of this article, the chief of police shall consider:

- (1) Number of persons to participate;
- (2) Anticipated traffic conditions at the time and date proposed for the activity;
- (3) Schedule of other similar activities for which permits may have been issued;
- (4) Adequacy of adult supervision for any minors scheduled to participate;
- (5) Availability of city personnel whose presence on duty may be required by the activity and by the necessity to protect the general public;
- (6) Adequacy of public facilities in the location proposed for the activity to accommodate the proposed activity and the normal public use of public facilities in the proposed location.

(Code 1972, § 24-137)

Sec. 34-147. Issuance.

The permit required by the provisions of this article shall be issued by the chief of police upon application therefor; provided, however, that such permit may be denied or refused if it shall appear that the applicant therefor or the act or activity requested by such application shall be violative of any applicable provision of this Code, state law or city ordinance.

(Code 1972, § 24-138)

Sec. 34-148. Time lapse between application, activity.

It shall be unlawful for any activity authorized under this article to commence within five days from the date of the application therefor.

(Code 1972, § 24-139)

Sec. 34-149. Deviation from permit.

It shall be unlawful for any person participating in any act or activity for which a permit has been granted under the provisions of this article to deviate from or alter any of the terms or contents of such permit.

(Code 1972, § 24-140)

Sec. 34-150. Display of permit.

Every person having a permit issued under the provisions of this article shall have such permit in said person's possession during the activity permitted thereby and shall display such permit upon the request of any law enforcement officer. Failure to display such permit shall be deemed a misdemeanor.

(Code 1972, § 24-141)

Sec. 34-151. Revocation of permit.

Any permit issued under the provisions of this article may be revoked by the chief of police for the violation by the permittee or any applicable provision of this Code, state law or city ordinance.

(Code 1972, § 24-142)

Sec. 34-152. Dispersal of activity.

Whenever the free passage of any street or sidewalk in the city shall be obstructed by a crowd, congregation, parade, meeting, assembly or procession, or the conduct of two or more persons, except as authorized by any permit issued pursuant to this article, the persons comprising said group shall disperse or move when directed to do so by a police officer. It shall be unlawful for any person to refuse and said refusal shall be a violation of this article.

(Code 1972, § 24-143)

Sec. 24-1. Restrictions on applicability.¹⁷⁹

~~— The provisions of this Code shall not apply to any offense committed prior to July 1, 1978. Such an offense shall be construed and punished according to the provisions of law existing at the time of the commission thereof in the same manner as if this Code had not been enacted.~~

~~— For the purposes of this section, an offense shall be deemed to have been committed prior to July 1, 1978 if any element of the offense occurred prior thereto.~~

~~— This Code shall not bar, suspend or otherwise affect any right or liability to damages, penalty, forfeiture or other remedy authorized by law to be recovered or enforced in a civil action.~~

(Code 1972, § 24-1; Ord. No. 1368, 3-15-1979)

Sec. 24-2. Terms, defined.¹⁸⁰

As used in this Code, unless the context otherwise requires:

~~— Act shall mean a bodily movement, and includes words and possession of property;~~

~~— Aid or assist shall mean knowingly to give or lend money or credit to be used for, or to make possible or available, or to further activity thus aided or assisted;~~

~~— Benefit shall mean any gain or advantage to the beneficiary including any gain or advantage to another person pursuant to the desire or consent of the beneficiary;~~

~~— Bodily injury shall mean physical pain, illness or any impairment of physical condition;~~

~~— Conduct shall mean an action or omission and its accompanying state of mind, or, where relevant, a series of acts and omissions;~~

¹⁷⁹ Legal or Editorial Change: Code 1972, § 24-1. Restrictions on applicability. Delete per instructions.

¹⁸⁰ Legal or Editorial Change: Code 1972, § 24-2. Terms, defined. Deleted per instructions.

- ~~— *Deface* shall mean to alter the appearance of something by removing, distorting, adding to or covering all or a part of the thing;~~
- ~~— *Deprive* shall mean:

 - ~~— To withhold property of another permanently or for so extended a period as to appropriate a major portion of its economic value, or with intent to restore only upon payment of reward or other compensation; or~~
 - ~~— To dispose of the property of another so as to create a substantial risk that the owner will not recover it in the condition it was when the actor obtained it;~~~~
- ~~— *Dwelling* shall mean a building or other thing which is used, intended to be used, or usually used by a person for habitation;~~
- ~~— *Financial institution* shall mean a bank, insurance company, credit union, building and loan association, investment trust or other organization held out to the public as a place of deposit of funds or medium of savings or collective investment;~~
- ~~— *Government* shall mean the United States, any state, county, municipality or other political unit, any branch, department, agency or subdivision of any of the foregoing, and any corporation or other entity established by law to carry out any governmental function;~~
- ~~— *Governmental function* shall mean any activity which a public servant is legally authorized to undertake on behalf of government;~~
- ~~— *Marijuana* shall mean all parts of the plant *Cannabis sativa* L., whether growing or not; the seeds thereof; the resin extracted from any part of such plant; and every compound, manufacture, salt, derivative, mixture or preparation of such plant, its seeds or resin, but shall not include the mature stalks of such plant; fiber produced from such stalks; oil or cake made from the seeds of such plant; any other compound, manufacture, salt, derivative, mixture or preparation of such mature stalks, except the resin extracted therefrom, fiber, oil, or cake or the sterilized seed of such plant which is incapable of germination; and, where the weight of marijuana is referred to in this article, it shall mean its weight at or about the time it is seized or otherwise comes into the possession of law enforcement authorities, whether cured or uncured at that time;~~
- ~~— *Motor vehicle* shall mean every self propelled land vehicle, not operated upon rails, except self propelled invalid chairs;~~
- ~~— *Movable property* shall mean property the location of which can be changed, including things growing on, affixed to or found in land and documents although the rights represented thereby may have no physical location. *Immovable property* shall mean all other property;~~
- ~~— *Omission* shall mean a failure to perform an act as to which a duty of performance is imposed by law.~~
- ~~— *Obtain* shall mean:

 - ~~— In relation to property, to bring about a transfer or purported transfer of a legal interest in the property, whether to the obtainer or another; or~~
 - ~~— In relation to labor or service, to secure performance thereof;~~~~
- ~~— *Peace officer* shall mean any officer or employee of the state or a political subdivision authorized by law to make arrests, and shall include members of the National Guard on active service by direction of the governor during periods of emergency or civil disorder;~~
- ~~— *Pecuniary benefit* shall mean benefit in the form of money, property, commercial interest or anything else, the primary significance of which is economic gain;~~
- ~~— *Person* shall mean any natural person and where relevant a corporation or an unincorporated association;~~
- ~~— *Property* shall mean anything of value, including real estate, tangible and intangible personal property, contract rights, credit cards, charge plates or any other instrument which purports to evidence an undertaking to pay for property or services delivered or rendered to or upon the order of a designated~~

~~person or bearer, choses in action and other interests in or claims to wealth, admission or transportation tickets, captured or domestic animals, food and drink, electric or other power;~~

~~— *Property of another* shall mean property in which any person other than the actor has an interest upon which the actor is not privileged to infringe, regardless of the fact that the actor also has an interest in the property and regardless of the fact that the other person might be precluded from civil recovery because the property was used in an unlawful transaction or was subject to forfeiture as contraband. Property in possession of the actor shall not be deemed property of another who has only a security interest therein, even if legal title is in the creditor pursuant to a conditional sales contract or other security agreement;~~

~~— *Public place* shall mean a place to which the public or a substantial number of the public has access, and includes but is not limited to highways, transportation facilities, schools, places of amusement, parks, playgrounds and the common areas of public and private buildings and facilities;~~

~~— *Public servant* shall mean any officer or employee of government, whether elected or appointed, and any person participating as an advisor, consultant, process server or otherwise in performing a governmental function, but the term does not include witnesses;~~

~~— *Receiving* shall mean acquiring possession, control or title, or lending on the security of the property;~~

~~— *Stolen* shall mean property which has been the subject of theft or robbery or a vehicle which is received from a person who is then in violation of R.R.S. 1943, § 28-517.~~

~~— *Recklessly* shall mean acting with respect to a material element of an offense when any person disregards a substantial and unjustifiable risk that the material element exists or will result from his conduct. The risk must be of such a nature and degree that, considering the nature and purpose of the actor's conduct and the circumstances known to him, its disregard involves a gross deviation from the standard of conduct that a law abiding person would observe in the actor's situation;~~

~~— *Tamper* shall mean to interfere with something improperly or to make unwarranted alterations in its condition;~~

~~— *Thing of value* shall mean real property, tangible and intangible personal property, contract rights, choses in action, services, and any rights or use or enjoyment connected therewith; and~~

~~— *Voluntary act* shall mean an act performed as a result of effort or determination, and includes the possession of property if the actor was aware of his physical possession or control thereof for a sufficient period to have been able to terminate it.~~

(Code 1972, § 24-2; Ord. No. 1368, 3-15-1979)

ARTICLE VIII. JUDGMENT ON CONVICTION

Sec. 24-144. Restitution; order; when.¹⁸¹

~~— A sentencing court may order the defendant to make restitution for the actual physical injury or property damage or loss sustained by the victim as a direct result of the offense for which the defendant has been convicted. Whenever the court believes that restitution may be a proper sentence or the victim of any offense or the prosecuting attorney requests, the court shall order that the presentence investigation report include documentation regarding the nature and amount of actual damages sustained by the victim.~~

~~— All provisions of R.R.S. 1943, § 29-2280—29-2289, as amended are hereby incorporated into the York City Code for purposes of the application, interpretation and enforcement of this section.~~

(Code 1972, § 24-144; Ord. No. 1590, §§ 1—3, 6-8-1989)

¹⁸¹ Legal or Editorial Change: Code 1972, § 24-144. Restitution; order; when. Deleted as covered by R.R.S. 1943, § 29-2280.

Sec. 24-145. Community services; sentencing; length.¹⁸²

~~— Definitions. As used in this section, unless the context otherwise requires:~~

~~— Agency shall mean any public or governmental unit, institution, division, or agency or any private nonprofit organization which provides services intended to enhance the social welfare or general well-being of the community, which agrees to accept community service from offenders and to supervise and report the progress of such community service to the court or its representative; and~~

~~— Community service shall mean uncompensated labor for an agency to be performed by an offender when the offender is not working or attending school.~~

~~— Sentencing. An offender may be sentenced to community service (1) as an alternative to a fine, incarceration, or supervised probation, or in lieu of incarceration if he or she fails to pay a fine as ordered, except when the violation of an offense requires mandatory incarceration or imposition of a fine; (2) as a condition of probation; or (3) in addition to any other sanction. The court shall establish the terms and conditions of community service including, but not limited to, a reasonable time for completion. If an offender fails to perform community service as ordered by the court, he or she may be arrested and after a hearing may be resentenced on the original charge, have probation revoked, or be found in contempt of court. No person convicted of an offense involving serious bodily injury or sexual assault shall be eligible for community service.~~

~~— Length of sentence. The length of a community service sentence shall be as follows:~~

~~— For offenses punishable by imprisonment of 90 days or less or by a fine of five hundred dollars (\$500.00) or less, or by a combination of such fine and imprisonment, not less than four nor more than eighty (80) hours;~~

~~— For an offense punishable by more than 90 days but less than six months imprisonment or by a fine of up to one thousand dollars (\$1,000.00), or by a combination of such fine and imprisonment, not less than 20 nor more than four hundred (400) hours.~~

(Code 1972, § 24-145; Ord. No. 1592, §§ 1-4, 6-8 1989)

Chapter 3

ADVERTISING¹⁸³**ARTICLE I. IN GENERAL****Sec. 3-1. Sound apparatus, streets and public places.**

No person shall operate or permit to be operated any sound producing or sound amplifying apparatus except apparatus for amplifying the human voice within the limits of any street or public place in this city, or in or upon any vehicle while parked or stopped therein.

(Code 1955, § 3-191; Code 1972, § 3-1)

Sec. 3-2. Advertising on vehicles.

No motor vehicle shall have any poster, sign, picture or advertising material on the windshield or glass of the side or rear window thereof; and no person shall, by himself or through his agent, place or post any poster, sign, picture or advertising material on the windshield or glass of either his own motor vehicle or that of any other person.

(Code 1955, § 3-191; Code 1972, § 3-2)

Sec. 3-3. Posting on poles.

It shall be unlawful for any person to leave or place upon or against any telegraph, telephone or electric light

¹⁸² Legal or Editorial Change: Code 1972, § 24-145. Community services; sentencing; length.
Deleted as covered by (and in conflict with) R.R.S. 1943, § 29-2277 et seq.

¹⁸³ Legal or Editorial Change: Code 1972, ch. 3. Deleted per instructions.

~~pole or electric light standard within the city any advertisement of any character or description.~~

~~(Code 1972, § 3-3)~~

~~State law reference— Authority to regulate, prohibit advertisements on poles, R.R.S. 1943, § 16-210.~~

~~Sec. 3-4. Destroying lawful posters.~~

~~It shall be unlawful for any person to wrongfully and maliciously tear down, deface or cover up any posted advertisement or bill of any person when the same is rightfully posted and put up and during the time such sign or advertisement shall be of value.~~

~~(Code 1972, § 3-4)~~

~~Secs. 3-5—3-15. Reserved.~~

ARTICLE II. DISTRIBUTION OF HANDBILLS

~~Sec. 3-16. Definitions.~~

~~For the purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them:~~

~~*Handbill.* Any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, paper, booklet or any other printed or otherwise reproduced original or copies of any matter of literature.~~

~~*Newspaper.* Any newspaper of general circulation as defined by general law, any newspaper duly entered with the post office department of the United States, in accordance with federal statute or regulation, and any newspaper filed and recorded with any recording officer as provided by general law; and in addition thereto, shall mean and include any periodical or current magazine regularly published with not less than four issues per year, and sold to the public, and shall mean and include any other copyrighted material.~~

~~*Vehicle.* Every device in, upon or by which any person or property is or may be transported or drawn upon a highway, including devices used exclusively upon stationary rails or tracks.~~

~~(Code 1972, § 3-16)~~

~~Sec. 3-17. Inhabited private premises.~~

~~No person shall throw, deposit or distribute any handbill in or upon private premises which are inhabited, except by handing or transmitting any such handbill directly to the owner, occupant or other person then present in or upon such private premises. Provided, however, that in case of inhabited private premises which are not posted, such person, unless requested by anyone upon such premises not to do so, may place or deposit any such handbill in or upon such premises if such handbill is so placed or deposited as to secure or prevent such handbill from being blown or drifted about such premises or sidewalks, streets or other public places, and except that mailboxes may not be so used when so prohibited by federal postal law or regulation.~~

~~(Code 1972, § 3-17)~~

~~Sec. 3-18. Prohibited where property posted.~~

~~No person shall throw, deposit or distribute any handbill upon any private premises, if requested by anyone thereon not to do so, or if there is placed on such premises a sign bearing the words: "No Trespassing," "No Peddlers or Agents," "No Advertisement," or any similar notice, indicating in any manner that the occupants of such premises do not wish to have their right of privacy disturbed, or to have any handbills left upon such premises.~~

~~(Code 1972, § 3-18)~~

~~Sec. 3-19. Depositing on uninhabited or vacant premises.~~

~~It shall be unlawful for any person to throw or deposit any handbill in or upon any private premises which is uninhabited or vacant.~~

~~(Code 1972, § 3-19)~~

~~Sec. 3-20. Placing on vehicles.~~

~~No person shall throw or deposit any handbill in or upon any vehicle.~~

~~(Code 1972, § 3-20)~~

~~Sec. 3-21. Restricted in public places.~~

~~It shall be unlawful for any person to hand out or distribute or sell any handbill in any public place; except that a handbill may be personally delivered to any person willing to accept the same.~~

~~(Code 1972, § 3-21)~~

~~Sec. 3-22. Exemption for mail and newspapers.~~

~~The provisions of this article shall not apply to the distribution of mail by the United States, nor to newspapers, except that newspapers shall be placed on private property in such a manner as to prevent their being carried or deposited by the elements upon any street, sidewalk or other public place or upon private property.~~

~~(Code 1972, § 3-22)~~

PROOFS

Chapter 35
RESERVED

PROOFS

Chapter 36

PARKS AND RECREATION*

***State law reference**—Acquisition of parks, R.R.S. 1943, § 16-695; park fund, R.R.S. 1943, § 16-697; interstate conservation and recreational areas, R.R.S. 1943, § 13-1001 et seq.

ARTICLE I. IN GENERAL**Sec. 36-1. Vehicles in parks.**

It shall be unlawful for any person to operate a snowmobile, motorbike, all-terrain vehicle or any type of motor-driven vehicle within the limits of any city park.

(Code 1972, § 25-1; Ord. No. 1371, § 1, 5-10-1979)

Secs. 36-2--36-20. Reserved.**ARTICLE II. ADVISORY BOARD OF PARK AND RECREATION COMMISSIONERS****Sec. 36-21. Created.**

There is created an advisory board of park and recreation commissioners for the city.

(Code 1972, § 25-16; Ord. No. 1203, § I, 2-11-1971)

Sec. 36-22. Composition.

The advisory board shall consist of seven members who shall be residents of the city. One member shall be a member of the city council; one member shall be a member of the board of education of the York school district; and five members shall be appointed at large.

(Code 1972, § 25-17; Ord. No. 1203, §§ I, II, 2-11-1971; Ord. No. 1750, § 1, 9-11-1997)

Sec. 36-23. Appointment.

The advisory board shall be appointed by the mayor by and with the assent of the city council.

(Code 1972, § 25-18; Ord. No. 1203, § II, 2-11-1971)

Sec. 36-24. Terms.¹⁸⁴

~~At the time of the first appointment one at large commissioner shall be appointed for a term of one year, one for a term of two years, and one for a term of three years. Thereafter~~ It shall be the duty of the mayor and city council to appoint or reappoint one member of the board each year for a term of three years. These terms of office shall run on a calendar year with appointments made at the regular January council meeting.

(Code 1972, § 25-19; Ord. No. 1203, § II, 2-11-1971)

Sec. 36-25. Duties.¹⁸⁵

The advisory board shall advise and recommend to the ~~mayor, city council and city administrator~~ director of parks and recreation in areas concerning the layout, improvement, beautification design, maintenance, program planning, and general operation of public parks and municipally owned recreation facilities, ~~not limited to but specifically including the York Municipal Swimming Pool, the York Community Center, the York City Auditorium, Harrison Park, East Hill Park, and Miller Park.~~ The board shall also have the duty of continued study and promotion of the needs of the city for additional park and recreation facilities.

¹⁸⁴ Legal or Editorial Change: Code 1972, § 25-19. Terms. Deleted the initial terms of office as obsolete.

¹⁸⁵ Legal or Editorial Change: Code 1972, § 25-20. Duties. Altered per instructions.

(Code 1972, § 25-20; Ord. No. 1203, § I, 2-11-1971)

Sec. 36-26. Quorum.

Four members of the advisory board shall constitute a quorum.

(Code 1972, § 25-21; Ord. No. 1203, § I, 2-11-1971)

Sec. 36-27. Officers.

(a) Members of the advisory board for park and recreation commissioners at its first meeting in each year shall elect one of its own members as chairperson of the board.

(b) The director of parks and recreation shall sit with the board at all its meetings and act as secretary for the board.

(Code 1972, § 25-22; Ord. No. 1203, § III, 2-11-1971)

Sec. 36-28. Rules and regulations.

The advisory board shall adopt all necessary rules providing for regular and special meetings of the board and for the conduct of its business and such rules and regulations as it may deem necessary for the management and care of the parks and recreation facilities to ensure the orderly use of said properties by the public and which will protect such property from acts of vandalism or malicious mischief. Such rules and regulations shall be submitted to the mayor and city council for approval and adoption, and, when so approved and adopted by the council, shall be published in a manner as provided for by law and a copy thereof shall be kept on file in the official records of the city for public inspection. Any violation of any such rule or regulation thereafter by any person shall be deemed a violation of this Code.

(Code 1972, § 25-23; Ord. No. 1203, § III, 2-11-1971)

Sec. 36-29. Administrative duties.

Administrative duties such as the hiring and dismissing of personnel in the conduct of functions of the parks and recreation department are the duties of the city administrator. The management of the public parks and recreation facilities of the city shall be the responsibility of the director of parks and recreation who shall be under the direct supervision of the city administrator.

(Code 1972, § 25-24; Ord. No. 1203, § IV, 2-11-1971)

Secs. 36-30—36-53. Reserved.

ARTICLE III. ANNA PALMER MUSEUM ADVISORY BOARD

Sec. 36-54. Created.

There is hereby created the Anna Palmer Museum advisory board of commissioners for the city.

(Code 1972, § 25-51; Ord. No. 2286, § 2, 6-17-2021)

Sec. 36-55. Composition.

The advisory board shall consist of seven members who shall be residents of the city. Two members shall be members of the city council; five members shall be appointed at large, and one of the members shall be 19 years of age or younger at time of appointment, who is referred to as the youth member.

(Code 1972, § 25-52; Ord. No. 2286, § 3, 6-17-2021)

Sec. 36-56. Appointment.

The advisory board shall be appointed by the mayor with the consent of the city council.

(Code 1972, § 25-53; Ord. No. 2286, § 4, 6-17-2021)

Sec. 36-57. Terms.¹⁸⁶

~~At the time of the first appointment two at large commissioners shall be appointed for a term of one year, two for a term of two years, and one for a term of three years.~~ The youth member defined in section 36-55 shall serve a term of one year. ~~Thereafter~~ It shall be the duty of the mayor and city council to appoint or reappoint one member of the board each year for a term of three years, except for the youth member who shall serve a term of one year. These terms of office shall run on a calendar year with appointments made at the regular January council meeting. (Code 1972, § 25-54; Ord. No. 2286, § 5, 6-17-2021)

Sec. 36-58. Duties.

The advisory board shall study, advise and recommend to the mayor, council and administrator on the location of the museum, and in areas that concern the acceptance, deaccession, conservation, storage, maintenance, and display of city artifacts accepted by the Anna Palmer Museum. The board shall also continue to study and promote the needs of the city for appropriate management of the museum and the promotion of the museum, its artifacts and displays.

(Code 1972, § 25-55; Ord. No. 2286, § 6, 6-17-2021)

Sec. 36-59. Quorum.

Five members of the advisory board shall constitute a quorum.

(Code 1972, § 25-56; Ord. No. 2286, § 7, 6-17-2021)

Sec. 36-60. Officers.¹⁸⁷

(a) At the first meeting in each year the members of the advisory board shall elect a chairperson of the board.

(b) ~~The city administrator~~ museum director shall attend all board meetings and shall act as the secretary for the board.

(Code 1972, § 25-57; Ord. No. 2286, § 8, 6-17-2021)

Sec. 36-61. Rules and regulations.

The advisory board shall adopt all necessary rules providing for regular and special meetings of the board and for the conduct of its business and such rules and regulations as it may deem necessary for the management and care of the Anna Palmer Museum artifacts. ~~Such rules and regulations shall be submitted to the mayor and city council for approval and adoption.~~

(Code 1972, § 25-58; Ord. No. 2286, § 9, 6-17-2021)

Sec. 36-62. Administration.

The city administrator shall be in charge of the hiring and dismissal of the museum director and any personnel who are employed by the city.

(Code 1972, § 25-59; Ord. No. 2286, § 10, 6-17-2021)

¹⁸⁶ Legal or Editorial Change: Code 1972, § 25-54. Terms. Deleted initial terms of office as obsolete.

¹⁸⁷ Legal or Editorial Change: Code 1972, § 25-57. Officers. Altered per instructions.

Chapter 37
RESERVED

PROOFS

Chapter 38
PLANNING*

*State law reference—City planning and zoning, R.R.S. 1943, § 19-901 et seq.

ARTICLE I. IN GENERAL

Sec. 27-1. Ordinances saved from repeal.¹⁸⁸

~~Nothing contained in this Code of Ordinances, nor in the ordinance adopting this Code, shall be construed to repeal or otherwise affect in any manner:~~

- ~~— Any zoning ordinance, any ordinance amending the text of such zoning ordinance or any ordinance changing the zoning of any property within the city; or~~
- ~~— Any subdivision ordinance or any ordinance dedicating or accepting any subdivision plat, and all such ordinances are hereby saved from repeal and recognized as continuing in full force and effect to the same extent as if set out at length in this Code.~~

(Code 1972, § 27-1)

Sec. 38-1. Extraterritorial jurisdiction.¹⁸⁹

(a) All provisions of this Code and city ordinances, rules and regulations pertaining to zoning, property use, building, electrical work, and plumbing work shall be applicable to the unincorporated area two miles beyond and adjacent to the corporate boundaries of the city with the same force and effect as if such outlying area were within the corporate limits of the city, provided no such provision or regulation shall be extended or applied so as to prohibit, prevent, or interfere with the conduct of existing farming, livestock operations, businesses, or industry ~~and provided further, that for purpose of the state power review board, the zoning area of this city shall be one mile beyond and adjacent to the corporate area. The fact that such unincorporated area is located in a different county or counties than some or all portions of the municipality shall not be construed as affecting the powers of the city to apply such provisions or regulations.~~

(b) All territory within the area described in subsection (a) of this section shall be deemed to be within a ~~residential~~ an agricultural zone, until further rezoned; provided, further, this section shall not prohibit, prevent or interfere with the conduct of normal farming or livestock operation, existing businesses or industry located and being conducted and operated in said area.

(Code 1972, § 27-2; Ord. No. 1013, § 2, 3-18-1963)

State law reference—Authority to extend application of zoning, building, etc. ordinances to areas outside the corporate limits, R.R.S. 1943, § 16-901; applicability of standard codes to extraterritorial zoning jurisdiction, R.R.S. 1943, § 19-922.

Sec. 38-2. City limits defined.¹⁹⁰

All the additions, lots, land, subdivisions and parcels of ground included within the hereinafter described limits having been by act or ordinance of the mayor and council duly annexed to or made a part of the city, or having been by the act, authority, acquiescence, consent, platting and dedication of their respective owners created either as

¹⁸⁸ Legal or Editorial Change: Code 1972, § 27-1. Ordinances saved from repeal. Delete as covered by Code chapter 1, as revised.

¹⁸⁹ Legal or Editorial Change: Code 1972, § 27-2. Extraterritorial jurisdiction. Altered per instructions. Please verify.

¹⁹⁰ Legal or Editorial Change: Code 1972, § 27-3. City limits defined. Revised so as to eliminate the legal description. As this section was last amended in 1994, it is logical to assumed that there have been subsequent annexations that were not accounted for in this section.

original townsite or as additions to the city, said additions, lots, land, subdivisions and parcels of ground are hereby declared to be within the corporate limits of the city, and the corporate limits of the city (~~decrees in all disconnection suits considered~~) are hereby declared to be as follows: designated on the official zoning map of the city as updated on file with the city clerk.

Commencing at a point 33 feet south of the southwest corner of Irregular Tract 8, Section 36, Township 11 North, Range 3 West; thence north along the west line of said Irregular Tract 8, extended north to its intersection with the northerly right of way line of the Burlington Northern Railroad; thence southeasterly along the northerly right of way line of said Burlington Northern Railroad to the intersection with the westerly right of way line of said Burlington Northern Railroad (Benedict spur); thence northwesterly along the westerly right of way line of said Burlington Northern Railroad to its intersection with the south line of the Northeast Quarter (NE ¼) of Section 36, Township 11 North, Range 3 West; thence west to the southwest corner of the Southeast Quarter (SE ¼) of the Northeast Quarter (NE ¼) of said Section 36; thence north along the west line of the East Half of the Northeast Quarter (E ½ NE ¼) of said Section 36 to a point on the south line of Irregular Tract No. 18 of said Section 36; thence west along the south line of said Irregular Tract 18 to the point of intersection with the west line of the East Half (E ½) of said Section 36; thence north along the west line of the East Half (E ½) of said Section 36 to a point 30 feet north of the northwest corner of the Northeast Quarter (NE ¼) of said Section 36; thence west along a line 30 feet north of and parallel to the south line of Sections 25 and 26, Township 11 North, Range 3 West, to the point of intersection with the north-south quarter section line of said Section 26; thence north 00°00'40" east (assumed bearing for the north-south quarter section line) a distance of 1395.97 feet to a point; thence south 89°57'26" west, a distance of 1964.02 feet to a point; thence north 00°26'15" west, a distance of 708.47 feet to a point; thence north 53°33'00" east, a distance of 2293.58 feet to a point; thence north 26°49'03" east, a distance of 287.55 feet to a point on the north-south quarter section line of said Section 26; thence north 00°07'40" east, a distance of 1568.59 feet to the North Quarter (N ¼) corner of said Section 26; thence continuing north 00°11'35" west along the north-south quarter section line of Section 23, Township 11 North, Range 3 West a distance of 1314.82 feet to a point; thence north 45°37'24" east, a distance of 282.98 feet to a point; thence north 24°47'44" east, a distance of 171.71 feet to a point; thence north 36°19'33" east, a distance of 238.59 feet to a point; thence north 79°57'48" east, a distance of 278.39 feet to a point; thence south 43°48'46" east, a distance of 261.64 feet to a point; thence south 81°08'21" east, a distance of 118.96 feet to a point; thence south 05°37'41" east, a distance of 1680.55 feet to a point on the north right of way line of the east-west section line road; thence south 89°50'19" along the north right of way line of the east-west section line road, a distance of 1431.40 feet to the point of intersection with the west right of way line of the north-south section line road; thence south along the west right of way line of the north-south section line road along the east side of said Section 26 to the point of intersection with the north right of way line of U.S. Highway No. 34; thence east along the north right of way line of U.S. Highway No. 34 to the point of intersection with the north-south quarter section line of said Section 25; thence south 10 feet to a point 30 feet north of the South Quarter (S ¼) corner of said Section 25; thence east along a line 30 feet north of and parallel to the south line of the Southeast Quarter (SE ¼) of said Section 25 to a point 289.0 feet west of the westerly line of the Burlington Northern Railroad (Benedict spur) and 30 feet north of the south line of the Southeast Quarter (SE ¼) of said Section 25; thence north along a line perpendicular to the south line of said Section 25 to a point of intersection with the westerly extension of the north line of Irregular Tract 2 of said Section 25; thence east along the north line of said Irregular Tract 2 and its westerly extension to a point on the west right of way line of Division Avenue; thence north along the west right of way line of Division Avenue to the point of intersection with the south right of way line of the east-west section line road; thence east along the south right of way line of the section line road to the point of intersection with the westerly right of way line of U.S. Highway No. 81; thence southeasterly along the southwesterly right of way line of U.S. Highway No. 81 to the point of intersection where the north line of Irregular Tract No. 25 located in West Half (W ½) of Section 30, Township 11 North, Range 2 West, would intersect the right of way if extended east; thence continuing east along said easterly extension of the north line of said Irregular Tract No. 25 to the point of intersection with the easterly right of way line of U.S. Highway no. 81; thence northeasterly along the southeasterly right of way line of U.S. Highway No. 81 to the north corner of Irregular Tract No. 23 located in the West Half (W ½) of said Section 30; thence south to the northwest corner of Irregular Tract No. 17 located in said West Half (W ½) of Section 30; thence east to the northeast corner of said Irregular Tract No. 17; thence south along the East Half (E ½) of said Section 30 to the southeast corner of the Southwest Quarter (SW ¼) of said Section

30; thence east along the north line of Section 31, Township 11 North, Range 2 West to a point 200 feet east of the North Quarter (N $\frac{1}{4}$) corner of said Section 31; thence south along a line which is 200 feet east of and parallel to the east line of the Northwest Quarter (NW $\frac{1}{4}$) of said Section 31 to its point of intersection with the line dividing the North Half (N $\frac{1}{2}$) and the South Half (S $\frac{1}{2}$) of the Northeast Quarter (NE $\frac{1}{4}$) of said Section 31; thence continuing on in an easterly direction along said east-west line to a point which is 33 feet east of and parallel to the west line of said Section 32, Township 11 North, Range 2 West; thence southerly along a line 33 feet east of and parallel to the west line of Section 32, to the northwest corner of Lot 1, Block 1, Delaware Heights Addition to the City of York; thence easterly along the north line of Block 1 of said Delaware Heights Addition to the northeast corner of said Delaware Heights Addition; thence southerly along the east line of said Delaware Heights Addition to a point on the north line of the Southwest Quarter (SW $\frac{1}{4}$) of Section 32, Township 11 North, Range 2 West; said point also being the southeast corner of Delaware Heights Addition to the City of York; thence east along the north line of the Southwest Quarter (SW $\frac{1}{4}$) of said Section 32 to the center one-quarter corner of said Section 32; thence south on the east line of the Southwest Quarter (SW $\frac{1}{4}$) of said Section 32 a distance of 852.79 feet; thence south $89^{\circ}53'39''$ east a distance of 60.00 feet; then south $00^{\circ}01'16''$ east, and parallel to the west line of the Southeast Quarter (SE $\frac{1}{4}$) of said Section 32, a distance of 1772.79 feet to a point on the south line of the Southeast Quarter (SE $\frac{1}{4}$) of said Section 32; thence west along the south line of said Section 32 to the North Quarter (N $\frac{1}{4}$) corner of Section 5, Township 10 North, Range 2 West; thence southerly along and upon the east line of the Northwest Quarter (NW $\frac{1}{4}$) of said Section 5 to a point 183 feet south of the north quarter corner; thence west along a line 183 feet south of and parallel to the north line of the Northwest Quarter (NW $\frac{1}{4}$) of said Section 5 to a point 341 feet east and 183 feet south of the northwest corner of the Northeast Quarter (NE $\frac{1}{4}$) of the Northwest Quarter (NW $\frac{1}{4}$) of said Section 5; thence south along a line 341 feet east of the west line of the Northeast Quarter (NE $\frac{1}{4}$) of the Northwest Quarter (NW $\frac{1}{4}$) of said Section 5 to the point of intersection with the south line of the Northeast Quarter (NE $\frac{1}{4}$) of the Northwest Quarter (NW $\frac{1}{4}$) of said Section 5; thence westerly along and upon the south line of the Northeast Quarter (NE $\frac{1}{4}$) of the Northwest Quarter (NW $\frac{1}{4}$) to a point 190 feet east of the west line of the Northeast Quarter (NE $\frac{1}{4}$) of the Northwest Quarter (NW $\frac{1}{4}$) of said Section 5; thence southerly along a line 190 feet east of and parallel to the west line of the Southeast Quarter (SE $\frac{1}{4}$) of the Northwest Quarter (NW $\frac{1}{4}$) of said Section 5 to a point 30 feet south and 190 feet east of the southwest corner of the Southeast Quarter (SE $\frac{1}{4}$) of the Northwest Quarter (NW $\frac{1}{4}$) of said Section 5; thence westerly along a line 30 feet south of and parallel to the south line of the Northwest Quarter (NW $\frac{1}{4}$) to a point 30 feet east of the west line of the East Half (E $\frac{1}{2}$) of the Southwest Quarter (SW $\frac{1}{4}$) of said Section 5; thence southerly along a line 30 feet east of and parallel to the west line of the East Half (E $\frac{1}{2}$) of the Southwest Quarter (SW $\frac{1}{4}$) of Section 5 to a point 30 feet east and 33 feet south of the southwest corner of the East Half (E $\frac{1}{2}$) of the Southwest Quarter (SW $\frac{1}{4}$) of said Section 5; thence westerly along a line 33 feet south of and parallel to the south line of said Section 5 to a point 33 feet south of the southwest corner of said Section 5; thence running southerly along and upon the east line of the Northeast Quarter (NE $\frac{1}{4}$) of Section 7, Township 10 North, Range 2 West, a distance of 303 feet; thence westerly along a line 303 feet south of and parallel to the north line of the Northeast Quarter (NE $\frac{1}{4}$) of said Section 7 to a point 33 feet east of the west line of the Northeast Quarter (NE $\frac{1}{4}$) of the Northeast Quarter (NE $\frac{1}{4}$) of said Section 7; thence southerly along a line 33 feet east of and parallel to the west line of the Northeast Quarter (NE $\frac{1}{4}$) of the Northeast Quarter (NE $\frac{1}{4}$) of said Section 7 a distance of 366.04 feet; thence north $88^{\circ}39'47''$ west (assumed bearing) perpendicular to said east line a distance of 311.98 feet; thence north $01^{\circ}20'13''$ east parallel with said east line a distance of 232.54 feet; thence north $33^{\circ}01'54''$ west a distance of 245.28 feet; thence south $89^{\circ}19'12''$ west a distance of 411.44 feet; thence south $52^{\circ}10'17''$ west a distance of 568.85 feet to the west line of the Northwest Quarter (NW $\frac{1}{4}$) of said Northeast Quarter (NE $\frac{1}{4}$) thence north $88^{\circ}56'10''$ west along the south line of Irregular Tract 7 and the south line of Nobes Road Retail Center Addition to the City of York to the southwest corner of Lot 1 of said Nobes Road Retail Center Addition; thence south along the east right-of-way line of the County Road to the point of intersection with the north right-of-way line of the east-west quarter section line road; thence east along the north right-of-way line of the east-west quarter section line road, a distance of 422 feet to a point; thence south along the east line of the Wilson Addition and the Miller Subdivision and their east line extended south to the point of intersection with the south line of Irregular Tract No. 12 in said Section 7; thence west along the south line of Irregular Tract No. 12 to the point of intersection with the east right-of-way line of the north-south county road; thence south along the east right-of-way line of the north-south county road to the point of intersection with the south right-of-way of the east-west section line road; thence west to the point of intersection of the south right-of-way line of the east-west section line road and the west 1/16 line, of Section 18, Township 10 North, Range 2 West; thence south along the west 1/16 line, a distance of

392 feet to a point; thence west along a line 392 feet south of and parallel to the south line of the county road to the point of intersection with the westerly right of way line of the Burlington Northern Railroad; thence southeasterly along the westerly right of way line of the Burlington Northern Railroad to the southeast corner of Irregular Tract No. 9 in said Section 18; thence west along the south line of Irregular Tract Nos. 9 and 11 of said Section 18 to the point of intersection of the east line extended north of Irregular Tract Nos. 6 and 7 of said Section 18; thence south to the southeast corner of Irregular Tract No. 7 of said Section 18; thence west along the south line of Irregular Tract No. 7 and its extension west to the point of intersection with the east right of way line of U.S. Highway No. 81; thence south along the east right of way line of U.S. Highway No. 81 to the north right of way line of the east-west section line road; thence east along the north right of way line of the east-west section line road to a point 600 feet east of the west line of said Section 18; thence south along a line 600 feet east of and parallel to the west line of said Section Nos. 18 and 19 to a point 1600 feet south of the north line of said Section 19; thence west along a line perpendicular to the west line of said Section 19, a distance of 280 feet to a point; thence south along a line 320 feet east of and parallel to the west line of said Section 19, a distance of 375 feet to a point; thence west along a line perpendicular to the west line of said Section 19 a distance of 220 feet to a point and said point also being on the easterly right of way line of U.S. [Highway No. 81] to the northwest corner of Irregular Tract No. 11 of said Section 24; thence northerly to the intersection of the south right of way line of McGowan Street and the west right of way line of Broadwell Avenue; thence north along the west right of way line of Broadwell Avenue to the southeast corner of Lot 1, Block 2 of the Broadwell Subdivision as surveyed, platted and recorded; thence west to the southwest corner of Lot 1, Block 2 of the Broadwell Subdivision; thence north along the west line of Lot 1, Block 2 of the Broadwell Subdivision and its extension northward to the point of intersection with the north right of way line of the east-west section line road; thence west to the southwest corner of Irregular Tract No. 14 in Section 13, Township 10 North, Range 3 West; thence north to the northwest corner of Irregular Tract No. 14 in said Section 13; thence east along the north line of Irregular Tract No. 14 in said Section 13 to the point of intersection with the west line of Irregular Tract No. 13 in said Section 13; thence north to the northwest corner of Irregular Tract No. 13 in said Section 13; thence east to the northeast corner of Irregular Tract No. 13 in said section 13; and said point also being on the west right of way line of U.S. Highway No. 81; thence north along the west right of way line of U.S. Highway No. 81 to the southeast corner of Irregular Tract No. 11 in said Section 13; thence west to the southwest corner of Irregular Tract No. 11 in said Section 13; thence north to the northwest corner of Irregular Tract No. 11 in said Section 13; thence east to the northeast corner of Irregular Tract No. 11 in said Section 13 and said point also being on the west right of way line of U.S. Highway No. 81; thence north along the west right of way line of U.S. Highway No. 81 to the point of intersection with the east-west quarter section line; thence west along the east-west quarter section line to a point south of the southwest corner of Irregular Tract No. 4 in said Section 13; thence north to the southwest corner of Irregular Tract No. 4 in said Section 13; thence north to the northwest corner of Lot 2, Block 1 of the Bonanza Addition as surveyed platted and recorded; thence northerly to the southwest corner of Irregular Tract No. 12 in said Section 13; thence north along the west line of Irregular Tract No. 12 in said Section 13 and its extension north to the point of intersection with the north right of way line of the east-west section line road; thence west Highway No. 81; thence southeasterly to the most northerly corner of Irregular Tract No. 3 in said Section 19; thence south to the southeast corner of Irregular Tract No. 3 in said Section 19; thence southerly to the northeast corner of Irregular Tract No. 1 in said Section 19; thence south to the southeast corner of Irregular Tract No. 1 of said Section 19; thence east to the northeast corner of Irregular Tract No. 5 in said Section 19; thence south to the southeast corner of Irregular Tract No. 5 of said Section 19; thence west to the northeast corner of Irregular Tract No. 2 of said Section 19; thence south to the southeast corner of Irregular Tract No. 2 of said Section 19; thence west to the southwest corner of Irregular Tract No. 2 of said Section 19; thence south perpendicular from the last described course to the point of intersection with the south right of way line of the east-west section line road; thence west along the south right of way line of the east-west section line road to the point of intersection with the west right of way line of U.S. Highway No. 81; thence south along the west right of way line of U.S. Highway No. 81 a distance of 617 feet to a point; thence west along a line parallel with the north line of Section 25, Township 10 North, Range 3 West, a distance of 535.7 feet to a point; thence north along a line parallel to the east line of said Section 25 a distance of 617 feet to a point and said point also being on the south right of way line of the section line road; thence east along the south right of way line of the section line road to a point due south of the southeast corner of Irregular Tract No. 7 in Section 24, Township 10 North, Range 3 West; thence north to the southeast corner of Irregular Tract No. 7 in said Section 24 and said point also being on the west right of way line of U.S. Highway No. 81; thence northerly along the west right of way line of U.S. Highway No.

81 to the southeast corner of Irregular Tract No. 6 of said Section 24; thence west to the southwest corner of Irregular Tract No. 6 of said Section 24; thence north to the northeast corner of Lot 2 of the Country View Subdivision as surveyed, platted and recorded; thence west to the southwest corner of Irregular Tract No. 5 in said Section 24; thence north to the northwest corner of Irregular Tract No. 5 in said Section 24; thence northerly to the southwest corner of Irregular Tract No. 9 in said Section 24; thence north to the southwest corner of Irregular Tract No. 8 in Section 12, Township 10 North, Range 3 West; thence north to the northwest corner of Irregular Tract No. 8 in said Section 12; thence east along the north line of Irregular Tract No. 8 in said Section 12 and its easterly extension to a point on the west right-of-way line of U.S. Highway No. 81; thence northerly along the west right-of-way line of U.S. Highway No. 81 to the southeast corner of Irregular Tract No. 4 in said Section 12; thence west to the southwest corner of Irregular Tract No. 4 in said Section 12; thence north along the west line of Irregular Tract No. 4 in said Section 12 to the point of intersection with the south line of the Northeast Quarter (NE ¼) of the Northeast Quarter (NE ¼) of Section 12, Township 10 North, Range 3 West; thence west to the southwest corner of the Northeast Quarter (NE ¼) of the Northeast Quarter (NE ¼) of said Section 12; thence north along the west line of the Northeast Quarter (NE ¼) of the Northeast Quarter (NE ¼) of said Section 12 to the south right-of-way line of county road (also known as Nobes Road); thence west along the south right-of-way line of said county road to a point 33 feet south and west of the north-south quarter line of Section 12; thence north along a line 33 feet west of and parallel to said north-south quarter line of said Section 12 to the point of intersection with the south line of Section 1, Township 10 North, Range 3 West; thence south 89°47'09" west a distance of 1100.00 feet; thence north 00°05'36" east a distance of 130.00 feet; thence north 89°47'09" east along a line 130.00 feet north of and parallel to the south line of said Section 1 a distance of 100.00 feet; thence north 86°37'44" east a distance of 363.16 feet; thence north 89°47'09" east along a line 150.00 feet north of and parallel to the south line of said Section 1 a distance of 317.50 feet; thence north 32°29'57" east a distance of 373.19 feet; thence north 00°05'36" east along a line 150.00 feet west of the east line of said Southeast Quarter of Southwest Quarter (SE ¼ SW ¼) a distance of 259.00 feet; thence north 89°47'09" east to a point on the east line of said Southeast quarter of Southwest Quarter (SE ¼ SW ¼); thence north along the north-south quarter section line of said Section 1 to the north quarter corner of said Section 1; thence east to the point of beginning.

That the following area is excluded from the corporate limits description above: Commencing at a point on the south line of Lot 1, Block 2, York Public Schools Addition to the City of York, said point being 30 feet east of the southwest corner of Lot 1, Block 2 of said York public Schools Addition; thence south 89°40'41" east 358.70 feet along the south line of said Lot 1 to the point of intersection with the west line of Lot 2, Block 2 of said York Public Schools Addition; thence south 00°09'15" east to the northeast corner of Belmont Fourth Addition to the City of York; thence west along the north line of said Belmont Fourth Addition to a point 30 feet east of the east line of the Northwest Quarter (NW ¼) of the Southwest Quarter (SW ¼) of Section 32, Township 11 North, Range 2 West; thence north to the point of beginning.

(Code 1972, § 27-3; Ord. No. 1207, § 1, 3-11-1971; Ord. No. 1303, § 1, 1-8-1976; Ord. No. 1671, § 1, 1-13-1994)

Secs. 38-3--38-22. Reserved.

ARTICLE II. CITY PLANNING COMMISSION*

*State law reference—Municipal planning commissions, R.R.S. 1943, § 19-925 et seq.

Sec. 38-23. Created.

There is hereby created a city planning commission in and for the city.

(Code 1972, § 27-15; Ord. No. 998, § 1, 6-14-1962)

Sec. 27-16. Composition.¹⁹¹

The city planning commission shall consist of nine members who shall represent insofar as possible, different professions or occupations in the city.

¹⁹¹ Legal or Editorial Change: Code 1972, § 27-16. Composition. Deleted as covered by R.R.S. 1943, § 19-926.

(Code 1972, § 27-16; Ord. No. 998, § 2, 6-14-1962)

Sees. 27-17—27-24. Reserved.

Sec. 38-24. Quorum—Time requirement for review.¹⁹²

A majority of the members appointed to the city planning commission shall constitute a quorum for the transaction of business, and a majority vote of all the members appointed shall be required to pass any measure. The planning commission shall be required to make a recommendation on a matter reviewed by the commission within 30 days from the time when the commission reviewed the matter. In the event that the planning commission fails to make a recommendation within 30 days from the date when the commission reviewed the matter, the matter shall be submitted to the city council for action without recommendation by the commission.

(Code 1972, § 27-25; Ord. No. 998, § 4, 6-14-1962; Ord. No. 2311, § 2, 2-17-2022)

ARTICLE III. BOARD OF ADJUSTMENT^{*193}

~~*Editor's note—Ord. No. 1296, §§ 1—3, adopted Aug. 14, 1975, did not specifically amend the Code. Therefore, codification herein as §§ 27-46—27-48 was at the discretion of the editor.~~

Sec. 27-46. Board established; appointment and number of members; terms of office; meetings; authority to adopt rules.

~~—A board of adjustment for the City of York, Nebraska is hereby established, the members of which shall be appointed by the mayor and confirmed by a majority of the members of the council. The word "board" as hereinafter used, shall be construed to mean said board of adjustment.~~

~~—The board of adjustment shall consist of five regular members plus one additional member designated as an alternate who shall attend and serve only when one of the regular members is unable to attend for any reason, each to be appointed for a term of three years and removable for cause by the appointing authority upon written charges and after public hearings. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant in the same manner as in the case of original appointments. One member only of the board of adjustment shall be appointed from the membership of the planning commission, and the loss of membership on the planning commission by such member shall also result in his immediate loss of membership on the board of adjustment and the appointment of another planning commissioner to the board of adjustment. Meetings of the board shall be held at the call of the chairman and at such other times as the board may determine. Such chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public. The board shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the board and shall be a public record. The board may adopt supplemental rules of procedure not inconsistent herewith.~~

(Code 1972, § 27-46; Ord. No. 1296, § 1, 8-14-1975)

Sec. 27-47. Appeals.

~~Appeals to the board may be taken and prosecuted in the manner provided for by Chapter 19, Article 9, Revised Statutes for Nebraska.~~

(Code 1972, § 27-47; Ord. No. 1296, § 2, 8-14-1975)

Sec. 27-48. Jurisdiction.

~~The board of adjustment shall, subject to such appropriate conditions and safeguards as may be established by the legislative body, have only the following powers:~~

¹⁹² Legal or Editorial Change: Code 1972, § 27-25. Quorum. Altered catchline per instructions. The text was not altered.

¹⁹³ Legal or Editorial Change: Code 1972, ch. 27, art. III (§ 27-46—27-48). Deleted as superseded by Zoning Ord. art. XXVIII.

- ~~— That the board may, in appropriate cases and subject to appropriate conditions and safeguards, make special exceptions to the terms of the ordinances of the City of York in harmony with their general purpose and intent and in accordance with general or specific rules therein contained.~~
- ~~— To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official or agency based on or made in the enforcement of any zoning regulation or any regulation relating to the location or soundness of structures;~~
- ~~— To hear and decide, in accordance with the provisions of any zoning regulation, requests for interpretation of any map, or for decisions upon other special questions upon which the board is authorized by any such regulation to pass; and~~
- ~~— Where by reason of exceptional narrowness, shallowness or shape of a specific piece of property at the time of enactment of the zoning regulations, or by reason of exceptional topographic conditions or other extraordinary and exceptional situations or conditions of such piece of property, the strict application of any enacted regulations under the act would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardships upon the owner of such property, to authorize, upon an appeal relating to the property, a variance from such strict application so as to relieve such difficulties or hardships, if such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of any ordinances or resolutions. No such variance shall be authorized by the board unless it finds that:

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

~~No variance shall be authorized unless the board finds that the condition or situation of the property concerned or the intended use of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the zoning regulations. In exercising the above mentioned powers such board may, in conformity with the provisions of this article, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken. The concurring vote of four members of the board shall be necessary to reverse any order, requirement, decision or determination of any such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under any such regulation or to effect any variation in such regulation.~~

(Code 1972, § 27-48; Ord. No. 1296, § 3, 8-14-1975)

Chapter 39
RESERVED

PROOFS

Chapter 40
SOLID WASTE*

***State law reference**—Garbage disposal, R.R.S. 1943, § 19-2101 et seq.; Integrated Solid Waste Management Act, R.R.S. 1943, § 13-2001 et seq.; municipal powers and duties relative to solid waste, R.R.S. 1943, § 13-2020 et seq.

ARTICLE I. IN GENERAL

Sec. 40-1. Definitions.¹⁹⁴

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

Collection means the act of removing and conveying solid waste from the storage area to a processing facility and/or final disposal site.

Collector means a person licensed to haul both refuse and garbage as herein defined.

Construction and demolition waste means waste which results from land clearing, the demolition of buildings, roads or other structures, including, but not limited to, fill materials, wood (including painted and treated wood), land clearing debris other than yard waste, wall coverings (including wall paper, paneling and tile), drywall, plaster, non-asbestos insulation, roofing shingles and other roof coverings, plumbing fixtures, glass, plastic, carpeting, electrical wiring, pipe and metals. The term "construction and demolition waste" shall also include the above-listed types of waste that result from construction projects. The term "construction and demolition waste" shall not include friable asbestos waste, special waste, liquid waste, hazardous waste and waste that contains polychlorinated biphenyl (PCB), putrescible waste, household waste, industrial solid waste, corrugated cardboard, appliances, tires, drums, and fuel tanks.

Disposal means the discharge, deposit, injection, dumping, spilling, leaking or placing of any solid waste or hazardous waste into or on any land or water so that such solid waste or hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including groundwater.

Disposal site means a site, location, tract of land, area, dump, dump site, landfill or landfill site, or premises used or intended to be used for partial and/or total solid waste disposal.

Fill means solid waste that consists only of one or more of the following: sand, gravel, stone, soil, rock, brick, concrete rubble, asphalt rubble, or similar material.

Garbage means rejected food wastes, including waste accumulation of animal, fruit or vegetable matter used or intended for food or that attend the preparation, use, cooking, dealing in or storing of meat, fish, fowl, fruit or vegetables and dead animals rejected by rendering plants.

Junk means materials which will not be utilized if not collected and processed for reuse or recycling, including, but not limited to, old scrap, copper, brass, iron, steel, rope, wire, glass, rags, batteries, paper trash, rubber, debris, demolition waste, abandoned mobile homes, dismantled or wrecked, untaxed, untitled or unlicensed vehicles or parts thereof, and other old or scrap ferrous or nonferrous material.

Landfill unit means:

- (1) A discrete area or land which has been developed and constructed with containment features according to an operational plan and designed for disposal of solid waste; or
- (2) A method of disposing of refuse on land without creating nuisances or hazards to public health or safety, by utilizing the principles of engineering to confine the refuse to the smallest practical area, to reduce it

¹⁹⁴ Legal or Editorial Change: Code 1972, § 16-1. Definitions. Altered per instructions. See generally R.R.S. 1943, § 81-1502.

to the smallest practical volume, and to cover it with a layer of earth at the conclusion of each day's operation or at more frequent intervals.

Notice means all notices required under section 40-75 shall be by certified mail or personal service to the person listed on the hauler's license application form, or if no application form exists, then to the last known business/residence address or said person.

Person means any individual; partnership, ~~association, public or private corporation, trustee, receiver, assignee, agent, municipality or other governmental subdivision, public agency, officer or governing or managing body of any municipality, governmental subdivision or public agency, or any other legal entity except the Environmental Quality Council and the Department of Environmental Quality;~~ limited liability company; association; public or private corporation; trustee; receiver; assignee; agent; municipality or other governmental subdivision; public agency; other legal entity; or any officer or governing or managing body of any public or private corporation, municipality, governmental subdivision, public agency, or other legal entity.

Putrescible means capable of being decomposed by microorganisms with sufficient rapidity as to cause nuisances from odors, gases, etc. Kitchen wastes, offal, and dead animals are examples of putrescible components of solid waste.

~~*Recoverable* shall mean the capability and likelihood of being recovered from solid waste for a commercial or industrial use.~~

~~*Recovered material* shall mean material which has been collected or recovered from solid waste.~~

Recycling means the process by which waste materials are transformed into new products in such a manner that the original products may lose their identity.

Refuse means putrescible and nonputrescible solid wastes, except body wastes, and includes garbage, rubbish, ashes, incinerator ash, incinerator residue, street cleanings and solid market and industrial wastes.

~~*Resource conservation* shall mean reduction of the amounts of solid waste that are generated, reduction of overall resource consumption and utilization of recovered resources.~~

~~*Resource recovery* shall mean the recovery of material or energy from solid waste. Resource recovery facility shall mean any facility at which solid waste is processed for the purpose of extracting, converting to energy, or otherwise separating and preparing solid waste for reuse.~~

~~*Resource recovery system* shall mean a solid waste management system which provides for collection, separation, recycling, and recovery of solid wastes, including disposal of nonrecoverable waste residues.~~

Rubbish means nonputrescible solid wastes, excluding ashes, consisting of both combustible and non-combustible wastes, such as paper, cardboard, tin cans, yard waste, wood, glass, bedding, crockery, or litter of any kind that will be a detriment to the public health and safety.

Salvage operations means the controlled and safe removal of waste material for utilization from the solid waste stream.

Sludge means any solid, semi-solid or liquid waste generated from a municipal, commercial or industrial wastewater treatment plant, water supply treatment plant or air pollution control facility exclusive of the treated effluent from a wastewater treatment plant.

Solid waste means any garbage, refuse, or sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial and mining operations, and from community activities, ~~but solid waste shall not include solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under section 402 of the federal Clean Water Act, as amended, 33 USC 1251 et seq., or source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954, as amended, 68 Stat. 923. The term "solid waste" shall not include slag, a product that is a result of the steel manufacturing process and is managed as an item of value in a controlled manner and not as a discarded material; solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under section 402 of the Clean Water Act, as amended, 33 USC 1251 et seq.; or source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954, as amended, 42 USC, 2011 et seq.~~

~~*Solid waste disposal* shall mean the disposal of solid waste, including any household waste, commercial solid waste, fossil fuel combustion ash, nonhazardous sludge, industrial solid waste, or construction and demolition waste.~~

~~*Solid waste disposal area* shall mean a discrete area of land or excavation which receives solid waste and includes all contiguous land and structures within the surveyed legal description of the permitted area, other appurtenances and improvements on the land used for the disposal of solid wastes or improvements necessary to carry out the disposal of solid wastes. Solid waste disposal areas shall include, but not be limited to the following disposal areas: municipal solid waste disposal areas, construction and demolition disposal areas, fossil fuel combustion ash disposal areas, industrial disposal areas, delisted hazardous waste disposal areas and land application units for repeated disposal or treatment of special wastes.~~

Solid waste management means the systematic administration of activities which provide for the collection, source separation, storage, transportation, transfer, processing, treatment, and disposal of solid waste.

Solid waste management facility means a public or private site, location, tract of land installation or building, which has been used for the collection, source separation, storage, transportation, transfer, processing, treatment, or disposal of solid waste and shall include solid waste disposal areas and solid waste processing facilities.

Solid waste processing means the process by which solid wastes are physically or chemically changed, temporarily stored, or salvaged prior to being transferred to a solid waste disposal area or to a secondary materials recovery facility.

Storage means the containment of solid waste on a temporary basis in such a manner as not to constitute disposal of such waste.

Transfer means the act of transporting the solid waste from the point of storage to processing facility and/or final disposal site.

Transfer station means a facility where the solid waste from several relatively small vehicles is placed into one large vehicle before being hauled to the disposal site. The small vehicles can be private automobiles, pickup trucks, or more commonly, collection vehicles. The large vehicles can be railcars or trucks.

Yard waste means grass and leaves. For the purposes of composting, the term "yard waste" means grass and leaves in combination with chipped trees and branches and other organic material collected as the result of the care of ornamental plants, lawns, shrubbery, vines and gardens.

(Code 1972, § 16-1; Ord. No. 1775, § 1, 6-4-1998; Ord. No. 2012, § 1, 10-2-2008)

Sec. 40-2. Generally.

It shall be unlawful for any person to keep in, on, or about any dwelling house, building or premises in the city, any decayed vegetable or animal substance, garbage, offal or refuse matter or any substance that may be injurious to the public health or offensive to the residents or inhabitants of the vicinity unless the same is kept in receptacles provided therefor.

(Code 1972, § 16-2; Ord. No. 1623, § 1, 5-9-1991)

Sec. 40-3. Littering prohibited—Generally.

It shall be unlawful for any person to throw, drop, cast or deposit upon any street, alley, sidewalk, or any yard or premises, public or private, any filth of any kind, or cans, paper, trash, paper containers, rubbish, bottles or any other form of litter or waste matter.

(Code 1972, § 16-3; Ord. No. 1623, § 2, 5-9-1991)

State law reference—Municipal authority relative to litter, R.R.S. 1943, § 16-230(2).

Sec. 40-4. Littering prohibited—Duty of business owners, occupants.¹⁹⁵

(a) *Generally.* The owner or occupant of any store or other place of business situated within the city shall exercise reasonable diligence at all times to keep the owner or occupant's premises clean of wastepaper, wrapping paper, paper napkins, cartons, package containers, and other used or waste materials thrown or left on said premises by its customers, and to take reasonable measures to prevent same drifting or blowing to adjoining premises.

(b) *Receptacles.* Receptacles of sufficient size and number shall be placed on the premises accessible to the customers of such business where the above referred-to articles of waste may be disposed of.

~~— *Signs.* Each and every business establishment shall place upon its premises in a conspicuous place or places of close proximity to the receptacle or receptacles above referred to, a sign or signs which shall, in essence, convey to its customers a request that they use such receptacles for the disposal of waste material.~~

(Code 1972, § 16-4; Ord. No. 1623, § 2, 5-9-1991)

Sec. 16-5. Same—duty of customer.¹⁹⁶

~~It shall be unlawful for any customer going upon the premises of another to in any manner dispose of wastepaper, wrapping paper, paper napkins, cartons, package containers, and other used or waste materials except in receptacles provided for such purposes.~~

(Code 1972, § 16-5; Ord. No. 1623, § 2, 5-9-1991)

Sec. 40-5. York area solid waste agency created; authority to levy special tax.

(a) The mayor and the city clerk are hereby authorized to execute for and on behalf of the city the Interlocal Cooperation Act agreement creating the York Area Solid Waste Agency in substantially the form presented but with any such changes as such officers shall deem appropriate for and on behalf of the city, subject to approval of said Interlocal Cooperation Act agreement as to form by the city attorney.

(b) The mayor and council hereby find and determine that said service agreement provides that any deficiency in revenues from the facilities to be owned and operated by the York Solid Waste Agency insofar as meeting the obligations of said agency with respect to said facilities may be made up from a special tax levied for such purpose upon all the taxable property within the city, with such tax to be levied in accordance with section 24 of the Integrated Solid Waste Management Act (R.R.S. 1943, § 13-2024), and such provision in said service agreement is hereby determined by the mayor and council to be appropriate for and on behalf of the city.

(Code 1972, § 16-6; Ord. No. 1775, § 1, 6-4-1998)

Sec. 16-7. Burning of garbage and refuse.¹⁹⁷

~~It shall be unlawful for any person to burn garbage or refuse within the corporate limits of the city.~~

(Code 1972, § 16-7; Ord. No. 1775, § 1, 6-4-1998; Ord. No. 1963, § 1, 7-20-2006)

Secs. 40-6--40-28. Reserved.**ARTICLE II. DISPOSAL****Sec. 40-29. Generally.**¹⁹⁸

Garbage, refuse, rubbish, and/or solid waste shall be deposited in suitable containers as required in this article

¹⁹⁵ Legal or Editorial Change: Code 1972, § 16-4. Same—Duty of business owners, occupants. Deleted subsection (c) per instructions.

¹⁹⁶ Legal or Editorial Change: Code 1972, § 16-5. Same—Duty of customer. Deleted per instructions.

¹⁹⁷ Legal or Editorial Change: Code 1972, § 16-7. Burning of garbage and refuse. Deleted per instructions.

¹⁹⁸ Legal or Editorial Change: Code 1972, § 16-17. Generally. Altered per instructions.

and may be disposed of by householders by removing to a ~~city approved licensed sanitary landfill~~ solid waste management facility.

(Code 1972, § 16-17; Ord. No. 1775, § 1, 6-4-1998)

Sec. 40-30. Garbage and refuse inspection.

The collection and removal of garbage and refuse matter, as in this chapter provided, shall be conducted under the supervision, direction and control of the city.

(Code 1972, § 16-18; Ord. No. 1775, § 1, 6-4-1998)

Sec. 40-31. Removal of garbage/refuse required.

It is hereby made the duty of every occupant of any dwelling, house, shop, storeroom, office or other building or premises, to remove or cause to be removed by the proper collector, all garbage, refuse or other and similar material placed, collected and deposited by them, and to pay or cause to be paid to the collector for such removal, legal fees as by this chapter prescribed. It is hereby declared to be unlawful for any person to throw or deposit or cause, permit, authorize, or allow to be thrown or to remain upon said person's premises, either owned, rented or occupied, or into streets, alleys or vacant lots, any such garbage or refuse as to cause or create a nuisance or any offense.

(Code 1972, § 16-19; Ord. No. 1775, § 1, 6-4-1998)

Sec. 40-32. Manure and dead animals.

It is hereby made the duty of all property owners and tenants occupying premises upon which manure of any kind accumulates to provide cans, boxes, or bins or other suitable receptacles therefor, and the receptacles shall be emptied promptly and completely at all times as may be necessary to prevent the same from becoming injurious and dangerous to the health, comfort or welfare of individuals or the public. Dead animals are not permitted to be buried within the city limits, except in grounds expressly provided therefor by the city.

(Code 1972, § 16-20; Ord. No. 1775, § 1, 6-4-1998)

Sec. 40-33. Dumping ground established.

(a) The mayor and council may acquire by lease, or purchase, a suitable place, where garbage, junk, refuse, rubbish, construction, demolition and/or solid waste may be deposited. All persons using the land acquired for dumping garbage, junk, refuse, rubbish, construction, demolition and solid waste shall be subject to such regulations as may be established for its use.

(b) The city has provided suitable landfill, construction and demolition waste disposal area and transfer station areas for disposal of garbage, refuse, construction demolition waste and rubbish. All haulers licensed by the city must dump garbage, refuse, construction, demolition, rubbish and refuse collected by them within the city limits at the landfill, construction and demolition waste area, or transfer station as directed by city operating personnel on the same day it is collected; provided, however, that should garbage, refuse, construction and demolition or rubbish be collected by the hauler as otherwise permitted herein on days that the landfill, construction and demolition waste area, and transfer station are closed, that garbage, refuse, construction and demolition waste and rubbish shall be deposited at the landfill, construction and demolition waste area or transfer station on the first business day immediately following the collection of the garbage, refuse, construction and demolition waste and rubbish.

(c) It shall be unlawful, except as set forth herein, to unload or deposit any garbage, refuse, construction and demolition waste, rubbish and the contents of privy vaults and cesspools hauled from any premises within the corporate limits of the city, and destined for disposal within the state, at any place other than the approved disposal site designated by the mayor and council, except such yard waste for land application on agricultural zoned property and managed compost sites.

(d) Any licensed hauler, ~~as defined in this chapter~~, failing to dispose of said garbage, refuse, construction and demolition waste, rubbish, dead animals and contents or privy vaults or cesspools at the disposal sites so designated by the mayor and council, shall be subject to license revocation.

(e) The operator or the city disposal site shall have the right to refuse burn barrels or fireplace ashes.

(f) All fill, appliances, tires, scrap metal, oil, recyclables, yard waste and tree limbs, shall be deposited either at a disposal site designated by mayor and council or at a location approved by the director of public works.

(Code 1972, § 16-21; Ord. No. 1775, § 1, 6-4-1998; Ord. No. 2012, § 2, 10-2-2008)

Sec. 40-34. Frequency of disposal.

(a) Garbage, refuse, rubbish and/or solid waste accumulations shall be removed by householder or tenant at their own expense at least once each week during the months of May, June, July, August, September and October of each year, and once every two weeks during the rest of the year; provided, it shall be removed more often and at such other times as the city may direct.

(b) Any licensed collector shall collect garbage and refuse at least once a week during the months of May, June, July, August, September and October of each year and at least once every two weeks during the rest of the year at each place where garbage accumulates, and more often if the city shall deem it necessary.

(c) All garbage and refuse so collected and removed shall be conveyed and disposed of to and at such place and in such manner as herein provided.

(Code 1972, § 16-22; Ord. No. 1775, § 1, 6-4-1998)

Sec. 40-35. Garbage and refuse containers—Specifications and placement.

It shall be the duty of every owner, manager, householder, tenant and occupant of any dwelling, trailer house or building, and the owner or manager or any hospital or business house of any kind to provide storage of garbage or refuse which shall be watertight and shall have a tightly fitting cover or lid; the covers or lids shall remain on such containers at all times except when container is being filled or emptied. Containers shall not exceed 32 gallons capacity unless larger containers designed for mechanical collectors are provided or approved by the licensed hauler. The number of containers required for each unit shall be established by the amount of garbage and refuse normally produced during a collection period. Such containers shall be kept or placed, if inside, on the ground floor, accessible to the collectors and, if outside, at the rear of the lot or accessible to collectors. Such containers must be so arranged that they cannot be turned over. In case of dispute as to the place where such containers are to be kept, then such place is determined by the city.

(Code 1972, § 16-23; Ord. No. 1775, § 1, 6-4-1998)

Sec. 40-36. Garbage and refuse containers—Rental units.

Where the owner or manager of the premises rents a portion thereof to two or more families or occupants, said owner or manager shall provide a suitable container for garbage and refuse, as provided herein, to be used by all such tenants or occupants and which shall be placed on such portion of the premises as not to create a nuisance. For the purposes of collection, garbage and refuse shall be placed in containers as herein provided for garbage and refuse or placed in containers or packages suitable to enable such refuse to be easily and quickly picked up by the collector.

(Code 1972, § 16-24; Ord. No. 1775, § 1, 6-4-1998)

Sec. 40-37. Garbage and refuse containers—Gross weight.

For the purpose of collection, the gross weight of any garbage container, package or bundle designed to be emptied by hand, and the garbage and refuse contained therein shall not be in excess of 80 pounds. A collector shall not be required to empty or remove any such container, package or bundle, the gross weight of which is in excess of 80 pounds and shall, as soon as practical, notify the householder or occupant to cause the weight of any such container or unit to be reduced below a gross weight of 80 pounds.

(Code 1972, § 16-25; Ord. No. 1775, § 1, 6-4-1998)

Sec. 40-38. Maintenance of containers.

Every container required by this article shall be maintained in as sanitary condition as possible in view of the use to which it is put and shall be thoroughly cleansed as needed by washing, scalding or otherwise.

(Code 1972, § 16-26; Ord. No. 1775, § 1, 6-4-1998)

Sec. 16-27. Replacement of containers upon notice.¹⁹⁹

~~It shall be the duty of every person owning, controlling, managing, operating, policing, renting or occupying any premises where garbage and/or trash accumulates to replace within ten days after receipt of condemnation notice issued by the city any containers that have deteriorated or that have jagged edges capable of causing injuries to those whose duty it is to handle the containers or that have been damaged to such an extent that they are unusable. (Code 1972, § 16-27; Ord. No. 1775, § 1, 6-4-1998)~~

Sec. 16-28. Citywide collection, bid and contract.²⁰⁰

~~The mayor and council may, in their discretion, by resolution, provide for the letting of a contract for the collection of garbage, refuse, rubbish and/or solid waste to any person on a citywide basis. In such event bids for said service shall be invited under such specifications as the mayor and council shall approve; provided, such contract shall provide that the cost or expense of any citywide collection shall be paid by the persons receiving benefit of said service. (Code 1972, § 16-28; Ord. No. 1775, § 1, 6-4-1998)~~

Sec. 40-39. Conveyances.

No person shall carry, cart, haul or convey any manure, rubbish, garbage refuse or solid waste or other refuse matter through the streets, alleys or public places of the city except in some tight vehicle, box or bed so made, placed, loaded and covered that none of its contents shall be spilled or strewn over, on or along such street, alley or public place.

(Code 1972, § 16-29; Ord. No. 1775, § 1, 6-4-1998)

Sec. 40-40. Flammable materials.

Highly inflammable or explosive materials shall not be placed in containers for regular collection or disposal but shall be disposed of as directed by the fire chief at the expense of the owner or possessor thereof.

(Code 1972, § 16-30; Ord. No. 1775, § 1, 6-4-1998)

Sec. 40-41. Rates for use of solid waste receiving center management facility.²⁰¹

(a) The following rates shall be charged for the receiving of garbage, junk, refuse, rubbish or solid waste at the ~~York Area Solid Waste Agency~~ solid waste management facility ~~solid waste receiving center~~ and any other approved disposal facility:

<i>Disposal Fees</i>	
Effective October 1, 2023	
Minimum charge (flat fee)	\$15.00
MSW/landfill disposal, per ton	\$65.00
Trees and yard waste, per ton	\$40.00
Construction and demolition site, per ton	\$50.00
Special waste, per ton	\$130.00

¹⁹⁹ Legal or Editorial Change: Code 1972, § 16-27. Replacement of containers upon notice. Deleted per instructions.

²⁰⁰ Legal or Editorial Change: Code 1972, § 16-28. Citywide collection, bid and contract. Deleted per instructions.

²⁰¹ Legal or Editorial Change: Code 1972, § 16-31. Rates for use of solid waste receiving center. Altered per instructions.

Concrete/brick/dirt, per ton	\$15.00
Appliances, each	\$15.00
Mattress and box springs surcharge, each	\$20.00
Tires	
Smaller than 17 inches, each	\$10.00
On rim	\$20.00
18 inches to 24 inches, each	\$15.00
On rim	\$30.00
25 inches and larger, each	\$30.00
On rim	\$75.00

(b) Conveyances not removed from the landfill site by the closing hour will be charged for the incremental time on site after the closing hour at the rate of \$100.00 per hour.

(c) Conveyances not covered will be charged a fee equal to two times the disposal rate.

(Code 1972, § 16-31; Ord. No. 1775, § 1, 6-4-1998; Ord. No. 1922, § 1, 12-16-2004; Ord. No. 2012, § 3, 10-2-2008; Ord. No. 2041, § 1, 11-18-2010; Ord. No. 2135, § 1, 9-17-2015; Ord. No. 2157, § 1, 9-15-2016; Ord. No. 2179, § 1, 9-21-2017; Ord. No. 2357, § 1, 9-7-2023)

Sec. 16-32. Hours of operation of solid waste receiving center.²⁰²

The following schedule of hours of operation of the York area solid waste receiving center will be observed:

Monday thru Friday	9:00 a.m. — 4:00 p.m.
Saturday	9:00 a.m. — 12:00 noon
Sunday	Closed
<i>Holidays Closed</i>	
New Years Day	Labor Day
Memorial Day	Thanksgiving
4th of July	Christmas Day

(Code 1972, § 16-32; Ord. No. 1775, § 1, 6-4-1998; Ord. No. 1922, § 1, 12-16-2004; Ord. No. 2215, § 1, 1-20-2019)

Sec. 40-42. Conveyance point of origination.

Vehicles licensed outside of the county will be considered as containing garbage, junk, refuse, rubbish, construction and demolition waste, and/or solid waste from outside the county. The director of public works, or authorized representative, after the inspection of contents of the vehicle, may declare the garbage, junk, refuse, rubbish and/or solid waste to be from within the county if there is sufficient evidence to identify the point of origination.

(Code 1972, § 16-33; Ord. No. 1775, § 1, 6-4-1998; Ord. No. 2012, § 4, 10-2-2008)

²⁰² Legal or Editorial Change: Code 1972, § 6-32. Hours of operation of solid waste receiving center. Deleted per instructions.

Sec. 40-43. Use of disposal facilities.

No person shall dispose of any garbage, junk, refuse, construction and demolition waste, rubbish and/or solid waste in any area within the city area solid waste agency receiving center or other disposal area controlled by the city without the approval and direction of the director of public works or authorized representative.

(Code 1972, § 16-34; Ord. No. 1775, § 1, 6-4-1998; Ord. No. 2012, § 5, 10-2-2008)

Sec. 40-44. Concrete disposal.

(a) It shall be unlawful to deposit, dump or flush out of a vehicle, excess concrete not used in construction, onto city alleyways, streets, public parking lots or any other public property not designated to receive such material.

(b) Furthermore, should the responsible party neglect or fail to remove the concrete and the city must remove the same, a statement of the cost of such work shall be transmitted the city clerk's office which is authorized to bill the responsible party, to file a lien against the responsible party or receive restitution as may be ordered as part of any sentence imposed by a court of law.

(Code 1972, § 16-35; Ord. No. 1775, § 1, 6-4-1998)

Sec. 40-45. Dumping onto city streets.

(a) It shall be unlawful to deposit, dump or place dirt, rock, yard waste or any other material that may hamper property drainage on city streets, alleys or drainageways.

(b) Furthermore, should the responsible party neglect or fail to remove the dirt, rock, yard waste or other materials, and the city must remove same, a statement of the cost of such work shall be transmitted to the city clerk's office which is authorized to bill the responsible party, to file a lien against the property owner, or receive restitution as may be ordered as part of any sentence imposed by a court of law.

(Code 1972, § 16-36; Ord. No. 1775, § 1, 6-4-1998)

Sec. 40-46. Separation of yard waste required.

Yard waste must be kept separate from garbage and other refuse. Yard waste may be composted on the owner's/tenant's premises, placed out separately for collection, left as mulch on lawns or as provided for in section 40-47. Kitchen scraps (except those specifically excluded in this section) may be composted with yard waste, if completely covered with leaves, grass clippings, straw or a layer of soil. Meat, poultry, fish, bones and quantities of animal fats shall not be disposed of in a compost pile.

(Code 1972, § 16-37; Ord. No. 1775, § 1, 6-4-1998)

Sec. 40-47. Private composting.²⁰³

Private compost piles shall not be allowed to become anaerobic. It shall not be allowed to produce obnoxious odors and/or liquids frequently detectable on adjoining properties; neither shall they be kept in a way that ~~attracts vectors or~~ poses a danger to the public health or creates a nuisance.

(Code 1972, § 16-38; Ord. No. 1775, § 1, 6-4-1998)

Sec. 40-48. Yard waste ban.

All yard waste, as defined in section 40-1, shall be banned from landfill disposal. Yard waste will be accepted for disposal as directed for compost or directed to the tree disposal area.

(Code 1972, § 16-39; Ord. No. 1775, § 1, 6-4-1998)

²⁰³ Legal or Editorial Change: Code 1972, § 16-38. Private composting. Altered per instructions.

Secs. 40-49--40-69. Reserved.

ARTICLE III. COLLECTORS-LICENSED HAULER

Sec. 40-70. License required; fee.²⁰⁴

(a) It shall be unlawful for any person, firm, or corporation to collect and transport garbage ~~construction and demolition waste~~, or refuse for hire, within the city, without first obtaining a license therefor from the city.

~~— The following two types of hauler licenses are authorized:~~

(b) A garbage hauler license is authorized. Such license entitles the licensee to collect and transport both garbage, and refuse, rubbish, construction and demolition waste.

~~— Rubbish, construction and demolition waste hauler license entitles the licensee to collect and transport both rubbish and construction and demolition waste.~~

(c) The license year shall run from July 1 of the calendar year to June 30 of the following calendar year.

(d) The fee for a garbage hauler license shall be \$100.00 per license year or any fraction thereof, no part of which shall be refundable.

~~— The fee for a rubbish, construction or demolition waste hauler license shall be fifty dollars (\$50.00) per license year or any fraction thereof, no part of which shall be refundable.~~

(e) The provisions of this section shall not apply to lawn care or tree trimmer businesses.

(f) No license issued hereunder shall be transferable.

(Code 1972, § 16-50; Ord. No. 1775, § 1, 6-4-1998; Ord. No. 2012, § 6, 10-2-2008)

Sec. 40-71. Application for license; renewal.

(a) Any individual, partnership, or corporation applying for a hauler's license shall file the following with the city clerk:

- (1) A completed application form;
- (2) A list of all vehicles and auxiliary equipment therefor to be used by the applicant in collecting and transporting garbage, construction and demolition waste, or rubbish. All motor vehicles shall be identified in the manner required by section 40-72.
- (3) A certificate of insurance as required by section 40-74.
- (4) The fee for the license for which application is made as established by section 40-70.

(b) Within three business days of receiving the completed application and all required documents, the city clerk shall issue the appropriate license to the applicant.

(c) The procedure for license renewal shall be the same as for a new license, with the additional requirement that the licensee must file the application for renewal at least ten days but not more than 30 days prior to the expiration date of the license.

(Code 1972, § 16-51; Ord. No. 1775, § 1, 6-4-1998; Ord. No. 2012, § 7, 10-2-2008)

Sec. 40-72. Vehicle specifications.

(a) Any vehicle used by a rubbish, construction or demolition hauler licensee to collect and transport rubbish, construction or demolition waste shall be equipped with a cover of such a material sufficient to prevent any rubbish, construction, demolition and waste materials from being blown away or jarred off such vehicle.

(b) Any vehicle used by a garbage hauler licensee to collect and transport garbage shall have a body commercially designed and manufactured specifically for the transportation of garbage.

²⁰⁴ Legal or Editorial Change: Code 1972, § 16-50. License required; fee. Altered per instructions.

(c) All vehicles over two cubic yards used by licensees shall display a commercially prepared sign showing the name of the licensee in letters not smaller than six inches high. All containers one cubic yard and larger shall display the name of the licensee.

(d) All applicants and licensees shall provide the city clerk with a list of all vehicles to be used in collecting and transporting garbage, rubbish, and/or construction or demolition waste. Said list shall be updated whenever any vehicle is added or deleted from usage. For each vehicle, the list shall state:

- (1) The vehicles make and model;
- (2) The VIN number;
- (3) The year produced; and
- (4) The license plate number.

(e) All vehicles and equipment used by a licensee shall be maintained in as clean and sanitary a condition as possible while in use.

(Code 1972, § 16-52; Ord. No. 1775, § 1, 6-4-1998; Ord. No. 2012, § 8, 10-2-2008)

Sec. 40-73. Local telephone required.

All hauler licensees shall maintain a local telephone number at all times during the license year, which is available for contact by the public from 8:00 a.m. to 5:00 p.m. from Monday through Friday and from 8:00 a.m. to 12:00 noon on Saturday. A licensee may use an automatic telephone answering machine or similar device for this requirement.

(Code 1972, § 16-53; Ord. No. 1775, § 1, 6-4-1998; Ord. No. 2012, § 9, 10-2-2008)

Sec. 40-74. Insurance.

(a) Every licensee shall maintain in full force and effect insurance policies written by a company or companies authorized to do business in the state, in the following amounts:

- (1) Worker's compensation insurance in compliance with the laws of the state, and employer's liability insurance with limits or not less than \$100,000.00 except that a sole proprietor applying for a rubbish hauler license who has no employees, shall be exempt from providing proof of worker's compensation insurance.
- (2) Comprehensive general liability insurance covering the operations of the licensee with limits of not less than \$500,000.00 per occurrence for bodily injury and property damage.

(b) The licensee shall furnish the city clerk a certificate or certificates of insurance for the above insurance coverage which shall contain a statement that said policies contain a provision that said policies may not be cancelled without written notice of such cancellation having been served on the city at least 30 days prior to the date of cancellation.

(Code 1972, § 16-54; Ord. No. 1775, § 1, 6-4-1998)

Sec. 40-75. License revocation.²⁰⁵

(a) The city council may, after notice and hearing, suspend or permanently revoke a hauler's license, for one or more of the following reasons:

- (1) Failure to maintain all insurance required by section 40-74.
~~Failure to maintain a performance bond as required by section 16-55.~~
- (2) Failure to pay the city landfill fees or spillage cleanup fees when due.
- (3) Misusing a license in violation of ~~section 16-58~~ this chapter.

²⁰⁵ Legal or Editorial Change: Code 1972, § 16-56. License revocation. Altered per instructions.

- (4) Violating one or more provisions of this chapter relating to the collection, transportation and disposal of garbage, construction and demolition waste and/or rubbish.

(b) If the city council determines that, based upon the evidence presented, a suspension is warranted, it shall order suspension of a hauler's license for a period of not less than 30 or more than 180 days. Said licensee may, at the licensee's option, pay a fine in lieu of suspension in the amount of ~~ten dollars (\$10.00)~~ \$100.00 for each day of suspension. Said option must be executed and the fines therefor must be paid prior to the first day of suspension under the city council's order.

(c) If the city council determines that, based upon the evidence presented, revocation is warranted, it shall order the hauler's license to be revoked immediately.

(d) Any licensee whose license has been revoked may not reapply for a license for a period of two years.

(1) This prohibition shall apply to individuals, partners, corporate officers and agents, and all managerial personnel involved in the violations for which revocation was ordered.

(2) Nothing herein shall prohibit a licensee from employing a person who is subject to the order of revocation.

(Code 1972, § 16-56; Ord. No. 1775, § 1, 6-4-1998; Ord. No. 2012, § 10, 10-2-2008)

Sec. 40-76. Use of licensee name by another.

No licensee shall permit another by lease, rental, or other agreement to engage in such business under the name of the licensee or to use the licensee's equipment in such business, provided that this shall not prohibit a licensee from lending equipment to another licensee on a temporary basis, so long as such equipment has been approved for use by the city.

(Code 1972, § 16-57; Ord. No. 1775, § 1, 6-4-1998)

Sec. 40-77. Collection time.

It shall be unlawful for any licensee or employee thereof to begin collecting garbage, refuse, construction or demolition waste and/or rubbish from any property within the city limits between the hours of 11:00 p.m. and 5:00 a.m.

(Code 1972, § 16-58; Ord. No. 1775, § 1, 6-4-1998; Ord. No. 2012, § 11, 10-2-2008)

Sec. 40-78. Disposal by unlicensed persons.

(a) The provisions of sections 40-70 through 40-77 shall not be interpreted as preventing persons from collecting and transporting their own garbage, refuse, rubbish, construction or demolition waste materials, approved for disposal from their own property to the city disposal facilities, so long as such garbage and rubbish is secured as set forth in subsection (b) of this section.

(b) The garbage, rubbish, refuse, construction or demolition waste materials collected and hauled pursuant to this section must be completely covered or otherwise contained or securely fastened so as to prevent any such materials which are liquid in nature from seeping or leaking from the vehicle, and any solid waste materials from being blown or jarred from the vehicle onto the streets or adjoining property.

(Code 1972, § 16-59; Ord. No. 1775, § 1, 6-4-1998; Ord. No. 2012, § 12, 10-2-2008)

Sec. 40-79. Violation; penalty and enforcement.²⁰⁶

Any person disposing of or attempting to dispose of any garbage, junk, refuse, rubbish, construction or demolition waste, and/or solid waste without properly identifying and declaring the type of material and the point of origination of said material, if so required, shall be charged a rate equal to five times the appropriate stated disposal rate as set forth in section 40-41. In the event any person shall deposit or cause to be deposited any such

²⁰⁶ Legal or Editorial Change: Code 1972, § 16-60. Violation; penalty and enforcement. Altered per instructions.

types of materials described in this article on the premises of any approved disposal facility, other than as directed by operating personnel of the approved disposal facility, shall be charged a rate equal to five times the appropriate stated disposal rate as set forth in said section 40-41 or cost of removal of such materials from the approved disposal facilities, if deemed appropriate by the said operating personnel. Further, provided that in either of such events, any said charges, and such removal cost, if applicable, shall be paid in full by such person before such person is allowed any subsequent or further use of any approved disposal facilities. Any person violating any of the provisions of this chapter shall, ~~be deemed guilty and upon conviction, shall be fined in any a~~ sum not to exceed \$1,000.00 ~~and in the case of violation of the terms of section 16-32 and section 16-34 not less than the disposal cost as set forth in said sections, as may be applicable, and such any removal costs, if any.~~

(Code 1972, § 16-60; Ord. No. 1775, § 1, 6-4-1998; Ord. No. 2012, § 13, 10-2-2008)

State law reference—Penalties for ordinance violations authorized, R.R.S. 1943, § 16-225.

PROOFS

Chapter 41
RESERVED

PROOFS

Chapter 42

STREETS, SIDEWALKS AND OTHER PUBLIC PLACES*

***State law reference**—Construction and maintenance of streets, sidewalks, R.R.S. 1943, §§ 16-249, 16-250; street improvements generally, R.R.S. 1943, §§ 16-601 et seq., 18-2001 et seq.; sidewalks, R.R.S. 1943, § 16-661 et seq.; street commissioner's duties, R.R.S. 1943, § 16-324.

ARTICLE I. IN GENERAL**Sec. 42-1. Grades established.**

Every grade hereafter fixed upon any street, alley, sidewalk, gutter or for any other purpose within the city shall be fixed and established with relation to benchmarks and elevations contained in the grade book now in the custody of the city clerk, together with such further elevations as may be ordained by the council from time to time; and said grade book is hereby incorporated by reference into this section the same as though copied at full length herein.

(Code 1955, § 13-213; Code 1972, § 34-1)

State law reference—Authority to establish the grade of any street, avenue or alley, R.R.S. 1943, § 16-615.

Sec. 42-2. Removing stakes, markers, etc., prohibited.

It shall be unlawful for any person to break, remove, or destroy any stone or stake, landmark or corner that marks any street, block, lot or public ground, except by proper authority.

(Code 1955, § 13-207; Code 1972, § 34-2)

Sec. 42-3. Eave and gutter spouts required.

It shall be unlawful for any person to erect or maintain any dwelling house or business building within the limits of the city, where the dwelling or building abuts on any sidewalk or street without providing proper guttering and eave spouts to receive the waste waters that drip on the streets and sidewalks of the city. All eave spouts erected on any dwelling house or business building within the city shall be constructed to drain in the alleys, or the eave spouts shall be buried beneath the sidewalks and drain into the streets where it is impossible to drain eave spouts into the alley.

(Code 1955, § 13-203; Code 1972, § 34-3)

Sec. 42-4. Harmful liquids.

It shall be unlawful for any person to place or permit to leak in the gutter or upon any street pavement in the city, any waste gasoline, kerosene, high lubricating oils or other liquids which harm or deteriorate the pavement.

(Code 1955, § 13-206; Code 1972, § 34-4)

Sec. 42-5. Driving stakes in pavement.

It shall be unlawful for any person without first procuring the consent of the director of public works to drive any peg or stake of any kind into the pavement in any street or alley in the city.

(Code 1955, § 13-211; Code 1972, § 34-5)

Sec. 42-6. Warning devices.

~~When ordered by the mayor and city council, approved automatic lights or signals shall be installed at designated crossings. Such automatic lights and signals shall be kept in good working order at all hours of the day or night so that all persons approaching such crossings will be warned of the danger of approaching trains, engines or cars on the tracks of such company.~~

~~(Code 1955, § 5-706; Code 1972, § 32-2)~~

State law reference—Authority to regulate railroads, R.R.S. 1943, § 16-212.

Secs. 42-6--42-30. Reserved.

ARTICLE II. SIDEWALKS AND CURBING*

*State law reference—Sidewalk improvements, R.R.S. 1943, § 16-661 et seq.

DIVISION 1. GENERALLY

Sec. 42-31. Definitions.

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

Sidewalk or *sidewalk space* means that portion of a street between curblines and adjacent property lines.

(Code 1955, § 13-112; Code 1972, § 34-17)

Sec. 42-32. Determination, correction of hazard.²⁰⁷

(a) Any sidewalk in the city which has one or more of the following enumerated defects is hereby declared to be a hazard, to wit:

- (1) When a slab is cracked and vertical displacement between portions of the slab is one inch or greater.
- (2) When cracks have occurred in the slab which are one inch in width or greater.
- (3) When holes exist in the slab which exceed three inches in any dimension and are one inch or greater in depth.
- (4) When settlement exceeding two inches occurs in the slab where it joins the curb.
- (5) When any substance such as expansion joint material, tree roots, valve boxes, etc., protrude through the slab to a height of one-half inch or more.
- (6) Any brick sidewalk or concrete steps in the sidewalk system which in the judgment of the director of public works, or designated agent, is hazardous to pedestrian traffic.

(b) If repair of a hazardous sidewalk is possible within 24 hours, the director of public works shall give the property owner notice to repair the same within such time. If replacement or reconstruction of such sidewalk is necessary to correct the hazardous condition, ~~the mayor and city council~~ director of public works shall order the same in accordance with this article. ~~Notice to repair or notice to replace or reconstruct shall be given in accordance with sections 34-20 through 34-24.~~

(Code 1972, § 34-25)

Sec. 42-33. Plans, specifications generally.²⁰⁸

All sidewalks and/or curbing constructed, reconstructed, altered or repaired within the city shall conform to such plans and specifications therefor as prepared by the director of public works ~~and adopted by the mayor and city council~~ and on file in the office of the director of public works.

(Code 1955, §§ 13-106, 13-108; Code 1972, § 34-26)

Sec. 42-34. Rejection of materials.

The director of public works may reject the use of any materials that do not comply with the plans and specifications promulgated for the construction, reconstruction, alteration or repair of sidewalks and/or curbing, or any material that is lacking in quality. It shall be unlawful for any person to construct, reconstruct, alter or repair any sidewalk and/or curbing from or with any material so rejected.

²⁰⁷ Legal or Editorial Change: Code 1972, § 34-25. Determination, correction of hazard. Altered per instructions.

²⁰⁸ Legal or Editorial Change: Code 1972, § 34-26. Plans, specifications generally. Altered per instructions.

(Code 1955, § 13-108; Code 1972, § 34-27)

Sec. 42-35. Permit required for construction, repair, etc.

No sidewalk and/or curbing shall be constructed, reconstructed, altered or repaired within the city until a permit therefor has been issued by the director of public works.

(Code 1955, § 13-106; Code 1972, § 34-28)

Sec. 42-36. Application for permit.

Any person desiring to construct, reconstruct, alter or repair any sidewalk and/or curbing within the city shall make an application for the required permit, in writing, in the office of the director of public works. Such application shall give a description of the lot or other property along which such sidewalk and/or curbing is desired, and such other information as may be required.

(Code 1955, § 13-106; Code 1972, § 34-29)

Sec. 42-37. Permit fee.²⁰⁹

Along with the application for a permit to construct, reconstruct, alter or repair a sidewalk and/or curbing, the applicant therefor shall also pay a fee of ~~twenty dollars (\$20.00)~~ \$25.00 for such permit.

(Code 1955, § 13-106; Code 1972, § 34-30; Ord. No. 1768, § 5, 4-16-1998)

Sec. 42-38. ~~When council approval required~~ Sidewalk construction approval required.²¹⁰

If the applicant for a permit required by this article desires to construct, reconstruct, alter or repair a sidewalk and/or curbing at other than the regularly prescribed location, grade or elevation, or such sidewalk and/or curbing is to be other than the regularly prescribed type of construction, ~~the director of public works shall submit such application to the city council who shall determine whether such permit shall be granted or denied.~~ applicant shall submit such application to the director of public works, who shall have authority to grant or deny the application.

(Code 1955, § 13-106; Code 1972, § 34-31)

Sec. ~~34-32~~ Survey required.²¹¹

~~When a permit is granted for the construction, reconstruction, alteration or repair of a sidewalk and/or curbing, the director of public works shall make a survey of the desired curbing or sidewalk. Such survey shall be made and stakes set by the director forthwith after being directed so to do.~~

(Code 1955, § 13-106; Code 1972, § 34-32)

Sec. 42-39. Curb cuts.²¹²

It shall be unlawful for any person to cut into any paving, curb or sidewalk for any purpose whatsoever without first having obtained a written permit. ~~In all cases the work will be performed by the city and a charge made therefor in a sum commensurate with the work performed and materials furnished.~~ Any person who improperly cuts or damages any paving, curb or sidewalk shall be liable for the cost of repair to restore such paving, curb or sidewalk.

(Code 1955, § 13-222; Code 1972, § 34-33)

²⁰⁹ Legal or Editorial Change: Code 1972, § 34-30. Permit fee. Raised fee from \$20.00 to \$25.00.

²¹⁰ Legal or Editorial Change: Code 1972, § 34-31. When council approval required. Altered per instructions.

²¹¹ Legal or Editorial Change: Code 1972, § 34-32. Survey required. Deleted per instructions.

²¹² Legal or Editorial Change: Code 1972, § 34-33. Curb cuts. Altered per instructions.

Secs. 42-40--42-66. Reserved.

DIVISION 2. SNOW AND ICE REMOVAL

Sec. 42-67. Duty of owner, occupant.

Every owner or occupant of any house or other building, or the owner or proprietor, lessee, or person entitled to the possession of any vacant lot, and any person having charge of any church, jail or public hall, or public building in the city shall, during the winter season and during the time snow shall continue on the ground, clear the sidewalks in front of such lots from snow and ice and keep such sidewalks free from snow and ice during the day, ~~or in case the snow and ice are so congealed that they cannot be removed without injury to the sidewalk, shall cause said snow and ice to be strewn with ashes or sand~~ and shall also at all times keep such sidewalks clear and free from all dirt or filth, or other obstructions or encroachments, so as to allow pedestrians to use the said sidewalks with safety. Failure on the part of any person upon whom a duty is placed by the provisions of this section to perform such duty shall be deemed a misdemeanor.

(Code 1955, § 6-114; Code 1972, § 34-40)

State law reference—Authority to require snow and ice removal, R.R.S. 1943, § 16-663.

Sec. 42-68. Depositing snow or ice on public ways.²¹³

It shall be unlawful for any person to deposit or pile any snow or ice removed from roofs, driveways, parking lots, service stations, streets or alleys upon any sidewalk, street or alley within the city, except city personnel in the performance of city duties.

(Code 1972, § 34-41; Ord. No. 988, § 1, 4-13-1961)

Sec. 42-69. City performance of work.

In case of noncompliance with the provisions of this division, the director of public works may have the sidewalks cleaned and report the cost thereof to the city council. Any person who has been notified in person or by mail or by posted notice to remove snow or ice from the public ways as required by this chapter and who shall fail to comply with such notice to remove snow or ice as ordered within a five-day period of receipt of such notice or posting shall be punished as provided by section 1-9. Within five days after receipt of such notice or posting of such notice if the owner or occupant does not request a hearing with the city or fails to comply with such order the city may have the snow or ice removed and may levy and assess the cost and expenses of the work upon the lot or piece of ground so benefitted in the same manner as other special taxes for improvements are levied and assessed.

(Code 1955, § 6-114; Code 1972, § 34-42)

Sec. 34-43. Assessment of cost against property.²¹⁴

~~In the event the city shall clean sidewalks under the provisions of this article, the city council shall assess the cost thereof against the abutting real estate in the following manner: The director of public works shall, not later than May first of each year, report to the city council the location of the sidewalks from which snow and ice has been removed, together with the description of the real estate abutting upon such sidewalk, and the cost of the removal of such snow and ice. Whereupon the city council shall, at a regular meeting, by resolution, assess such cost against such real estate; provided, that notice of the time of such meeting of the city council for making such assessment and the purpose of such meeting shall be published once in a newspaper published and of general circulation in the city, at least ten (10) days before said meeting of the council is held and a copy of said published notice shall be mailed to the property owner at his last known address within five (5) days after the date of publication, or in lieu thereof, notice may be given such owner by personal service thereof five (5) days before such meeting. Such assessment when assessed as provided herein, shall be certified by the city clerk and delivered to the~~

²¹³ Legal or Editorial Change: Code 1972, § 34-41. Depositing snow or ice on public ways. Altered per instructions.

²¹⁴ Legal or Editorial Change: Code 1972, § 34-43. Assessment of cost against property. Deleted per instructions.

~~county treasurer on or before August first and shall be collected in the manner provided by law for the collection of general real estate taxes.~~

~~(Code 1955, § 6-114; Code 1972, § 34-43)~~

Sec. 34-44. Assessment declared lien.²¹⁵

~~The assessment of costs provided for by this article shall be a lien upon the real estate as of January first following the date of assessment and shall become delinquent as of May first following such date of assessment. Such delinquent lien shall draw interest at the rate of one (1) per cent per month from the first day of May until paid in full.~~

~~(Code 1955, § 6-114; Code 1972, § 34-44)~~

Sec. 42-70. Collection of lien.²¹⁶

~~It shall be the duty of the county treasurer to collect the lien declared by this article in the same manner and at the same time as general taxes, and the items of said lien shall be receipted for on the same receipt blank as general real estate taxes.~~

~~(Code 1955, § 6-114; Code 1972, § 34-45)~~

Secs. 42-70--42-93. Reserved.

ARTICLE III. OBSTRUCTIONS*

*State law reference—Regulation of obstructions of streets and sidewalks, R.R.S. 1943, § 16-207.

Sec. 42-94. Restricted generally.²¹⁷

Except as otherwise permitted by the provisions of this article or other provisions of this Code, it shall be unlawful for any person to place in or upon any street, alley, sidewalk or public right-of-way in the city any substance or thing obstructing or encroaching upon such street, ally, sidewalk or public right-of-way, or to obstruct the same in any manor whatsoever, without applying to the director of public works for permission and after review of the application, the director shall ~~have authority to grant or deny the application. make a recommendation to the city council regarding said application, after which the city council may grant such application and record any such grant in its proceedings.~~ Mailbox support posts will be permitted without application, within the street right-of-way when constructed of materials not larger than four-inch by four-inch wood posts, six-inch plastic post, two-inch standard weight steel pipe, or ornamental iron mailbox post constructed of lightweight steel or of other material which will easily yield upon impact. The face of the mailbox shall be a minimum of six inches from back face of curb. All nonconforming mailbox supports require a permit and approval from the director of public works.

~~(Code 1955, §§ 11-423, 13-227; Code 1972, § 34-56; Ord. No. 1459, § 1, 4-14-1983; Ord. No. 1822, § 1, 9-6-2001; Ord. No. 2308, § 1, 11-18-2021)~~

State law reference—Authority to keep sidewalks clean and free from obstructions, R.R.S. 1943, § 16-663.

Sec. 42-95. Notice to remove.

Every person creating or maintaining an obstruction or encroachment of any street, alley or sidewalk within the city in violation of this article shall be notified, in writing, by the director of public works to remove the same within a period of time specified in such notice.

~~(Code 1955, § 11-423; Code 1972, § 34-57)~~

²¹⁵ Legal or Editorial Change: Code 1972, § 34-44. Assessment declared lien. Deleted per instructions.

²¹⁶ Legal or Editorial Change: Code 1972, § 34-45. Collection of lien. Deleted per instructions.

²¹⁷ Legal or Editorial Change: Code 1972, § 34-56. Restricted generally. Revised per instructions.

Sec. 42-96. Failure to obey notice.

Failure of any person to comply with any notice to remove an obstruction or encroachment issued in compliance with this article within the time specified in such notice shall be deemed a misdemeanor.

(Code 1955, § 11-423; Code 1972, § 34-58)

Sec. 42-97. Removal by city.

In the event any person shall fail or refuse to comply with a notice to remove an obstruction or encroachment under the provisions of this article, the director of public works shall have the same done, and for such purpose, the director of public works is hereby authorized to enter upon any premises within the city.

(Code 1955, § 11-423; Code 1972, § 34-59)

Sec. 42-98. Liability for costs.²¹⁸

In the event the person responsible for any obstruction or encroachment in violation of this article shall fail to remove the same and such removal is done or performed by the director of public works under the authority of this article, all expenses incurred in such removal shall be borne by the responsible person. If such person shall fail or refuse to pay such expense to the city upon demand, the same shall be recovered in an action in the name of the city before the police-judge. Any person who has been notified in person or by mail or by posted notice to remove any obstruction or encroachment from the public ways as required by this article, and who shall fail to comply with such notice to any obstruction or encroachment as ordered within a five-day period of receipt of such notice or posting, shall be punished as provided by section 1-9. Within five days after receipt of such notice or posting of such notice if the owner or occupant does not request a hearing with the city or fails to comply with such order, the city may have the obstruction or encroachment removed and may levy and assess the cost and expenses of the work upon the lot or piece of ground so benefitted in the same manner as other special taxes for improvements are levied and assessed.

(Code 1955, § 11-423; Code 1972, § 34-60)

Sec. 42-99. Building materials in streets.²¹⁹

Persons engaged in the erection, construction, reconstruction, wrecking or repairing of any building or the construction or repair of any sidewalk along any street may occupy the public space with building materials and equipment, if such persons shall make written application to and receive a permit in writing from the director of public works, ~~with the consent of the director of public works to do so; provided, no permit for the occupancy of the sidewalk space and more than one third (1/3) of the roadway of the public space adjacent to the real estate on which said building is to be constructed, erected, re-constructed, wrecked or repaired shall be granted; and provided, further, a suitable passageway for pedestrians shall be maintained within the public space included in the permit, which passageway shall be protected and lighted in the manner required by the director of public works.~~

(Code 1955, § 13-201; Code 1972, § 34-61)

Sec. 42-100. Trees and shrubs.

Trees and shrubs growing in such a way as to interfere with the making of any public improvement or in such a way as to interfere with any sewer or drain shall be deemed an obstruction and may be removed as provided by this article.

(Code 1955, § 13-201; Code 1972, § 34-62)

²¹⁸ Legal or Editorial Change: Code 1972, § 34-60. Liability for costs. Changed police judge to judge and revised per instructions.

²¹⁹ Legal or Editorial Change: Code 1972, § 34-61. Building materials in streets. Altered per instructions.

Secs. 42-101--42-128. Reserved.

ARTICLE IV. BUILDING NUMBERING*

*State law reference—Numbering of houses along streets, R.R.S. 1943, § 16-614.

Sec. 42-129. Required.

Every building or other structure within the city shall be numbered by the owner or occupant thereof in accordance with the provisions of this article.

(Code 1955, § 4-501; Code 1972, § 34-73)

Sec. 42-130. Base lines.

For the purposes of this article, First Street and Lincoln Avenue shall constitute base lines from which the numbers of the buildings fronting or situated on streets extending from said lines on either side shall commence.

(Code 1955, § 4-502; Code 1972, § 34-74)

Sec. 42-131. North, south streets; number designation.

All those portions of any and all streets intersecting First Street, which lie north of First Street, shall be known and designated by the prefix "north" and those which lie south of First Street by the prefix "south" to the names of said streets, respectively; the odd numbers being placed on the buildings situated on the west side and the even numbers on buildings situated on the east side of said streets.

(Code 1955, § 4-502; Code 1972, § 34-75)

Sec. 42-132. East, west streets; number designation.

All those portions of any and all streets intersecting Lincoln Avenue which lie west shall be known and designated by the prefix "west" and those which lie east of Lincoln Avenue by the prefix "east" to the names of said streets, respectively; the odd numbers being placed on buildings situated on the south side, and the even numbers on buildings situated on the north side.

(Code 1955, § 4-502; Code 1972, § 34-76)

Sec. 42-133. Numbering of blocks.

The numbering shall commence on each street with the number 100 at the base lines provided by this article, and progress successively through the first block, then commencing on the second block with the number 200, the third block with the number 300, so on through the entire length of each street, commencing each block with even hundreds.

(Code 1955, § 4-502; Code 1972, § 34-77)

Sec. 42-134. Apportionment of numbers.

Each block shall be divided in the numbering so that there shall be one number allowed, so far as practicable, for every 20 feet of ground fronting on the several streets and in case a building occupies less than 20 feet a fractional number shall be used.

(Code 1955, § 4-502; Code 1972, § 34-78)

Sec. 42-135. Assignment of numbers.

It shall be the duty of the director of public works to assign the proper numbers to the several buildings, in accordance with the provisions of this article, and notify the owner or occupant of each building within the city of the number so assigned. It shall also be the duty of the director of public works immediately upon the erection of any new building in the city to assign the proper number to said new building and give notice to the owner or occupant of the same.

(Code 1955, §§ 4-502, 4-504; Code 1972, § 34-79)

Sec. 42-136. Size of numbers.

The figure of every number required by this article shall not be of less height than three inches in length.

(Code 1955, § 4-503; Code 1972, § 34-80)

Sec. 42-137. Display of numbers.

Each number placed on a building pursuant to this article shall be legible and placed in a conspicuous position on the front side or about the front door of such building.

(Code 1955, § 4-503; Code 1972, § 34-81)

Sec. 42-138. Numbers on curbs.

Owners of property which abuts upon a paved street or public way may place the street number of such property upon the face of the curb in the following manner to-wit: The background shall be of white paint and shall be 15 inches in length and five inches in height. The numbers shall be plain block numbers three inches in height and of black paint.

(Code 1955, § 13-229; Code 1972, § 34-82)

Secs. 42-139--42-159. Reserved.**ARTICLE V. POLES AND WIRES***

*State law reference—Authority to regulate utility pole placement on public property, R.R.S. 1943, § 16-210.

Sec. 42-160. Definitions.

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

Poles and wires means and includes poles, wires, gas mains, pipelines, and other appurtenances of public service companies.

(Code 1972, § 34-93)

Sec. 42-161. Construction of certain electric and water lines not covered by article.²²⁰

The constructions contemplated in this article shall not be construed to include electric service lines between distribution system in street and lot line nor to water service lines between commercial water main in street and lot line which constructions are under the jurisdiction of the ~~general superintendent of utilities~~ director of public works.

(Code 1955, § 13-209; Code 1972, § 34-94)

Sec. 42-162. Location generally.²²¹

Poles and wires of public service companies shall be erected or located over, upon or under the public right-of-way. ~~streets, alleys and common grounds, or elsewhere, within this city.~~

(Code 1955, § 13-209; Code 1972, § 34-95)

Sec. 42-163. Permit required.

Before any poles and wires shall be erected or located within the city, the public service utility company desiring the same shall first obtain a written permit therefor from the director of public works.

(Code 1955, § 13-209; Code 1972, § 34-96)

²²⁰ Legal or Editorial Change: Code 1972, § 34-94. Construction of certain electric and water lines not covered by article. Altered per instructions.

²²¹ Legal or Editorial Change: Code 1972, § 34-95. Location generally. Altered per instructions.

Sec. 42-164. Application for permit.

Any person desiring a permit required by this article shall file the application therefor with the director of public works, stating the proposed location of the poles and wires, the reason therefor, and such other information relative thereto as the director of public works shall require.

(Code 1955, § 13-209; Code 1972, § 34-97)

Sec. 42-165. Application for underground installation.²²²

Any gas, water or other company having a franchise for underground construction before doing any work in any street or alley shall file with the director of public works a map of its proposed work, stating the caliber and weight of pipe and other material to be used, location of valves, and manner of doing the proposed work, which map, together with said company's application for permit shall be made matters of public record in the files of the director of public works. ~~board which are kept and preserved at all times in his office.~~

(Code 1955, § 13-209; Code 1972, § 34-98)

Sec. 42-166. Issuance of permit for underground installation restricted.²²³

In cases of underground construction, no permit shall be issued under the provisions of this article except upon the additional written recommendation of the director of public works, ~~with the consent of a majority of the city council.~~

(Code 1955, § 13-209; Code 1972, § 34-99)

Sec. 42-167. Relocation at request of ~~council~~ director of public works.²²⁴

Public service companies granted right-of-way for the erection and maintenance of poles, conduits, gas mains, pipe lines and wires, and all appurtenances thereto, for the purpose of transacting their business upon, under and over the streets, alleys and public grounds of the city shall at all times, when requested by the ~~city council~~ director of public works, erect, locate or relocate their poles, wires, gas mains, pipe lines and other appurtenances to such places and in such manner as designated by the council. Such poles and wires shall be removed or relocated by such companies at their own expense when requested by the director of public works. ~~council so to do.~~

(Code 1955, § 13-209; Code 1972, § 34-100)

Sec. ~~34-101. Resolution directing relocation.~~²²⁵

~~Whenever it becomes necessary for the city to use the ground where the poles and wires are located, or whenever reasonable means of ingress or egress to private or public property or the public safety or convenience requires the relocation of the poles and wires which now occupy any portion of the public street or alley from lot line to lot line, the council shall so order by resolution.~~

(Code 1955, § 13-209; Code 1972, § 34-101)

Sec. ~~34-102. Notice of resolution.~~²²⁶

~~Whenever the city council shall enact a resolution requiring the relocation of poles and wires, the director of public works shall notify the public utility company owning such poles and wires of such resolution.~~

²²² Legal or Editorial Change: Code 1972, § 34-98. Application for underground installation. Altered per instructions.

²²³ Legal or Editorial Change: Code 1972, § 34-99. Issuance of permit for underground installation restricted. Altered per instructions.

²²⁴ Legal or Editorial Change: Code 1972, § 34-100. Relocation at request of council. Altered per instructions.

²²⁵ Legal or Editorial Change: Code 1972, § 34-101. Resolution directing relocation. Deleted per instructions.

²²⁶ Legal or Editorial Change: Code 1972, § 34-102. Notice of resolution. Deleted per instructions.

~~(Code 1955, § 13-209; Code 1972, § 34-102)~~

Sec. 34-103. Compliance with resolution.²²⁷

~~The public utility service company shall, within 24 hours after receiving notice of a resolution ordering relocation of its poles and wires, at their own expense, cause such poles and wires to be removed. The city council shall designate some place, as close as possible, where poles and wires may be reset or placed.~~

~~(Code 1955, § 13-209; Code 1972, § 34-103)~~

Sec. 42-168. Interference with other utility systems prohibited.

All poles and wires shall be erected in such a manner that they will not interfere with the equipment or apparatus of the sewer system or of any other public utility of the city located on the same street or alley, or with the travel through the streets and alleys of the city, or with the buildings now erected or which may be erected.

(Code 1955, § 13-209; Code 1972, § 34-104)

Sec. 42-169. Placement in alleys.

When permitted, poles and wires shall be confined to the alleys in the city where possible.

(Code 1955, § 13-209; Code 1972, § 34-105)

Sec. 42-170. Depth of underground mains, pipes.

All gas mains and gas pipes laid or relaid in the city shall be laid at a depth in the ground, at least ~~three~~ 2.5 feet below the established grade of the street or alley, in, over or across which said gas mains or pipes may be laid.

(Code 1955, § 13-209; Code 1972, § 34-106)

Secs. 42-171–42-193. Reserved.

ARTICLE VI. EXCAVATIONS*

*State law reference—Regulation of excavations, R.R.S. 1943, § 16-232.

Sec. 42-194. Permit—Required.²²⁸

It shall be unlawful for any person other than an authorized officer or employee of the city to make an opening, cut, trench or excavation in or under the surface of any street, alley, sidewalk, highway, ~~or~~ public property, or utility easement of the city without a written permit to do so.

(Code 1972, § 34-117; Ord. No. 980, § 5-619.01, 3-27-1961)

Sec. 42-195. Permit—Application.

The application for a permit to make any excavation, cut or opening in any of the curbs, gutters, sidewalks, streets, alleys or public highways of the city shall be made to the director of public works and state clearly the location where it is proposed to make such an excavation, cut or opening; the purpose of making the excavation, cut or opening; and the name of the person who proposed to make such excavation, cut or opening.

(Code 1955, § 13-218; Code 1972, § 34-118)

Sec. 42-196. Permit—Bond required.²²⁹

The director of public works shall estimate the probable cost of restoring the site of the excavation, cut or opening and shall require the applicant to file a written bond in an amount sufficient to cover such cost, with two

²²⁷ Legal or Editorial Change: Code 1972, § 34-103. Compliance with resolution. Deleted per instructions.

²²⁸ Legal or Editorial Change: Code 1972, § 34-117. Permit required. Altered per instructions.

²²⁹ Legal or Editorial Change: Code 1972, § 34-119. Same—Bond required. Altered per instructions.

or more sufficient sureties, conditioned that the street shall be restored in as good condition as it was before the excavation or opening therein was made. Such bond shall be received and approved by the director of public works. If the applicant elects so to do, the applicant may make a cash deposit in such sum as may have been fixed by the ~~board~~ director of public works in lieu of the written bond.

(Code 1955, § 13-218; Code 1972, § 34-119)

Sec. 42-197. Permit—Issuance.

When the bond or deposit required by this article shall have been accepted by the director of public works, the director shall then issue a permit for the excavation, cut or opening named in the application, and the applicant may then proceed with the work in the exact location named in the application, and in no other place.

(Code 1955, § 13-218; Code 1972, § 34-120)

Sec. 42-198. Lights and barricades.²³⁰

~~Lighted flares or red~~ Construction lights adequate in number shall be placed and maintained around all unfinished work between the hours of sunset and sunrise, and sufficient barricades against accidents shall be placed around excavations at all times.

(Code 1972, § 34-121; Ord. No. 980, § 5-619.03, 3-27-1961)

Sec. 42-199. Technique generally.²³¹

(a) All trenches and excavations in public streets or alleys, including the sidewalk space, shall be excavated in such a manner as to impede public travel as little as possible. Gutter crossings and all other ways shall be kept in such condition at all times that water will readily escape and drain from the premises. Plank walkways of sufficient width and strength to provide a safe passageway for pedestrians shall be provided where sidewalks or crossings are removed or interrupted and over all trenches and excavations.

(b) No excavation shall be within two feet of any public sewer or water main by means of a mechanical digging machine.

(Code 1972, § 34-122; Ord. No. 980, § 5-619.02, 3-27-1961)

Sec. 42-200. Method of making or refilling.²³²

~~(a) No excavation shall be within two feet of any public sewer or water main by means of a mechanical digging machine. The opening and refilling of all cuts, trenches, and excavations shall be done under the direction and control of the director of public works. All cuts, trenches and excavations shall be adequately refilled with material acceptable to the director and in such manner that settling will not occur. Refilling shall not be done with cinders, broken concrete or other debris, nor with frozen earth, nor when the material already in the trench is frozen nor when the walls of the trench or excavation are frozen.~~

(b) All refill shall be compacted either by mechanical tampers ~~operated by compressed air~~ or by thoroughly puddling with water. ~~All cuts, trenches, or excavations, in, through or under pavement or sidewalks or any gravel or crushed stone road surface shall be filled and the pavement or surface replaced by the city and the city shall assume and be responsible for maintaining such replaced surface. All other cuts, trenches or excavation shall be refilled by the person making the same, who shall be liable for any damage resulting from settling which occurs within one year after the refill is made; provided, however, that where pipes are to be placed beneath pavement, sidewalk, gravel or crushed stone road surfaces, in lieu of excavation and refill as required in this article, pipes may be threaded through bore holes made with augers or boring machines. Such bore holes so installed shall be~~

²³⁰ Legal or Editorial Change: Code 1972, § 34-121. Lights and barricades. Altered per instructions.

²³¹ Legal or Editorial Change: Code 1972, § 34-122. Technique generally. Altered per instructions.

²³² Legal or Editorial Change: Code 1972, § 34-123. Method of making or refilling. Altered per instructions.

constructed of cast iron soil pipe ~~with caulked lead joints~~. The placing and making of such bore holes and the placing of pipes therein shall be subject to the direction and control of the director of public works.

(Code 1972, § 34-123; Ord. No. 980, § 5-619.05, 3-27-1961)

Sec. 42-201. Restoration of surface.

The permittee, under this article, upon completion of the excavation and refilling, shall remove all material, excess dirt and debris, and the parking area and sidewalk space shall be leveled and raked smooth. All sod which has been removed or damaged by any reason of such excavation and refill shall be replaced or resodded with new sod, and any newly seeded areas shall be properly reseeded. Care shall be exercised throughout all operations to avoid damage to trees or shrubbery in the street space and adjacent areas, and the permittee shall be liable for any damage that may occur to such trees or shrubbery and, at the option of the city or the adjoining property owner, shall replace the damaged trees or shrubbery or pay such damages. Gravel or crushed stone roadways, driveways or other areas damaged or destroyed shall be restored with like-new material.

(Code 1972, § 34-124; Ord. No. 980, § 5-619.06, 3-27-1961)

Sec. 32-1. Obstructing streets.²³³

~~It is hereby declared unlawful for any railroad company, its employees, agents or servants, operating a railroad into or through city to obstruct any of the public streets within this city by leaving trains or cars standing thereon so as to prevent the public from crossing said railroad track or tracks, for a longer period at one time than five minutes except in case of inevitable accident.~~

(Code 1955, § 5-705; Code 1972, § 32-1)

Sec. 32-3. Speed.²³⁴

~~No railway train, railway engine, railway car, railway motor or railway truck shall be operated over any railroad within the city at a greater rate of speed than 15 miles per hour.~~

(Code 1972, § 32-3)

Sec. 32-4. Loitering about tracks.²³⁵

~~It shall be unlawful for any person to loiter about any railroad track.~~

(Code 1972, § 32-4)

Sec. 32-5. Boarding, alighting from train restricted.²³⁶

~~It shall be unlawful for any person to board or alight from any railroad train or car while the same is at rest or in motion; provided, however, that this section shall not be construed to apply to any employee of the railroad or to any person authorized to use the same.~~

²³³ Legal or Editorial Change: Code 1972, § 32-1. Obstructing streets. Deleted as preempted to state and federal law. See *CSX Transportation, Inc. v. City of Plymouth*, 86 F.3d 626 (6th Cir. 1996). See also *Johnson v. Southern Ry. Co.*, 654 F. Supp. 121 (W.D.N.C. 1987), *CSX Transp., Inc. v. City of Tullahoma*, 705 F. Supp. 385 (E.D. Tenn 1988), *City of Covington, v. Chesapeake & Ohio Ry.* 708 F. Supp. 806 (E.D. Ky. 1989).

²³⁴ Legal or Editorial Change: Code 1972, § 32-3. Speed. Deleted as preempted to state and federal law. See *CSX Transportation, Inc. v. City of Plymouth*, 86 F.3d 626 (6th Cir. 1996). See also *Johnson v. Southern Ry. Co.*, 654 F. Supp. 121 (W.D.N.C. 1987), *CSX Transp., Inc. v. City of Tullahoma*, 705 F. Supp. 385 (E.D. Tenn 1988), *City of Covington, v. Chesapeake & Ohio Ry.* 708 F. Supp. 806 (E.D. Ky. 1989).

²³⁵ Legal or Editorial Change: Code 1972, § 32-4. Loitering about tracks. Deleted as unconstitutionally vague.

²³⁶ Legal or Editorial Change: Code 1972, § 32-5. Boarding, alighting from train restricted. Deleted as obsolete.

(Code 1972, § 32-5)

Sec. 32-6. Drainage required.²³⁷

~~It shall be the duty of any railroad company, its employees, agents or servants, owning, maintaining or operating a railroad within or through this city, to construct and keep in repair at their own expense ditches, drains and culverts along and under its railroad tracks at all places within the city where the same may be necessary for the escape of water and the proper draining of the territory on either side of the railroad tracks.~~

(Code 1955, § 5-701; Code 1972, § 32-6)

Sec. 32-7. Failure to drain.²³⁸

~~When any drains, ditches or culverts along or within a railroad company's right of way may be necessary for the escape of water and the proper drainage of the territory on either side of any railroad tracks, the mayor and council may, by resolution, call upon the proper railroad company to construct or repair the drain, ditch or culvert and to place the same in proper condition for the escape of water for the proper drainage of the territory on either side of the railroad track. A copy of every such resolution shall be served upon the local agent of the railroad company whose duty it is to construct or keep in repair any drain, ditch or culvert.~~

~~For a failure or refusal to comply with any such resolution within 14 days after the service thereof, the railroad company, its local agent, section foreman or employee in charge of the maintenance and way through city, shall be deemed guilty of a misdemeanor.~~

(Code 1955, § 5-702; Code 1972, § 32-7)

~~Sees. 32-8—32-17. Reserved.~~

ARTICLE II. CROSSING MAINTENANCE

Sec. 32-18. Definition.²³⁹

~~For the purposes of this article, the word "crossing" shall mean all places within the city within the railroad's right of way where the public streets or alleys intersect and cross any tracks of such railroad, and shall include viaducts and roadways under or over such railroad tracks.~~

(Code 1934, Ch. 5, § 17; Code 1972, § 32-18)

Sec. 32-19. Duty to maintain.

~~It shall be the duty of all railroad companies owning, operating and maintaining a railroad passing through this city to place, keep or maintain at their own expense all places within their rights of way where the public streets or alleys of city intersect and cross any railroad tracks in a suitable and safe condition for public travel over and across the same.~~

(Code 1955, § 5-703; Code 1972, § 32-19)

Sec. 32-20. Notice to repair, replace.

~~If any crossing shall be at any time in bad condition or unsafe or inconvenient for public travel, the mayor and council may, by resolution, call upon the proper railroad company to repair or replace said crossing and render the same safe and convenient for public travel.~~

(Code 1955, § 5-704; Code 1972, § 32-20)

Sec. 32-21. Specifications for replacements.

²³⁷ Legal or Editorial Change: Code 1972, § 32-6. Drainage required. Deleted per instructions.

²³⁸ Legal or Editorial Change: Code 1972, § 32-7. Failure to drain. Deleted per instructions.

²³⁹ Legal or Editorial Change: Code 1972, ch. 32, art. II (Code §§ 32-18—32-23). Crossing maintenance. Deleted per instructions.

~~Unless otherwise ordered by the city council, all railroad crossing replacements shall be made with steel rails or steel plates.~~

~~(Code 1955, § 5-704; Code 1972, § 32-21)~~

~~**Sec. 32-22. Service of notice.**~~

~~A copy of every resolution or notice issued under the provisions of this article shall be served upon the local agent of the railroad company whose duty it is to maintain the crossing determined to be unsafe.~~

~~(Code 1955, § 5-704; Code 1972, § 32-22)~~

~~**Sec. 32-23. Failure to comply.**~~

~~If any resolution or notice issued under the provisions of this article shall not be complied with by the railroad company upon which the same was served within 30 days after such service, such railroad company shall be deemed guilty of a misdemeanor and punished as provided for violations of this Code. Each day after such 30 days has elapsed shall be deemed a separate and distinct offense.~~

~~(Code 1955, § 5-704; Code 1972, § 32-23)~~

PROOFS

Chapter 43
RESERVED

PROOFS

Chapter 44
SPECIAL ASSESSMENTS
ARTICLE I. IN GENERAL

Secs. 44-1--44-18. Reserved.

ARTICLE II. CLEAN ENERGY ASSESSMENT DISTRICT

Sec. 44-19. Title and definitions.

(a) ~~That~~ This article shall be known and may be cited as the city property assessed clean energy (PACE) ordinance. Except for the words and phrases specifically defined below or in ~~Neb. Rev. Stat.~~ R.R.S. 1943, § 13-3203, as amended, words and phrases used in this article shall have their customary meanings.

(b) The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

District means the city PACE district, created pursuant to this article, as authorized by R.R.S. 1943, §§ 13-3203 and 13-3204(3), which boundaries shall be the corporate boundaries of the city and its extraterritorial jurisdiction.

District administrator means the city administrator or a designated representative, or a third-party administrator selected by the city.

PACE financing means funds provided to the owner of qualified property by third-party lender, pursuant to the Property Assessed Clean Energy Act (the Act) and this article, for an energy efficiency improvement or renewable energy system.

Qualifying property means commercial property and industrial property.

(Ord. No. 2345, § 2, 11-3-2022)

Sec. 44-20. Findings and determinations.

~~That~~ The city council hereby finds and determines as follows:

- (1) Pursuant to R.R.S. 1943, §§ 13-3201 to 13-3211, inclusive, the Property Assessed Clean Energy Act, energy efficiency and the use of renewable energy are important for preserving the health and economic well-being of the state's citizens. Using less energy decreases the cost of living and keeps the cost of public power low by delaying the need for additional power plants. To further these goals, it is necessary for the city to promote energy efficiency improvements and renewable energy systems. Up-front costs for energy efficiency improvements and renewable energy systems may prohibit or deter many property owners from making improvements. It is necessary for the city to implement an alternative financing method through the creation of a clean energy assessment district.
- (2) Financing energy projects to further these goals is a valid public purpose and can be accomplished through PACE financing, which is used to overcome the up-front costs for energy efficiency improvements and renewable energy systems by using private capital and equity, rather than public debt.
- (3) Pursuant to the act and ~~Neb. Rev. Stat.~~ R.R.S. 1943, § 13-3204, the city is authorized to establish a clean energy assessment district so that owners of qualifying property can access PACE financing for energy efficiency improvements or renewable energy improvements to their properties located in the city. The city also may enter into an agreement with one or more other municipalities pursuant to the Interlocal Cooperation Act, R.R.S. 1943, § 13-801 et seq., for the joint creation, administration, or creation and administration of clean energy assessment districts, pursuant to ~~Neb. Rev. Stat.~~ R.R.S. 1943, § 13-3210. The city declares its intent that the provisions of this article shall be in conformity with federal and state laws. The city enacts the ordinance from which this article is derived pursuant to the act, as amended.

(Ord. No. 2345, § 1, 11-3-2022)

Sec. 44-21. District boundaries and requirements pursuant to ~~Neb. Rev. Stat.~~ R.R.S. 1943, § 13-3204(3).

(a) The city finds that the financing of energy efficiency improvements and renewable energy systems is a valid public purpose. Such public purpose includes, but is not limited to, reduced energy and water costs, reduced greenhouse gas emissions, economic stimulation and development, improved property valuation, and increased employment.

(b) The boundaries of the district shall be the corporate boundaries of the city and its extraterritorial jurisdiction, as allowed pursuant to ~~Neb. Rev. Stat.~~ R.R.S. 1943, § 13-3204(1).

(c) The district administrator shall use a form contract for assessment contracts between the city, the owner of the qualifying property, and a third-party lender, containing terms as attached-to the ordinance from which this section is derived as Exhibit "A," governing the terms and conditions of financing and annual assessments in accordance with the act, including ~~Neb. Rev. Stat.~~ R.R.S. 1943, § 13-3205(1), which provides for repayment of the costs financed through annual assessments upon the qualifying property benefitted by the energy project.

(d) The district administrator is authorized to enter into assessment contracts on behalf of the city.

(e) The annual assessments will be made and collected as provided in the form contract.

(f) The district administrator will use a financing application process and eligibility requirements, which shall be more specifically defined in a program manual created by the district administrator as attached to the ordinance from which this section is derived as Exhibit "B," for financing energy projects in accordance with the requirements of the act and accepted by the third-party lender. The application process and program eligibility requirements shall be, at a minimum, as follows:

- (1) Submission of an application as attached to the ordinance from which this section is derived as Exhibit "C" to the district administrator, which shall include, but not be limited to, the following information:
 - a. Applicant name and contact information, including property owner and developer;
 - b. Project location and legal description;
 - c. Identification of contractor or supplier, including anticipated PACE contractor and a copy of the approved bid for the energy efficiency project;
 - d. Project description;
 - e. Total project cost;
 - f. Description of proposed improvements;
 - g. Description of energy efficiency project to be financed;
 - h. Amount of requested assessment;
 - i. Interest rate on the PACE assessment and any required fees;
 - j. Term of assessment;
 - k. Energy savings report indicating estimated energy savings and estimated cost savings for the energy project;
 - l. Title report showing any mortgage or lien holders;
 - m. Lender consent;
 - n. Funding source;
 - o. All other such information as needed to demonstrate the project complies with all the requirements of the Act.
- (2) The district administrator shall review the application to determine whether the energy project meets the eligibility requirements of the act and this article. An energy project shall not be eligible for PACE financing if the qualifying property is subject to any of the following:

- a. Delinquent ad valorem taxes;
 - b. Delinquent personal property taxes;
 - c. Delinquent special assessments;
 - d. Overdue or delinquent water or sewer charges;
 - e. Involuntary liens, including, but not limited to, construction liens;
 - f. Notice of default pursuant to any mortgage or deed of trust related to the qualifying property; or
 - g. If the property owner or property developer is delinquent in the payment of any assessment required to be paid for any energy efficiency improvement financed pursuant to the Act.
- (3) The district administrator shall determine that there are sufficient resources to complete the energy project and that the energy project creates an estimated economic benefit, including, but not limited to, energy and water cost savings, maintenance cost savings, and other property operating savings expected during the financing period, which is equal to or greater than the principal cost of the energy project. The estimated economic benefit may be derived from federal, state, or third-party engineer certifications or from standards of energy or water savings associated with a particular energy efficiency improvement or set of energy efficiency improvements. The city may waive the requirements of this subdivision upon request of the owner of the qualifying property, and, if such request is denied, the owner may appeal the denial to the mayor.
- (4) If the energy project is determined to be eligible under the terms of the Act and as required in this article, the district administrator shall review the application and approve, request additional information, or deny the application at the administrator's sole discretion.
- (5) Upon approval of an application, the district administrator is authorized to proceed with and execute an assessment contract.
- (g) Pursuant to ~~Neb. Rev. Stat.~~ R.R.S. 1943, § 13-3205(7), annual assessments agreed to under an assessment contract shall be levied against the qualifying property and collected in accordance with the Act.
- (h) Fees.
- (1) The district shall establish procedures to determine the payment of fees to be charged to owners participating in the program that will be used to finance the costs incurred by the city as a result of the program. The fees are as follows:
- a. Application fee: \$500.00.
 - b. A one-time administrative processing fee to the city in the amount of one percent of the project costs financed through the loan (i.e., the loan amount less all fees and expenses incurred in issuing the loan), not to exceed \$40,000.00. The administrative fee shall be subject to a 50 percent reduction for a project that is also responsible for tax increment financing (TIF) fees. The TIF reduction to the administrative fee is calculated before the cap is considered. For example: an administrative fee of \$54,000.00 is reduced to \$27,000.00 before considering the administrative cap of \$40,000.00. Such payment shall be included in the initial installment.
 - c. Annual fee: \$250.00.
- (2) Any costs shall be deducted before remitting the assessment.
- (i) The assessment term shall not exceed the weighted average useful life of the energy project paid for by the annual assessments.
- (j) Any energy efficiency improvement that is not permanently affixed to the qualifying property upon which an annual assessment is imposed to repay the cost of such energy efficiency improvement must be conveyed with the qualifying property if a transfer of ownership of the qualifying property occurs during the assessment term.
- (k) Prior to the effective date of any contract that binds the purchaser to purchase qualifying property upon which an annual assessment is imposed, the owner shall provide notice to the purchaser that the purchaser assumes responsibility for payment of the annual assessment as provided in ~~Neb. Rev. Stat.~~ R.R.S. 1943, § 13-3205(3)(d),

and that the obligations set forth in the assessment contract, including the obligation to pay annual assessments, are a covenant that shall run with the land and be assessed upon future owners of the qualifying property.

(l) In connection with providing PACE financing, the city will provide for marketing and participant education.

(m) The city shall obtain, or applicable third-party lenders shall obtain and provide to the city, verification that the renewable energy system or energy efficiency improvement was properly installed and is operating as intended.

(Ord. No. 2345, § 3, 11-3-2022)

Sec. 44-22. Authorization for PACE program.

~~That,~~ Pursuant to ~~Neb. Rev. Stat.~~ R.R.S. 1943, § 13-3204(1), the district shall be governed by the city council.

- (1) The district administrator shall comply with the act and the provisions of this article and follow any applicable city procurement policy and procedures for selecting a third-party administrator, should a third-party administrator be selected for the administration of the PACE program. Any such third-party administrator must ensure that there is no financial requirement, liability, or exposure to the district or city. The district administrator, as defined in section 44-19, may serve as the administrator of the PACE program for the district and city.
- (2) The district or city may also engage the services of a state or local financing agency for the purposes of providing conduit bond financing for the district or city as part of its third-party administration.
- (3) Upon selection of a third-party administrator, that third-party administrator may, on behalf of the city, accept applications for financing energy efficient improvements within the district boundaries, facilitate the financing application process, and review eligibility requirements for financing energy projects in accordance with the requirements of the act and as accepted by the third-party lender.
- (4) The district may be expanded via the Interlocal Cooperation Act in order to create a program of sufficient size and scale to attract qualified third-party administrators and/or to promote energy efficiency across multiple political subdivisions, as authorized under the Act.

(Ord. No. 2345, § 4, 11-3-2022)

Sec. 44-23. Liability of city officials; liability of city.

That notwithstanding any other provision of law to the contrary, officers, officials, employees, or agents of the city, the district, or the county shall not be personally liable to any person or entity for any claims, liabilities, costs, or expenses, of whatever kind or nature, under, arising out of, or related to the city's or district's participation in the district's PACE program or any PACE financing, including, without limitation, claims for or related to uncollected PACE assessments. Not in limitation of the foregoing, the city has no liability to a property owner or lender for or related to energy savings improvements or funding under a PACE financing or program, other than to remit PACE assessments received in accordance with the act or notify the county of a delinquency in payment pursuant to applicable law.

(Ord. No. 2345, § 5, 11-3-2022)

Chapter 45
RESERVED

PROOFS

Chapter 46
SUBDIVISIONS*

*State law reference—Subdivision regulations, R.R.S. 1943, § 19-916 et seq.

ARTICLE I. IN GENERAL

Sec. 46-1. Name and citation of title.

This chapter shall be known, referred to and cited as the city land subdivision ordinance.

(Ord. No. 1069, art. I, § 1, 6-10-1965)

Sec. 46-2. Definitions.

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

~~City means the City of York, Nebraska.~~

~~City clerk means the city clerk of the city.~~

Commission means the city planning commission.

~~Council means the city council.~~

Parcel of land means a contiguous quantity of land owned of record by the same owner.

Major street is a street shown on any current major street plan adopted by the city planning commission.

Subdivision means the division of a lot, tract or parcel of land into two or more lots, sites, or other divisions of land for the purposes, whether immediate or future, of ownership or building development.

(Ord. No. 1069, art. II, §§ 1—4, 8, 6-10-1965)

Sec. 46-3. Purpose.

This chapter is to provide for the harmonious development of the city and its environs; for the coordination of streets within subdivisions with other existing or planned streets or with other features of the city plan; for adequate open spaces for traffic, recreation, light and air; and for a distribution of population and traffic which will tend to create conditions favorable to health, safety, convenience or prosperity.

(Ord. No. 1069, art. I, § 2, 6-10-1965)

Sec. 46-4. Modification of requirements.

Whenever the tract to be subdivided is of such unusual size or shape or is surrounded by such development of unusual condition that the strict application of the requirements contained in these regulations would result in real difficulties or substantial hardship or injustice, the city council, after receiving a report by the city planning commission, may vary or modify such requirements so that the subdivider may develop the property in a reasonable manner, but so that at the same time, the public welfare and general intent and spirit of these regulations shall be preserved.

(Ord. No. 1069, art. IX, § 1, 6-10-1965)

Sec. 46-5. Severability.

~~Each section and each subdivision of a section of this chapter is hereby declared to be independent of every other section or subdivision or a section so far as inducement for the passage of this chapter is concerned and the invalidity of any section or subdivision of a section of this chapter shall not invalidate any other section or subdivision of a section hereof.~~

(Ord. No. 1069, art. IX, § 2, 6-10-1965)

Sec. 46-5. Penalty.

Any person upon whom a duty is placed by the provisions of this chapter who fails, neglects or refuses to perform such duty or who shall violate any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not to exceed ~~\$100.00~~ ~~\$1,000.00~~ and shall stand committed to the county jail until such fine and costs or prosecution are paid. Each day that a violation of this title continues shall constitute a separate and distinct offense and shall be punishable as such.

(Ord. No. 1069, art. IX, § 3, 6-10-1965)

State law reference—Penalty authorized for ordinance violations, R.R.S. 1943, § 16-225.

Sec. 46-6. Savings clause.

~~This chapter shall in no manner affect pending actions, either civil or criminal, founded on or growing out of any ordinance, or part of any ordinance hereby repealed; this chapter shall in no manner affect the rights or causes of action, either civil or criminal not in suit that may have already accrued or grown out of any ordinance, or part of any ordinance hereby repealed.~~

(Ord. No. 1069, art. IX, § 4, 6-10-1965)

Sec. 46-6. Plat, when required.

It shall be unlawful for the owner, agent or person having control of any land within the corporate limits of the city or within two miles of its corporate limits to subdivide land except in accordance with ~~sections 16-112 and 16-902, Reissued Revised Statutes of Nebraska as amended~~ R.R.S. 1943, §§ 16-902, 19-916—19-921 and the provisions of this chapter.

(Ord. No. 1069, art. III, § 1, 6-10-1965)

Sec. 46-7. Plat to be approved.

The preliminary ~~plan~~ plat shall first be submitted to the commission for its consideration as hereinafter provided. After receipt of a report from the director of public works, the commission shall report its findings and recommendations in writing and if appealed, as hereinafter provided, such plan together with the findings and recommendations of the commission shall be submitted to the council for its consideration and approval or disapproval. The design and layout of all subdivisions shall conform to the requirements of article V of this chapter. The subdivider shall submit a preliminary ~~plan~~ plat to the commission prepared in accordance with the specifications of article II of this chapter.

(Ord. No. 1069, art. III, § 3, 6-10-1965)

Sec. 46-8. Waiver of notice and objection period.

(a) *Retroactive waiver.* The mayor and council hereby retroactively waive the notice and 120-day period provided by ~~L.B. 235 of the First Session, Eighty-Sixth Legislature of the State of Nebraska,~~ R.R.S. 1943, § 76-2,110 as to the following category of subdivisions:

All those subdivisions created by any instruments effecting the division of lot, tract, or parcel of land into two or more lots, sites, or other divisions of land for the purpose, whether immediate or future, of ownership, or building development executed and filed for record in the office of the county register of deeds prior to the effective date of the ordinance from which this chapter is derived and to the extent permitted by ~~L.B. 235 of the First Session, Eighty-Sixth Legislature of the State of Nebraska~~ R.R.S. 1943, § 76-2,110, hereby validates all prior conveyances causing the above category of subdivisions.

(b) *Prospective waiver.* The mayor and council hereby prospectively waive the 120-day period provided by ~~L.B. 235 of the First Session, Eighty-Sixth Legislature of the State of Nebraska~~ R.R.S. 1943, § 76-2,110, subject to the filing of the requisite affidavit with the register of deeds and receipt of written notice by the city as provided by ~~said L.B. 235~~ R.R.S. 1943, § 76-2,110 and, further, subject to the approval of each conveyance by the city administrator or an officer designated by the city administrator as to the following category of subdivisions:

All those subdivisions created by any instruments effecting the division of lot, tract, or parcel of land into two or more lots, sites, or other divisions of land for the purpose, whether immediate or future ownership, or

building development executed after the effective date of the ordinance from which this chapter is derived, or executed prior to the effective date of the ordinance from which this chapter is derived but not filed in the office of the register of deeds of county prior to the effective date of the ordinance from which this chapter is derived.

(c) *Procedure in event of disapproval of conveyance.* In the event that the city administrator or designated officer disapprove the subject conveyance for any reason whatsoever, the notice of conveyance shall be presented to the city council for decision as to whether or not to file an objection to the conveyance in the form of a resolution after public hearing.

(d) *Purpose.* The purpose of this section is to validate conveyances, and the provisions of this section shall not repeal applicable zoning or subdivision ordinances of the city and shall not excuse compliance with existing or future zoning or subdivision ordinances of the city.

(Ord. No. 1406, 12-11-1980)

Secs. 46-9--46-38. Reserved.

ARTICLE II. PRELIMINARY ~~PLAN~~ PLAT

Sec. 46-39. Filing; hearing.

Where a plat is required under this chapter, a person proposing to subdivide land under this chapter shall file ~~six~~ three copies of the preliminary sketch plan of such proposed plat with the director of public works. Hearing on such proposal shall be had before the commission at its first regular meeting following filing, provided only that notice of the consideration of such plat and the time and place of hearing be given to all interested persons as hereinafter provided. The preliminary ~~plan~~ plat shall show thereon the information required by this article.

(Ord. No. 1069, art. IV, § 1, 6-10-1965)

Sec. 46-40. Notice of hearing.

No hearing shall be held by the commission until notice thereof shall have been given by the director of public works on behalf of the commission, by publication of notice of said hearing in the daily newspaper for at least one insertion a week prior to the date of said hearing.

(Ord. No. 1069, art. IV, § 2, 6-10-1965)

Sec. 46-41. Fee.

Where a plat is required, any person proposing to subdivide land under this chapter shall pay to the city a fee of \$50.00 for the filing of such preliminary plat and for the publication of notice appearing thereon, ~~and a fee of \$45.00 per hour for the review of the final plat by the special professional engineers for the city shall be paid to the city prior to final approval of the plat by the city council.~~

(Ord. No. 1069, art. IV, § 3, 6-10-1965; Ord. No. 1374, § 1, 5-29-1979)

Sec. 46-42. Existing conditions.

The location of the present property lines, section or township lines and the lines of incorporated areas, streets, buildings, watercourses, tree masses and other existing features within the area to be subdivided and similar information regarding condition of land immediately adjacent thereto shall be shown on the preliminary ~~plan~~ plat.

(Ord. No. 1069, art. IV, § 4, 6-10-1965)

Sec. 46-43. Proposed streets, etc.

The preliminary ~~plan~~ plat shall show the proposed location and width of streets, alleys, lots, buildings and setback lines and easements.

(Ord. No. 1069, art. IV, § 5, 6-10-1965)

Sec. 46-44. Water mains, sewers, drains, etc.

The preliminary ~~plan~~ plat shall show existing sanitary and storm sewers, water mains, culverts and other underground structures within the tract or on the streets immediately abutting thereto. The location and size of the

nearest water main and sewer or outlet are to be indicated in a general way upon the plat.

(Ord. No. 1069, art. IV, §6, 6-10-1965)

Sec. 46-45. Title of proposed subdivision.

The title under which the proposed subdivision is to be recorded and the name of the subdivider platting the tract shall be shown on the preliminary ~~plans-plats~~ plan-plat.

(Ord. No. 1069, art. IV, § 7, 6-10-1965)

Sec. 46-46. Contours.

The preliminary ~~plan-plat~~ shall show the contours referred to in the city datum with intervals sufficient to determine the character and topography of the land to be subdivided, but in no case shall the intervals be more than five feet.

(Ord. No. 1069, art. IV, § 8, 6-10-1965)

Sec. 46-47. North point, scale and date.

The preliminary ~~plan-plat~~ shall show the north point, scale and date.

(Ord. No. 1069, art. IV, § 9, 6-10-1965)

Sec. 46-48. Grades and profiles.

The plans or written and signed statements setting out the grades and profiles of the streets, the proposed grades and facilities for all required improvements and the subdivider's proposal to the city of accomplishing their installation in accordance with article V of this chapter shall be shown on or accompany the preliminary ~~plan-plat~~.

(Ord. No. 1069, art. IV, § 10, 6-10-1965)

Sec. 46-49. Drainage information.

Drainage information shall accompany the preliminary ~~plans-plat~~.

(Ord. No. 1069, art. IV, § 11, 6-10-1965)

Sec. 46-50. Approval of preliminary ~~plan-plat~~.

(a) If upon hearing the commission shall find such proposed plat to satisfy the requirements of this chapter, it shall approve said plat and recommend final approval by the council upon complying with the requirements of article VI of this chapter and submitting a final plat in accordance with the provision of article IV of this chapter.

(b) If upon hearing the commission shall find that such proposed plat does not satisfy the requirements of this chapter, it shall specify in writing in the minutes of the hearing such objections as are found to such plat and may recommend approval conditioned upon specific changes in the proposed plat, removing such objections.

(c) One copy of the proposed plat, together with a copy of the findings of the commission upon hearing, shall be filed by the commission with the city clerk, and any interested person may appeal to the council from any action of the commission by filing notice of appeal with the city clerk within seven days following the filing of such findings. One copy of the proposed plat and findings shall be retained by the commission and one copy and findings given the person offering the proposed plat.

(Ord. No. 1069, art. IV, § 12, 6-10-1965)

Secs. 46-51--46-73. Reserved.

ARTICLE III. FINAL APPROVAL

Sec. 46-74. Requisites.

(a) Following approval of the preliminary ~~plan-plat~~ by the commission, or the council if appealed, the subdivider shall:

- (1) Install the required improvements;

(2) Agree to an assessment guaranteeing such installations.

(b) All installations shall be in accordance with requirements to be established by the director of public works. Upon approval of the improvements, installations or arrangements therefor, the final plat may be submitted in accordance with the provisions of article VI of this chapter. No plat or replat shall be filed for record or recorded in the office of the register of deeds of the county unless and until the approval of the council is endorsed thereon by the city clerk, and no lot shall be sold from such plat or replat unless and until approved by the council and filed for record in the office of the register of deeds of the county, as herein provided.

(Ord. No. 1069, art. V, § 1, 6-10-1965)

Secs. 46-75--46-91. Reserved.

ARTICLE IV. FINAL PLAT

Sec. 46-92. Requirements; submission to council.

(a) The final plat shall consist of an accurate map or plat designating specifically the land so laid out and particularly describing the lots, blocks, streets, avenues, alleys, public ways or other portions of the same intended to be dedicated for public use or for the use of the purchasers or owners of lots fronting thereon or adjacent thereto.

(b) The final plat on tracing cloth or a suitable permanent base and ~~five~~three prints thereof together with copies of any deed restrictions where such restrictions are too lengthy to be shown on the plat shall be submitted to the commission. The final plat shall be drawn to a scale of not more than 150 feet to the inch from an accurate survey and on one or more sheets whose maximum dimensions shall not exceed 18 inches by 24 inches. If more than two sheets are required, an index sheet of the same dimensions shall be filed showing the entire subdivision on one sheet and the component areas shown on other sheets.

(c) When the final plat conforms to the approved preliminary ~~plan~~plat and the requirements of articles II and VI of this chapter have been accomplished, certification to this effect shall be endorsed on the final plat by the chairperson of the commission and the final plat submitted to the council for its approval or disapproval. Where the final plat does not conform to the approved preliminary ~~plan~~plat, the commission shall submit its recommendations to the council for approval or disapproval of the final plat.

(Ord. No. 1069, art. VIII, § 1, 6-10-1965)

Sec. 46-93. Information required.

The final plat shall show:

- (1) The boundary lines of the area being subdivided with accurate distances and angles. The correct legal description of the property being subdivided shall be shown on the plat.
- (2) The lines of all proposed streets and alleys with their width and names.
- (3) The accurate outline of any portions of the property intended to be dedicated or granted for public use.
- (4) The line of departure of one street from another.
- (5) The lines of all adjoining property and the lines of adjoining streets and alleys with their widths and names.
- (6) All lots shall be designated by numbers or letters and streets, avenues and other grounds by names, letters or numbers.
- (7) The location of all easements for public use, service or utilities.
- (8) All dimensions, both linear and angular, necessary for locating the boundaries of the subdivision, lots, streets, alleys, easements and any other area for public or private use. Linear dimensions are to be given to the nearest 1/100 of a foot.
- (9) The radii, arcs, chords, points of tangency and central angles for all curvilinear streets and radii for rounded corners.
- (10) The location of all survey monuments and benchmarks together with their descriptions.

- (11) The name of the subdivision and scale of the plat, points of the compass, and the name of owner or owners or subdividers.
- (12) The certificate of the surveyor attesting the accuracy of the survey and the correct location of all monuments shown.
- (13) Private restrictions and trusteeships and their periods of existence. Should these restrictions or trusteeships be of such length as to make their lettering on the plat impracticable, and thus necessitate the preparation of a separate instrument, reference to such instrument shall be made on the plat.
- (14) Acknowledgement of the owner or owners of the plat, and restrictions including dedication to public use of all streets, alleys, parks or other open spaces shown thereon and the granting of easements required.
- (15) Certificate of approval by the city council for endorsement by the mayor and city clerk.
- (16) Approval of the planning commission.
- (17) Approval of the director of public works.
- (18) County treasurer certificate.

(Ord. No. 1069, art. VIII, § 2, 6-10-1965)

Sec. 46-94. Acknowledgements.

Such plat shall be signed and acknowledged by the owner of the land subdivided in the same manner and form as the acknowledgement of a deed conveying real estate, before some officer authorized to take the acknowledgements of deeds and shall contain a dedication of the streets, alleys and public grounds therein to the use and benefit of the public.

(Ord. No. 1069, art. VIII, § 3, 6-10-1965)

Sec. 46-95. Surveyor's certificate.

The plat shall have appended thereto a survey made by a registered land surveyor, with a certificate attached, certifying that the registered land surveyor has accurately surveyed such subdivision and attesting to the accuracy of the survey and the correct location of all monuments shown, and that the lots, blocks, streets, avenues, alleys, public ways and grounds and other grounds are well and accurately staked off and marked.

(Ord. No. 1069, art. VIII, § 4, 6-10-1965)

Sec. 46-96. Approved plat filed with register of deeds.

When such map or plat is so prepared, acknowledged and certified and has been approved by the council, the same shall be filed and recorded in the county office of the register of deeds, and thereupon, such plat shall be equivalent to and operate as a deed in fee simple absolute to the city from the owner of all streets, avenues, alleys, public ways and grounds and of such portions of lands as therein are set apart for public and city use.

(Ord. No. 1069, art. VIII, § 5, 6-10-1965)

Sec. 46-97. Subdivided land included within corporate limits.

All subdivisions now or hereafter laid out adjoining or contiguous to the corporate limits of the city shall be included within the corporate limits and become thereupon a part of such city for all purposes whatsoever, and the inhabitants of such addition shall be entitled to all the rights and privileges and subject to all laws, ordinances, rules and regulations of the city to which said land is an addition.

(Ord. No. 1069, art. VIII, § 6, 6-10-1965)

Secs. 46-98--46-122. Reserved.

ARTICLE V. DESIGN STANDARDS

Sec. 46-123. Relation to adjoining street system.

(a) The arrangement of streets in new subdivision shall make provision for the continuation of the existing streets in adjoining areas (or their proper projection where adjoining land is not subdivided) insofar as they may be

deemed necessary for public requirements. The width of such streets in new subdivisions shall not be less than the minimum widths established herein. The street and alley arrangements shall not be such as to cause hardship to owners of adjoining property in platting their own land and providing convenient access to it. Offset streets shall be avoided whenever possible. The angle of intersection between minor streets and major streets should not vary by more than ten degrees from a right angle.

(b) Streets obviously in alignment with existing streets shall bear the names of the existing streets. All proposed street names shall be checked by the commission for duplication of existing street names, and proposed street names that are in conflict with existing street names shall not be approved.

(Ord. No. 1069, art. VI, § 1, 6-10-1965)

Sec. 46-124. Street and alley widths.

(a) The widths of ~~major highways~~ all streets shall conform to the widths designated on the major street plan developed by the director of public works.

~~(b) The minimum width for minor streets shall be 50 feet. When streets adjoin unsubdivided property, a half street at least 30 feet in width may be dedicated and whenever subdivided property adjoins a half street, the remainder of the street shall be dedicated.~~

(b) Alleys shall not be provided except under very unusual conditions in a residential block. When provided, a minimum width of 16 feet shall be required. Alleys are required in the rear of all business lots and shall be at least 16 feet wide.

(Ord. No. 1069, art. VI, § 2, 6-10-1965)

Sec. 46-125. Easements.

Easements of at least eight feet in width shall be provided and dedicated on each side of all rear lot lines and along side lot lines, where necessary for poles, wires, conduits, storm and sanitary sewers, gas, water or other mains. Easements for greater width may be required along or across lots where necessary for the extension of main sewers or other utilities or where both water and sewer lines are located in the same easement.

(Ord. No. 1069, art. VI, § 3, 6-10-1965)

Sec. 46-126. Blocks.

(a) No block shall be longer than 1,200 feet between cross streets, a crosswalk with a right-of-way of ten feet in width shall be required where the block exceeds 1,000 feet in length and where needed for pedestrian traffic.

(b) In platting residential lots containing less than 15,000 square feet, the depth of the block shall not exceed 300 feet.

(c) Where a tract of land is of such size and/or location as to prevent a lot arrangement directly related to a normal street arrangement, there may be established one or more courts, dead-end streets or other arrangements; provided, however, that proper access shall be given to all lots from a dedicated street or court. A dead-end street shall terminate in a dedicated street space having a minimum radius of 60 feet. A dead-end street shall not exceed 1,000 feet in length.

(Ord. No. 1069, art. VI, § 4, 6-10-1965)

Sec. 46-127. Lots.

(a) The lot arrangement and design shall be such that all lots will provide satisfactory and desirable building sites, properly related to topography and the character of surrounding development.

(b) All side lines of lots shall be at right angles to a straight street line and radial to curved street lines except where a variation of this rule will provide a better street and lot layout. Lots with double frontage shall be avoided.

(c) The minimum width of residential lots in a preliminary plat shall be 60 feet at the building lines. No lot shall have a depth in excess of three times its width. No lot shall have an area or width less than that required by any zoning ordinance.

(d) Where corner lots back upon lots facing the side street, the corner lots shall have extra width sufficient

to permit the establishment of front building lines on both the adjoining streets.

(e) Lots fronting on major streets, intersections and other acute angle intersections which are likely to be dangerous to traffic movement shall have a minimum radius of 13 feet at the street corner. On business lots, a chord may be substituted for the circular arc.

(Ord. No. 1069, art. VI, § 5, 6-10-1965)

Sec. 46-128. Building lines.

Building lines shall be shown on all lots intended for residential use of any character and on commercial or industrial lots immediately adjoining residential areas.

(Ord. No. 1069, art. VI, § 6, 6-10-1965)

Sec. 46-129. Character of development.

(a) The subdivider shall confer with the commission regarding the type and character of development that will be permitted in the subdivision.

(b) Where the subdivision contains sewers, sewage treatment plants, water supply systems, park areas, street trees or other physical facilities necessary or desirable for the welfare of the area and which are of common use or benefit and which the city does not desire to maintain, provision shall be made by trust agreements made a part of the deed restrictions, acceptable to the city, for the proper and continuous maintenance and supervision of such facilities by the lot owners in the subdivision.

(Ord. No. 1069, art. VI, § 7, 6-10-1965)

Sec. 46-130. Parks, school sites, etc.

In subdividing property, consideration shall be given to suitable sites for schools, parks, playgrounds and other common areas for public use so as to conform to any recommendations of the city plan. Any provision for schools, parks and playgrounds shall be indicated on the preliminary ~~plan~~ plat in order that it may be determined when and in what manner such areas will be provided or acquired by the appropriate taxing agency.

(Ord. No. 1069, art. VI, § 8, 6-10-1965)

Sec. 46-131. Easements along streams.

Whenever any stream or important surface drainage course is located in any area which is being subdivided, the subdivider shall provide an adequate easement as determined by the director of public works along each side of the stream for the purpose of widening, deepening, sloping, improving, or protecting the stream or for drainage or parkway.

(Ord. No. 1069, art. VI, § 9, 6-10-1965)

Secs. 46-132--46-160. Reserved.

ARTICLE VI. MINIMUM IMPROVEMENTS

Sec. 46-161. Authority to proceed with final plans.

Receipt by the subdivider of the copy of the preliminary ~~plan~~ plat together with the approval of the city council shall constitute authority for the subdivider to proceed with final plans and specifications for the installation of the required improvements and preparation of the final plat. Prior to the construction of any of the required improvements, the subdivider shall submit such final plans and specifications to the director of public works for information. If upon examination the director of public works shall find such plans and specifications to be in accordance with applicable policies and standards of the city, the director of public works shall authorize construction and determine the amount of bond, if required. Following the approval of the director of public works, construction may be started, the bond filed, or an assessment provided.

(Ord. No. 1069, art. VII, § 1, 6-10-1965)

Sec. 46-162. Requirements for approval of final plat.

No final or official plat on any subdivision shall be approved unless:

- (1) The subdivider agrees with the city that the city may construct certain improvements and assess the cost thereof against the property benefited;
- (2) The improvements listed hereafter in this article have been installed prior to such approval; or
- (3) The subdivider shall have filed with the city council a surety bond to insure the construction of the improvements listed in this chapter in a satisfactory manner, and within the period specified by the council, such period not to exceed two years. No such bond shall be accepted unless it be enforceable by or payable to the city in the sum at least equal to the cost of constructing the improvements as estimated by the director of public works and in form with surety and conditions approved by the city attorney.

(Ord. No. 1069, art. VII, § 2, 6-10-1965)

Sec. 46-163. Installation of part of improvements.

The owner of a tract may prepare and secure approval of a preliminary subdivision ~~plan~~ plat of an entire area and may install the required improvements only in a portion of such area, but the improvements must be installed or provision made for their installation in any portion of the area for which a final plat is approved for recording; provided, however, that trunk sewer and any sewage lift stations shall be designed and built to serve the entire area owned by the subdivider or designed and built in such a manner that they can easily be expanded or extended to serve the entire area.

(Ord. No. 1069, art. VII, § 3, 6-10-1965)

Sec. 46-164. Survey monuments.

All subdivision boundary corners and the centers of all street intersections shall be marked with the permanent survey monuments. All points of tangency and points of curvature of all curves shall be marked with iron pipes or steel rods. Should conditions prohibit the placement of monuments on the line, offset marking will be permitted; provided, however, that the exact offset courses and distances are shown on the subdivision plat. Iron pipes or steel rods shall be set in all front lot corners.

(Ord. No. 1069, art. VII, § 4, 6-10-1965)

Sec. 46-165. Street improvements.

All streets and public ways shall be graded to their full width, including side slopes, and to the appropriate grade and shall be surfaced in accordance with applicable standard specifications of the city. Such construction shall be subject to inspection and approval by the director of public works.

(Ord. No. 1069, art. VII, § 5, 6-10-1965)

Sec. 46-166. Sidewalks.

Concrete sidewalks shall be constructed on both sides of all streets shown on the plat in accordance with applicable standard specifications of the city.

(Ord. No. 1069, art. VII, § 6, 6-10-1965)

Sec. 46-167. Water lines.

Where a public water supply approved by the city is reasonably accessible, each lot within the subdivision area shall be provided with a connection to such water supply. Fire hydrants shall also be in all subdivisions, both within and outside the city.

(Ord. No. 1069, art. VII, § 7, 6-10-1965)

Sec. 46-168. Sanitary sewers within city and where reasonably accessible outside city.

Within the city limits, and in all areas beyond the city limits where a public sanitary sewer is reasonably accessible, each lot within the subdivided area shall be provided with a connection to such sanitary sewer. All connections and the subdivision sewer system shall comply with the ordinances of the city pertaining to sewers within the city limits and all construction shall be subject to the approval of the director of public works.

(Ord. No. 1069, art. VII, § 8, 6-10-1965)

Sec. 46-169. Water supply outside the city.

In proposed subdivisions outside the city limits pending availability of a public water supply, the subdivider may be required to construct wells or a private water supply system in such a manner that an adequate supply of potable water will be available to every lot in the subdivision at the time improvements are erected thereon. The information furnished and approval of same shall comply with the requirements of the state health department. The water supply system shall be constructed under the direction of, and all construction shall be subject to the approval of, the director of public works.

(Ord. No. 1069, art. VII, § 9, 6-10-1965)

Sec. 46-170. Sanitary sewer outside city—Public sewer not accessible but plans prepared.

In proposed subdivisions beyond city limits in which the lots are less than one acre, but areas where a public sanitary sewer is not accessible, but where plans for the installation of sanitary sewers in the vicinity of a subdivision have been prepared by the director of public works, the subdivider may be required to install sewers in conformity with such plans. In such cases, until a connection can be made with the public sewer system, the use of a sewage treatment plant will be permitted, provided such disposal facilities are constructed in accordance with the ordinances of the city pertaining to the sanitary sewage disposal.

(Ord. No. 1069, art. VII, § 10, 6-10-1965)

Sec. 46-171. Sanitary sewer outside city—Public sewer not accessible and plans not prepared.

In proposed subdivisions beyond the city limits in which the lots are less than one acre in areas where sewers are not accessible and no plans for sewers have been prepared, the subdivider may be required to install sewer lines and a disposal system in accordance with the requirements hereof, or if the subdivision has been platted into lots having a minimum width of 100 feet and an average area of 20,000 square feet or more, the subdivider may install individual disposal devices for each lot at the time improvements are erected thereon. All such individual sewage disposal systems shall be constructed in accordance with regulations and requirements of the state health department and under the direction and control of and approval of said department.

(Ord. No. 1069, art. VII, § 11, 6-10-1965)

Sec. 46-172. Drainage.

The plat shall be laid out so as to provide drainage of the area being subdivided.

(Ord. No. 1069, art. VII, § 12, 6-10-1965)

Sec. 46-173. Street lighting.

Streetlights shall be constructed in accordance with the illumination requirements of the director of public works.

(Ord. No. 1069, art. VII, § 13, 6-10-1965)

Chapter 47
RESERVED

PROOFS

Chapter 48
TAXATION*

*State law reference—Taxes generally, R.R.S. 1948, §§ 16-203--16-205; fiscal management, revenue and finances, R.R.S. 1943, § 16-701 et seq.

ARTICLE I. IN GENERAL

Sec. 48-1. Sales and use tax.

(a) *Tax imposed.*

- (1) A 1 1/2 percent sales and use tax shall become effective on October 1, 2004. On and after the October 1, 2004, pursuant to the provisions of the Local Option Revenue Act, R.R.S. 1943, § 77-27,142 et seq., there is hereby imposed a sales and use tax of 1 1/2 percent upon the same transactions within the corporate limits of the city on which the state is authorized to impose a tax pursuant to the provisions of the Local Option Revenue Act.
- (2) Pursuant to approval of the electors of the city at the general election held on November 4, 2014, the 1 1/2 percent sales and use tax is continued and an additional one-half of one percent sales and use tax is imposed in the city, as authorized by the Local Option Revenue Act (R.R.S. 1943, § 77-27,142 et seq.).

(b) *Administration.* The administration of the sales and use tax imposed, including the ascertainment, assessment, collection, distribution and making of returns for said tax shall be as provided in the Local Option Revenue Act (R.R.S. 1943, § 77-27,142 et seq.).

(Code 1972, § 35-2; Ord. No. 1789, §§ 4, 5, 12-17-1998; Ord. No. 1886, §§ 5, 6, 5-20-2004; Ord. No. 2120, § 1, 11-20-2014)

Secs. 48-2--48-20. Reserved.

ARTICLE II. OCCUPATION TAXES*

*State law reference—Occupation tax, R.R.S. 1943, § 16-205.

DIVISION 1. GENERALLY

Sec. 48-21. Imposed.

There is hereby levied an occupation tax upon each and every occupation or business carried on within the city as hereinafter specified and enumerated.

(Code 1955, § 14-201; Code 1972, § 35-32)

Sec. 48-22. Payment of tax.²⁴⁰

Every person carrying on any occupation or business specified in this article within the city shall pay to the city clerk ~~treasurer~~ annually, or otherwise as provided in this article, the sum hereinafter named, as a tax upon the occupation or business.

(Code 1955, § 14-201; Code 1972, § 35-33)

Sec. 48-23. Disposition, use of proceeds.

All money paid into the city treasury under the provisions of this article shall be a part of the general fund of the city.

(Code 1955, § 14-201; Code 1972, § 35-34)

²⁴⁰ Legal or Editorial Change: Code 1972, § 35-33. Payment of tax. Altered per instructions.

Sec. 48-24. Exceptions.

(a) It is hereby declared that the provisions of this article shall not extend to or affect individuals selling livestock, meat, butter, eggs, vegetables, fruit, hay, grain, honey and fuel raised or produced by said vendors or their employees, provided that the sale or offering for sale of said products and commodities in the city shall be prima facie evidence in any action brought for the collection of an occupation tax hereunder, or for the prosecution of any person for the violation of this article, that the same were not raised nor produced by said vendors.

(b) All scientific and literary lectures, entertainments and concerts, as well as other entertainments given exclusively by the citizens of the city, shall be exempt from such tax.

(Code 1955, § 14-202; Code 1972, § 35-35)

Sec. 48-25. Interstate or government business.

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

(Code 1955, § 14-203; Code 1972, § 35-36)

Sec. 48-26. When due.

(a) On all occupants and businesses on which an occupation tax is levied under this article at a yearly rate, the year for such tax shall be deemed to begin with May 1 of each year and shall end on April 30 following; and the occupation tax for that year shall be due and payable in advance on May 1 of every year and thereafter shall be delinquent.

(b) On all occupations or businesses on which an occupation tax is levied at a monthly, daily or weekly rate, the tax shall be due and payable in advance before the business begins, for the number of months, days or weeks, as the case is, for which the occupation or business is to be carried on within the taxing year.

(Code 1955, § 14-204; Code 1972, § 35-37)

Sec. 48-27. Manner of payment.

Every occupation tax levied at a daily or yearly rate, or other rate, must be paid in one payment in advance before the business is commenced whether receipt is issued at the beginning of the day, year or other term, or at any time thereafter, but no such receipt shall be issued at the beginning of the day, year or other term for any certain time less than the day, year or other term.

(Code 1955, § 14-207; Code 1972, § 35-38)

Sec. 48-28. To whom paid.²⁴¹

The tax levied by this article shall be paid to the city clerk-treasurer who, upon payment thereof by any person, shall issue a receipt therefor to the person paying the same, properly dated and specifying the person for whom and for what purpose the tax is paid.

(Code 1955, § 14-206; Code 1972, § 35-39)

Sec. 48-29. Effect of receipt.

The receipt for the payment of a tax levied by this article shall be the warrant and proper authority of any person to carry on and conduct the business specified in such receipt and for which the tax was paid.

(Code 1955, § 14-206; Code 1972, § 35-40)

Sec. 48-30. Refunds prohibited.

No person paying an occupation tax under the provisions of this article shall be entitled to a refund of any part

²⁴¹ Legal or Editorial Change: Code 1972, § 35-39. To whom paid. Altered per instructions.

of such tax for any reason.

(Code 1955, § 14-207; Code 1972, § 35-41)

Sec. 48-31. Clerk's records.²⁴²

The city clerk~~-treasurer~~ shall keep a proper account of every tax paid by the city clerk under the provisions of this article.

(Code 1955, § 14-206; Code 1972, § 35-42)

Sec. 48-32. Non-assignable.

No receipt issued for the payment of a tax levied under the provisions of this article shall be assignable.

(Code 1955, § 14-206; Code 1972, § 35-43)

Sec. 48-33. Failure to pay; collection by clerk.²⁴³

Upon the failure of any person to pay any tax levied by this article, and which, when the demand is made by the city clerk~~-treasurer~~, appears not to have been paid, such clerk~~-treasurer~~ shall immediately attempt to collect the same by distress or sale of the personal property of any such person in the manner provided for levy and sale on execution issued by court of appropriate jurisdiction. This section shall be sufficient authority to the clerk~~-treasurer~~ for making the distress and sale, and the clerk~~-treasurer~~ shall be entitled to such fees out of the property distrained and sold, for making the distress and sale, as constables receive for making levy and sale under execution. The costs created by reason of the distress and sale shall be paid out of the property levied upon in addition to the amount due on the occupation.

(Code 1955, § 14-208; Code 1972, § 35-44)

Sec. 48-34. Recovery by suit.²⁴⁴

Whenever the city clerk~~-treasurer~~ shall deem himself unable to collect any tax levied by this article, if the same is due and payable, the city clerk shall so report the same to the city attorney with authority and instruction to proceed by suit in the name of the city to collect the amount due the city. The remedies hereby prescribed shall not be exclusive of any other right of action available to the city but merely cumulative.

(Code 1955, § 14-208; Code 1972, § 35-45)

Sec. 48-35. Suspension, revocation.

The privilege of doing or carrying on any occupation or business in the city granted to any person for the payment of the tax imposed by this article may be suspended or revoked by the city council for the violation of or noncompliance with any applicable provision of this Code, state law or city ordinance, rule or regulation by such person.

(Code 1972, § 35-46)

Sec. 48-36. Display of receipt.

Every person paying the tax imposed by this article and receiving a receipt therefor shall display such receipt in a conspicuous place in said person's place of business.

(Code 1972, § 35-47)

Sec. 48-37. Identification with business vehicles.

All motor vehicles utilized by licensed contractors while being so utilized shall be conspicuously marked with

²⁴² Legal or Editorial Change: Code 1972, § 35-42. Clerk's records. Altered per instructions.

²⁴³ Legal or Editorial Change: Code 1972, § 35-44. Failure to pay; collection by clerk. Altered per instructions.

²⁴⁴ Legal or Editorial Change: Code 1972, § 35-45. Recovery by suit. Altered per instructions.

the individual, firm or corporate name and telephone number under which said business is conducted.

(Code 1972, § 35-48; Ord. No. 2300, § 1, 10-21-2021)

Secs. 48-38--48-62. Reserved.

DIVISION 2. FEE SCHEDULE

Sec. 48-63. Generally.

An occupation tax is hereby levied in the amounts specified on the various businesses and occupations listed herein and conducted or pursued within the city. For the purposes of this division, the catchlines of the sections set out herein shall be deemed substantive parts of the sections.

(Code 1955, § 14-202; Code 1972, § 35-53)

Sec. 48-64. Electricians.

There is hereby levied and imposed upon each electrical contractor, master electrician, journeyman electrician and apprentice electrician, doing business within the city an occupation tax as follows:

<i>Occupation Tax (per year)</i>	
Electrical contractor	\$100.00
Master electrician	\$100.00
Journeyman electrician	\$25.00
Apprentice electrician	\$5.00
Installer	\$50.00

(Code 1972, § 35-69.1; Ord. No. 1503, § 5, 4-11-1985)

Sec. 48-65. General contractor.

There is hereby levied and imposed upon each general contractor, construction contractor or sub-contractor doing business within the city an occupation tax as follows: Per year: \$100.00.

(Code 1955, § 14-202; Code 1972, § 35-72; Ord. No. 1503, § 5, 4-11-1985; Ord. No. 1509, § 1, 5-9-1985; Ord. No. 2300, § 1, 10-21-2021)

Sec. 48-66. Tree surgeons.

There is hereby levied and imposed upon each tree surgeon doing business within the city an occupation tax as follows: Per year: \$100.00.

(Code 1972, § 35-88; Ord. No. 1209, § 2, 5-13-1971; Ord. No. 2300, § 1, 10-21-2021)

Secs. 48-67--48-90. Reserved.

ARTICLE III. NATURAL GAS DISTRIBUTION OCCUPATION TAX*

*State law reference—Occupation tax, R.R.S. 1943, § 16-205.

Sec. 48-91. Assessment.

There is hereby assessed an occupation tax against all persons, firms or corporations distributing natural gas for sale in an amount equal to three percent of the gross receipts derived from the business of distributing and selling natural gas to users within the city, exclusive of such sales to governmental agencies, departments or other bodies, whether they be federal, state or local. All said persons, firms or corporations are authorized to reflect as a line item on the billing, entitled occupation tax, the expense of said occupation tax imposed on the said persons, firms or corporations by the city.

(Code 1972, § 35-107; Ord. No. 940, § I, 6-10-1957; Ord. No. 1533, § 2, 2-12-1987)

Sec. 48-92. When due.²⁴⁵

Payment of the tax imposed by this article shall be made to the city clerk ~~treasurer~~ quarterly and shall be due on or before April 1, July 1, October 1 and January 1 of each year following the passage of the ordinance from which this section is derived, ~~except that the payment due on April 1, 1987, shall be in the amount of three percent of the gross receipts derived from the business from the date of the payment computations for the immediate prior year payment.~~

(Code 1972, § 35-108; Ord. No. 940, § II, 6-10-1957; Ord. No. 1533, § 3, 2-12-1987)

Sec. 48-93. Interest on tax in default.

If the tax imposed by this article is not paid when the same becomes due, one percent interest on the amount in default shall be added to said tax each month.

(Code 1972, § 35-109; Ord. No. 940, § III, 6-10-1957)

Sec. 48-94. Report.²⁴⁶

Any person subject to the tax imposed by this article shall file with the city clerk ~~treasurer~~ a verified statement covering each tax period. Said statement shall show the amount of the tax based upon gross receipts derived from the distribution and sale of natural gas within the city, exclusive of such governmental agencies, departments or other bodies, and the amount to be credited against the tax.

(Code 1972, § 35-110; Ord. No. 940, § V, 6-10-1957; Ord. No. 1533, § 5, 2-12-1987)

Sec. 48-95. City's right of inspection.²⁴⁷

The city clerk ~~treasurer~~ shall have the right, upon request and during business hours, to inspect the books and records of any person subject to the tax imposed by this article for the purpose of verifying the report of gross receipts required by this article.

(Code 1972, § 35-111; Ord. No. 940, § VI, 6-10-1957; Ord. No. 1533, § 5, 2-12-1987)

Secs. 48-96--48-118. Reserved.

ARTICLE IV. HOTEL AND LODGING OCCUPATION TAX*

*State law reference—Occupation tax, R.R.S. 1943, § 16-205.

Sec. 48-119. Hotel and lodging accommodations.

Each person engaged in the business of operating a hotel or providing overnight lodging including campgrounds in the city shall pay an occupation tax in the amount of five percent of the basic rental rate charged per occupied room, lodging or campground space or unit per night.

(Code 1972, § 35-120; Ord. No. 2106, § 1, 7-3-2014; Ord. No. 2152, § 1, 5-5-2016; Ord. No. 2201, § 1, 9-6-2018)

Sec. 48-120. Definitions.

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

Hotel means any facility in which the public may, for a consideration, obtain sleeping accommodations in any space ordinarily used for accommodations. The term "hotel" shall include hotels, motels, lodgings and inns, but the term "hotel" shall not be defined so as to include hospitals, sanitariums, nursing homes, chronic care centers,

²⁴⁵ Legal or Editorial Change: Code 1972, § 35-108. When due. Altered per instructions.

²⁴⁶ Legal or Editorial Change: Code 1972, § 35-110. Report. Altered per instructions.

²⁴⁷ Legal or Editorial Change: Code 1972, § 35-111. City's right of inspection. Altered per instructions.

or dormitories or facilities operated by an educational institution and regularly used to house students.

Occupied room means any space ordinarily used for sleeping accommodations and for which any occupant has, for consideration, obtained the use or possession, or the right to use or possess, for a period not to exceed 30 continuous days. The term "occupied room" does not include a function room such as a ballroom, banquet room, reception room, or meeting room, provided it is not used as temporary sleeping accommodations. The term "occupied room" shall not mean, and no tax imposed by this article shall be measured by or collected for:

- (1) Complimentary or other sleeping accommodations for which no consideration is charged;
- (2) Sleeping accommodations for which the consideration is paid by a person not subject to the sales and use tax imposed by the Nebraska Revenue Act of 1967, as it is amended from time to time; or
- (3) Sleeping accommodations leased by an employer for use by its employees when a specific room is the subject of the lease, the lease extends for more than 30 consecutive days, and consideration is actually paid for use during at least 30 consecutive days.

(Code 1972, §§ 35-121, 35-122; Ord. No. 2106, § 1, 7-3-2014)

Sec. 48-121. Collection.

The tax imposed by this article shall be collected by the hotel operator, lodging provider or campground operator from the occupant of each room, lodging or campground space or unit to which the tax applies. The tax may be shown as an add-on to the charge for occupancy of the room or unit and shall be collectible at the time the lodging, space or unit is furnished, regardless of when the charge for the occupancy or unit is paid. The operator shall remain responsible for payment of all taxes imposed whether or not the taxes are actually collected from the guests.

(Code 1972, § 35-123; Ord. No. 2106, § 1, 7-3-2014; Ord. No. 2152, § 1, 5-5-2016)

Sec. 48-122. Records.²⁴⁸

It shall be unlawful for any hotel operator, lodging provider or campground operator subject to this article to fail to maintain or fail to make available to the city, upon 72 hours' notice, written records accurately and completely evidencing the number of rooms occupied, the dates the rooms are occupied, the number of lodging spaces or campground spaces or units that are occupied, the amount of occupation tax due or paid under this article, and such other information as is required by the city clerk/treasurer. Such records shall be maintained for a period of three years after the occupation tax is due.

(Code 1972, § 35-124; Ord. No. 2106, § 1, 7-3-2014; Ord. No. 2152, § 1, 5-5-2016)

Sec. 48-123. Due date.

(a) Notwithstanding any contrary provision of this chapter, the tax imposed by this article shall be due and payable on the 15th day of each calendar month next succeeding the month during which the room, lodging space or campground unit or space was occupied. All taxes not paid by the 25th day of the month in which they are due and payable shall be deemed to be delinquent.

(b) The operator shall be assessed a penalty of ten percent on all delinquent amounts as well as interest of one percent per month or fraction thereof from the first of the month in which such tax becomes due and payable until the date of payment.

(Code 1972, § 35-125; Ord. No. 2106, § 1, 7-3-2014; Ord. No. 2152, § 1, 5-5-2016)

Sec. 48-124. Use of revenue.

It is the intent of the city council that the revenue generated by the occupation tax imposed by this article shall be used to fund the general fund.

(Code 1972, § 35-126; Ord. No. 2106, § 1, 7-3-2014)

²⁴⁸ Legal or Editorial Change: Code 1972, § 35-124. Records. Altered per instructions.

Sec. 48-125. Penalty.

Any person, partnership, firm or corporation violating any of the provisions of this article shall be deemed guilty of a misdemeanor and, upon conviction, shall be punished in accordance with section 1-9. Each distinct act or violation of the terms of this article shall constitute a separate offense.

(Code 1972, § 35-127; Ord. No. 2106, § 1, 7-3-2014)

ARTICLE II. FIRE INSURANCE TAX²⁴⁹**Sec. 35-16. Tax imposed.**

~~An occupation tax of five dollars (\$5.00) per annum shall be and is hereby levied upon each and every fire insurance company, corporation or association doing business in city.~~

(Code 1955, § 14-101; Code 1972, § 35-16)

Sec. 35-17. Purpose.

~~The proceeds of the tax imposed by this article shall be used for the support and maintenance of the volunteer fire department of the city.~~

(Code 1955, § 14-101; Code 1972, § 35-17)

Sec. 35-18. When due.

~~The tax imposed by this article shall be due and payable on or before the first day of May of each year.~~

(Code 1955, § 14-102; Code 1972, § 35-18)

Sec. 35-19. Issuance of receipt.

~~On payment of the tax imposed by this article by any person, the city clerk treasurer shall give a receipt therefor, properly dated, specifying the person, fire insurance company, corporation or association paying the money, the amount, and for what time said tax is paid.~~

(Code 1955, § 14-102; Code 1972, § 35-19)

Sec. 35-20. Use of proceeds.

~~The money paid to the city clerk under the provisions of this article, shall be paid over to the city treasurer, shall constitute and be known as the "Special Occupation Tax Fund of the Volunteer Fire Department of the City of York, Nebraska," and the same shall be used exclusively for the purpose and support of such department. The moneys collected under this article shall be paid over to the fire department upon claim duly filed, audited and allowed against such fund for the use of the fire department.~~

(Code 1955, § 14-103; Code 1972, § 35-20)

Sec. 35-21. Failure to pay tax.

~~If any fire insurance company, corporation or association fails to pay the tax imposed by this article on the day it becomes due and payable, the city may recover the tax in a civil action brought against such fire insurance company, corporation or association.~~

(Code 1955, § 14-104; Code 1972, § 35-21)

²⁴⁹ Legal or Editorial Change: Code 1972, ch. 25, art. II (§§ 35-16—35-21). Fire insurance tax.
Deleted as obsolete.

Chapter 49
RESERVED

PROOFS

Chapter 50

TELECOMMUNICATIONS**Sec. 50-1. Cable television franchise fee.**

In consideration of the existing franchise and as compensation to the city for the use of its streets and public places, each provider of cable television service in the city shall pay to the city five percent of the providers gross subscriber revenues per year derived from subscriber services in the city. Such annual sum shall be payable one-half thereof at the end of each semi-annual period. The semi-annual anniversary shall be May 31 and November 30 of each year, and the semi-annual payment shall be paid within 120 days thereafter.

(Code 1972, § 35-101; Ord. No. 1021, § 6, 6-13-1963; Ord. No. 1377, § 2, 7-12-1979; Ord. No. 2131, §§ 1, 2, 7-16-2015)

Sec. 50-2. Franchise fee on telephone companies; exemption.

(a) All telephone companies and mobile telecommunications services doing business in the city are required to pay a franchise fee to the city in an amount equal to five percent of the gross receipts from the legally established basic monthly charges collected for local exchange telephone service to subscribers within the city, intrastate message toll telephone service and mobile telecommunications services for revenue in the city. There shall be excepted from the provisions of this chapter all receipts for telephone service to the United States government or any of its departments, and all receipts from the state or any of its departments, and no part or portion of the fee provided for in this chapter shall be levied upon or assessed against or taken from the United States government, the government of the state, or any of either of their departments.

(b) As used in this section, the term "mobile telecommunications services" means a wireless communication service carried on between mobile stations or receivers and land stations, and by mobile stations communicating among themselves, and includes:

- (1) Both one-way and two-way wireless communications services;
- (2) A mobile service which provides a regularly interacting group of base, mobile, portable and associated control and relay stations, whether on an individual, cooperative, or multiple basis for private one-way or two-way land mobile radio communications by eligible users over designated areas of operation; and
- (3) Any personal communications service.

(Code 1972, § 35-102; Ord. No. 1377, § 3, 7-12-1979; Ord. No. 2044, §§ 1—9, 1-20-2011; Ord. No. 2131, §§ 3, 4, 7-16-2015)

Chapter 51
RESERVED

PROOFS

Chapter 52

TRAFFIC AND VEHICLES*

***State law reference**—Rules of the road, R.R.S. 1943, § 60-601 et seq.; powers of local authorities, R.R.S. 1943, § 60-677 et seq.; regulation of traffic by cities of first class, R.R.S. 1943, §§ 16-209, 16-210.

ARTICLE I. IN GENERAL

Sec. 52-1. Definitions.²⁵⁰

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section or state statute, except where the context clearly indicates a different meaning:

~~*Alley.* The entire width between property lines of every way or place of whatever nature, when any part thereof is open to the use of the public as a matter of right for vehicular traffic, when the entire width between property lines of said way or place, does not exceed 20 feet.~~

Alley entrance means the extension of the alley from the lot line to the street curbline.

~~*Arterial street.* A street designated as such by resolution duly adopted by the city council.~~

~~*Authorized emergency vehicle.* A vehicle publicly owned and operated as an ambulance, or a vehicle publicly owned and operated by the state highway patrol, police or fire department, sheriff or constable or deputy sheriff, traffic officer or any privately owned vehicle operated as an ambulance or sheriff's vehicle when responding to emergency calls or any other vehicles authorized by state law.~~

~~*Automatic traffic signal.* Any signal electrically or mechanically controlled, by which traffic is alternately directed to stop and proceed.~~

~~*Business district.* The territory contiguous to and including a highway when within any six hundred (600) feet along the highway there are buildings in use for business or industrial purposes, including, but not limited to, hotels, banks, or office buildings, railroad stations and public buildings which occupy at least three hundred (300) feet of frontage on one side or three hundred (300) feet collectively on both sides of the highway.~~

~~*Central business (or traffic) district.* All streets and portions of streets within the area described by city ordinance as such.~~

~~*Commercial vehicle.* Every vehicle designed, maintained, or used primarily for the transportation of property.~~

~~*Controlled access highway.* Every highway, street or roadway in respect to which owners or occupants of abutting lands and other persons have no legal right of access to or from the same except at such points only and in such manner as may be determined by the public authority having jurisdiction over the highway, street or roadway.~~

~~*Crosswalk.* (a) That part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from the curbs, or in the absence of curbs from the edges of the traversable roadway;~~

~~(b) ——— Any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.~~

Curb means the lateral boundaries of that portion of a street designed for the use of vehicles whether marked by curb stones or not so marked.

~~*Curb loading zone.* A space adjacent to a curb reserved for the exclusive use of vehicles during the loading or unloading of passengers or materials.~~

Driver. Every person who drives or is in actual physical control of a vehicle.

²⁵⁰ Legal or Editorial Change: Code 1972, § 36-1. Definitions. Altered per instructions.

~~*Freight curb loading zone.* A space adjacent to a curb for the exclusive use of vehicles during the loading or unloading of freight (or passengers).~~

~~*Intersection.* (a) The area embraced within the prolongation or connection of the lateral curblines, or, if none, then the lateral boundary lines of the roadways of two highways which join one another at, or approximately at, right angles, or the area within which vehicles traveling upon different highways joining at any other angle may come in conflict;~~

~~(b) ——— Where a highway includes two roadways 30 feet or more apart, then every crossing of each roadway of such divided highway by an intersecting highway shall be regarded as a separate intersection. In the event such intersecting highway also includes two roadways 30 feet or more apart, then every crossing of two roadways of such highways shall be regarded as a separate intersection.~~

~~*Laned roadway.* A roadway which is divided into two or more clearly marked lanes for vehicular traffic.~~

~~*Motor vehicle.* Any self-propelled vehicle not operated exclusively upon tracks, as defined by state law.~~

~~*Motorcycle.* Every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, but excluding a tractor.~~

~~*Official time standard.* Whenever certain hours are named herein they shall mean standard time or daylight-saving time as may be in current use in the city.~~

~~*Official traffic control devices.* All signs, signals, markings and devices not inconsistent with this chapter placed or erected by authority of a public body or official having jurisdiction, for the purpose of regulating, warning or guiding traffic.~~

~~*Official traffic signals.* All signals, not inconsistent with this chapter, placed or erected by authority of the city council, or a public body or official having jurisdiction, for the purpose of directing, warning or regulating traffic.~~

~~*Official traffic signs.* All signs, markings and devices, other than signals, not inconsistent with this chapter, placed or erected by authority of the city council, or a public body having jurisdiction for the purpose of guiding, directing, warning, or regulating traffic.~~

~~*Park.* To stand a vehicle whether occupied or not, upon a street or alley, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading, or in obedience to traffic regulations or traffic signs or signals.~~

~~*Passenger curb loading zone.* A place adjacent to a curb reserved for the exclusive use of vehicles during the loading or unloading of passengers.~~

~~*Pedestrian.* Any person afoot.~~

~~*Police officer.* Every officer of the city police department or any officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.~~

~~*Private road or driveway.* Every way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.~~

~~*Residence district.* The territory contiguous to and including a highway not comprising a business district when the property on such highway for a distance of three hundred (300) feet or more is in the main improved with residences or residences and buildings in use for business.~~

~~*Right of way.* The right of one vehicle or pedestrian to proceed in a lawful manner in preference to another vehicle or pedestrian approaching under such circumstances of direction, speed and proximity as to give rise to danger of collision unless one grants precedence to the other.~~

~~*Roadway.* That portion of a highway improved, designed or ordinarily used for vehicular travel, exclusive of the berm or shoulder. In the event a highway includes two or more separate roadways the term "roadway" as used herein shall refer to any such roadway separately but not to all such roadways collectively.~~

~~*Safety zone.* The area or space officially set apart within a roadway for the exclusive use of pedestrians and which is protected or is so marked or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone.~~

~~*Sidewalk.* The portion of a street between the curblines, or the lateral lines of a roadway, and the adjacent property lines, intended for use of pedestrians.~~

~~*Stand or standing.* The halting of a vehicle, whether occupied or not, otherwise than for the purpose of and while actually engaged in receiving or discharging passengers.~~

~~*Stop.* When required, complete cessation from movement.~~

~~*Stop or stopping.* When prohibited, any halting even momentarily of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic-control sign or signal.~~

~~*Street or highway.* The entire width between the lines of every way publicly maintained when any part thereof is open to the uses of the public for purposes of vehicular travel.~~

~~"State highway" shall mean a highway maintained by the state as a part of the state highway system.~~

~~*Through highway.* Every highway or portion thereof on which vehicular traffic is given preferential right of way, and at the entrances to which vehicular traffic from intersecting highways is required by law to yield right of way to vehicles on such through highway in obedience to either a stop sign or a yield sign, when such signs are erected as provided in this chapter.~~

~~*Traffic.* Pedestrians, ridden or herded animals, vehicles and other conveyance, either singly or together, while using any street or alley for purposes of travel.~~

~~*Traffic control signal.* Any device, whether manually, electrically or mechanically operated, by which traffic is alternately directed to stop and to proceed.~~

~~*Traffic division.* The traffic division of the police department of the city, or in the event a traffic division is not established, then said term whenever used herein shall be deemed to refer to the police department of the city.~~

~~*Truck.* A motor vehicle equipped or used to transport anything other than persons.~~

~~*Vehicle.* Every device in, upon or by which any person or property is, or may be transported or drawn upon a street, and shall be deemed to include wagons, trucks, carts, cabs, carriages, horses, whether led, driven or ridden, stages, omnibuses, motors, automobiles, locomobiles, bicycles, tricycles, motoreycles, sleighs, tractors, motor buses, motor scooters and all other conveyances for persons or property, except railway trains running upon their own rails or tracks.~~

(Code 1955, § 3-101; Code 1972, § 36-1)

State law reference—General definitions applicable to state rules of the road R.R.S. 1943, § 60-605 et seq.

Sec. 52-2. City traffic engineer.

(a) The office of city traffic engineer is established. The director of public works or other designated city official shall serve as city traffic engineer in addition to the director's other functions and shall exercise the powers and duties with respect to traffic as provided in this chapter.

(b) The city traffic engineer shall determine the installation and proper timing and maintenance of traffic control devices, conduct engineering analyses of traffic accidents and devise remedial measures, conduct engineering investigations of traffic conditions, plan the operation of traffic on the streets and highways of the city, and cooperate with other city officials in the development of ways and means to improve traffic conditions, and carry out the additional powers and duties imposed by this Code or ordinances of the city.

(Code 1972, § 36-3)

Sec. 52-3. Emergency and experimental regulations.

(a) The chief of police, by and with the approval of the city traffic engineer, is hereby empowered to make regulations necessary to make effective the provisions of this chapter and traffic ordinances of the city and to make and enforce temporary or experimental regulations to cover emergencies or special conditions. No such temporary or experimental regulation shall remain in effect for more than 90 days.

(b) The city traffic engineer may test traffic control devices under actual conditions of traffic.

(Code 1955, § 3-110; Code 1972, § 36-4)

State law reference—Emergency and experimental regulations authorized, R.R.S. 1943, § 60-680(1)(w).

Sec. 36-6. Spilling contents.²⁵¹

~~No vehicle shall be driven or moved on any street unless such vehicle is so constructed or loaded as to prevent its contents from dropping, sifting, leaking or otherwise escaping therefrom.~~

~~(Code 1955, § 3-189; Code 1972, § 36-6)~~

State law reference—Similar provisions, R.R.S. 1943, § 39-777.

Sec. 36-7. Glass, etc., on street prohibited.²⁵²

~~— No person shall throw or deposit upon any street any glass, nails, tacks, wire, cans, or any other substance likely to injure any person, animal or vehicle upon the street.~~

~~— Any person who drops or permits to be dropped or thrown upon any street any destructive or injurious material shall immediately remove same or cause it to be removed.~~

~~— Any person removing a wrecked or damaged vehicle from a street shall also immediately remove any glass or other injurious substance dropped from such vehicle upon said street.~~

~~(Code 1955, § 3-188; Code 1972, § 36-7)~~

Sec. 52-4. Manner of riding.

It shall be unlawful for any person to ride upon the fender, running board, hood, top, tank, luggage carrier, or any portion not designed or intended for the use of passengers, when the vehicle is in motion, of any vehicle operated on any street, way or parking lot, public or private upon which the public is invited to travel, or for the operator thereof to permit any person to so ride on any vehicle, or to thus operate such vehicle when anyone is so riding thereon. This section shall not apply to an employee engaged in the necessary discharge of a duty or to persons riding within truck bodies in space intended for merchandise.

(Code 1955, § 3-123; Code 1972, § 36-8)

Sec. 52-5. Injuring pavement, curb, gutter or sidewalk.

No person shall drive, draw or back any vehicle upon or against any pavement, curb, curb and gutter or sidewalk, within any street or alley in such a manner as to crack, break or otherwise injure or deface such pavement, curb, curb and gutter or sidewalk, and no person shall within such city throw or drop upon any pavement, curb, curb and gutter or sidewalk anything or substance in such a manner as to crack, break, injure or deface such pavement, curb, curb and gutter or sidewalk.

(Code 1955, § 3-194; Code 1972, § 36-9)

Sec. 36-164. Clinging to vehicle.²⁵³

~~No person riding upon any bicycle, coaster, roller skates, sled or toy vehicle shall attach the same or himself to any vehicle on a roadway.~~

~~(Code 1955, § 3-100; Code 1972, § 36-164)~~

Sec. 36-165. Permitting clinging to moving vehicles.²⁵⁴

²⁵¹ Legal or Editorial Change: Code 1972, § 36-6. Spilling contents. Deleted as covered by R.R.S. 1943, § 60-6,304.

²⁵² Legal or Editorial Change: Code 1972, § 36-7. Glass, etc., on street prohibited. Deleted per instructions.

²⁵³ Legal or Editorial Change: Code 1972, § 36-164. Clinging to vehicle. Deleted per instructions.

²⁵⁴ Legal or Editorial Change: Code 1972, § 36-165. Permitting clinging to moving vehicles. Deleted as covered by R.R.S. 1943, §§ 60-6,316, 60-6,354

~~It shall be unlawful for the driver of any vehicle to suffer or permit any person traveling upon any bicycle, roller skates, sleds or other toy vehicles to cling to, or attach himself or his vehicle upon roadway.~~
(Code 1955, § 3-3-100; Code 1972, § 36-165)

Sec. 52-6. Boarding or alighting from vehicles.

It shall be unlawful for any person to board or alight from any vehicle while such vehicle is in motion.
(Code 1972, § 36-171)

Sec. 52-7. Engine braking prohibited; penalty for violation.²⁵⁵

(a) It shall be unlawful within the city for any operator of a motor vehicle to attempt to cause the vehicle to slow or stop by the use of engine braking.

(b) For purposes of this section, the term "engine brake" means a device that converts a power producing engine into a power-absorbing air compressor, resulting in a net energy loss.

~~— The violation of this section shall be punished by a fine of not to exceed one hundred dollars (\$100.00).~~
(Code 1972, § 36-174; Ord. No. 1887, § 1, 8-5-2004)

Sec. 36-198. Through streets designated.²⁵⁶

~~Those streets and parts of streets described by resolutions of the city are declared to be through streets for the purposes of this article.~~
(Code 1955, § 3-161; Code 1972, § 36-198)

Sec. 36-307. Soliciting rides.²⁵⁷

~~It shall be unlawful for any person to stand on any public property for the purpose of soliciting rides from the driver of any vehicle.~~
(Code 1955, § 3-197; Code 1972, § 36-307)

Secs. 52-8--52-32. Reserved.

ARTICLE II. ADMINISTRATION AND ENFORCEMENT

DIVISION 1. GENERALLY

Sec. 52-33. Authority of police and fire department officials.

(a) It shall be the duty of the officers of the police department or such officers as are assigned by the chief of police to enforce all street traffic laws of the city and all of the state vehicle laws applicable to street traffic in the city.

(b) Officers of the police department or such officers as are assigned by the chief of police are hereby authorized to direct all traffic by voice, hand, or signal in conformance with traffic laws, provided that, in the event of a fire or other emergency or to expedite traffic or to safeguard pedestrians, officers of the police department may direct traffic as conditions may require notwithstanding the provisions of the traffic laws.

(c) Officers of the fire department, when at the scene of a fire, may direct or assist the police in directing traffic thereat or in the immediate vicinity.

²⁵⁵ Legal or Editorial Change: Code 1972, § 36-174. Engine braking prohibited. Altered per instructions.

²⁵⁶ Legal or Editorial Change: Code 1972, § 36-198. Through streets designated. Deleted per instructions.

²⁵⁷ Legal or Editorial Change: Code 1972, § 36-307. Soliciting rides. Deleted as covered by R.R.S. 1943, § 60-6,157(1), (2).

(Code 1955, §§ 3-102, 3-104; Code 1972, § 36-20)

State law reference—Authority to regulate traffic by means of peace officers, R.R.S. 1943, § 60-680(1)(b).

Sec. 52-34. Concealing violation of chapter.

It shall be unlawful for any person to obstruct or hinder any police officer or any other officer charged with the duty of enforcing this chapter, by removing, concealing, or obliterating marks placed on any vehicle owned or operated by the person by such officer for the purpose of aiding in the detention of violations of this chapter, or by moving a vehicle from one parking place to another parking place within an area of one block from the first parking place, during the same day, for the purpose of circumventing or evading said parking provisions, or by doing any other act to conceal any violation of this chapter.

(Code 1972, § 36-23; Ord. No. 2145, § 2, 2-18-2016)

Sec. 52-35. Nonmoving violations; bureau established, violations within, enforcement, fee.

(a) There is hereby established a violations bureau within the city, for the handling of nonmoving traffic violations as hereinafter defined. The police department is hereby designated as the violations bureau for the city, which department shall collect all fees for said violations and shall remit such fees weekly to the city treasurer.

(b) Nonmoving traffic violations are hereby defined as all violations set forth in sections 52-112, 52-113, 52-115 through 52-121, 52-145 and all subsections therein except section 52-145(a)(1)i, 52-146, 52-147(b), 52-148(b), 52-180 as it pertains to parking and limited use parking zones, 52-183, 52-205, 52-206, 52-209, and 52-210, all of said sections being as set forth in article IV of this chapter.

(c) Any law enforcement officer employed by the city or employee of the city who has been authorized by the chief of police may issue citations for any of the nonmoving traffic violations set forth above. Such employee of the city designated by the chief of police shall also be authorized to issue citations for the violation of state statutes for unlawful parking in designated handicapped or disabled parking spaces.

(d) A fee of \$10.00 is to be assessed for each separate violation of the terms of this section, \$6.00 of which shall be the cost of enforcement and retained by the city and \$4.00 of which shall be a fine to be remitted monthly to the treasurer of school district no. 12. If said fees are not paid within ten days to the violations bureau after the date of violation, a complaint will be filed against such violator in the county court.

(Code 1972, § 36-29; Ord. No. 1256, §§ 1—4, 10-11-1973; Ord. No. 1466, § 1, 6-23-1983; Ord. No. 1570, § 1, 5-12-1988; Ord. No. 1834, § 1, 4-4-2002; Ord. No. 2130, § 1, 6-18-2015; Ord. No. 2140, § 1, 2-18-2016; Ord. No. 2146, § 1, 2-18-2016)

Secs. 52-36--52-58. Reserved.

DIVISION 2. VEHICLE IMPOUNDMENT

Sec. 52-59. Authorized.

Any vehicle which shall be or remain standing or parked upon any public street, avenue, way, alley or other public or private place may be removed by or upon order of the chief of police and placed in storage in a privately operated garage or other place designated by or maintained by the city, under the following circumstances:

- (1) When any vehicle is found upon a street, avenue, alley, way or public place and a report has been previously made that such vehicle has been stolen or complaint has been filed and a warrant issued thereon, charging that such vehicle has been stolen or converted in violation of law.
- (2) When a police officer arrests any person driving or in control of a vehicle for an alleged offense and such officer is or may be required to take the one arrested immediately before a magistrate, and when the one arrested is the sole occupant or the owner of such vehicle and is immediately placed in custody.
- (3) When a vehicle is so disabled that its normal operation is impossible or impractical and the persons in charge of such vehicle are incapacitated by reason of physical injury or other causes to such an extent as to be unable to provide for its removal or custody or cannot be found or are not in the immediate vicinity of such vehicle.
- (4) When any vehicle is left standing or parked on any street in a manner that impedes or interferes with the orderly flow of traffic.

- (5) When any vehicle is left standing or parked unattended in violation of any applicable provision of this Code, state law or city ordinance, rule or regulation.

(Code 1955, § 3-195; Code 1972, § 36-287)

Sec. 52-60. Leaving disabled vehicle; notice to city.

It shall be unlawful for any person to leave unattended upon any street of the city any disabled motor vehicle, which is not capable of being moved on its own power, without first giving notice thereof to the city within 30 minutes after such vehicle is left. It shall then be the duty of the chief of police to cause such disabled vehicle to be removed and stored or parked in such place as may be provided therefor. In such case, the owner of such vehicle shall pay the cost of such removal or storage before the owner is permitted to regain possession of the same.

(Code 1955, § 3-195; Code 1972, § 36-288)

Sec. 52-61. Notice to owner.

~~Upon the Prior to~~ impoundment of any vehicle under the provisions of this article, the police department shall ~~endeavor attempt to ascertain determine~~ the ownership of such vehicle and notify the owner of ~~such the impending~~ impoundment. ~~Such notice may be sent to the last known address of such owner by certified or registered mail and shall request such owner to pay all costs of such impoundment and redeem such vehicle within 30 days from the date of such notice.~~

(Code 1955, § 3-195; Code 1972, § 36-289)

Sec. 36-290. Fees.²⁵⁸

~~Before any vehicle which has been impounded under the provisions of this article may be redeemed, the owner thereof shall first pay the fees levied therefor by the mayor and council from time to time, any reasonable towing charge, in addition to any fines and costs which may be assessed for the violation of any provision of this Code, state law or city ordinance, rule or regulation.~~

(Code 1955, § 3-195; Code 1972, § 36-290)

Sec. 36-291. Sale authorized.²⁵⁹

~~In the event the owner of any vehicle impounded under the provisions of this article does not or fails to redeem such vehicle within 30 days after notice of impoundment has been mailed to him, or in the event the owner of such vehicle cannot be ascertained, the police department shall advertise the vehicle so impounded once in a newspaper published in the city at least ten days prior to the sale, stating that such vehicle shall be sold at public auction at a designated time and place.~~

(Code 1955, § 3-195; Code 1972, § 36-291)

Sec. 36-292. Disposition of proceeds of sale.²⁶⁰

~~In the event any vehicle is sold under the provisions of this article, the proceeds of such sale shall be applied first to the cost of impoundment, storage and sale thereof, and the balance shall be deposited in the general fund of the city.~~

(Code 1972, § 36-292)

Secs. 52-62--52-80. Reserved.

ARTICLE III. PARADES AND PROCESSIONS*

*State law reference—Authority to regulate or prohibit processions or assemblages on the highways, R.R.S. 1943, § 60-

²⁵⁸ Legal or Editorial Change: Code 1972, § 36-290. Fees. Deleted per instructions.

²⁵⁹ Legal or Editorial Change: Code 1972, § 36-291. Sale authorized. Deleted per instructions.

²⁶⁰ Legal or Editorial Change: Code 1972, § 36-292. Disposition of proceeds of sale. Deleted per instructions.

680(1)(c).

Sec. 52-81. Funeral processions.

No person shall drive a vehicle between the vehicles comprising a funeral or other procession while they are in motion, and when such vehicles are conspicuously designated as such. A funeral procession composed of a number of vehicles shall be identified as such by the display of headlights and rear lights on every vehicle therein.

(Code 1955, § 3-179; Code 1972, § 36-184)

Sec. 52-82. Obstructing activities generally.

No person shall unreasonably hamper, obstruct or interfere with any parade or parade assembly or with any person, vehicle or animal participating or used in a parade.

(Code 1972, § 36-185)

Sec. 52-83. Driving between participants.

No driver of any vehicle shall drive between the vehicles or persons comprising a parade when such vehicles or persons are in motion and are conspicuously designated as a parade.

(Code 1972, § 36-186)

Sec. 52-84. Driving in procession.

Each driver in a funeral or other procession shall drive as near to the right-hand edge of the roadway as practicable and shall follow the vehicle ahead as close as is practicable and safe.

(Code 1972, § 36-187)

Secs. 52-85--52-111. Reserved.

ARTICLE IV. STOPPING, STANDING, AND PARKING*

***State law reference**—Authority to regulate or prohibit stopping, standing or parking, R.R.S. 1943, § 60-680(1)(a)l; stopping, standing, parking and backing up, R.R.S. 1943, § 60-6,164 et seq.

DIVISION 1. GENERALLY

Sec. 52-112. Presumption of violation.

If any vehicle is found upon any street or alley in violation of any of the provisions of this article, and the identity of the driver cannot be determined, the owner, or person in whose name such vehicle is registered shall be held prima facie responsible for such violation.

(Code 1955, § 3-199; Code 1972, § 36-214)

Sec. 52-113. Standing or parking close to curb.

Except as otherwise provided in this article, every vehicle stopped or parked upon a roadway where there are adjacent curbs shall be so stopped or parked with the right-hand wheels of such vehicle parallel to and within 12 inches of the right-hand curb.

(Code 1955, § 3-138; Code 1972, § 36-215)

State law reference—Similar provisions, R.R.S. 1943, § 60-6,167(1).

Sec. 52-114. Signs or markings indicating angle parking.

(a) The mayor and city council, after recommendation from the city traffic engineer, shall determine upon what streets angle parking shall be permitted and shall mark or sign such streets, but such angle parking shall not be indicated upon any federal aid or state highway within the city unless the state department of roads has determined by resolution or order entered in its minutes that the roadway is of sufficient width to permit angle parking without interfering with the free movement of traffic.

(b) Angle parking shall not be indicated or permitted at any place where passing traffic would thereby be caused or required to drive upon the left side of the street or upon any streetcar tracks.

(Code 1955, § 3-126; Code 1972, § 36-216)

Sec. 52-115. Obedience to angle parking signs or markers.

On those streets which have been signed or marked by the city traffic engineer for angle parking, no person shall park or stand a vehicle other than at the angle to the curb or edge of the roadway indicated by such signs or markings.

(Code 1955, § 3-126; Code 1972, § 36-217)

Sec. 52-116. Unattended motor vehicles; conditions.

No person having control or charge of a motor vehicle shall allow such vehicle to stand unattended on a highway without first stopping the motor of such vehicle, locking the ignition, removing the key from the ignition, and effectively setting the brakes thereon and, when standing upon any roadway, turning the front wheels of such vehicle to the curb or side of such roadway.

(Code 1972, § 36-218; Ord. No. 2145, § 4, 2-18-2016)

State law reference—Unattended vehicles, R.R.S. 1943, § 60-6,168.

Sec. 52-117. Prohibited for more than 24 hours.

No motor vehicle shall be continuously parked upon any street within the city for more than 24 hours consecutively.

(Code 1955, § 3-126; Code 1972, § 36-219)

Sec. 52-118. Minimum width for traffic.

No person shall park any vehicle upon a street, other than an alley, in such a manner or under such conditions as to leave available less than ten feet of the width of the roadway for free movement of vehicular traffic.

(Code 1955, § 3-129; Code 1972, § 36-220)

Sec. 52-119. Parking for certain purposes prohibited.

No person shall park a vehicle upon any roadway or right-of-way for the principal purpose of:

- (1) Displaying such vehicle for sale;
- (2) Repairing such vehicle except repairs necessitated by an emergency; or
- (3) Washing or greasing such vehicle.

(Code 1955, §§ 3-180, 3-181, 13-212; Code 1972, § 36-221; Ord. No. 1738, § 1, 12-12-1996)

Sec. 52-120. Obstructing traffic.

It shall be unlawful for any person, except in case of accident or emergency, to park or stand a motor vehicle on any public street or alley within the city in such a location or position as to obstruct the normal flow of traffic on said street or alley.

(Code 1972, § 36-222; Ord. No. 1376, § 1, 7-12-1979)

Sec. 52-121. Obstruction of intersections.

No person shall enter an intersection or a marked crosswalk unless there is sufficient space on the other side of the intersection or crosswalk to accommodate the vehicle said person is operating without obstructing the passage of other vehicles or pedestrians, notwithstanding any traffic-control signal indication to proceed.

(Code 1972, § 36-223)

Sec. 52-122. Tampering with marks.

It shall be unlawful for any person to remove, in any manner, any chalk marks placed on a tire of a vehicle by any police officer or parking attendant in order to enforce the provisions of this article, until and unless such vehicle shall first be operated and moved on the streets of the city.

(Code 1972, § 36-226; Ord. No. 1466, § 2, 6-13-1983)

Sec. 52-123. Vehicles backed to curb.

No vehicle shall remain backed to the curb except when it is actually loading or unloading and in no case longer than the actual time required. The vehicle shall be turned at right angles to the vehicles and in the direction in which traffic on that side of the street is moving.

(Code 1972, § 36-227; Ord. No. 1466, § 2, 6-23-1983)

Secs. 52-124--52-144. Reserved.

DIVISION 2. PROHIBITED IN SPECIFIED PLACES

Sec. 52-145. Stopping, standing, or parking prohibited; exceptions.

(a) Except when necessary to avoid conflict with other traffic or when in compliance with law or the directions of a peace officer or traffic control device, no person shall:

- (1) Stop, stand, or park any vehicle:
 - a. On the roadway side of any vehicle stopped or parked at the edge or curb of a street;
 - b. On a sidewalk;
 - c. Within an intersection;
 - d. On a crosswalk;
 - e. Between a safety zone and the adjacent curb or within 30 feet of points on the curb immediately opposite the ends of a safety zone unless the department of roads or the local authority indicates a different length by signs or markings;
 - f. Alongside or opposite any street excavation or obstruction when stopping, standing, or parking would obstruct traffic;
 - g. Upon any bridge or other elevated structure over a highway or within a highway tunnel;
 - h. On any railroad track; or
 - i. At any place where official signs prohibit stopping;
- (2) Stand or park a vehicle, whether occupied or not, except momentarily to pick up or discharge a passenger or passengers:
 - a. In front of a public or private driveway;
 - b. Within 15 feet of a fire hydrant;
 - c. Within 20 feet of a crosswalk at an intersection;
 - d. Within 30 feet of any flashing signal, stop sign, yield sign, or other traffic control device located at the side of a roadway;
 - e. Within 20 feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within 75 feet of such entrance when properly signposted; or
 - f. At any place where official signs prohibit standing; or
- (3) Park a vehicle, whether occupied or not, except temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers:
 - a. Within 50 feet of the nearest rail of a railroad crossing; or
 - b. At any place where official signs prohibit parking.

(b) No person shall move a vehicle not lawfully under said person's control into any such prohibited area or away from a curb such a distance as shall be unlawful.

(Code 1972, § 36-231; Ord. No. 2145, § 3, 2-18-2016)

State law reference—Similar provisions, R.R.S. 1943, § 60-6,166.

Sec. 52-146. Obstructing alley entrance.

No vehicle, while parked, shall have any portion thereof projecting into an alley entrance.

(Code 1972, § 36-232)

Sec. 52-147. Parking prohibited on narrow streets.

(a) The city traffic engineer is authorized to erect signs indicating no parking upon any street when the width of the roadway does not exceed 20 feet, or upon one side of a street as indicated by such signs when the width of the roadway does not exceed 30 feet.

(b) When official signs prohibiting parking are erected upon narrow streets as authorized herein, no person shall park a vehicle upon any such street in violation of any such sign.

(Code 1972, § 36-233)

Sec. 52-148. No stopping, standing or parking near hazardous or congested places.

(a) The mayor and city council after recommendation from the city traffic engineer is hereby authorized to determine and designate by proper signs, places not exceeding 100 feet in length in which the stopping, standing, or parking of vehicles would create an especially hazardous condition or would cause unusual delay to traffic.

(b) When official signs are erected at hazardous or congested places as authorized herein, no person shall stop, stand, or park a vehicle in any such designated place.

(Code 1972, § 36-234)

Secs. 52-149--52-179. Reserved.

DIVISION 3. LOADING AND UNLOADING

Sec. 52-180. Limited use parking zones.²⁶¹

(a) There is hereby established limited use parking zones in which all parking or standing of vehicles is prohibited except as authorized by this section and ~~by resolutions of the city council~~ as designated by the city traffic engineer which may add additional zones or extend zones or remove area from limited use parking zones and establish by said resolutions the conditions of the limited parking in said zones. The limited use parking zones shall be designated by painting the curb yellow or a painted yellow post marked "15 minute parking."

(b) All of said areas adjacent to the curb painted yellow or a painted yellow post marked "15 minute parking" shall be restricted to parking for a period of no longer than 15 minutes and then only for the purpose of loading or unloading of passengers, merchandise or materials; provided, however, that the ~~city council may by resolution~~ city traffic engineer may establish limited uses other than loading or unloading and shall in that event cause proper signs to be placed showing what the restrictions are in that zone and at what time they are effective if they shall apply during designated hours only. All areas presently painted yellow or marked by a painted yellow post marked "15 minute parking" are hereby established as limited use parking zones.

(c) It is further provided that the ~~mayor shall have authority, for proper cause shown to him, or the chief of police when so authorized by the mayor, to~~ city traffic engineer may authorize the use of a particular designated zone for a longer period of time when great hardship would result therefrom or when public convenience requires it.

(Code 1955, § 3-130; Code 1972, § 36-240; Ord. No. 1466, § 4, 6-23-1983)

Sec. 52-181. Permits for loading or unloading at an angle to the curb.

(a) The city traffic engineer is authorized to issue special permits to permit the backing of a vehicle to the curb for the purpose of loading or unloading merchandise or materials subject to the terms and conditions of such permit. Such permits may be issued either to the owner or lessee of real property or to the owner of the vehicle and

²⁶¹ Legal or Editorial Change: Code 1972, § 36-240. Limited use parking zones. Altered per instructions.

shall grant to such person the privilege as therein stated and authorized herein.

(b) It shall be unlawful for any permittee or other person to violate any of the special terms or conditions of any such permit.

(Code 1955, § 3-130; Code 1972, § 36-241)

Sec. 36-242. In residence districts.²⁶²

~~It shall be unlawful for any person to park a truck or trailer, except a truck or trailer being used for the purpose of delivering or collecting goods, wares, merchandise or materials, on any street adjacent to property classified by the ordinances of the city for residence purposes, for a period of time longer than is necessary for the expeditious delivery or collecting of goods, wares, merchandise or materials and in no event for a period of time exceeding two hours; provided, however, that the provisions of this section shall not apply to trucks or trailers being used in connection with building, repair, service or moving operations.~~

~~(Code 1955, § 3-130; Code 1972, § 36-242)~~

Sec. 52-182. City traffic engineer to designate public carrier stops and stands.

The mayor and city council, after recommendation from the city traffic engineer, is hereby authorized and required to establish bus stops, bus stands, taxicab stands and stands for other passenger common carrier motor vehicles on such public streets in such places and in such number as the mayor and city council shall determine to be of the greatest benefit and convenience to the public, and every such bus stop, bus stand, taxicab stand, or other stand shall be designated by appropriate signs.

(Code 1955, § 3-132; Code 1972, § 36-243)

Sec. 52-183. Stopping, standing and parking of buses and taxicabs regulated.

(a) The operator of a bus shall not stand or park such vehicle upon any street at any place other than a bus stand so designated as provided herein.

(b) The operator of a bus shall not stop such vehicle upon any street at any place for the purpose of loading or unloading passengers or their baggage other than at a bus stop, bus stand or passenger loading zone so designated as provided herein, except in case of an emergency.

(c) The operator of a bus shall enter a bus stop, bus stand or passenger loading zone on a public street in such a manner that the bus when stopped to load or unload passengers or baggage shall be in a position with the right front wheel of such vehicle not further than 18 inches from the curb and the bus approximately parallel to the curb so as not to unduly impede the movement of other vehicular traffic.

(d) The operator of a taxicab shall not stand or park such vehicle upon any street at any place other than in a taxicab stand so designated as provided herein. This provision shall not prevent the operator of a taxicab from temporarily stopping in accordance with other stopping or parking regulations at any place for the purpose of and while actually engaged in the expeditious loading or unloading of passengers.

(Code 1955, § 3-132; Code 1972, § 36-244)

Secs. 52-184--52-204. Reserved.

DIVISION 4. RESTRICTIONS AND PROHIBITIONS FOR SPECIFIC STREETS

Sec. 52-205. Parking prohibited at all times on certain streets.²⁶³

When signs are erected or curbs are painted yellow giving notice thereof, no person shall park a vehicle at any time upon any of the streets ~~described by resolution~~ as designated by the city traffic engineer.

²⁶² Legal or Editorial Change: Code 1972, § 36-242. In residence districts. Deleted per instructions.

²⁶³ Legal or Editorial Change: Code 1972, § 36-250. Parking prohibited at all times on certain streets. Altered per instructions.

(Code 1955, § 3-126; Code 1972, § 36-250)

Sec. 52-206. Parking prohibited during certain hours on certain streets.²⁶⁴

When signs are erected in each block giving notice thereof, no person shall park a vehicle between the hours specified by ordinance on any day except Sunday and public holidays within the district or upon any of the streets ~~described by resolution~~ as designated by the city traffic engineer.

(Code 1955, § 3-126; Code 1972, § 36-251)

Sec. 52-207. Application.

The provisions of this division prohibiting the standing or parking of a vehicle shall apply at all times or at those times herein specified or as indicated on official signs except when it is necessary to stop a vehicle to avoid conflict with other traffic or in compliance with the directions of a police officer or official traffic control device.

(Code 1972, § 36-252)

Sec. 36-253. Regulations not exclusive.²⁶⁵

~~The provisions of this division imposing a time limit on parking time limit is imposed or parking is prohibited on other and more restrictive provisions prohibiting or limiting the stopping, standing, or parking of vehicles in specified places or at specified times.~~

(Code 1972, § 36-253)

Sec. 52-208. Parking signs required.

Whenever by this division or any ordinance of the city any parking time limit is imposed or parking is prohibited on designated streets, it shall be the duty of the city traffic engineer to erect appropriate signs giving notice thereof, and no such regulations shall be effective unless said signs are erected and in place at the time of any alleged offense.

(Code 1972, § 36-254)

Sec. 52-209. Two-hour parking.²⁶⁶

(a) It shall be unlawful for any person to park any vehicle on any of the following streets or portions of streets for a period of time in excess of two consecutive hours between the hours of 8:00 a.m. and 5:00 p.m. on ~~Mondays, Tuesdays, Wednesdays, Fridays and Saturdays~~ Mondays through Saturdays, or ~~between the hours of 8:300 a.m. and 8:00 p.m. on Thursdays~~, legal holidays excepted:

<i>Street</i>	<i>Extent</i>
Fifth Street	From Platte Avenue to Nebraska Avenue
Sixth Street	From Platte Avenue to Nebraska Avenue
Seventh Street	From Platte Avenue to Nebraska Avenue
Eighth Street	From Lincoln Avenue to Grant Avenue
Grant Avenue	From Fourth Street to Seventh Street
Grant Avenue	From Seventh Street to Eighth Street, west side only

²⁶⁴ Legal or Editorial Change: Code 1972, § 36-251. Parking prohibited during certain hours on certain streets. Altered per instructions.

²⁶⁵ Legal or Editorial Change: Code 1972, § 36-253. Regulations not exclusive. Deleted per instructions.

²⁶⁶ Legal or Editorial Change: Code 1972, § 36-255. Two-hour parking. Altered per instructions.

Lincoln Avenue	From Fourth Street to Ninth Street
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(b) Each period of two consecutive hours during which any motor vehicle is parked in the prohibited areas during any day shall constitute a separate and distinct violation of this section.

(Code 1972, § 36-255; Ord. No. 1466, § 5, 6-23-1983; Ord. No. 1849, § 1, 2-20-2003)

Sec. 52-210. Parking prohibited for six hours on an unplowed street following a declaration of a snow emergency.

It shall be unlawful for any person to park any vehicle on an unplowed street included in the snow emergency route for six hours after a declaration by the ~~public works director~~ director of public works. Parking will be allowed after snow removal, if removed within six hours from declaration. Notice will be posted on the city website, ~~newspaper published in the city, and on the radio station published by the city,~~ giving notice of no parking in the city for emergency snow removal, on any of the streets or portions of streets as designated below. The ~~public works director~~ director of public works may issue a small scale notice for further snow removal in the central business district, at some point in time after a snow event.

- (1) All streets in the central business district designated as the area for First Street to Ninth Street and Platte Avenue to Nebraska Avenue;
- (2) Washington Avenue from East Twelfth Street to East Sixteenth Street; Twelfth Street from Delaware Avenue to Washington Street; Delaware Avenue from East Twenty-fifth Street to East Nobes Road; Blackburn Avenue from East Nineteenth Street to East Nobes Road; Lincoln Avenue from Highway 81 to Highway 34;
- (3) Grant Avenue from East Eleventh Street to East First Street; Division Avenue from West First Street to Highway 34;
- (4) Kingsley Avenue from West Fourth Street to West Nobes Road; Nobes Road from Kingsley Avenue to South Delaware Avenue; Fourth Street from Highway 81 to Grant Avenue;
- (5) Fourteenth Street from Lincoln Avenue to Delaware Avenue; Sixth Street from Lincoln Avenue to Delaware Avenue; Twenty-fifth Street from Highway 81 to Delaware Avenue; off ramp of North Lincoln Avenue to East Fourteenth Street; on ramp of East Fourteenth Street to North Lincoln Avenue.

(Code 1972, § 36-256; Ord. No. 1466, § 5, 6-23-1983; Ord. No. 2302, § 1, 10-21-2021)

Secs. 52-211--52-228. Reserved.

ARTICLE V. BICYCLES*

***State law reference**—Bicycles, R.R.S. 1943, § 60-6,314 et seq.; authority to regulate bicycles, R.R.S. 1943, § 60-680(1)(h).

Sec. 52-229. Application of traffic regulations.

Every person propelling or riding a bicycle upon a public roadway shall be subject to the provisions of this Code, city ordinances and state laws applicable to the operator of any vehicle.

(Code 1972, § 8-41; Ord. No. 1179, § 5, 12-11-1969)

Sec. 52-230. Traffic devices.

Operators of bicycles shall comply with all traffic signs and signals.

(Code 1972, § 8-42; Ord. No. 1179, § 5, 12-11-1969)

Sec. 52-231. Parking.

No person shall park a bicycle upon any sidewalk, street or roadway of the city, except in racks or stalls, if and when provided for that purpose.

(Code 1955, § 3-202; Code 1972, § 8-45)

Sec. 52-232. Riding bicycle on sidewalks.

(a) No person shall ride a bicycle upon a sidewalk within the business district of the city.

(b) Whenever any person is riding a bicycle upon a sidewalk, such person shall yield the right-of-way to any pedestrian and shall give audible signal before overtaking and passing such pedestrian.

(Code 1955, § 3-204; Code 1972, § 8-46)

Sec. 22-16. Determination.

~~A motor vehicle shall be deemed to be an abandoned vehicle if the vehicle is left parked or standing under any of the following conditions:~~

- ~~___ For more than 12 hours on any public property when there are no current license plates affixed to the vehicle;~~
- ~~___ For more than 48 hours on any public property without the vehicle being moved;~~
- ~~___ A vehicle that is disabled or inoperable for more than 24 hours on any public property.~~
- ~~___ For more than seven days on private property if left initially without permission of the owner, or after permission of the owner has been terminated;~~

~~For purposes of this section, public property shall mean any public right of way, street, highway, alley, public parking lot, 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.~~

~~(Code 1972, § 22-16; Ord. No. 1114, § 2, 6-8-1967; Ord. No. 1429, § 1, 8-13-1981; Ord. No. 2102, § 1, 6-19-2014)~~

Sec. 22-17. Prohibited; penalty.

~~___ No person shall cause any vehicle to be an abandoned vehicle within this city.~~

~~___ Any person who violates this section shall be subject to a fine of one hundred dollars (\$100.00). Each day of the violation shall constitute a separate violation for which a separate penalty shall be imposed.~~

~~(Code 1972, § 22-17; Ord. No. 1114, § 2, 6-8-1967; Ord. No. 2105, § 1, 6-19-2014)~~

Sec. 22-18. When title vests immediately in vehicle.

~~If an abandoned vehicle has no current license plates affixed or is disabled, and has an estimated value of one thousand dollars (\$1,000.00) or less, title thereto shall immediately vest in the city.~~

~~(Code 1972, § 22-18; Ord. No. 2103, § 1, 6-19-2014)~~

Sec. 22-19. Inquiry as to owner.

~~___ Except for vehicles governed by section 22-18, the city shall make an inquiry concerning the last registered owner of an abandoned vehicle in the custody of the city as follows:~~

- ~~___ Abandoned vehicle with license plates affixed, to the jurisdiction which issued such license plates; or~~
- ~~___ Abandoned vehicle with no license plates affixed, to the Nebraska Department of Motor Vehicles.~~

~~___ When any motor vehicle is parked in violation of this article, the person in whose name such vehicle is registered shall be prima facie responsible for the violation and subject to the penalty provided in this article.~~

~~(Code 1972, § 22-19; Ord. No. 2104, § 1, 6-19-2014)~~

Sec. 22-20. Notice to owner, lienholder.

~~The city shall notify the last registered owner, if any, that his vehicle has been recovered as an abandoned vehicle and that, if unclaimed, it will be sold at public auction after five days from the date such notice was mailed. If the department of motor vehicles also notifies this city that a lien or mortgage exists, such notice shall also be sent to the lienholder or mortgagee.~~

~~(Code 1972, § 22-20)~~

Sec. 22-21. Redemption.

~~Any person claiming to be the owner of any vehicle coming under the provisions of this article shall be required to pay the cost of removal and storage of such vehicle.~~

~~(Code 1972, § 22-21)~~

~~**Sec. 22-22. Vestment of title after notice.**~~

~~Title to unclaimed abandoned vehicles shall vest in this city five days from the date notice of recovery thereof is mailed, or if the last registered owner cannot be ascertained, when notice of such fact is received.~~

~~(Code 1972, § 22-22)~~

~~**Sec. 22-23. Proceeds of sale; disposition.**~~

~~Any proceeds from the sale of an abandoned vehicle, less any expenses incurred by the city, shall be held by the city, without interest, for the benefit of the owner of such vehicle for a period of two years. If not claimed within such two year period, such proceeds shall be paid into the general fund of such local authority.~~

~~(Code 1972, § 22-23)~~

~~**Sec. 22-24. Liability for removal.**~~

~~Neither the owner, lessee, nor occupant of the premises from which any abandoned vehicle shall be removed, nor the city, shall be liable for any loss or damage to such vehicle which occurs during its removal or while in the possession of the city or its contractual agent, or as a result of any subsequent disposition.~~

~~(Code 1972, § 22-24)~~

~~**Sec. 22-25. Destroy, deface, or remove parts.**~~

~~No person other than one authorized by the city shall destroy, deface or remove any part of a vehicle which is left unattended on a highway or other public place without number plates affixed or which is abandoned. Anyone violating the provisions of this section shall be guilty of a misdemeanor.~~

~~(Code 1972, § 22-25)~~

~~**Sec. 22-26. Owner liable for costs.**~~

~~The last registered owner of an abandoned vehicle shall be liable to the city for the costs of removal and storage of such vehicle.~~

~~(Code 1972, § 22-26)~~

~~**Sec. 22-27. Report from garage, repair shop.**~~

~~The person in charge of any garage or repair shop at which has been left a motor vehicle of unknown ownership for a period of 15 consecutive days without being removed by its owner or any other person duly authorized to remove the same, shall report to the chief of police, giving the name, engine number, manufacturer's serial number, registration plate number, and the name and address of the person abandoning same, if known.~~

~~(Code 1955, § 3-108; Code 1972, § 22-27)~~

~~**Sec. 8-1. Definition.**²⁶⁷~~

~~A bicycle is hereby defined as a two-wheeled vehicle, propelled by human power, having tandem arrangement of wheels with tires either of which is over 12 inches in diameter.~~

~~(Code 1972, § 8-1)~~

~~**Sec. 8-2. Bicycle dealers.**²⁶⁸~~

~~All persons engaged in the business of buying and selling bicycles in the city are hereby required to keep a~~

²⁶⁷ Legal or Editorial Change Code 1972, § 8-1. Definition. Deleted per instructions.

²⁶⁸ Legal or Editorial Change Code 1972, § 8-2. Deleted as obsolete.

~~record of all the bicycles sold or purchased by them; and said record shall be open to inspection by the police authorities of the city. Said buyers or sellers shall make a report when requested, showing such sales and transfers. The record shall describe the bicycles so purchased and the person to whom such sale or transfer is made.~~

~~(Code 1955, § 3-205; Code 1972, § 8-2)~~

Sec. 8-3. Rental agencies.²⁶⁹

~~It shall be unlawful for any rental agency to offer any bicycle for rent unless said bicycle shall first have been registered and the registration number plate attached thereto as required by this chapter. Bicycles offered for rent by a rental agency shall be equipped by such agency with lights and other safety equipment as is required by this chapter and shall be kept in good and safe working order.~~

~~(Code 1972, § 8-3)~~

Sec. 8-4. Malicious destruction.²⁷⁰

~~It shall be unlawful for any person to wilfully or maliciously remove, destroy, mutilate or alter the manufacturer's serial frame number of any bicycle registered pursuant to the provisions of this chapter. It shall also be unlawful for any person to remove, destroy, mutilate or alter any registration number plate during the period when such registration is operative.~~

~~(Code 1972, § 8-4; Ord. No. 1179, § 4, 12-11-1969)~~

ARTICLE II. REGISTRATION

Sec. 8-18. Required.²⁷¹

~~It shall be unlawful for any person to operate a bicycle upon any street or public way within the city without first having registered the same as required by this article within seven days of acquiring ownership of such bicycle.~~

~~(Code 1972, § 8-18; Ord. No. 1179, § 3, 12-11-1969)~~

Sec. 8-19. Generally.

~~The police department shall register bicycles and issue registration tags therefor as provided by this article.~~

~~(Code 1972, § 8-19; Ord. No. 1179, § 1, 12-11-1969)~~

Sec. 8-20. Duration.

~~Each registration of a bicycle under this article shall be valid for the period of time that the bicycle remains the property of and in the possession of the person who registered it.~~

~~(Code 1972, § 8-20; Ord. No. 1179, § 1, 12-11-1969)~~

Sec. 8-21. Duty of chief.

~~Registration of bicycles shall be made by the chief of police, the registration to contain the name and the address of the owner, together with the make, serial number and general description of the bicycle.~~

~~(Code 1972, § 8-21; Ord. No. 1179, § 2, 12-11-1969)~~

Sec. 8-23. Records.

~~The chief of police shall keep a record of the date of issuance of each registration tag, under the provisions of this article, to whom issued and the number thereof.~~

~~(Code 1972, § 8-23; Ord. No. 1179, § 2, 12-11-1969)~~

Sec. 8-24. Tag attached.

²⁶⁹ Legal or Editorial Change Code 1972, § 8-3. Rental agencies. Deleted as obsolete.

²⁷⁰ Legal or Editorial Change Code 1972, § 8-4. Malicious destruction. Deleted as obsolete.

²⁷¹ Legal or Editorial Change Code 1972, §§ 8-18—8-28. Bicycle registration. Deleted as obsolete.

~~Each bicycle registration tag issued under this article shall be affixed to the bar above the pedal crank housing, and shall remain so affixed until re-registration or removal by the police department for cause.~~

~~(Code 1972, § 8-24; Ord. No. 1179, § 2, 12-11-1969)~~

Sec. 8-25. Notice upon loss.

~~In case of theft or loss of a registration tag issued under the provisions of this article, the chief of police shall be so notified by the owner.~~

~~(Code 1972, § 8-25; Ord. No. 1179, § 2, 12-11-1969)~~

Sec. 8-26. Sale, transfer.

~~It shall be the duty of every person who sells or transfers ownership of any bicycle registered under this article, to remove and destroy the bicycle registration tag issued for said bicycle and to report such sale or transfer to the chief of police, the name and address of the person to whom said bicycle was sold or transferred. Such report shall be made within seven days of the date of such sale or transfer.~~

~~(Code 1972, § 8-26; Ord. No. 1179, § 3, 12-11-1969)~~

Sec. 8-27. Impoundment of unregistered bicycles, disposition.

~~Any bicycle not registered under the terms of this article when impounded by the police department, or when ownership of such bicycle, cannot be established to the satisfaction of the chief of police, may be sold by the chief of police if not claimed within seven days and the proceeds therefrom credited to the city treasurer funds.~~

~~(Code 1972, § 8-27; Ord. No. 1179, § 6, 12-11-1969)~~

Sec. 8-28. Revocation.

~~Any registration tag issued under the provisions of this article may be revoked by the chief of police for the violation by the owner of a registered bicycle of any applicable provision of this Code of Ordinances, state law or city ordinance, rule or regulation.~~

~~(Code 1972, § 8-28)~~

Secs. 8-29—8-40. Reserved.

Chapter 53
RESERVED

PROOFS

Chapter 54
UTILITIES*

***State law reference**—Public utilities generally, R.R.S. 1943, §§ 16-673 et seq., 18-401 et seq.; water, sewer and drainage districts, R.R.S. 1943, § 16-667 et seq.

ARTICLE I. IN GENERAL

Sec. 54-1. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section or state statute, except where the context clearly indicates a different meaning:

Utility means and includes water, sewer, and/or any other utility service furnished by the city to consumers thereof.

(Code 1972, § 37-1)

Sec. ~~37-2. Ordinances saved from repeal.~~²⁷²

~~Nothing contained in this Code of Ordinances, nor in the ordinance adopting this Code, shall be construed to repeal or otherwise affect in any manner: any ordinance prescribing the charge to be paid for taps and connections to the various utility services and utilities furnished by the city, or the rates and charges to be paid for the utilities furnished by the city, or the amount of the deposits required by the city to insure the payment of such rates and charges, or rules, regulations and specifications governing the use, enjoyment and consumption of such utility services, and all such ordinances are hereby saved from repeal and recognized as continuing in full force and effect to the same extent as if set out at length in this Code.~~

(Code 1972, § 37-2)

Sec. 54-2. Scope of provisions.²⁷³

All pertinent provisions of this chapter are hereby made a part of the terms and conditions whereby the city shall furnish any utility service to any person; or whereby the city shall make any utility connections or perform any work of any kind in connection with the furnishing of any utility service ~~pursuant to the rules and regulations of the board of public works.~~

(Code 1955, § 12-301; Code 1972, § 37-3)

Sec. 54-3. Service to comply with technical provisions.

Any utility service furnished under the provisions of this chapter shall be in accordance with and in compliance with all applicable technical provisions of this Code, state law and city ordinances, rules and regulations.

(Code 1972, § 37-4)

Sec. 54-4. Rules, regulations.²⁷⁴

~~The board of public works~~ director of public works shall have the authority to establish by rule or regulation such standards and specifications as may be deemed necessary for the installation, construction and maintenance of any utility service system owned and operated by the city within or without the city and under the management of the board. Such rules, regulations, standards and specifications shall be filed in the office of the ~~city clerk treasurer~~

²⁷² Legal or Editorial Change: Code 1972, § 37-2. Ordinances saved from repeal. Deleted. The ordinances have been included in the Code.

²⁷³ Legal or Editorial Change: Code 1972, § 37-3. Scope of provisions. Altered per instructions.

²⁷⁴ Legal or Editorial Change: Code 1972, § 37-5. Rules, regulations. Altered per instructions.

director of public works. Violation of such rules, regulations, standards and specifications shall be ~~deemed a misdemeanor~~ punished as provided in section 1-9.

(Code 1972, § 37-5)

Sec. 54-5. Inspection outside city.

In order to protect the utility service supply, the city will not make any taps or connections outside the city limits until the premises involved has been inspected and approved by a city inspector.

(Code 1972, § 37-6)

Sec. 54-6. Right of entry.

Any authorized inspector of the city shall have free access at any time to all premises supplied with any utility service by the city for the purpose of examination in order to protect the utility services from abusive use.

(Code 1955, § 12-310; Code 1972, § 37-7)

Sec. 54-7. Termination of service authorized.

The city shall have the right to disconnect or refuse to connect or reconnect any utility service for the following reasons:

- (1) Failure to meet the applicable provisions of law.
- (2) Violation of the rules and regulations pertaining to utility service.
- (3) Nonpayment of bills.
- (4) Willful or negligent waste of service due to improper or imperfect pipes, fixtures, appliances or otherwise.
- (5) Molesting any meter, seal or other equipment controlling or regulating the supply of utility service.
- (6) Theft or diversion and/or use of service without payment therefor.
- (7) Vacancy of premises.

(Code 1972, § 37-8)

Sec. 37-9. Liability of city for damage.²⁷⁵

~~The city shall not be liable for any damage of any customer of any utility service furnished by the city due to backflow of the sewerage system, failure of supply, interruption of service or any other cause outside the direct control of the city.~~

(Code 1955, § 12-313; Code 1972, § 37-9)

Sec. 54-8. Utility service—Application required.²⁷⁶

Any person desiring any utility service furnished by the city shall make application for the same to the ~~board~~ director of public works. Such application shall contain the applicant's name, address and the uses for which such utility service is desired.

(Code 1955, § 12-302; Code 1972, § 37-10)

Sec. 54-9. Utility service—Not available to debtors.

The city may decline or fail or cease to furnish utility service to any person who may be in debt to the city for any reason, except ad valorem taxes and special assessments.

²⁷⁵ Legal or Editorial Change: Code 1972, § 37-9. Liability of city for damage. Deleted per instructions.

²⁷⁶ Legal or Editorial Change: Code 1972, § 37-10. Utility service—Application required. Altered per instructions.

(Code 1972, § 37-11)

Sec. 54-10. Utility service—Permit.²⁷⁷

Approval of the application for any utility service by the ~~board~~ director of public works shall be deemed permission for such service.

(Code 1955, § 12-302; Code 1972, § 37-12)

Sec. 54-11. Connection fees.

(a) *Sanitary sewer system tap; tap fees.* No person shall tap into the sanitary sewer system except with written permission of the ~~public works director~~ director of public works in compliance with the specifications required by the director or the director's designee. The city council is authorized to establish tap fees for tapping into the sanitary sewer system by resolution, and the fee shall be paid prior to any tap into the sanitary sewer system.

(b) *Water system tap; tap fees.* No person shall tap into the water system except with written permission of the ~~public works director~~ director of public works in compliance with the specifications required by the director or the director's designee. The city council is authorized to establish tap fees for tapping into the water system by resolution, and the fee shall be paid prior to any tap into the water system.

(Code 1972, § 37-12.1; Ord. No. 957, § 1, 11-6-1958; Ord. No. 2198, § 1, 8-2-2018; Ord. No. 2290, § 1, 8-19-2021)

Sec. 54-12. Utility service; use assumed.

All premises connected to any utility service of the city shall be assumed to be using such utility service, and the owner or occupant shall be charged therefor so long as such premises shall remain connected with the utility service.

(Code 1972, § 37-13)

Sec. 54-13. Not to use contrary to permit.

Any person having a permit from the city for the use of any utility service offered by the city who shall use such utility service for any purpose other than mentioned in such permit or who shall make any unauthorized changes in such service shall be deemed guilty of a misdemeanor.

(Code 1972, § 37-14)

Sec. 54-14. Temporary interruption of service.

The city reserves the right to cut off any utility service without notice in case of emergencies. When an interruption in service is necessary for the maintenance and improvement of the utility system, affected customers will be notified as circumstances permit.

(Code 1972, § 37-15)

Sec. 37-16. Restricting use.²⁷⁸

~~— The mayor of the city is authorized and empowered to declare the existence of any emergency relating to the available water supply of the City of York and to impose restrictions on the use of water during such emergency. Whenever the mayor shall determine that the remaining available water supply is critically low, from whatever cause, the mayor may declare the existence of an emergency and impose reasonable restrictions on the use of such water. It shall be unlawful for any person to fail to observe any such restriction so imposed by the mayor following public announcement of such restrictions.~~

~~— Notice of the declaration of the existence of an emergency and the imposition of restrictions on the use of the city water supply shall be given by a public notice to be published in a legal newspaper distributed in the city and by posting such notice in at least three public places in the city.~~

²⁷⁷ Legal or Editorial Change: Code 1972, § 37-12. Same—Permit. Altered per instructions.

²⁷⁸ Legal or Editorial Change: Code 1972, § 37-16. Restricting use. Deleted per instructions.

~~After the implementation of such water conservation program, it may subsequently be lifted by the mayor when the mayor has determined that the remaining available municipal water supply justifies the lifting of the restriction.~~

~~(Code 1972, § 37-16; Ord. No. 1867, § 1, 8-21-2003)~~

Sec. 54-15. Sale of service by customer.²⁷⁹

It shall be unlawful for any person to resell any utility service obtained from the city to others except only by special arrangement with the ~~board of public works~~ director of public works.

(Code 1972, § 37-17)

~~**Sec. 37-18. Connections to service.**~~²⁸⁰

~~Tapping for any utility service furnished by the City shall be made only under the supervision of the Director of Public Works or his or her designee.~~

~~(Code 1972, § 37-18; Ord. No. 2295, § 1, 8-19-21)~~

Sec. 54-16. Separate connections.

Every building, structure or consumer in the city shall have a separate utility service connection.

(Code 1955, § 12-302; Code 1972, § 37-19)

Sec. 54-17. Unlawful connections.²⁸¹

Any person who shall make any connection in any manner to any city utility system, whether owned by the city or not, without the prior knowledge and consent of the owner of such utility system shall be deemed guilty of a misdemeanor city shall be punished under section 1-9.

(Code 1972, § 37-20)

Sec. 54-18. Unlawful use.²⁸²

No person, other than employees of the city, shall be authorized to connect, turn on, turn off or disconnect any utility service offered by the city, or remove, replace or repair any equipment connected to any such utility service without written approval from the director of public works.

(Code 1972, § 37-21)

Sec. 54-19. Damage, trespass of equipment.

It shall be unlawful for any person, not having authority to do so, to open any water hydrant or tamper with any utility service furnished by the city to consumers, or to in any other way molest, damage or trespass upon any equipment or premises belonging to the city connected with any utility service.

(Code 1955, §§ 12-304, 12-316, 12-320; Code 1972, § 37-22)

Sec. 54-20. Maintenance of system by consumer.

The consumer of any utility service furnished by the city shall maintain and keep in good repair all connections, appliances and other apparatus installed and used in connection with such utility service.

(Code 1972, § 37-23)

²⁷⁹ Legal or Editorial Change: Code 1972, § 37-17. Sale of service by customer. Altered per instructions.

²⁸⁰ Legal or Editorial Change: Code 1972, § 37-18. Connections to service. Deleted per instructions.

²⁸¹ Legal or Editorial Change: Code 1972, § 37-20. Unlawful connections. Altered per instructions.

²⁸² Legal or Editorial Change: Code 1972, § 37-21. Unlawful use. Altered per instructions.

Sec. 54-21. Wellhead protection plan adopted.

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

Wellhead protection area means the surface and subsurface area surrounding a public water supply well or wellfield, supplying a public water supply system, through which contaminants are reasonably likely to move toward and reach such water well or well field.

(b) The city council designated a wellhead protection area for the purpose of protecting the public water supply system as referred to in Ordinance No. 2154 on June 16, 2016.

(c) The Wellhead Protection Plan for the City of York, Nebraska, dated July 2016, prepared by JEO Consulting Group, Inc. for the city, approved by the city council, is hereby adopted as the wellhead protection plan for the city.

(d) A copy of the wellhead protection plan and a map of the wellhead protection area for the city are on file and shall be kept in the office of the city clerk.

(Code 1972, § 37-24; Ord. No. 2160, §§ 1—4, 10-6-2016)

Secs. 54-22--54-45. Reserved.**ARTICLE II. RATES AND CHARGES GENERALLY***

*State law reference—Water rates, R.R.S. 1943, § 16-681; sewer rates, R.R.S. 1943, § 18-509.

Sec. 54-46. Deposits required.

Any person desiring any utility service furnished by the city, in addition to submitting an application as provided by section 54-8, shall pay to the city a deposit in the amount of \$75.00. Said deposit shall be refunded after five years of utility service in which the applicant for such service has not been delinquent on the payment of the bill for utility service by more than 20 days from the payment due date on more than two occasions within the five-year period and also has not been delinquent more than 20 days from the payment due date within the last six months of the five-year period. Otherwise, the refund of deposit for utility service shall be made upon the termination of such utility service only after payment of all amounts due to the city for such utility service. The deposit may be applied in part or in total to the payment of any amount that is due to the city for the nonpayment of utility service including any fees related to utility service due and owing to the city.

(Code 1972, § 37-34; Ord. No. 1597, § 1, 10-12-1989; Ord. No. 1693, § 1, 7-13-1995; Ord. No. 1861, § 1, 7-3-2003)

Sec. 54-47. Refund of deposit.

Refunds of deposits made for utility service shall be made upon the termination of such utility service only after payment of all indebtedness to the city for such utility service. Application of deposit may be made in partial or total settlement of accounts when supply is cut off for nonpayment of bill, or for any infraction or violation of any ordinance, rule or regulation of the city relative to utility services offered by the city.

(Code 1972, § 37-35)

Sec. 54-48. Effect of transfer, moving.

There shall be no transfer, or so-called transfer, from one location to another of deposits made for utility service, and in each case, said transfer shall be considered a new application for service and shall be treated as such. When premises are vacated, any amounts due for utility service shall be paid in full and utility service shall not be commenced at another place until this is done. Such removal from one place to another shall be considered as a new request for utility service and applicants shall be required to make the current deposit that shall be in effect at the time such request is made.

(Code 1972, § 37-36)

Sec. 54-49. Meters.

Meters for the measurement of utility services furnished by the city shall be furnished and installed by, and

shall remain the property of, the city.

(Code 1955, § 12-305; Code 1972, § 37-37; Ord. No. 1103, § 1, 3-9-1967)

Sec. 54-50. Determination of charges.²⁸³

The rates and charges for the consumption of utility services furnished by the city, as well as the charges and fees for connection thereto, shall be as determined by the ~~board of public works~~ city council from time to time and on file in the office of the city clerk ~~treasurer~~.

(Code 1972, § 37-38)

Sec. 54-51. When payment due.

All bills for utility services furnished by the city shall be due and payable prior to 12:00 midnight of the tenth day following the date of such bill; provided, however, that if such due date shall fall on a Sunday or a legal holiday observed by the city, then such bill shall be due and payable by midnight of the following business day.

(Code 1972, § 37-39)

Sec. 54-52. Disconnection for nonpayment.

In the event bills for utility services shall not be paid when the same become due, the city shall mail to the consumer by regular mail a notice that the city will disconnect the utility service for nonpayment of the bill, which disconnection notice shall be sent to the consumer by the city at least five days after the invoice due date and not later than ten days after the invoice due date. If the utility charges and administrative fees are not paid in full by the disconnection date as provided in the notice of disconnection, then the service shall be disconnected. If the utility charges and administrative fees are paid in full before the utility service is disconnected, then the service shall not be disconnected.

(Code 1972, § 37-40; Ord. No. 2086, § 1, 1-2-2014)

Sec. 54-53. Reconnection after disconnection.

In the event that utility service is disconnected for nonpayment of the bill, the consumer thereof shall have the right to have the same reconnected only upon payment of the delinquent amount due plus a \$25.00 reconnection fee during normal working hours. If reconnection is required after normal working hours, or on weekends or holidays, a reconnection fee of a minimum two hours labor at 1 1/2 times the current labor rate, plus equipment and materials will be charged.

(Code 1972, § 37-41; Ord. No. 1597, § 1, 10-12-1989; Ord. No. 1690, § 1, 5-11-1995; Ord. No. 1693, § 1, 7-13-1995; Ord. No. 2086, § 1, 1-2-2014)

Sec. 54-54. Voluntary discontinuance of service.

Consumers wishing to discontinue the use of any utility service shall give written notice thereof at the city hall. Failure to do so shall render them liable for the payment of all bills until such notice has been given.

(Code 1972, § 37-42)

Sec. 54-55. Water rates and charges.

(a) *Bimonthly rates.* There shall be a bimonthly charge to each customer for the cubic feet of water used and a bimonthly charge to each customer which shall be determined by the size of the customer's meter, as follows:

(1) General service rates as of October 3, 2019:

- a. Usage per 100 cubic feet:
 1. First 100 ccf: \$2.42.
 2. All over 100 ccf: \$1.97.

²⁸³ Legal or Editorial Change: Code 1972, § 37-38. Determination of charges. Altered per instructions.

- b. Plus bimonthly customer charges:

<i>Meter size:</i>	
5/8 inch and 3/4 inch	\$30.61
1 inch	\$48.64

- (2) Large general service rates as of October 3, 2019:

- a. Usage per 100 cubic feet:
1. First 100 ccf: \$2.42.
 2. All over 100 ccf: \$1.97.
- b. Plus bimonthly customer charges:

<i>Meter size:</i>	
1 1/2 inch	\$126.22
2 inch	\$214.73
3 inch	\$437.65
4 inch	\$811.36
6 inch	\$1,582.27

(b) *Fire hydrant and sprinkler system rate.* The annual charge for all fire hydrants and fire sprinkler systems owned by private individuals, corporations or industrial shall be \$355.00 regardless of the meter size.

(c) *Withdrawal of water from hydrants.* There shall be a combined charge of \$67.00 for connection and disconnection for the installation of a meter for withdrawal of water from a hydrant additional to the water consumed, computed at the bimonthly rate (see subsection (a) of this section). There shall be a charge of \$5.90 per 1,000 gallons for water withdrawn at the plant.

(d) *Unmetered construction site water.* A flat rate of \$50.00 per month will be levied against all unmetered construction site water services connected to the city water distribution system.

(e) Non-emergency work after normal working hours, or on weekends or holidays will be charged to the party or individual requesting the work at 1 1/2 times the current labor rate with a minimum charge of two hours labor, plus all equipment and materials used.

(f) *Administrative fee.* If the charges for utility service are not paid in full before the disconnection notice is mailed, then a charge of \$25.00 will be charged to the account. Administrative fees shall be charged for late payment once per billing cycle.

(Code 1972, § 37-43; Ord. No. 1324, §§ 1—5, 1-13-1977; Ord. No. 1412, §§ 1—5, 3-12-1981; Ord. No. 1507, § 1, 5-9-1985; Ord. No. 1563, § 1, 11-12-1987; Ord. No. 1597, § 1, 10-12-1989; Ord. No. 1693, § 1, 7-13-1995; Ord. No. 1878, § 1, 12-18-2003; Ord. No. 1920, § 1, 12-2-2004; Ord. No. 1949, § 1, 11-3-2005; Ord. No. 1972, § 1, 12-7-2006; Ord. No. 2013, § 1, 11-20-2008; Ord. No. 2028, § 1, 12-17-2009; Ord. No. 2042, § 1, 12-4-2010; Ord. No. 2086, § 1, 1-2-2014; Ord. No. 2111, § 1, 9-4-2014; Ord. No. 2137, § 1, 9-17-2015; Ord. No. 2156, § 1, 9-15-2016; Ord. No. 2177, § 1, 9-21-2017; Ord. No. 2208, § 1, 9-20-2018; Ord. No. 2227, § 1, 10-3-2019)

Secs. 54-56--54-83. Reserved.

ARTICLE III. SEWERS AND SEWAGE DISPOSAL*

*State law reference—Construction and repair of sewers, R.R.S. 1943, § 16-250; sewer systems R.R.S. 1943, § 18-501 et seq.

DIVISION 1. GENERALLY

Sec. 54-84. Septic systems permitted, subject to conditions; connection requirement to city sewer system.

All private property within the city to which the city's sewer system is available shall be equipped with a proper connection to the main, belt line or lateral sanitary sewer for the disposal of all sewage, offal, filth, swill, slop, or other refuse, except property that is presently served by a septic system. The septic system may be maintained to serve the property as long as it complies with all requirements imposed by the state, and as long as the system is properly maintained and in good repair. In the event that the septic system fails to comply with any requirement of the state and the property owner fails to comply with any notice to repair and/or remedy the system, or if the property owner fails to make repairs necessary to keep the septic system in good working order or to replace the system if such repairs cannot be made, then the property shall be connected to the city sewer system.

(Code 1955, § 12-213; Code 1972, § 37-53; Ord. No. 2240, § 1, 1-16-2020)

Sec. 54-85. When sewer deemed available.

The sewer system shall be considered to be available for the purposes of this article when such system is within 300 feet of any part of the property to be served.

(Code 1972, § 37-54; Ord. No. 984, § 5-620.01, 3-27-1961; Ord. No. 1547, § 1, 5-14-1987)

Sec. 54-86. Duty to connect.

It shall be the duty of the owner of any private property to which the sewer system is available to make or cause to be made, and to maintain in proper repair, proper connection such sewer system as provided in section 54-84.

(Code 1955, § 12-213; Code 1972, § 37-55; Ord. No. 2241, § 1, 1-16-2020)

Sec. 54-87. Notice to connect or make repairs.

In the event any property owner shall fail to connect with the city sewer system as required by this article or to make repairs or replace an existing septic system as required by this article, the director of public works shall issue a notice in writing to such property owner to do so within ten days.

(Code 1972, § 37-56; Ord. No. 1547, § 1, 5-14-1987; Ord. No. 2242, § 1, 1-16-2020)

Sec. 54-88. Service of notice.²⁸⁴

The notice to connect to the city sewer system and notice to make repairs and/or replace an existing septic system issued under the provisions of this article shall be served upon the owner of record of the property by personal service, regular mail or certified mail delivery, ~~or by publication in a legal newspaper published in and of general circulation in the city; provided, if such notice shall be made by publication, it shall be published one time at least ten days prior to any action by the city.~~

(Code 1972, § 37-57; Ord. No. 1547, § 1, 5-14-1987; Ord. No. 2243, § 1, 1-16-2020)

Sec. 54-89. Content of notice.²⁸⁵

The notice provided for by this article shall describe the property to be connected to the city sewer system or upon which repairs and/or replacement of an existing septic system shall be required and shall notify the owner of such property that said owner is required to make such connection or to repair or replace an existing septic system within ten days after service of such notice ~~or publication thereof~~, and if such owner fails to comply with such notice, that the city shall make such connection at the cost and expense of such owner, or take such other measures as the city deems appropriate.

(Code 1972, § 37-58; Ord. No. 2244, § 1, 1-16-2020)

²⁸⁴ Legal or Editorial Change: Code 1972, § 37-57. Service of notice. Altered per instructions.

²⁸⁵ Legal or Editorial Change: Code 1972, § 37-58. Content of notice. Altered per instructions.

Sec. 54-90. Failure of owner to comply with notice.²⁸⁶

In the event of failure of the owner of property to comply with the notice to connect to the city sewer system or to comply with any notice to repair or replace an existing septic system issued under this article, the ~~superintendent of the utilities sanitary department~~ director of public works shall cause the connection or repairs or replacement to be made and shall certify the costs and expenses thereof to the mayor and council for assessment against such property. The city is authorized to collect such costs and expenses by any remedy available to the city.

(Code 1972, § 37-59; Ord. No. 2245, § 1, 1-16-2020)

Sec. 54-91. Sewer main extension required.

When a sewer main extension is required, the developer of property to be connected to the existing sanitary sewer system shall be required to construct a sewer main extension, which meets the city's design standards, from the nearest manhole to a point within the development as determined by the city.

(Code 1972, § 37-60; Ord. No. 1547, § 1, 5-14-1987)

Sec. 54-92. When septic tanks permitted.

When the sewer system is not available to private property within the city, septic tanks may be constructed on such property if their construction, use, and operation complies with all applicable provisions of this Code, state law or board of health regulation.

(Code 1972, § 37-61; Ord. No. 984, § 5-620.01, 3-27-1961; Ord. No. 1547, § 1, 5-14-1987)

Sec. 54-93. Removal of unsanitary septic tanks.

Whenever any septic tank which is permitted upon property under the provisions of this article becomes in violation of this Code, state law or board of health regulation, the same shall be deemed a nuisance and abated or corrected.

(Code 1955, § 12-213; Code 1972, § 37-62; Ord. No. 1547, § 1, 5-14-1987)

Sec. 54-94. Improper use.

No person shall throw or deposit or cause or permit to be thrown or deposited in any vessel or receptacle connected with the public sewer, solid matter, oily wastes, acid, battery water, garbage, hair, ashes, fruit, vegetables, peelings, refuse, rags, sticks, cinders or any other matter or thing whatever except human excrement, urine, the necessary closet paper, liquid slops, and drainage of such character.

(Code 1955, § 12-214; Code 1972, § 37-63; Ord. No. 1547, § 1, 5-14-1987)

Secs. 54-95--54-116. Reserved.

DIVISION 2. USE OF PUBLIC SEWERS

Sec. 54-117. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section or state statute, except where the context clearly indicates a different meaning. Such meanings are to take precedence over any conflicting definitions in the Code.

Biochemical oxygen demand (BOD) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20 degrees centigrade, expressed in milligrams per liter.

Building drain means that part of the lowest horizontal piping of a drainage system which receives the discharge from soil waste and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five feet outside the inner face of the building wall.

²⁸⁶ Legal or Editorial Change: Code 1972, § 37-59. Failure of owner to comply with notice. Altered per instructions.

Building sewer means the extension from the building drain to the public sewer or other place of disposal, also called house connection.

Combined sewer means a sewer intended to receive both wastewater and stormwater or surface water.

Director of public works means the city director of public works, or authorized deputy, agent, or representative.

Easement means an acquired legal right for the specific use of land owned by others.

Floatable oil is oil, fat or grease in a physical state such that it will separate by gravity from wastewater by treatment in an approved pretreatment facility. A wastewater shall be considered free of floatable fat if it is properly pretreated and the wastewater does not interfere with the collection system.

Garbage means the animal and vegetable waste resulting from the handling, preparation, cooking and serving of foods.

Industrial wastes means the wastewater from industrial processes, trade, or business as distinct from domestic or sanitary wastes.

Natural outlet means any outlet, including storm sewers into a watercourse, pond, ditch, lake or other body of surface or groundwater.

~~*May is permissive (see Shall).*~~

~~*Person means any individual, firm, company, association, society, corporation or group.*~~

pH means the reciprocal of the logarithm of the hydrogen-ion concentration. The concentration is the weight of hydrogen ions, in grams, per liter of solution. Neutral water, for example, has a pH value of seven and a hydrogen-ion concentration of 10^{-7} .

Properly shredded garbage means the wastes from the preparation, cooking and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half inch in any dimension.

Public sewer means a common sewer controlled by the city.

Sanitary sewer means a sewer that carries liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions together with minor quantities of groundwater, stormwater and surface water that are not admitted intentionally.

Sewage is the spent water of a community. The preferred term is "wastewater," as defined in this section.

Sewer means a pipe or conduit that carries wastewater or drainage water.

~~*Shall is mandatory (see May).*~~

Slug means any discharge of water or wastewater which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than 15 minutes more than five times the average 24-hour concentration or flows during normal operation and shall adversely affect the collection system and/or performance of the wastewater treatment works.

Storm drain (sometimes termed "storm sewer") means a drain or sewer for conveying water, groundwater, subsurface water or unpolluted water from any source.

Suspended solids means total suspended matter that either floats on the surface of or is in suspension in water, wastewater or other liquids, and that is removable by laboratory filtering as prescribed in Standard Methods for the Examination of Water and Wastewater and referred to as nonfilterable residue.

Unpolluted water is water of quality equal to or better than the effluent criteria in effect or water that would not cause violation of receiving water quality standards and would not be benefited by discharge to the sanitary sewers and wastewater treatment facilities provided.

Wastewater means the spent water of a community. From the standpoint of source, it may be a combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions. The term "normal sewage" means sewage which when analyzed shows by weight a daily average of not more than 250 parts per million (2,085 pounds) of suspended solids, not more than 275 parts per million (2,295 pounds) of

BOD or, where biochemical oxygen demand cannot accurately be determined, a chemical oxygen demand greater than 560 parts per million (4,665 pounds) and not more than 120 parts per million (834 pounds) of either soluble matter (grease and oil), each, per million gallons of daily flow.

Wastewater facilities means the structures, equipment and processes required to collect, carry away and treat domestic and industrial wastes and dispose of the effluent.

Wastewater treatment works means an arrangement of devices and structures for treating wastewater, industrial wastes, and sludge. Sometimes used as synonymous with "waste treatment plant" or "wastewater treatment plant" or "water pollution control plant."

Watercourse means a natural or artificial channel for the passage of water either continuously or intermittently. (Code 1972, § 37-73; Ord. No. 1287, § 1(art. I, §§ 1—27), 2-13-1975; Ord. No. 1413, § 1, 3-12-1981)

Sec. 54-118. Discharge of unpolluted waters into sanitary sewer.

No person shall discharge or cause to be discharged any unpolluted waters such as stormwater, groundwater, roof runoff, subsurface drainage, or cooling water to any sewer, except stormwater runoff from limited areas, which stormwater may be polluted at times, may be discharged to the sanitary sewer by permission of the director of public works.

(Code 1972, § 37-74; Ord. No. 1287, § 1(art. II, § 1), 2-13-1975)

Sec. 54-119. Unpolluted discharge subject to approval by director.

Stormwater other than that exempted under section ~~37-89-54-118~~, and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers or to a natural outlet approved by the director of public works and other regulatory agencies. Unpolluted industrial cooling water or process waters may be discharged on approval of the director of public works to a storm sewer or natural outlet.

(Code 1972, § 37-75; Ord. No. 1287, § 1(art. II, § 2), 2-13-1975)

Sec. 54-120. Prohibited waters, wastes enumerated.²⁸⁷

No person shall discharge or cause to be discharged any of the following described waters, harmful liquids or wastes to any public sewers or wastewater treatment plant:

- (1) Any gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquid, solid or gas.
- (2) Any waters containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any waste treatment process, constitute a hazard to humans or animals, create a public nuisance or create any hazard to humans or animals, or create any hazard in waters receiving the waste.
- (3) Any waters or wastes having a pH lower than ~~5.5~~6.5, or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the wastewater 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 wastewater facilities such as, but not limited to, ashes, bones, 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.

(Code 1972, § 37-76; Ord. No. 1287, § 1(art. II, § 3), 2-13-1975)

²⁸⁷ Legal or Editorial Change: Code 1972, § 37-76. Prohibited waters, wastes enumerated. Altered per instructions.

Sec. 54-121. Discharge of specific substances limited.²⁸⁸

The following described substances, materials, waters or wastes shall be limited in discharges to municipal systems, to charges to municipal systems, to concentrations or quantities which will not harm either the sewers, wastewater treatment process or equipment, or will not have an adverse effect on the receiving stream, or will not otherwise endanger lives, limb, public property, or constitute a nuisance. The director of public works may set limitations lower than the limitations established in the regulations below if in the director's opinion such more severe limitations are necessary to meet the above objections. In forming an opinion as to the acceptability, the director of public works will give consideration to such factors as the quantity of subject waste in relation to flows and velocities in the sewers, materials of construction of the sewers, the wastewater treatment process employed, capacity of the wastewater treatment plant, degree of treatability of the waste in the wastewater treatment plant, and other pertinent factors. The limitations or restrictions on materials or characteristics of waste or wastewaters discharged to the sanitary sewer which shall not be violated without approval of the director of public works are as follows:

- (1) Wastewater having a temperature higher than 150 degrees Fahrenheit (65 degrees Celsius).
- (2) Wastewater containing more than 25 milligrams per liter of petroleum oil, nonbiodegradable cutting oils, or product of mineral origin.
- (3) Wastewater from industrial plants containing floatable oils, fat or grease.
- (4) Any garbage that has not been properly shredded (that was defined in section 54-117). Garbage grinders may be connected to sanitary sewers from homes, hotels, institutions, restaurants, hospitals, catering establishments or similar places where garbage originates from the preparation of food in kitchens for the purpose of consumption on the premises or when served by caterers.
- (5) Any waters or wastes containing iron, chromium, copper, zinc and similar objectionable or toxic substances to such degree that any such material received in the composite wastewater at the wastewater treatment works exceeds the limits established by the director of public works for such materials.
- (6) Any waters or wastes containing odor-producing substances exceeding limits which may be established by the director of public works.
- (7) Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the director of public works in compliance with applicable state or federal regulations.
- (8) Quantities of flow, concentrations or both which constitute a "slug" as defined in section 54-117.
- (9) Waters or wastes containing substances which are not amenable to treatment or reduction by the wastewater treatment processes employed or are amenable to treatment only to such degree that the wastewater treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.
- (10) Any water or wastes which, by interaction with other water or wastes in the public sewer system, releases obnoxious gases, form suspended solids which interfere with the collection system, or create a condition deleterious to structures and treatment processes.
- (11) Any waters or wastes having a pH in excess of 9.0 or below 6.5.
- (12) Materials which exert or cause:
 - a. Unusual concentrations of inert suspended solids (such as, but not limited to, Fuller's Earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride or sodium sulfate).
 - b. Excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions).

²⁸⁸ Legal or Editorial Change: Code 1972, § 37-77. Discharge of specific substances limited.
Altered per instructions.

- 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 in section 54-117.

(Code 1972, § 37-77; Ord. No. 1287, § 1(art. II, § 4), 2-13-1975; Ord. No. 1331, § 2, 4-14-1977)

Sec. 54-122. Alternative procedures available to director.

(a) If any waters or wastes are discharged or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in section 54-121, and which, in the judgment of the director of public works, may have a deleterious effect upon the wastewater facilities, processes, equipment or receiving water, or which otherwise creates a hazard to life or constitutes a public nuisance, the director of public works may:

- (1) Reject the wastes;
- (2) Require pretreatment to an acceptable condition for discharge to the public sewers;
- (3) Require control over the quantities and rates of discharge; and/or
- (4) Require payment to cover added cost of handling and treating the wastes not covered by "normal sewer" under the provisions of section 54-127.

(b) If the director of public works 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 director of public works.

(Code 1972, § 37-78; Ord. No. 1287, § 1(art. II, § 5), 2-13-1975)

Sec. 54-123. Interceptors.²⁸⁹

Grease, oil and sand interceptors shall be ~~provided~~ required when, in the opinion of the director of public works, they are necessary for the proper handling of liquid wastes containing floatable grease in excessive amounts, as specified in section 54-121(3), 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 director of public works and shall be located as to be readily and easily accessible for cleaning and inspection. In the maintaining of these interceptors, the owner shall be responsible for the proper removal and disposal by appropriate means of the captured material and shall maintain records of the dates and means of disposal which are subject to review by the director of public works. Any removal and hauling of the collected materials not performed by owner personnel must be performed by currently licensed waste disposal firms.

(Code 1972, § 37-79; Ord. No. 1287, § 1(art. II, § 6), 2-13-1975)

Sec. 54-124. Maintenance of pretreatment or flow-equalizing facilities.

Where pretreatment or flow-equalizing facilities are provided or required for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at the owner's expense.

(Code 1972, § 37-80; Ord. No. 1287, § 1(art. II, § 7), 2-13-1975)

Sec. 54-125. Installation and maintenance of equipment for sampling, testing, etc.²⁹⁰

When required by the director of public works, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable structure together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling and measurements of the wastes. Such structure, when required, shall be ~~accessibly~~ accessible and safely located and shall be constructed in accordance with plans approved by the director of public works. The structure shall be installed by the owner at the owner's expense and

²⁸⁹ Legal or Editorial Change: Code 1972, § 37-79. Interceptors. Altered per instructions.

²⁹⁰ Legal or Editorial Change: Code 1972, § 37-81. Installation and maintenance of equipment for sampling, testing, etc. Altered per instructions.

shall be maintained by the owner so as to be safe and accessible at all times.

(Code 1972, § 37-81; Ord. No. 1287, § 1(art. II, § 8), 2-13-1975)

Sec. 54-126. All observations, tests subject to Standard Methods; director to approve methods.

All measurements, tests and analyses of the characteristics of waters and wastes to which reference is made in this division shall be determined in accordance with the latest edition of Standard Methods for the Examination of Water and Wastewater, published by the American Public Health Association. Sampling methods, location, times, durations, and frequencies are to be determined on an individual basis subject to approval by the director of public works.

(Code 1972, § 37-82; Ord. No. 1287, § 1(art. II, § 9), 2-13-1975)

Sec. 54-127. Provision for variances.

No statement contained in this division 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.

(Code 1972, § 37-83; Ord. No. 1287, § 1(art. II, § 10), 2-13-1975)

Sec. 54-128. Waters, wastes subject to review of director; preliminary treatment.

(a) Any waters or wastes having:

- (1) A five-day biochemical oxygen demand greater than 275 parts per million by weight;
- (2) Containing more than 250 parts per million by weight of suspended solids; or
- (3) Having an average daily flow greater than two percent of the average sewage flow of the city;

shall be subject to the review of the director of public works.

(b) Where necessary, in the opinion of the director of public works, the owner shall provide, at the owner's expense, such preliminary treatment as may be necessary to:

- (1) Reduce the biochemical oxygen demand to 275 parts per million by weight;
- (2) Reduce the suspended solids to 250 parts per million by weight; or
- (3) Control the quantities and rates of discharge of such waters or wastes.

(c) Plans, specifications, and any other pertinent information relating to proposed preliminary treatment facilities shall be submitted for the approval of the director of public works and no construction of such facilities shall be commenced until said approvals are obtained in writing.

(Code 1972, § 37-83.1; Ord. No. 1331, § 3, 4-14-1977; Ord. No. 1413, § 2, 3-12-1981)

Sec. 37-84. Malicious tampering with facilities.²⁹¹

~~No person(s) shall maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the wastewater facilities. Any person(s) violating this provision shall be subject to immediate arrest under charge of disorderly conduct.~~

~~(Code 1972, § 37-84; Ord. No. 1287, § 1, (art. III, § 1), 2-13-1975)~~

Sec. 54-129. Authorized entry upon all properties.²⁹²

The director of public works and other duly authorized employees of the city bearing proper credentials and

²⁹¹ Legal or Editorial Change: Code 1972, § 37-84. Malicious tampering with facilities. Deleted per instructions.

²⁹² Legal or Editorial Change: Code 1972, § 37-85. Authorized entry upon all properties. Altered per instructions.

identification shall be permitted to enter all properties for the purpose of inspection, observation, measurement, sampling, and testing, pertinent to discharge to the community system, in accordance with the provisions of this ~~division~~ chapter.

(Code 1972, § 37-85; Ord. No. 1287, § 1(art. IV, § 1), 2-13-1975)

Sec. 54-130. Authority to obtain information; exception.

The director of public works or other duly authorized employees are authorized to obtain information concerning industrial processes which have a direct bearing on the kind and source of discharge to the wastewater collection system. The industry may withhold information considered confidential. The industry must establish that the revelation to the public of the information in question might result in an advantage to competitors.

(Code 1972, § 37-86; Ord. No. 1287, § 1(art. IV, § 2), 2-13-1975)

Sec. 54-131. Observation of safety rules.; ~~companies not liable for injury to city employees; exception.~~²⁹³

While performing the necessary work on private properties referred to in section 54-129, the director of public works 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 37-96.~~

(Code 1972, § 37-87; Ord. No. 1287, § 1(art. IV, § 3), 2-13-1975)

Sec. 54-132. Authority to enter upon property through which city holds easement; work to conform to agreement.

The director of public works and other duly authorized employees of the city bearing proper credentials and identification shall be permitted to enter all private properties through which the city holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurements, sampling, repair and maintenance of any portion of the wastewater facilities lying within said easement. All entry and subsequent work, if any, on said easements, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

(Code 1972, § 37-88; Ord. No. 1287, § 1(art. IV, § 4), 2-13-1975)

Sec. 54-133. Sewerage system fund.

All money raised from the charges imposed and collected pursuant to this division shall be placed in a separate fund known as the sewerage system fund, and used for any lawful purpose authorized under R.R.S. 1943, §§ 18-501—18-512 or as stated in any bond ordinance in effect or as required by any agreements with the United States Environmental Protection Agency, and shall not be used for any other purposes.

(Code 1972, § 37-89; Ord. No. 1287, § 1(art. V, § 1), 2-13-1975)

Sec. 54-134. Determination of charges.

(a) For the use of the city sanitary sewerage system, each user shall pay a bimonthly (two months') charge which shall be computed and based upon the user's contribution of sewage to such system.

(b) The bimonthly contribution of sewage from a residential user shall be considered equal to the water consumed by the user as shown by the water billing rendered during the months of January and February, or February and March, last preceding the date of billing for sewer charges.

(c) The contribution of sewage from a commercial user shall be considered equal to the amount of water consumed as shown by the current water billing plus any water used from other than the municipal water system as

²⁹³ Legal or Editorial Change: Code 1972, § 37-87. Observation of safety rules; companies not liable for injury to city employees; exception. Altered per instructions.

estimated or determined as provided by this division.

(d) The sewage contribution of a new residential user, either within or without the corporate limits of the city, with no established winter months' water record shall be based on the regular minimum until such time as the base contribution of sewage is determined.

(e) All fractions of a month shall be charged and considered as a full month. Monthly usage is determined to the nearest 100 cubic feet.

(Code 1972, § 37-90; Ord. No. 1287, § 1(art. V, § 2), 2-13-1975; Ord. No. 1304, § 1, 2-12-1976)

Sec. 54-135. Schedule of rates (residential and commercial).

(a) Usage charge. Usage charges shall be as follows:

(1) Usage charge per 100 cubic feet: \$2.29.

(2) Usage charge over 1,000,000 cubic feet: \$2.77.

(b) The bimonthly rates to be charged to users shall be determined by meter size, as follows:

Minimum per household	\$56.89
5/8 and 3/4 inch	\$56.89
1 inch	\$91.36
1 1/2 inch	\$238.43
2 inch	\$404.10
3 inch	\$825.21
4 inch	\$1,526.54
6 inch	\$2,977.20

(c) In case of multiple connections to separate living units or businesses on one master water meter, the minimum bimonthly charge for each living unit or business shall be not less than the applicable minimums listed above.

(Code 1972, § 37-91; Ord. No. 1287, § 1(art. V, § 3), 2-13-1975; Ord. No. 1326, § 1, 2-10-1977; Ord. No. 1413, § 3, 3-12-1981; Ord. No. 1430, § 1, 8-13-1981; Ord. No. 1507, § 2, 5-9-1985; Ord. No. 1694, 7-13-1995; Ord. No. 1879, § 1, 12-18-2003; Ord. No. 1950, § 1, 11-3-2005; Ord. No. 2043, § 1, 12-4-2010; Ord. No. 2112, § 1, 9-4-2014; Ord. No. 2136, § 1, 9-17-2015; Ord. No. 2155, § 1, 9-15-2016; Ord. No. 2178, § 1, 9-21-2017; Ord. No. 2297, § 1, 9-20-2018; Ord. No. 2226, § 1, 10-3-2019; Ord. No. 2266, § 1, 9-3-2020; Ord. No. 2294, § 1, 9-2-2021; Ord. No. 2334, § 1, 9-1-2022; Ord. No. 2344, § 1, 10-6-2022; Ord. No. 2356, § 1, 9-7-2023)

Sec. 54-136. Industrial users as defined by U.S. EPA regulations; sewer user surcharge; when applicable; method of establishing.²⁹⁴

(a) Operation and maintenance cost for wastewater with not more than 275 mg/L of BOD and 250 mg/L of suspended solids.

~~Operation and maintenance cost per million gallons:~~

~~Operation and maintenance effective October 15, 2015\$1,545.00~~

(b) Surcharge for high strength wastes, if applicable.

²⁹⁴ Legal or Editorial Change: Code 1972, § 37-92. Industrial users as defined by U.S. EPA regulations; sewer user surcharge; when applicable; method of establishing. Altered per instructions.

- (1) In addition to the basic charge required, when any user discharges into the city sanitary sewer system significant concentrations or quantities of wastewater which are determined by the director of public works has a strength greater than normal wastewater (as defined) such user shall be subject to a sewer use surcharge, to be determined as set forth by this section, the purposes of such surcharge being to help defray the extra cost to the city of treating such wastewater.
- (2) For use in determining the sewer use surcharge to be made against a given user for a given period of time, the director of public works shall sample and analyze the wastewater discharge on at least one composite per month during operations on such property. The city council shall annually determine the unit cost (\$/lb.) to the city of removing suspended solids, of removing biochemical oxygen demand or chemical oxygen demand and of other additional treatment required for such wastewaters flowing into the city's wastewater treatment facilities. Such determination by the city council shall be made by dividing the total operation and maintenance of the treatment plant established for the year of sewer use (with allocations being made for removal of suspended solids, BOD or COD, and other substance requiring treatment) by the total annual pounds of suspended solids BOD or COD and other substance requiring treatment flowing into the city's wastewater treatment facilities here. All in accordance with the provisions of the latest edition of the Standard Methods for the Examination of Water and Wastewater. However, the director of public works may at the director's discretion accept such sampling and analyzing results as may be submitted by the user on such property if the director of public works reasonably determines that such results properly reflect the overall nature of such discharge.
- (3) At the approximate end of each month, or two-month period as determined by the city council, the director of public works shall make a computation of the sewer use surcharge for each property discharging industrial waste or other high strength wastewater using the following formula:

$$SC = [R_p(P_i - P_n) + R_s(S_i - S_n) + R_x(X_i - X_n)] \times 8.34 \times V$$

Where:

SC = Surcharge, \$.

R_p = Unit BOD cost (or COD cost when used in lieu of BOD) of treating normal wastewater, \$/lb.

P_i = BOD or COD in the industrial waste, ppm.

P_n = BOD or COD in normal wastewater, ppm (275).

R_s = Unit suspended solids cost of treating normal wastewater, \$/lb.

S_i = Suspended solids in the industrial waste, ppm.

S_n = Suspended solids in normal wastewater, ppm (250).

R_x = Unit cost of treating any additional substance in the industrial waste \$/lb. (such as grease).

X_i = Substance requiring additional treatment in the industrial waste, ppm.

X_n = Substance requiring additional treatment in normal wastewater, ppm.

8.34 = lb./million gallon—mg/L.

V = Wastewater volume, million gallon.

Effective October 15, 2015:

R_p (per pound): \$0.13.

R_s (per pound): \$0.141.

(c) All industrial users connected to the city sewerage system shall be monitored by the city at least monthly to determine their hydraulic and organic contribution. The results of these tests shall be composited and used as the individual industry's average daily flow, BOD and SS for the industrial cost recovery computation. Prior to the end of each fiscal year, the city shall conduct a review to determine what industrial users are connected to the city sewerage system and therefore, subject to these charges.

- (d) If and when an industrial user, subject to this section, fails to make payment to the city by the 20th day

of the month, after proper billing by the city on the first of the month, the director of public works is directed to recover any sums due the city under this section.

(e) All monies contributed by any such industrial user, subject to this section, who may have contributed to industrial cost recovery, (pursuant to the requirements of Ordinance No. 1331, adopted April 14, 1977), shall inure to the city to be used by the city in the operation and maintenance and the debt service of the wastewater treatment plant.

(Code 1972, § 37-92; Ord. No. 1287, § 1(art. V, § 4), 2-13-1975; Ord. No. 1326, § 2, 2-10-1977; Ord. No. 1331, § 1, 4-14-1977; Ord. No. 1405, § 1, 12-11-1980; Ord. No. 1413, § 4, 3-12-1981; Ord. No. 1507, § 3, 5-9-1985; Ord. No. 1694, 7-13-1995; Ord. No. 1880, § 1, 12-18-2003; Ord. No. 1950, § 1, 11-3-2005; Ord. No. 2043, § 1, 12-4-2010; Ord. No. 2112, § 1, 9-4-2014; Ord. No. 2136, § 1, 9-17-2015)

Sec. 54-137. Charges to be separate; water meter reading to be basis for charge.

(a) The bimonthly charge imposed pursuant to this division shall be applied separately to each individual user having a separate water meter which measures water contributed to or discharged into the city sanitary sewerage system. In the case of an unmetered water supply, each individual user will be required to purchase and install a water meter to measure water contributed to or discharged into the city sanitary sewerage system.

(b) Should a water meter get out of order or repair and fail to register properly, the user will be charged at the average monthly consumption of water as shown by the water meter during the preceding six months or fraction thereof when such meter was in working order. Any water meter out of order shall be repaired and put into operation as soon as practical.

(Code 1972, § 37-93; Ord. No. 1287, § 1(art. V, § 5), 2-13-1975; Ord. No. 1547, § 1, 5-14-1987; Ord. No. 1694, 7-13-1995)

Sec. 54-138. Collection of sewer charges.

The charges prescribed by this division shall be collected at the same time and in the same manner and by the same officers as water charges are collected by the city.

(Code 1972, § 37-94; Ord. No. 1287, § 1(art. V, § 6), 2-13-1975)

Sec. 54-139. Charges to be lien on property; collection; delinquency; discontinuance of service.²⁹⁵

All charges prescribed by this ~~division~~ chapter shall be a lien upon the premises and real estate for which the water and sewer service is supplied and used and if not paid when due, such charge shall be certified to the city treasurer and may be recorded by the city in an action at law and it may be certified to the county clerk and assessed against the real estate and premises served and be collected along with any lien fees and returned in the same manner as other city taxes. All charges levied by this division which are not paid when due shall be deemed to be delinquent and the water and sewer service for such user may be discontinued.

(Code 1972, § 37-95; Ord. No. 1287, § 1(art. V, § 7), 2-13-1975)

Sec. 54-140. Exception to rates.²⁹⁶

If any user can show to the satisfaction of the ~~city council~~ director of public works that any substantial portion of the water consumed by such user as determined by this division is used for such purpose that it does not contribute to the sanitary sewage, then that water shall be disregarded for the purpose of determining the sanitary sewer charge to such user.

(Code 1972, § 37-96; Ord. No. 1287, § 1(art. V, § 8), 2-13-1975)

²⁹⁵ Legal or Editorial Change: Code 1972, § 37-95. Charges to be lien on property; collection; delinquency; discontinuance of service. Altered per instructions.

²⁹⁶ Legal or Editorial Change: Code 1972, § 37-96. Exception to rates. Altered per instructions.

Sec. 54-141. Authority to promulgate rules; disconnection of service.²⁹⁷

For the purpose of carrying out the provisions of this division and for the protection of the public sewers of the city, the ~~city council~~ director of public works is hereby given the authority to promulgate such rules and regulations not inconsistent with the provisions of this article as it deems necessary. Violations of such rules and regulations shall, by the direction of the ~~city council~~ director of public works and after 30 days' written notice to the property owner or tenant, cause the sewer to be disconnected from the public sewer.

(Code 1972, § 37-97; Ord. No. 1287, § 1(art. V, § 9), 2-13-1975)

Sec. 54-142. Fees for lab tests.

~~Effective October 3, 2019,~~ The following fees for lab tests shall be charged:

<i>Cost Per Test, Per Sample</i>	
Total phosphorus (TP)	\$20.00
Ammonia nitrogen (NH ₃ N)	\$10.00
Total kjeldahl nitrogen (TKN)	\$22.00
Nitrate	\$20.00
Chemical oxygen demand (COD)	\$45.00
Biochemical oxygen demand (BOD)/CBOD)	\$30.00
Total suspended solids (TSS)	\$20.00
pH	\$10.00

(Code 1972, § 37-98; Ord. No. 2228, § 1, 10-3-2019)

Sec. 54-143. Waste disposal fees.

~~Effective October 3, 2019,~~ The following fees for waste disposal fees shall be charged:

	<i>Rate Per Gallon</i>	<i>Minimum Fee</i>
Grease	\$0.05	\$12.00
Mud traps/wash pit waste	\$0.125	\$12.00
Septic waste	\$0.035	\$12.00
Bulk industrial waste	\$0.05	

(Code 1972, § 37-99; Ord. No. 2228, § 2, 10-3-2019)

Secs. 54-144--54-169. Reserved.

DIVISION 3. ADDITIONAL SANITARY SEWER CHARGES FOR SSED NO. 83-1 AND SID NO. 2*

*State law reference—Sewer rates, R.R.S. 1943, § 18-509.

²⁹⁷ Legal or Editorial Change: Code 1972, § 37-97. Authority to promulgate rules; disconnection of service. Altered per instructions.

Sec. 54-170. Additional sanitary sewer charges.

Additional sanitary sewer charges for properties within the following districts are hereby imposed to recover the costs of the sanitary sewer improvements constructed within Sanitary Sewer Extension District No. 83-1 (SSED No. 83-1), City of York, and extensions thereto, including sewer extensions constructed within that area originally known as Sanitary and Improvement District No. 2 of York County (SID No. 2). Such charges shall be calculated based upon the sum of three factors as described below:

- (1) *Factor I.* A charge of \$16.67 per foot of the property and abutting an existing sanitary sewer. Factor I charges shall be due and payable as of the time of initial connection for any property within such area.
- (2) *Factor II.*
 - a. A charge based on:
 1. The property's initial use at time of connection to the sanitary sewer system.
 2. The property's expanded use within a category of use as described below.
 3. The property's change or partial change of use from one category to another as described below.
 - b. The charge for the various uses shall be as follows:
 1. Motel or hotel, per room: \$220.00.
 2. Restaurant, coffee shop or bar in hotel or motel, per seat: \$30.00.
 3. Restaurant or fast food operation, per seat: \$57.00.
 4. Commercial business (with restroom): \$2,500.00.
 5. Office building, churches, schools, government buildings:
 - (i) Per square foot of building area: \$0.10.
 - (ii) Minimum: \$1,500.00.
 6. Commercial car or truck wash: \$4,000.00.
 7. Filling station or garage (without wash rack): \$2,500.00.
 8. Filling station or garage (with wash rack): \$3,000.00.
 9. Trailer camp (with sewer service), per stall: \$150.00.
 10. House (single-family): \$1,500.00.
 11. Duplex: \$2,500.00.
 12. Apartment, per unit: \$1,000.00.
 - c. Factor II charges shall be due and payable as of the time of initial use and upon each expanded use or change or partial change in use. The Factor II charge imposed upon an expanded use shall be the charges as shown in the above schedule attributable to the expanded use only. The Factor II charge imposed upon a change or partial change in use shall be the difference between the charge for the property in its changed status and any Factor II charge previously assessed, levied or paid. In the event of any change or partial change from one category of use to another which would result in charges for the use of the property after such change requiring a lower use fee than was required to be paid for the property prior to such change, there shall be no charge.
- (3) *Factor III.* A credit will be provided in the following cases:
 - a. Where special assessments were levied and assessed by SID No. 2 of the county, a one-time credit shall be given with respect to such special assessments. The credit as against the total of any Factor I and Factor II charges for any such property shall be the amount so assessed and levied.
 - b. Where a sewer connection from an existing sanitary sewer is in excess of 300 feet, the charge at the time of initial connection shall be 50 percent of the charge calculated above for both Factor I and

Factor II.

(Code 1972, § 37-105; Ord. No. 1547, § 1, 5-14-1987; Ord. No. 1629, § 1, 7-11-1991)

PROOFS

Chapter 55
RESERVED

PROOFS

Chapter 56
VEGETATION*

*State law reference—General authority relative to trees, R.R.S. 1943, §§ 16-207, 16-248.

ARTICLE I. IN GENERAL

Sec. 56-1. Shrubbery constituting traffic hazard—Removal.

Whenever the chief of police or the director of public works shall determine that a traffic hazard exists by reason of the location, height or other character of shrubbery or other obstruction in the space between any lot and curblin in the city, the chief of police or the director of public works shall notify the owner or owner's duly authorized agent and to the occupant, if any, by personal service or certified mail notice to remove such obstruction or to cut or reduce it to a specified height or shape within five days of said notice. If no person can be found within the city to whom such notice can be given, the director of public works shall post a copy of such notice on the premises.

(Code 1972, § 38-1; Ord. No. 1945, § 1, 8-4-2005)

Sec. 56-2. Shrubbery constituting traffic hazard—Failure to remove.²⁹⁸

Any person so notified either personally or by certified mail or by posted notice and who shall fail to comply with such notice to remove such obstruction or to cut or reduce it to a specified height or shape as ordered within such five-day period of its receipt or posting of such notice shall upon conviction of violating the terms of this article be ~~guilty of a class V misdemeanor~~ punished as provided in section 1-9. Within five days after receipt of such notice or posting of such notice, if the owner or occupant of the lot or piece of ground does not request a hearing with the city or fails to comply with such order, the city may have such work done and may levy and assess the cost 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.

(Code 1972, § 38-2; Ord. No. 1945, § 1, 8-4-2005)

Secs. 56-3--56-22. Reserved.

ARTICLE II. ADVISORY TREE BOARD

Sec. 56-23. Created.

There is created an advisory tree board for the city. The city tree board shall consist of nine members. One member shall include the parks and recreation director and one member shall include the ~~public works director~~ director of public works. Other members shall include individuals that have an interest and expertise in community beautification, tree development and horticulture.

(Code 1972, § 25-41; Ord. No. 2171, § 1, 2-16-2017)

Sec. 56-24. Appointment and terms.²⁹⁹

(a) *Appointment.* The tree board at-large members shall be appointed by the mayor with the consent of the city council.

(b) *Terms.* ~~At the time of the first appointment three at large members shall be appointed for a term of one~~

²⁹⁸ Legal or Editorial Change: Code 1972, § 38-2. Same—Failure to remove. Altered per instructions.

²⁹⁹ Legal Analysis: Code 1972, § 25-42. Appointment and terms. Deleted the initial terms of office as obsolete.

~~year, two for a term of two years, and two for a term of three years. Each year thereafter~~ It shall be the duty of the mayor and city council to appoint or reappoint board members to replace the members whose terms have expired, and to make such appointment or reappointment for a term of three years. These terms of office shall run on a calendar year with appointments made at the regular January council meeting.

(Code 1972, § 25-42; Ord. No. 2171, § 1, 2-16-2017)

Sec. 56-25. Duties.

The tree board shall advise and recommend to the mayor, city council, city administrator and parks and recreation director in areas concerning the layout, planning, improvement, beautification, design and maintenance of trees and horticulture of public parks and municipally owned property and recreation facilities.

(Code 1972, § 25-43; Ord. No. 2171, § 1, 2-16-2017)

Sec. 56-26. Quorum.

Five members of the tree board shall constitute a quorum.

(Code 1972, § 25-44; Ord. No. 2171, § 1, 2-6-2017)

Sec. 56-27. Officers.

The members of the tree board shall elect one of the members as chairperson of the board at the first meeting in each year. The director of parks and recreation shall sit with the board at all of its meetings and shall serve as the secretary for the board.

(Code 1972, § 25-45; Ord. No. 2171, § 1, 2-16-2017)

Sec. 56-28. Rules and regulations.

The tree board shall adopt all necessary rules providing for regular and special meetings of the board and for the conduct of its business and such rules and regulations as it may deem necessary for the management and care of trees and horticulture in municipally owned property and the city parks and recreation facilities.

(Code 1972, § 25-46; Ord. No. 2171, § 1, 2-16-2017)

Sec. 56-29. Advisory board.

The tree board is an advisory board and shall not have authority to hire or dismiss personnel or to manage the municipally owned property and parks and recreation facilities of the city, which shall be the responsibility of the director of parks and recreation and ~~public works director~~ director of public works who are under the direct supervision of the city administrator.

(Code 1972, § 25-47; Ord. No. 2171, § 1, 2-16-2017)

Secs. 56-30--56-46. Reserved.

ARTICLE III. VEGETATION CONTROL

Sec. 56-47. Duty to trim.

All owners or occupants of any lot, block or parcel of land within the city shall keep the lots and pieces of ground and the adjoining streets and alleys free of any growth of 12 inches or more in height of weeds, grasses or worthless vegetation and shall not permit the branches of trees along the sidewalk in front of or along the sidewalk of their property to extend over said sidewalk nearer than eight feet from the surface of the sidewalk or within 13 feet over any portion of public streets and alleys used for vehicular traffic.

(Code 1972, § 38-14; Ord. No. 1945, § 1, 8-4-2005)

Sec. 56-48. Director of public works to inspect.

It is hereby made the duty of the chief of police or director of public works or their authorized agent or representative to view and inspect any and all lots and parcels of land within the city, upon complaint or on such chief or director or authorized agent or representative's own initiative, in enforcement of this article.

(Code 1972, § 38-15; Ord. No. 1945, § 1, 8-4-2005)

Sec. 56-49. Notice of violation.

If the chief of police or director of public works, or their authorized agent or representative, shall find any violation of the provisions of this section, such chief or director or authorized agent or representative shall give notice to each owner or owner's duly authorized agent and to the occupant, if any, of such premises by personal service or certified mail to comply with the terms of this article. If no person can be found within the city to whom such notice can be given, the chief, director or authorized agent or representatives shall post a copy of such notice on the premises.

(Code 1972, § 38-16; Ord. No. 1945, § 1, 8-4-2005)

Sec. 56-50. Conviction of violation.³⁰⁰

Any owner or occupant of a lot or piece of ground within the city shall upon conviction of violation of the terms of this article be ~~guilty of a class V misdemeanor~~ punished as provided in section 1-9.

(Code 1972, § 38-17; Ord. No. 1945, § 1, 8-4-2005)

Sec. 56-51. Action by city upon failure of compliance with notice.

In case either the person or certified mail or posted notice of violation of terms of this article is not complied with within five days after receipt of such notice, or such posting, or if the owner or occupant of the lot or pieces of ground upon which violation exists does not request a hearing with the city within such five-day period, the city may have such work done and may levy and assess the costs and expenses of the work upon the lot or pieces of ground so benefited in the same manner as other special taxes for improvements are levied and assessed.

(Code 1972, § 38-18; Ord. No. 1945, § 1, 8-4-2005)

Secs. 56-52--56-75. Reserved.**ARTICLE IV. TREE SURGEONS****DIVISION 1. GENERALLY****Sec. 56-76. Definitions.**

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

Tree surgeon means any person who solicits the work of felling trees, or who cuts or trims any tree or limbs or branches of any tree, or who offers services in the diagnosis and treatment of diseases of any tree, for a valuable consideration.

(Code 1972, § 38-30; Ord. No. 1945, § 1, 8-4-2005)

Secs. 56-77--56-95. Reserved.**DIVISION 2. LICENSE****Sec. 56-96. Required.**

Every tree surgeon shall annually, before engaging in any service designated in this article, obtain a license from the city clerk.

(Code 1972, § 38-36; Ord. No. 1945, § 1, 8-4-2005)

Sec. 56-97. Application.

The application for license required by this division shall give information showing the applicant's qualifications for this license and the nature of the equipment available for such work.

(Code 1972, § 38-37; Ord. No. 1945, § 1, 8-4-2005)

³⁰⁰ Legal or Editorial Change: Code 1972, § 38-17. Conviction of violation. Altered per instructions.

Sec. 56-98. Investigation by director of public works.

If the information on the application for a license required by this division discloses a doubt as to the qualifications or equipment, the clerk shall refer the application to the director public works, who shall, within 15 days, report on the assertions in the application.

(Code 1972, § 38-38; Ord. No. 1945, § 1, 8-4-2005)

Sec. 56-99. Certificate of insurance.

Every person applying for a license required by this division shall present to and deposit evidence with the city clerk that said person has an insurance policy providing public liability and property damage insurance for the general public in the amount of \$300,000.00 for public liability and \$100,000.00 for property damage, such coverage shall name the city as an additional insured, which shall provide liability insurance coverage for all claims arising out of all work done by such person or under such person's supervision in the city and within two miles of the corporate limits thereof and shall be executed by an insurance company authorized to do business in the state and acceptable to the city, and providing 30 days' written notice to be given to the city clerk in the event of expiration or of proposed cancellation of the insurance policy.

(Code 1972, § 38-39; Ord. No. 1945, § 1, 8-4-2005)

Sec. 56-100. Duration.

All licenses issued under this shall continue in force to May 1 of each year after the date on which they are granted, unless sooner revoked.

(Code 1972, § 38-40)

Secs. 56-101--56-128. Reserved.**ARTICLE V. TREES, SHRUBS AND HEDGES ALONG PUBLIC WAYS****Sec. 56-129. Statement of intent.**³⁰¹

The selection, planting, maintenance and removal of trees, shrubbery and hedges along all public ways, including the Central Business District, within the city, substantially affects such matters as pedestrian and vehicular safety, the location and maintenance of utility services, tree maintenance costs, the matters of tree diseases and the general appearance of cityscape; therefore, it is found and determined that such selection, planting, maintenance and removal are matters of citywide concern over which the city must exercise the control set forth in this article.

(Code 1972, § 38-45; Ord. No. 1945, § 1, 8-4-2005)

Sec. 56-130. Definitions.

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

Director means the director of public works of the city, or authorized agent or representative.

Planting is to include placing of trees, shrubs and hedges, both in the ground and in approved receptacles capable of being moved.

(Code 1972, § 38-46; Ord. No. 1945, § 1, 8-4-2005)

Sec. 56-131. Enforcement, right of entry.

The director of public works is charged with enforcement of this article and, to that end, may enter upon private property at all reasonable hours for purposes of inspection of trees thereon and may remove such specimens as are required for purposes of analysis to determine whether or not the same are infected. It shall be unlawful for any person to prevent the director of public works from entering on private property for purposes of carrying out the director's duties hereunder, or to interfere with the director of public works in the lawful performance of the

³⁰¹ Legal or Editorial Change: Code 1972, § 38-45. Statement of intent. Altered per instructions.

director's duties under the provisions of this division.

(Code 1972, § 38-47; Ord. No. 1945, § 1, 8-4-2005)

Sec. 56-132. Planting plan.³⁰²

The director of public works shall ~~prepare and maintain a planting plan for the city, showing~~ have the authority to determine the genus, species and variety of trees, shrubs and hedges which may hereafter be planted in or upon any street, parkway, sidewalk space or other public way within the city and all such tree plantings shall conform to such plan.

(Code 1972, § 38-48; Ord. No. 1945, § 1, 8-4-2005)

Sec. 56-133. Responsibility for expense and care; ~~permit required.~~³⁰³

~~Except as may otherwise hereafter be provided by the city council,~~ The director of public works shall have the authority to regulate and control the trimming, spraying, removal and destroying of all trees that now exist, the selection, planting, trimming, spraying, removing and destroying of all trees hereafter planted and the selecting of or planting of all shrubs and hedges hereafter planted in or upon any street, parkway, sidewalk space or other public way within the city shall be done at the expense of the property owner. The owner or occupant of the property abutting such public property shall be responsible for the routine care of such public property, such as watering and raking and disposing of leaves, twigs and other debris and the trimming or pruning of shrubs and hedges, ~~and provided, further, the director may, in accordance with the provisions of this article, issue a permit to any applicant therefore, allowing such person to plant, remove or destroy any such tree, or plant any such shrub or hedge.~~

(Code 1972, § 38-49; Ord. No. 1945, § 1, 8-4-2005)

Sec. 56-134. Application for permit.

Any person desiring to plant, remove or destroy any tree, or to plant any shrub or hedge in or upon any street, parkway, sidewalk space or other public way within the city shall first make a written application to the director so to do, upon a form furnished by the city. Such application shall set forth the name and address of the applicant, the name and address of the person, firm or corporation doing the work, and such other information as the director may require. At the time of making such application, the applicant shall agree in writing to hold the city harmless and to protect the city and the public at all times in connection with such work under such permit and to do such work in conformity with specifications set forth by the city. Also at the time of making such application, the applicant shall furnish the director with written consent to the issuance of such permit from the owner of the property abutting the public property upon which such work is proposed to be done.

(Code 1972, § 38-50; Ord. No. 1945, § 1, 8-4-2005)

Sec. 56-135. Issue of permit; requirement pertaining to planting, maintaining, removal and destruction.³⁰⁴

After inspection of the location in questions, if in the director's opinion it is desirable that such tree be planted, removed or destroyed, or such shrub or hedge be planted, as the case may be, the director shall issue a permit therefor. Such permit shall set forth the name and address of the owner of the property abutting the public property upon which such work is to be done, the name and address of person who will perform such work, and the location at which such work will be performed. The permittee shall furnish any such tree, shrub or hedge to be planted. After planting, such tree, shrub or hedge shall be and remain the property of the city, and subject to the provisions of this article. The cost of any such tree, shrub or hedge and the cost of all such permitted planting, removal and the destroying shall be and remain the permittee's. Such permit shall be subject to the following conditions, which shall

³⁰² Legal or Editorial Change: Code 1972, § 38-48. Planting plan. Altered per instructions.

³⁰³ Legal or Editorial Change: Code 1972, § 38-49. Responsibility for expense and care; permit required. Altered per instructions.

³⁰⁴ Legal or Editorial Change: Code 1972, § 38-51. Issue of permit; requirement pertaining to planting, maintaining, removal and destruction. Altered per instructions.

be made a part of the permit, and failure to comply therewith shall constitute a violation of this article:

- (1) Any tree, shrub or hedge to be planted shall be planted at the location designated by the director of public works. All trees when planted shall be of a size that will compliment the area in which they are planted. ~~No whips shall be planted.~~
- (2) All shrubs and hedges shall be kept trimmed at least three feet back from all curbs, sidewalks, driveways or alleys, and the same shall at all times be kept trimmed within a height the director of public works finds would not constitute a hazard to pedestrian or vehicular traffic.
~~Whenever any shrub or hedge is removed from any street, parkway, sidewalk space or other public way, the consent of the owner of the abutting property to remove such shrub or hedge shall first be obtained, except in cases where removal is ordered or done by the city.~~
- (3) All shrubs and hedges being removed or destroyed shall be cut flush with the ground surface so that a lawnmower can pass over the ground at any time. When any plantings is receptacles are being removed or destroyed, all such receptacles shall also be removed from the public right-of-way together with any debris there from within 48 hours after the removal of such receptacles. When a tree is being removed or destroyed, the stump shall also be removed. All trees, shrubs and hedges, including limbs, and debris therefrom, shall be removed from the street, parkway, sidewalk space or other public way within 48 hours after being cut and the ground shall be raked clean of all chips, branches and debris.
- (4) When a tree is being felled, it shall be felled away from the roadway or parallel with the roadway whenever possible and the sidewalk and street shall be guarded to protect pedestrians and vehicles thereon.
- (5) All damage to curbs, sidewalks and other public property occurring in the performance of any such work shall be speedily and properly repaired at the permittee's expense.
- (6) It shall be unlawful as a normal practice for any person or city department to top any street or park tree, or other tree on public property. The term "topping," "rounding off," or "pollarding" is defined as the systematic cutting back of limbs within the tree's crown to such a degree as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical, may be exempt from this subsection at the determination of the director of public works.

(Code 1972, § 38-51; Ord. No. 1945, § 1, 8-4-2005)

Sec. 56-136. Work ordered or done by the city.

No permit shall be required for any tree, shrub or hedge planted, removed or destroyed when ordered or done by the city. However, all such work shall be done in conformance with the requirements of the city ordinances. Further, the city may trim all trees in or upon any street, parkway, sidewalk space or other public way so that there is a clearance of eight feet over sidewalks or 13 feet, six inches over the portion of public streets and alleys used for vehicular traffic.

(Code 1972, § 38-52; Ord. No. 1945, § 1, 8-4-2005)

Sec. 56-137. Shrubs and hedges; special assessments.

Upon the failure, neglect or refusal of an owner abutting the sidewalk space upon which shrubs or hedges have been planted, to maintain such shrub or hedge in accordance with the requirements of this article, whether or not the same have been planted pursuant to the provisions of this article, the director shall give the owner or owner's duly authorized agent, and to the occupant, if any, of the premises where the same are situated, notice to comply with the requirements of this article, by personal service or certified mail. If no person can be found within the city to whom such notice can be given, the director shall post copy of the such notice on the premises. Within five days after receipt of such notice, or posting of such notice, if the owner or occupant of the premises so notified does not request a hearing with the city or fails to comply with such order, the city may have such work done and may levy and assess the cost and expenses of the work upon the premises so benefited in the same manner as other special taxes for improvements are levied and assessed.

(Code 1972, § 38-53; Ord. No. 1945, § 1, 8-4-2005)

Secs. 56-138--56-157. Reserved.

ARTICLE VI. TREES, SHRUBS, AND HEDGES ON PRIVATE PROPERTY

Sec. 56-158. Declaration of nuisance.

Trees of all species and varieties being identified as diseased or dying are hereby declared to be a public nuisance.

(Code 1972, § 38-58; Ord. No. 1945, § 1, 8-4-2005)

Sec. 56-159. Enforcement, right of entry.³⁰⁵

The director of public works is charged with enforcement of this ~~division~~ article, and to that end may enter upon private property at all reasonable hours for purposes of inspection of trees thereon and may remove such specimens as are required for purposes of analysis to determine whether or not the same are infected. It shall be unlawful for any person to prevent the director of public works from entering on private property for purposes of carrying out the director's duties hereunder, or to interfere with the director of public works in the lawful performance of duties under the provisions of this ~~division~~ article.

(Code 1972, § 38-59; Ord. No. 1945, § 1, 8-4-2005)

Sec. 56-160. Notice for removal.³⁰⁶

If trees on private property are found to be infected or in a dead or dying condition, the director shall give to the owner or owner's duly authorized agent and to the occupant of the premises, if any, where the same are situated, notice to comply with the requirements of this article by personal service ~~or certified mail~~ sent by regular mail to the owner or occupant at the address of the property, and if known, to the owner's last known address. If no person can be found within the city to whom such notice can be given, the director shall post a copy of such notice on the premises. Within five days after ~~receipt~~ posting, delivery or mail of such notice, ~~or posting of such notice~~, if the owner or occupant of the premises so notified does not request a hearing with the city or fails to comply with such order, the city may have such work done and may levy and assess the cost and expenses of the work upon said premises so benefited in the same manner as other special taxes for improvements are levied and assessed.

(Code 1972, § 38-60; Ord. No. 1945, § 1, 8-4-2005)

~~Sec. 38-61. Service of notice—non-residents.~~³⁰⁷

~~Where the owner of premises upon which a nuisance under this division exists is a non-resident of the city, service of notice shall be made by publication once in a newspaper of general circulation in the city. The director of public works shall caused to be served by United States mail, within five days after the publication of such notice, a copy of such published notice upon the owner or owners of record of the said premises whose name and post office address are known to him. Proof by affidavit of mailing of such notice shall be made by the director of public works and filed in the office of the city clerk within ten days after mailing of such notice. Such affidavit of mailing of notice shall further state that the director of public works after diligent investigation and inquiry, was unable to ascertain and does not know the post office address of any other person appearing to have a direct legal interest in the said premises other than those to whom notice has been mailed in writing, those who have waived notice in writing, and those who have been personally served, and the affidavit shall list such owners or owner by name and legal description of the said premises. Upon the filing of such affidavit, the published notice hereinbefore referred to shall be construed as constructive notice to such owners or owner set forth in the affidavit of the director of public works. Mailing of notice may be waived in writing by any competent person.~~

³⁰⁵ Legal or Editorial Change: Code 1972, § 38-59. Enforcement, right of entry. Altered per instructions.

³⁰⁶ Legal or Editorial Change: Code 1972, § 38-60. Notice for removal. Altered per instructions.

³⁰⁷ Legal or Editorial Change: Code 1972, § 38-61. Service of notice—Non-residents. Deleted per instructions.

(Code 1972, § 38-61; Ord. No. 1945, § 1, 8-4-2005)

Sec. 38-62. Same—residents.³⁰⁸

~~Where the owner of the premises upon which a nuisance under this division exists is a resident of the city, service of notice shall be made by delivering the notice to such owner personally or by leaving it at his usual place of residence. In the event the director of public works is unable to obtain personal service on such owner, he is hereby authorized to serve constructive notice by following the procedure for such service upon non-residents.~~

(Code 1972, § 38-62; Ord. No. 1945, § 1, 8-4-2005)

Sec. 38-63. Removal of trees on private lands, agreement with city.³⁰⁹

~~After due notice has been served upon the owner of the premises upon which a nuisance under this division exists, it shall thereupon become his duty to cause such tree to be removed, under the direction and supervision of the director of public works.~~

~~In lieu thereof, the person charged with such removal may enter into an agreement with the city that such work be accomplished by the city at his expense and the expense and any interest shall be and are hereby declared to be a lien upon such property whereon such tree was situated, from the time same becomes due until paid. The agreement shall be in such form as the city attorney may prescribe, and shall be filed in the office of the county register of deeds.~~

(Code 1972, § 38-63; Ord. No. 1945, § 1, 8-4-2005)

Sec. 38-64. Same—abatement by city.³¹⁰

~~If the owner of the premises upon which a nuisance exists in violation of this division fails, neglects or refuses to remove and burn such nuisance, the director of public works may, ten days after the notice to remove and burn such nuisance is served, enter upon such private property and proceed with the removal and burning of the same, and the cost thereof shall be assessed against the real estate.~~

(Code 1972, § 38-64; Ord. No. 1945, § 1, 8-4-2005)

Sec. 38-65. Same—assessment of costs.³¹¹

~~The director of public works shall, not later than the fifteenth day of September, of each year, report all costs incurred in the enforcement of this division to the city council, whereupon the city council shall at a regular council meeting by resolution, assess such cost together with any assessment expenses, against such real estate.~~

(Code 1972, § 38-65; Ord. No. 1945, § 1, 8-4-2005)

Sec. 56-161. Removal of trees on private lands, collection of assessment.³¹²

~~When an assessment has been made pursuant to this article, it shall be certified by the city clerk and delivered to the country treasurer and shall be collected in the manner provided by law for the collection of general real estate taxes. Such assessment shall be a lien upon such real estate from the date of assessment, and shall become delinquent december first after the date of assessment, and shall draw interest at the rate of seven percent per annum from said date until paid.~~

³⁰⁸ Legal or Editorial Change: Code 1972, § 38-62. Same—Residents. Deleted per instructions.

³⁰⁹ Legal or Editorial Change: Code 1972, § 38-63. Removal of trees on private lands, agreement with city. Deleted per instructions.

³¹⁰ Legal or Editorial Change: Code 1972, § 38-64. Same—Abatement by city. Deleted per instructions.

³¹¹ Legal or Editorial Change: Code 1972, § 38-65. Same—Assessment of costs. Deleted per instructions.

³¹² Legal or Editorial Change: Code 1972, § 38-66. Same—Collection of assessment. Altered per instructions.

(Code 1972, § 38-66; Ord. No. 1945, § 1, 8-4-2005)

Sec. 56-162. Effect of penalty.

Imposition of any penalty for a violation of this ~~division article~~ shall not be construed as a waiver of the right of the city to collect the costs of removal of such tree in accordance with the provisions of this ~~division article~~ where it is necessary for the city to remove such tree in accordance with the provision of this ~~division article~~.

(Code 1972, § 38-1; Ord. No. 1945, § 1, 8-4-2005)

PROOFS

Chapter 33
REGULATION OF CABLE TELEVISION RATES

~~Sec. 33-1. Regulation of rates by city.~~³¹³

~~(a) — The city will follow the FCC Rate Regulations in its regulation of the basic service rates and charges of the company and any other cable television system operating in the city, notwithstanding any different or inconsistent provisions in the franchise; and~~

~~(b) — In connection with such regulation, the city will ensure a reasonable opportunity for consideration of the views of the interested parties; and~~

~~(c) — The mayor of the city or his or her designee, is authorized to execute on behalf of the city and file with the FCC such certification forms or other instruments as are now or may hereafter be required by the FCC Rate Regulations in order to enable the city to regulate basic service rates and charges.~~

~~(Code 1972, § 33-1; Ord. No. 1668, §§ I—III, 10-14-93)~~

~~Sec. 33-2. Subscriber fees and rates.~~³¹⁴

~~(a) — It is the intention of the City of York by the adoption of these provisions, to follow the regulations established by the Federal Communications Commission for the regulation of rates.~~

~~(b) — The initial fees to be charged to subscribers for all services, including installation fees and other one-time charges, shall be specified in any franchise agreement issued pursuant hereto.~~

~~(c) — Those fees and charges subject to regulation by the city pursuant to state and federal law shall not be increased without prior review by the city.~~

~~(d) — In order to obtain city review for rate increases, the franchisee shall file a revised schedule of rates with the city at least 30 days in advance of a proposed rate increase. This filing shall specify the rates or fees to be increased and associated regulations which may affect charges to the subscriber and the justification for said increases and charges. The franchisee shall promptly submit any additional supporting information requested by the city.~~

~~(e) — Within 30 days of the rate increase filing, the city shall schedule two public meetings before the council to hear ratepayer and franchisee comment on the proposed increase. Following the public meetings, the council may determine whether or not to grant the proposed increase or a portion thereof prior to the expiration of the thirty-day period, unless the thirty-day deadline is tolled by the city for an additional 90 days to consider the request.~~

~~(f) — At least 30 days prior to the proposed rate increase, each ratepayer or subscriber shall be notified in writing by the franchisee of the changes in rates proposed.~~

~~(g) — Rates and charges may be reduced at any time without prior city approval, provided that the reductions do not result in rates which are unreasonably discriminatory to any subscriber or class of subscribers. Where temporary reductions are put into effect for promotional purposes for a specified time period, the return to the permanent rates shall not be considered a rate increase for purpose of this chapter. The city shall be notified of all reductions in rates, whether permanent or temporary.~~

~~(h) — Rates and charges not subject to regulations by the city under state or federal law or regulation may be changed by the franchisee following a minimum 30 days prior notice~~

³¹³ Legal or Editorial Change: Code 1972, § 33-1. Regulation of rates by city. Delete as obsolete.

³¹⁴ Legal or Editorial Change: Code 1972, § 33-2. Subscriber fees and rates. Delete as obsolete.

~~to the city and the subscribers.
(Code 1972, § 33-2; Ord. No. 1672, § 1, 1-13-94)~~

PROOFS

Chapter 25½
RESERVED*

~~*Editor's note—Ord. No. 2128, § 1, adopted May 21, 2015, repealed former Ch. 25½, §§ 25½ 1—25½ 13, in its entirety which pertained to pawnbrokers and derived from Ord. No. 1359, adopted Nov. 9, 1978.~~

PROOFS

APPENDIX A

ZONING*

***Editor's note**—The zoning regulations, adopted by reference by Ord. No. 1241 on March 26, 1973, are set out herein, substantially as they appeared in the zoning pamphlet accompanying said ordinance. The editor has inserted in brackets section captions where there were not any in the pamphlet. Subsequent amendatory ordinances are cited in parentheses following the section amended. State law references following sections or in footnote form have been editorially provided. Other material added for clarity is shown in brackets. The zoning regulations were included as Appendix A at the editor's discretion to maintain the format of the ordinance and because of the procedures required to amend the ordinance. See art. XXX of this ordinance.

Ord. No. 1241 further provided as follows:

"ARTICLE II(a)—RULES AND DEFINITIONS

"Section 1. The subject matter of this ordinance shall be as expressed and set forth in the title to this ordinance, the provisions of said ordinance to be as set forth in pamphlet form, Article III to Article XXVIII inclusive, which pamphlet shall be incorporated herein and made a part hereof by express reference as though set out in full therein, this ordinance, upon its passage, approval and publication as required by law, to become a part of and supplementary to General Revision Ordinance No. 1228 of the City of York, Nebraska and Chapter 27, Article I, thereof.

"Section 2. That this ordinance shall be considered amendatory of zoning regulations, restrictions and boundaries thereof throughout the entire area of the City of York, Nebraska and its two-mile extra-territorial jurisdiction."

A COMPREHENSIVE ZONING ORDINANCE REGULATING AND RESTRICTING THE USE OF LAND AND THE USE AND LOCATION OF BUILDINGS AND STRUCTURES; REGULATING AND RESTRICTING THE HEIGHT AND BULK OF BUILDINGS AND STRUCTURES AND DETERMINING THE AREA OF YARDS, COURTS AND OTHER PLACES SURROUNDING THEM; REGULATING AND RESTRICTING THE DENSITY OF POPULATION; DIVIDING THE CITY OF YORK AND THE SURROUNDING TWO-MILE AREA IN YORK COUNTY, INTO DISTRICTS FOR SUCH PURPOSES; ADOPTING ZONING DISTRICT MAPS OF THE YORK-YORK COUNTY PLANNING AREA, SHOWING BOUNDARIES AND THE CLASSIFICATION OF SUCH DISTRICTS; DEFINING CERTAIN OF THE TERMS USED IN SAID ORDINANCE; ESTABLISHING A BOARD OF ZONING APPEALS; PROVIDING FOR CHARGES AND AMENDMENTS TO THE SAID ORDINANCE; PRESCRIBING PENALTIES FOR THE VIOLATION OF ITS PROVISIONS; AMENDING AND REPEALING SAID ORIGINAL ORDINANCE NO. 1068 AND ALL AMENDMENTS THERETO.

BE IT ORDAINED by the governing body that:

ARTICLE I. TITLE

Sec. 1. [Citing ordinance; effect on prior ordinance].

This ordinance shall be known and may be cited as the Zoning Ordinance for the City of York, and shall repeal and replace the Ordinance No. 1068 and all amendments thereto.

ARTICLE II. INTERPRETATION AND SCOPE

Sec. 1. [Conflict of laws].

In the interpretation and application of this ordinance, the provisions of this ordinance shall be held to be the minimum requirements adopted for the promotion of the public health, safety and welfare. Where this ordinance imposes a greater restriction upon land, buildings, or structures than is imposed or required by existing provisions of law, ordinance, contract or deed, or resolution, the provisions of this ordinance shall control.

ARTICLE III. RULES AND DEFINITIONS

Sec. 1. Rules.

For the purpose of this ordinance the following rules shall apply:

- (1) Words and numbers used singularly shall include the plural. Words and numbers used plurally shall include the singular. Words used in the present tense shall include the future.

- (2) The word "persons" includes a corporation, members of a partnership or other business organization, a committee, board, trustee, receiver, agent or other representative.
- (3) The word "shall" is mandatory.
- (4) The words "use," "used," "occupy" or "occupied" as applied to any land or building shall be construed to include the words "intended," "arranged" or "designed" to be used or occupied.
- (5) For purposes of this ordinance whenever the word "family" is used, it shall be understood to mean "household" as defined in this ordinance.

(Ord. No. 2283, § 1, 4-15-2021)

Sec. 2. Definitions.

For the purpose of interpreting the provisions of this ordinance, certain terms or words used herein are defined as follows:

- (1) *Accessory use*: A use of land customarily incidental and subordinate to the use of the principal building on the same lot or tract.
- (2) *Accessory use of building*: A subordinate building or use which customarily is incidental to that of the main or principal building or use of the premises. Customary accessory uses include, but are not limited to, tennis courts, swimming pools, detached garages, garden houses, antenna/satellite dishes, amateur radio or land mobile towers (cellular communication towers) of less than one hundred (100) feet, and residential, agricultural and recreational storage sheds. Garages or other accessory uses attached to the principal structure shall be considered a part thereof and meet the requirements of the principal structure.
- (3) *Alley*: A public thoroughfare which provides only a secondary means of access to abutting property, the right-of-way of which is twenty (20) feet or less in width.
- (4) *Alteration*: (See Structural alterations.)
- (5) *Antenna, satellite receiving*: An antenna intended for gathering radio and television signals emanating from communications satellites in earth orbit.
- (6) *Apartment*: (See Dwelling, multiple-family.)
- (6.5) *Animal*: Beef cattle and swine.
- (7) *Animal hospital or clinic*: An establishment where animals are admitted principally for examination, treatment, board or care, by a doctor of veterinary medicine. This does not include open kennels or runs.
- (8) *Babysitting*: (See Child care.)
- (9) *Basement*: A story having part, but not less than one-half (1/2) of its height below grade.
- (10) *Board of adjustment*: The legally appointed municipal board empowered to hear and decide appeals from, and to provide interpretations of, the terms of the zoning ordinance and official map as defined within this ordinance and in accordance with the laws of the State of Nebraska.
- (11) *Boarding house and lodging house*: A building other than a hotel where, for compensation and by prearrangement for definite periods, meals, or lodging and meals are provided for three (3) or more persons but not exceeding twenty (20) persons. This shall include bed and breakfast facilities.
- (12) *Building*: Any structure designed, or intended for the enclosure, shelter or protection of persons, animals or property. When a structure is divided into separate parts by unpierced walls from the ground up, each part is deemed a separate building.
- (13) *Building height*: The vertical dimension measured from the average elevation of the finished lot grade at the front of the building to the highest point of a flat roof; to the deck line of a mansard roof; and to the average height between the plate and ridge of a gable, hip or gambrel roof (see illustrations at end of this article).

- (14) *Building official*: The person or persons designated by the governing body to administer this zoning ordinance, whether such person or persons be entitled building official, building inspector, administrative official, director of public works, or enforcing officer.
- (15) *Car wash*: An establishment having facilities designed or used exclusively for washing or cleaning motor vehicles.
- (16) *Cellar*: A story having more than one-half of its height below grade.
- (17) *Child care*: The process of caring for not more than three (3) unrelated minor children with or without compensation. A child care service of this size is not required to be licensed by the Nebraska Department of Health and Human Services. Child care shall include the term "babysitting," but shall not include day nurseries or preschools. Also see "day nurseries" and "preschool."
- (18) *Clinic*: (See Medical, dental or health clinic.)
- (19) *Club or lodge*: A nonprofit association or organization formed for either fraternal, social, educational, philanthropic or other similar purposes, including unions and professional organizations.
- (20) *Comprehensive plan*: The duly adopted comprehensive plan for the development of the community which includes maps, charts, illustrations and tests for the following:
- (a) Land use studies.
 - (b) Goals and objectives.
 - (c) Population study and forecasts.
 - (d) Economic base study.
 - (e) Housing survey.
 - (f) Transportation plan.
 - (g) Central business district plan.
 - (h) Community facilities and public utilities plan.
 - (i) General development plan.
- (21) *Condominium*: A single-unit dwelling located in a multi-unit structure containing three (3) or more such units, where the surrounding lot area is held in common and maintained through a special ownership agreement.
- [(21.5)] *Data Center*: a centralized repository for the storage, management, processing, conversion, and dissemination of data and information which may also house equipment that supports communications network infrastructure without actually being part of the physical network. A data center may house equipment that includes, but is not limited to, computers, servers, data storage devices, and related equipment. A data center may include, but shall not be limited to, accessory uses that include offices for data center staff and accessory structures that include water storage tanks, cooling towers, network systems, fuel storage tanks, guardhouses and security offices, storage, chillers, electrical transformers, and engine generators. Accessory uses shall not include retail sales, telephone call centers, or customer services operations. Typical uses include data processing centers and server or mining farms.
- (22) *Day nursery*: An establishment other than a preschool which provides regular day care without specific education curriculum for four (4) or more unrelated minor children, as opposed to a child care or babysitting service. A facility which provides services to four (4) or more minor children is required to be licensed by the Nebraska Department of Health and Human Services as defined under the authority of Sections 71-1908 through 71-1918, Revised Statutes of Nebraska [R.R.S. 1943, § 71-1908—71-1918], as provided and defined under Title 474 of the Nebraska Administration Code, Chapter 6, Section 202 [now repealed].
- (23) *District*: A section or sections of the city and the two (2) mile area for which the regulations governing the use of buildings and premises, the height of buildings, the size of yards and the intensity of use are uniform.

- (24) *Dwelling*: A building or portion of a building, not a mobile home, designed or used exclusively for residential occupancy, including single-unit dwellings, two-unit dwellings, and multiple-unit dwellings, but not including hotels or motels, or other transient accommodations, nor institutional care facilities such as hospitals or nursing homes.
- (25) *Dwelling, single-unit*: A building having accommodations for and occupied exclusively by one (1) household. This may include modular homes.
- (26) *Dwelling, two-unit*: A building having accommodations for and occupied exclusively by two (2) households. This may include modular homes.
- (27) *Dwelling, multiple-unit*: A building having accommodations for and occupied exclusively by more than two (2) households. This may include modular homes.
- (28) *Dwelling unit*: Any room or group of rooms located within a dwelling and forming a single habitable unit with facilities used, or intended to be used for living, sleeping, cooking, eating and sanitation, by one (1) household.
- (29) *Household*: One (1) or more persons, functioning as a single housekeeping unit, occupying a single dwelling unit in compliance with the occupancy limitations set forth in the International Property Maintenance Code. The number of occupants per household shall not exceed the number of occupants permitted by the minimum area requirements of the occupancy limitations set forth in the International Property Maintenance Code. Uses where tenancy may be arranged for less than a month-to-month basis are not considered household living; they are considered a form of lodging. This definition does not include group homes or group care facilities.
- (30) *Fence, solid*: Solid fence shall mean a fence of wood, metal or masonry construction which is designed to obstruct the public view. Such fence may utilize materials having openings or perforations for decorative or functional purposes, but such openings or perforations shall not exceed fifteen (15) per cent of the total external face area, or be so arranged as to permit an unobstructed public view at any point.
- (31) *Floodplain*: Those lands within the zoning jurisdiction of the City of York which are subject to a one per cent or greater chance of flooding in any given year. The regulatory floodplain for this ordinance shall be based on the official flood hazard boundary map or flood insurance rate map issued by the Federal Insurance Administration, U.S. Department of Housing and Urban Development and any revision thereto. Copies of said map shall be on file in the office of the city clerk.
- (32) *Frontage*: All the property on one side of a street between two (2) intersecting streets (crossing or terminating) measured along the line of the street. Where a street is dead ended, the frontage shall be considered as all that property abutting on one side between an intersecting street and the dead end of the street.
- (33) *Garage, community*: A garage used exclusively for the parking and storage of vehicles owned or operated by residents of nearby dwelling units and their guests, which is not operated as a commercial enterprise and is not available to the general public, and which is owned, leased or cooperatively operated by such residents.
- (34) *Garage, private*: An accessory building designed or used for the storage of not more than four (4) motor driven vehicles and less than one thousand (1,000) square feet in which vehicles owned and used by the occupants of the building to which it is accessory.
- (35) *Garage, public*: A building, or portion thereof other than a private or storage garage, designed or used for equipping, repairing, hiring, servicing, selling or storing motor-driven vehicles.
- (36) *Garage, storage*: A building, or portion thereof, designed or used exclusively for housing four (4) or more motor-driven vehicles and consisting of at least one thousand (1,000) square feet or more area.
- (37) *Governing body*: Mayor and city council of the City of York, Nebraska.
- (37.2) *Group care facility* shall mean a facility licensed or approved by the State of Nebraska or other appropriate agency or organization, which provides for the care and short or long-term, continuous multi-

day occupancy of unrelated persons who receive therapy or counseling as part of an organized and therapeutic program for any of the purposes listed below:

- (a) Rehabilitation from alcohol or substance abuse.
 - (b) Supervision under a program alternative to imprisonment including but not limited to pre-release, work-release, and probationary programs.
- (37.4) *Group home* shall mean a facility licensed or approved by the State of Nebraska or other appropriate agency or organization in which persons who are unrelated, not including resident managers or house parents, reside while receiving therapy, training, or counseling for the purpose of living with or rehabilitation from a physical, mental, behavioral, or developmental impairment or dysfunction that prevent such persons from living independently. Examples of group homes include residential settings for persons with physical, mental, or developmental disabilities or impairments and facilities for the placement of juveniles. The term "group home" shall not include a residential setting that qualifies as a "group care facility."
- (37.7) *Harvest*: Shall mean in regard to the harvest of animals: to kill an animal for human consumption.
- [(37.8)] *Home-Based Business*: Home-Based Businesses conducted by residents on the premises of their residential property. Home occupations, including food establishments that are authorized pursuant to the Nebraska Pure Food Act, Neb. Rev. Stats. § 81-2,239 et. seq., are permitted if they comply with the following conditions and standards:
- (a) No more than three nonresident employees may be on site at once.
 - (b) No more than three clients or customers may be on site at once. Section (b) does not apply to the use of a residential property for parties of up to four hours organized in a home to sell a particular type of good.
 - (c) The Home-Based Business must operate exclusively within an enclosed structure on the property.
 - (d) The operation of the Home-Based Business cannot be visible from the street.
 - (e) The Home-Based Business must remain a secondary use to the site's primary (residential) use.
 - (f) A single sign may be attached to the structure in which the Home-Based Business is operated, which sign must be 32 square feet or less. A single detached sign may be placed on the property on which the Home-Based Business is located, which sign must be 3 square feet or less.
 - (g) Materials or products associated with the home occupation on the premises must be stored within an enclosed structure.
 - (h) The operation of the home occupation shall be consistent with permitted residential uses, shall not create any conditions that amount to a public nuisance, and shall not be detrimental to the residential neighborhood by causing increased noise, traffic, lighting, odor, or by violating any applicable ordinances or laws.
 - (i) The Home-Based Business must operate in compliance with all City, State and County health and safety regulations.
- (38) *Home occupation*: An occupation or activity carried on within the dwelling or by a member of the family residing on the premises, which occupation or activity is incidental and secondary to the residential occupancy and does not change the residential character nor infringe upon the right of neighboring residents to enjoy a peaceful occupancy of their homes.
- (39) *Hospital*: An establishment used primarily for inpatient care and provide health, medical, mental, and surgical care of the sick or injured.
- (40) *Hotel/motel*: An establishment providing for a fee, sleeping accommodations and customary lodging services including maid services, desk service and may include facilities with conference and meeting rooms, restaurants, bars and recreational facilities. A hotel/motel includes a motor hotel, tourist court, extended-stay hotel or motel, apartment hotel or similar use, but does not include a mobile home park or

any facility in which the majority of lodging units are rented or leased for periods of more than thirty (30) days.

- (41) *Institution of higher learning*: A college, university or incorporated academy providing general academic instruction equivalent to the standards prescribed by the state board of education. Dormitories, fraternity houses, sorority houses and other student housing which are constructed on campus shall be considered accessory buildings.
- (42) *Institution (nonprofit)*: A building occupied by a nonprofit corporation or a nonprofit establishment for public use.
- (43) *Junk or salvage yard*: A place where waste, discarded or salvaged metals, building materials, paper, textiles, used plumbing fixtures, abandoned or inoperable motor vehicles or parts thereof, and other used materials are bought, sold, exchanged, stored, baled or cleaned; and places or yards for the storage of salvaged metal, materials and equipment; but not including pawn shops and establishments for the sale, purchase or storage of used cars or trucks presently in operable condition, boats or trailers presently in operable condition, and used furniture and household equipment in usable condition and not including the processing of used, discarded or salvaged materials as part of manufacturing operations.
- (44) *Kennel*: An establishment used for keeping more than two (2) domesticated animals, commonly considered to be household pets, more than three (3) months old.
- (45) *Laboratory, medical*: An establishment which provides bacteriological, biological, medical, X-ray, pathological and other similar analytical or diagnostic services.
- (46) *Laundry (self-service)*: An establishment equipped with individual coin-operated washing, drying or dry cleaning machines.
- (47) *Laundry*: An establishment where commercial laundry and dry cleaning work is undertaken.
- (48) *Livestock confinement facility/operation* shall mean any building(s), lot(s), pen(s), pool(s), or pond(s) or other confined spaces, which normally are not used for raising crops or grazing of animals, which are designed and/or used for on-going confined raising, feeding or management of animals for more than one hundred and eighty (180) consecutive days, in one (1) calendar year.
- (49) *Livestock, grazing of*: shall be defined as the feeding of livestock upon naturally grown vegetation in pasture lands, or from crop lands after harvesting. "Livestock, grazing of" shall not include supplemental feeding, such as bundled hay or feed, after vegetation or crop lands is barren.
- (50) *Reserved*.
- (51) *Lot area*: The total area within the property lines of the lot, plot or tract.
- (52) *Lot or plot*: A parcel of land occupied or intended for occupancy by one main building, together with its accessory buildings, including the open spaces required by this ordinance. A lot or plot may include more than one platted lot.
- (53) *Lot, corner*: A lot, as defined above, abutting upon two (2) or more streets at their intersection. (See illustration at the end of this article.)
- (54) *Lot coverage*: The total area of building expressed as a percentage of the total lot, plot or tract. (Includes both principal and accessory buildings.)
- (55) *Lot, interior*: A lot other than a corner lot which has frontage on one street only. (See illustration at the end of this article.)
- (56) *Lot, depth of*: The mean horizontal distance between the front and the rear lot lines. (See illustration at the end of this article.)
- (57) *Lot, double frontage*: A lot having a frontage on two (2) nonintersecting streets as distinguished from a corner lot. (See illustration at the end of this article.)

- (58) *Lot or record*: A lot which is a part of a subdivision, the map of which has been recorded in the office of the register of deeds, or a lot described by metes and bounds, the description of which has been recorded in the office of the register of deeds.
- (59) *Manufacture*: Any method of processing, developing, fabricating, assembling, either raw materials, semi-finished materials or parts into a semi-finished or finished product.
- (60) *Manufactured home*: A factory-built structure which is to be used as a place for human habitation, which is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than to a permanent site, which does not have permanently attached to its body or frame any wheels or axles, and which bears a label certifying that it was built to compliance with National Manufactured Home Construction and Safety Standards, 24 C.F.R. 3280 et seq., promulgated by the United States Department of Housing and Urban Development, or a modular housing unit as defined in Section 71-1557 of the Nebraska Revised Statutes bearing the seal of the Department of Health and Human Service System.
- (61) *Medical, dental or health clinic*: Any building designed for use by one or more persons lawfully engaged in the diagnosis, care and treatment of physical or mental diseases or ailments of human beings; including, but not limited to, doctors of medicine, dentists, chiropractors, osteopaths, optometrists, psychiatrists, and podiatrists; and in which no patients are lodged overnight.
- (62) *Mobile home (manufactured home)*: A year-round, transportable structures which is a single family dwelling unit suitable for permanent, more than thirty (30) days of living quarters, more than eight (8) feet wide and forty (40) feet in length and built to be towed on its own chassis with or without a permanent foundation when connected to the required utilities. This portable dwelling may consist of one (1) or more units that can be telescoped when towed and expanded later for additional capacity, or two (2) or more units, separately towable but designed to be joined as one (1) integral unit. Nothing in this definition shall be construed so as to include prefabricated, modular, pre-cut dwelling units or these manufactured in sections or parts away from the site and transported thereto for assembly. Other mobile home terms are as follows:
- (a) *Dependent mobile home*: A mobile home which does not have a flush toilet and bath or shower.
 - (b) *Independent mobile home*: A mobile home which has a flush toilet and a bath or shower.
 - (c) *Licensee*: Any person licensed to operate and maintain a mobile home park under the provisions of this ordinance.
 - (d) *Mobile home space*: A plot of ground within a mobile home park designed for the accommodation of one mobile home.
 - (e) *Natural or artificial barrier*: Any river, pond, canal, railroad, levee, embankment, or major street.
 - (f) *Permittee*: Any person to whom a permit is issued to maintain or operate a mobile home park under the provisions of this ordinance.
 - (g) *Permanent foundation*: A foundation of conventional construction utilizing concrete, masonry or similar materials which is specifically designed to accommodate the mobile home, and which has been constructed in accordance with the building codes of the City of York.
 - (h) *Person*. Any individual, firm, trust, partnership, association or corporation.
 - (i) *Street*. Any recognized thoroughfare in the city.
- (63) *Mobile (manufactured) home park*: Any area of land which two (2) or more mobile homes are parked, connected to utilities and used by one (1) or more persons for living or sleeping purposes. A mobile home parked in this area can either be placed on permanent foundation or supported only by its wheels, jacks, blocks, or skirting or a combination of these devices. A mobile home park includes any premises set apart for supplying to the public parking space, either free of charge or for revenue purposes for one (1) or more mobile homes, connected to utilities and used by one (1) or more persons living, or sleeping purposes and shall include any building, structure, tent, vehicle or enclosure used or intended for use as part of the equipment of such mobile home park.

- (64) *Modular home*: Any dwelling whose construction consists entirely of or the major portions of its construction consist of a unit or units not fabricated on the final site for the dwelling units, which units are movable or portable until placed on a permanent foundation and connected to utilities. All modular homes shall bear a label certifying that it was built to compliance with the Nebraska Department of Health and Human Services System as established in Section 71-1557 of the Nebraska revised Statutes [R.R.S. 1943, § 71-1557].
- (65) *Nonconforming building*: The use of a building or portion thereof lawfully existing at the time of the passage of this zoning ordinance and amendments thereto, which does not conform with the provision of this ordinance or amendments thereto.
- (66) *Nonconforming use*: Any land lawfully occupied by a use, at the time of the passage of this ordinance or amendments thereto, which does not conform with the provisions of this ordinance or amendments thereto.
- (67) *Nonstandard use*: Lots occupied by buildings or uses which existed immediately prior to the effective date of the zoning ordinance which fail to comply with any of the following: Minimum lot requirements for the area, density, width, front yard, side yard, rear yard, height or parking for the district in which they are located, even though the use of the premises conforms to the permitted use within the district as identified in the provisions of this ordinance.
- (68) *Nursing home*: An establishment or agency licensed by the State of Nebraska for the reception, board, care or treatment of three (3) or more unrelated elderly individuals.
- (69) *Outlot*: A lot platted as an outlot which does not meet the land subdivision requirements and cannot be built upon. May be used for drainage easements, park, open space, etc.
- (70) *Parking space*: An area surfaced for the purpose of storing one parked automobile. For the purpose of this ordinance one parking space shall have a minimum width of nine (9) feet and a minimum length of twenty (20) feet. In computing off-street parking, additional space shall be required off-street for access drives to each parking space.
- (71) *Planning commission*: The City Planning Commission of York, Nebraska.
- (72) *Place or court*: An open, unoccupied space, other than a street or alley, permanently reserved as the principal means of access to abutting property.
- (73) *Preschool*: An establishment, other than a public or parochial school, which provides regular day care with specific educational curriculum for unrelated minor children. Also see "child care" and "day nursery."
- (74) *Professional office*: Any building or part thereof used by one or more persons engaged in the practice of law, medicine, accounting, architecture, engineering or other occupation customarily considered as a profession.
- (75) *Public utility*: Any business which furnishes the general public telephone service, telegraph service, electricity, natural gas or water, and any other business so affecting the public interest as to be subject to the supervision or regulation by an agency of the state.
- (76) *Recycling center*: A salvage operation that accepts salvage material limited to paper; aluminum foil; containers made of glass, plastic, metal, aluminum, and paper; and similar household wastes; no hazardous material as defined by state and federal law is accepted; there is no wrecking or dismantling of salvage material and no salvage material is held outside a building.
- (77) *Restaurant*: A public eating establishment at which the primary function is the preparation and serving of food.
- (78) *Restaurant, drive-in*: An eating establishment, where for compensation, food is prepared and dispensed, having only incidental consumption within the principal building on the premises.
- (79) *Reserved*.

- (80) *Sanitary landfill*: A lot or parcel of land used primarily for the disposal, abandonment, dumping, burial or burning of garbage, sewage, trash, refuse, junk, discarded machinery or motor vehicles or part thereof, or other waste, and which is in conformance with the requirements of the Nebraska Department of Environmental Quality.
- (81) *School*: A public elementary or secondary educational facility which is under direction and control of the state board of education and the state superintendent of public instruction and/or a parochial elementary or secondary educational facility which offers the same general curriculum as that provided by a comparable public educational facility.
- (82) *Service station*: An establishment consisting of a building or group of buildings and surfaced area where automotive vehicles may be refueled and serviced; such service shall not include tire recapping, body repairs or major overhaul.
- (83) *Setback*: Distance between the lot line and building line. Except front yard setback is the distance between the lot line and the nearest architectural projection, such as the vertical face of the first step of the front porch.
- (84) *Sign*: A sign shall include any sign or other device which shall display or include any letter, word, model banner, flag, pennant, insignia, device or representation used as, or which is in the nature of, an advertisement or announcement which directs attention to an object, procedure, place, activity, person, institution, organization or business, but shall not include any display of official notice or official flag.
- (a) *Sign, attached* means a sign that is structurally connected to a building or depends upon that building for support.
 - (b) *Sign, awning* means a sign printed on such a temporary or movable shelter supported entirely from the exterior wall of a building and composed of non-rigid materials, except for a supporting framework.
 - (c) *Sign, banner* means material with a printed message or graphic secured or mounted from a structure in such a way as to allow wind movement.
 - (d) *Sign, canopy* means a sign that is attached or made an integral part of a canopy.
 - (e) *Sign, freestanding* means a sign that is self-supporting and structurally independent from any building.
 - (f) *Sign, electronic message* means a sign which uses an array of electrically illuminated lights, generally controlled by a computer or other electronic programming device, to display information or supporting graphics.
 - (g) *Sign, flag* means a sign that is emblazoned on a flag and is intended to be displayed in a free-flowing manner.
 - (h) *Sign, nonconforming* means a sign that was legally erected prior to the adoption of this Zoning Ordinance but which violates the regulations of this Zoning Ordinance.
 - (i) *Sign, marquee* means a permanent, roof-like structure projecting from a building at the entrance to the building with signage on the top or face of the structure. Not to exceed ten (10) feet from structure.
 - (j) *Sign, portable* means a sign supported by frames or posts rigidly attached to bases not permanently attached to the ground or a building and capable of being moved from place to place, and constructed of paper, cloth, canvas, light fabric, cardboard, plywood, light plastic or other similar materials.
 - (k) *Sign, projecting (blade)* means a sign other than a wall sign that is attached to and projects from a building face that extends more than eighteen (18) inches beyond the building plane.
 - (l) *Sign, residential* means a small detached or attached sign located on a residential premise, conveying a message communicated by the owner or resident of the property.

- (m) *Sign, roof* means a sign or part of sign erected upon, against, or directly above a roof or on top of or above the parapet or cornice of a building.
 - (n) *Sign, wall* means a sign attached to and parallel with the side of a building that does not project more than eighteen (18) inches from the building wall.
 - (o) *Sign, window* means a sign painted on or installed inside a window for the purpose of viewing from outside the premises.
 - (p) *Sign, yard* means a detached sign in a yard of a property.
 - (q) *Sign, sandwich* An advertising or business ground sign which is constructed in such a manner to form an "A" or a tentlike shape, hinged or not hinged at the top and each angular face held at an appropriate distance by a supporting member.
 - (r) *Sign, flashing* Any illuminated sign on which the artificial light is not constant in intensity and color at all times. For the purpose of this ordinance, any revolving illuminated sign shall be considered a flashing sign.
 - (s) *Sign, illuminated* Any sign which has characters, letters, figures, designs or outlines illuminated externally by electric lights or internally by luminous tubes.
 - (t) *Sign, ground* A ground sign shall mean a sign with less than ten (10) feet clearance supported by one or more uprights, poles, or braces in or upon the ground other than a pole sign, as defined in this article.
 - (u) *Sign, pole* A pole sign shall mean a sign wholly supported by a sign structure in the ground with any part of the sign area having a minimum of ten (10) foot clearance above grade.
 - (v) *Sign, temporary* A temporary sign shall mean any outdoor sign or device intended to be displayed for a limited period of time and not permanently affixed.
 - (w) *Sign, area:* Area of sign shall mean the area of the largest single face of the sign within a perimeter which forms the outside shape including any frame which forms an integral part of the display, but excluding necessary supports or uprights on which the sign may be placed. If the sign consists of more than one section or module, all areas will be totaled. Signs mounted or painted on a wall shall be calculated by using a simple geometric figure around the message and shall include any framing or decoration, the primary purpose of which is to highlight the sign.
 - (x) *Sign, height:* The height of a sign shall mean the distance between the lowest grade level within two (2) feet of either side of a sign, and the highest part of the sign or its support; except that if the property was lower than the adjacent roadway, then the height of the sign is to be calculated from the street grade at a ninety (90) degree angle from the sign.
- (85) *Reserved.*
- (86) *Reserved.*
- (87) *Special use permit:* A written permit issued with authorization of the city council. The special permit provides permission under specific conditions to make certain special uses of land in specific zoning districts as stipulated under permitted special uses in each of the district zoning regulations.
- (88) *Street:* A right-of-way, other than an alley dedicated to the public use, which provides principal access to adjacent properties.
- (89) *Street line:* A dividing line between a lot, tract or parcel of land and the contiguous street.
- (90) *Street network:*
- (a) *Arterial street:* A street which provides for through traffic movement between and around areas and across the city with direct access to abutting property; subject to necessary control of entrances, exits and curb uses.
 - (b) *Collector street:* A street which provides for traffic movement between arterial and local streets, with direct access to abutting property.

- (c) *Local street*: A street which provides direct access to abutting land and for local traffic movement, whether in business, industrial or residential areas.
- (91) *Structure*: Anything constructed or erected, the use of which requires permanent location on the ground or attachment to something having a permanent location on the ground, but not including fences.
- (92) *Structural alterations*: Any change or rearrangement of the supporting members of a building, such as bearing walls or partitions, columns, beams or girders, or any complete rebuilding of the roof or the exterior walls. For the purpose of this ordinance, the following shall not be considered structural alterations.
- (a) Attachment of a new front where structural supports are not changed.
 - (b) Addition of fire escapes where structural supports are not changed.
 - (c) New windows where lintels and support walls are not materially changed.
 - (d) Minor repair or replacement of nonstructural members.
- (93) *Subdivision*: The division of a tract of land into one or more lots or parcels for the purpose of transfer of ownership or building development, or, if a new street is involved, any division of a parcel of land. The term subdivision includes resubdivision and the term "resubdivision," as used herein, shall include any further subdivision of a lot or parcel of land previously subdivided, for sale, use, or other purposes, which varies from the latest, approved subdivision of the same. See land subdivision ordinance.
- (94) *Reserved*.
- (95) *This ordinance*: The document duly approved and adopted by the mayor and city council of the City of York, Nebraska, which establishes zoning requirements.
- (96) *Townhouse*: A single-unit dwelling located in a multi-unit structure containing three (3) or more such units, where portions of the surrounding lots are sold with the dwelling units to create privately owned and maintained yards.
- (97) *Tract*: A plot or parcel of land, other than a lot in a subdivision which is recorded in the office of the register of deeds.
- (98) *Trailer*: (See Mobile Home.)
- (99) *Use*: The specific purpose for which land or a building is used. The term "permitted use, " or its equivalent, shall not be deemed to include any illegal nonconforming use.
- (100) *Variance*: The authorization, by the board of adjustment, of a variance from the specific terms of this zoning ordinance. Variances are limited to those authorized in the powers and duties of the board of adjustment defined in this ordinance.
- (101) *Wind energy conversion system (WECS)*: Any device such as a wind generator, or wind turbine which is designed to utilize the force of wind to power machinery and/or produce another form of usable energy.
- (102) *Yard*: A space on the same lot with a main building open, unoccupied and unobstructed by buildings or structures from the ground upward.
- (103) *Yard, front*: A yard extending across the full width of the lot, the depth of which is the least distance between the street right-of-way and the front building line. (See illustration at the end of this article.)
- (104) *Yard, rear*: A yard extending across the full width of the lot between the rear of the main building and the rear lot line, the depth of which is the least distance between the rear lot line and the rear of such main building. (See illustration at the end of this article.)
- (105) *Yard, side*: A yard between the main building and the side lot line, extending from the front yard, or front lot line where no front yard is required, to the rear yard. The width of the required side yard shall be measured horizontally, at ninety (90) degrees with the side lot line, from the nearest point of the main building. (See illustration at the end of this article.)

(106) *Zone or district:* A portion, area or section of the City of York, Nebraska, for which uniform regulations governing the use, height, area, size and intensity of use of buildings, land, and open spaces about building are herein established.

(Ord. No. 1497, § 2, 2-14-1985; Ord. No. 1528, § 1, 9-11-1986; Ord. No. 1536, § 2, 3-12-1987; Ord. No. 1564, § 1, 1-14-1988; Ord. No. 1574, § 1, 7-14-1988; Ord. No. 1727, 6-13-1996; Ord. No. 1803, § 1, 11-18-1999; Ord. No. 1978, § 1, 1-18-2007; Ord. No. 2247, § 1, 6-4-2020; Ord. No. 2270, § 2, 9-3-2020; Ord. No. 2273, § 2, 11-5-2020; Ord. No. 2284, § 1, 4-15-2021; Ord. No. 2320, § 1, 4-21-2022; Ord. No. 2337, § 1, 10-20-2022)

[GRAPHIC]

Buildings

H-Height of building.

G-Grade.

(Ord. No. 1574, § 1, 7-14-1988)

[GRAPHIC]

Block Diagram

(Ord. No. 1414, 4-9-1981; Ord. No. 1456, § 1, 1-13-1983)

Sec. 3. Other terms.

Words or terms not herein defined shall have their ordinary meaning in relation to the context.

ARTICLE IV. DISTRICTS AND BOUNDARIES

Sec. 1. District classifications.

In order to classify, regulate and restrict the location of trades and industries, and the location of buildings designed for specified uses; to regulate and limit the height, and bulk of buildings; to regulate and limit the intensity of the use of lots; to regulate and determine the area of yards and other open spaces surrounding buildings; and to regulate and restrict the density of population, the City of York, Nebraska, [is divided] into districts designated as follows:

"F-P" and

"F-W"

Floodplain and floodway district

"A-L"

Agricultural district

"R"

Single-family dwelling

"R-2"

Two-family dwelling

"R-3"

Multiple-family dwelling

"R-P"

Community unit district

"M-H"

Mobile home (manufactured home) district

"M-P"

Mobile home (manufactured home) park district

"C-P"

Planned neighborhood commercial district

"C-1"

Central business district

"C-2"

Business district

"C-3"

Highway commercial district

"C-4"

Highway commercial district

"I"

Industrial district

(Ord. No. 1414, 4-9-1981; Ord. No. 1497, § 3, 2-14-1985; Ord. No. 1536, § 2, 3-12-1987; Ord. No. 1574, § 1, 7-14-1988; Ord. No. 1727, 6-13-1996; Ord. No. 1966, § 2, 8-3-2006; Ord. No. 1978, § 1, 1-18-2007)

Sec. 2. Zoning district maps.

The boundaries of the zoning districts are shown on the map and/or sections thereof attached hereto and made a part of this ordinance, which is designated "Zoning District Map." The zoning district map and all the notations, references and other information shown thereon were all fully set forth or described herein. Copies of the zoning district maps are properly attested and are on file with the City of York, Nebraska.

(Ord. No. 1727, 6-13-1996)

Sec. 3. Annexation rule.

All territory which may hereafter be annexed to the city shall be annexed as "R" single-family dwelling district until or unless otherwise changed by ordinance. Territory added to the two-mile planning area as a result of zoning district jurisdiction extension by the planning commission and the governing body, shall be classified "A-L" agricultural district, until or unless otherwise changed by ordinance or resolution.

Sec. 4. Rules where uncertainty arise.

Where uncertainty exists with respect to the boundaries of the various districts as shown on the maps accompanying and made a part of this ordinance, the following rules apply:

- (1) The district boundaries are the centerline of either streets, alleys, roads or highways, unless otherwise shown.
- (2) Where the property has been or may hereafter be divided into blocks and lots, the district boundaries shall be construed to be the lot lines, and where the districts designated on the maps accompanying and made a part of this ordinance are bounded approximately by lot lines, the lot lines shall be construed to be the boundary of the district unless the boundaries are otherwise indicated on the maps.
- (3) In unsubdivided property, the district boundary line on the map accompanying and made a part of this ordinance shall be determined by the use of the scale or dimensions appearing on the maps.

ARTICLE V. "F-P" FLOODPLAIN DISTRICT*

***Editor's note**—Ord. No. 1978, § 1, adopted Jan. 18, 2007, amended former art. V, §§ 1—8, in its entirety to read as herein set out. Former art. V pertained to similar subject matter and derived from the following: Ord. No. 1414, 4-9-1981; Ord. No. 1522, § 1, 6-12-1986; Ord. No. 1536, § 2, 3-12-1987.

[Secs. 1—3. Reserved.]**Sec. 4. Intensity of use regulations.**

The lot coverage and intensity of use of the parent district of which this district is made a part shall be the maximum allowable.

(Ord. No. 1414, 4-9-1981)

Sec. 5. Height regulations.

The height requirements of the parent district of which this district is made a part shall be the maximum height requirements subject to additional requirements as prescribed by this ordinance.

(Ord. No. 1414, 4-9-1981)

Sec. 6. Yard regulations.

The yard requirements of the parent district of which this district is made a part shall be the minimum yard requirements subject to additional requirements as prescribed by this ordinance.

(Ord. No. 1414, 4-9-1981)

Sec. 7. Sign regulations.

The sign regulations of the parent district of which this district is made a part shall be the minimum requirements for sign regulations.

(Ord. No. 1414, 4-9-1981)

Sec. 8. Parking regulations.

The parking regulations of the parent district of which this district is made a part shall be the minimum requirements for parking subject to additional requirements as prescribed by this ordinance.

(Ord. No. 1414, 4-9-1981)

ARTICLE VI. "A-L" AGRICULTURAL DISTRICT**Sec. 1. Intent and purpose of district.**

The "A-L" Agricultural District is established for the purpose of protecting agricultural uses in the county by restricting and regulating density, land coverage and land use.

Sec. 2. District regulations.

In district "A-L" no building or land shall be used and no building or structure shall be erected, altered or enlarged which is arranged or designed for other than one of the uses listed in section 3 below.

Sec. 3. Use regulations.

(1) General agricultural operation.

(a) This may include:

Animal and dairy husbandry, animal feed lots provided that they first meet all requirements of the Nebraska Department of Environmental Quality.

Poultry husbandry.

Production of grain crops, hay and forage crops, and general agronomic practices.

Storage of grain, hay and forage crops produced on an individual farm operation.

Accessory buildings and structures incidental to general agricultural operations.

(b) This shall not include or permit:

(i) The spreading, accumulation, or use of manure or animal waste in any form on the surface of the land.

(ii) Any activity within three hundred (300) feet of a dwelling district, which activity is noxious or offensive by reason of dust, odor, or noise.

(2) Agricultural research operations.

(3) Agricultural grain processing facilities.

(4) Single-family dwellings, provided that if more than one (1) dwelling unit is constructed, then a plat shall be filed in accordance with the subdivision regulations of the City of York; is in at least four-acre lots; and provided that there is a percolation test made for each lot or such number of lots in accordance with the Nebraska Department of Environmental Quality. The lot shall be satisfactory if there is a percolation rate of ninety (90) minutes or less with a percolation test being accomplished by the subdivider under the supervision of and the percolation rate determination being made in accordance with the Nebraska Department of Environmental Quality.

(5) Child care.

(6) Churches and similar places of worship and parish houses.

(7) Philanthropic institutions, including penal and mental health institutions.

(8) Golf courses, except miniature golf courses and driving tees operated for commercial purposes.

(9) Greenhouses, nurseries, and garden centers.

(10) Institutions of higher learning, including dormitory accommodations when located on the same tract as the educational buildings.

(11) Public parks, playgrounds, recreational areas and community buildings owned and operated by a public agency.

(12) Public or parochial elementary, junior high and high schools and private schools with equivalent curriculum.

(13) Stands for sale of agricultural products or commodities raised on the premises.

(14) Customary accessory uses and structures located on the same tract with the principal use, including barns, sheds, tennis courts, swimming pools, private garages, garden houses, barbecue ovens, fireplaces and similar uses.

(15) Temporary structures incidental to construction work, but only for the period of such work. Basements and cellars may not be occupied for residential purposes until the building is completed.

(16) The renting of not to exceed two (2) sleeping rooms with a total occupancy of not to exceed three (3) persons for whom board may be furnished but with the prohibition of separate culinary accommodations for such tenants.

(17) A building or premises may be used for the following purposes in the A-L Agricultural District if a special permit for such use has been obtained in accordance with Article XXX of this ordinance.

(a) Any public building erected or land used by any department of the city, county, state or federal government.

(b) Airport or heliport.

(c) Cemetery or crematory.

(d) Fuel alcohol plants, including support facilities, products, and production of related by-products.

(e) Mineral extraction.

(f) Nursing homes and homes for the aged on a tract of land three (3) acres or larger.

(g) Seasonal or temporary uses such as recreational camps and similar activities.

(h) Telephone exchange, electric and gas substations and regular stations.

(i) There shall be no expansion of existing, nor development of new livestock confinement facilities/operations, located between the corporate limits of the City of York and one (1) mile beyond the corporate limit line.

The expansion of existing and development of new livestock confinement facilities/operations, which are licensed and regulated by the Nebraska Department of Environmental Quality, shall only be allowed in the region of the two-mile planning jurisdiction between one (1) mile beyond the corporate limits and the two-mile planning jurisdiction boundary line.

These livestock confinement facilities/operations shall be located no closer than one-fourth ($\frac{1}{4}$) mile from the nearest occupied residential, public/quasi-public, commercial or industrial building, other than that occupied by the feed lot owner or operator. The one-fourth ($\frac{1}{4}$) mile distance shall be measured from the point of the said feedlot nearest to any such residential commercial or industrial building.

The maximum size of livestock confinement facilities/operations shall not exceed any of the following:

Slaughter/Feeder Cattle	150
Cow/Calf Pairs	125
Mature Dairy Cattle	107
Swine, 55lbs +	375
Weaned Pigs, less than 55lbs	3,750
Sheep	1,500
Horses	75
Chickens	15,000
Turkeys	7,500
Ducks	750

- (j) Automobile wrecking yards, junk yards and scrap processing yards; when said yard is completely enclosed with eight-foot solid fence, wall or hedge; and no junk or scrap is stored outside the fence, wall or hedge.
- (k) Blacksmithing and welding shops.
- (l) Land-leveling and dirt-contracting yards and shops.
- (m) Day nurseries.
- (n) Preschools.
- (o) One additional single-family residence, including a mobile home, for purposes of housing relatives or farmworkers.
- (p) Home occupations must comply with all of the following conditions and standards:
 - (1) The occupation or activity must be carried on in the principal building or accessory building.
 - (2) The occupation or activity is carried on by one or more occupants residing on the premises.
 - (3) The occupation or activity does not occupy more than twenty-five (25) per cent of the floor area of one floor of the principal building or one thousand (1,000) square feet in an accessory building.
 - (4) Not more than one nonilluminated nameplate is used. The nameplate shall be attached to the building and shall not exceed sixteen (16) square feet in area.
 - (5) The occupation or activity is customarily incidental to the use of the premises as a dwelling place.
 - (6) Exterior displays or displays of goods or chattels shall be located in a fenced area not exceeding five hundred (500) square feet on the premises and shall not be located within any yard setbacks by any method or device whatsoever.
 - (7) Employment of no person(s) other than the resident(s) of the dwelling unit or more than one

parttime nonoccupant in the conduct of any home occupation or activity.

- (8) The occupation or activity is one of the following:
- (a) Dressmaking, sewing, cosmetology, hairdressing, millinery.
 - (b) The giving of voice, piano or other musical instrument lessons limited to one pupil at a time.
 - (c) The sale of antiques, crafts, ceramics and similar items.
 - (d) Fix-it shops, radio, television, small household appliances and furniture upholstery and repairs.
- (9) A consent agreement is filed with the building official which has been signed by seventy-five (75) per cent of all of the owners of land located within three hundred (300) feet of the boundaries of the property on which the home occupation or activity is located. The consent by the building official to use a premises for a home occupation or activity shall be personal to the applicant thereof and shall not be assignable.
- (q) Contractor's storage yards and shop.
- (r) Accommodations specifically for providing motel "style" sleeping rooms for travelers with livestock. Primary use of property shall remain agricultural in nature with a subordinate short term stay "motel style" sleeping rooms. Total number of sleeping rooms shall not exceed five (5) separate rooms, each with accommodations for a maximum of four (4) persons, each room with individual bathroom/shower facilities, but excluding kitchen or meal preparation areas. If owner chooses to construct a separate commons area, accessible to all sleeping rooms, a joint kitchen and dining area may be provided. Sleeping room "motel" buildings should be in close proximity to pre-established farm buildings such as barns, corrals, stables or similar facilities.
- (s) Commercial indoor/outdoor storage of recreational vehicles, boats and vehicles.
- (t) Public events that may or may not involve the payment of admission fees, to include but not be limited to outdoor arenas, horse tracks, concession buildings, restrooms, offices, spectator stands, livestock stables, and parking lots and areas.

[(u)] Data Center.

(17)[(18)] Distilleries, breweries and wineries, to include retail sales and on-site tasting for the sale of alcoholic beverages and food.

(Ord. No. 1347, § 1, 1-12-1978; Ord. No. 1394, § 1, 1-19-1980; Ord. No. 1414, 4-9-1981; Ord. No. 1427, § 1, 7-23-1981; Ord. No. 1435, § 1, 12-10-1981; Ord. No. 1521, § 1, 5-8-1986; Ord. No. 1528, § 2, 9-11-1986; Ord. No. 1574, § 1, 7-14-1988; Ord. No. 1606, § 1, 4-12-1990; Ord. No. 1659, § 1, 8-26-1993; Ord. No. 1727, 6-13-1996; Ord. No. 1930, § 1, 3-17-2005; Ord. No. 1978, 1-18-2007; Ord. No. 2027, § 1, 12-17-2009; Ord. No. 2181, § 1, 10-19-2017; Ord. No. 2288, § 1, 8-5-2021; Ord. No. 2322, § 1, 4-21-2022; Ord. No. 2324, § 1, 6-16-2022)

Sec. 4. Intensity of use regulations.

Tracts in this district shall be four (4) acres or larger except special permitted governmental or public uses may be less than four (4) acres.

(Ord. No. 1414, 4-9-1981; Ord. No. 1574, § 1, 7-14-1988)

Sec. 5. Height regulations.

Except as otherwise provided in the additional height, area and use regulations of this ordinance, no building or structure shall exceed the following height restrictions.

- (1) When a building or structure is within one hundred fifty (150) feet of a dwelling district zone, said building or structure shall not exceed thirty-five (35) feet in height.
- (2) When a building or structure is more than one hundred fifty (150) feet from a dwelling district zone, said building or structure shall not exceed sixty (60) feet in height.
- (3) Barns, silos and other structures and appurtenances thereto which do not conflict with airport approach

zones, may be erected to a height not to exceed one hundred fifty (150) feet.

(Ord. No. 1574, § 1, 7-14-1988)

Sec. 6. Yard regulations.

Yard regulations shall be in conformance with the following provisions and in accordance with Article XXV of this Ordinance.

- (1) *Front yard:*
 - (a) There shall be a front yard having a depth of not less than forty (40) feet.
 - (b) Where a lot or tract has double frontage, the required front yard shall be provided on both streets.
 - (c) Where a lot or tract is located at the intersections of two (2) or more streets, there shall be a front yard on each street side of said lot or tract. No accessory building shall project beyond the front yard line on either street.
- (2) *Side yard:* There shall be a side yard on each side of every building or structure which side yard shall not be less than fifteen (15) feet.
- (3) *Rear yard:* Except as hereinafter provided in the additional height, area and use regulations of this ordinance, there shall be a rear yard having a depth of not less than forty (40) feet.
- (4) *Intersecting street setback:* On lots or tracts located at the intersections of two (2) or more streets no structure shall project beyond a line drawn between two (2) points located on the property lines nearest the streets and one hundred (100) feet distance each way from the property line intersection at the street corner.

(Ord. No. 1414, 4-9-1981; Ord. No. 1727, 6-13-1996; Ord. No. 1978, § 1, 1-18-2007)

Sec. 7. Parking regulations.

See Article XX.

(Ord. No. 1414, 4-9-1981; Ord. No. 1497, § 4, 2-14-1985; Ord. No. 1574, § 1, 7-14-1988; Ord. No. 1978, § 1, 1-18-2007)

Sec. 8. Sign regulations.

See Article XIX.

(Ord. No. 1414, 4-9-1981; Ord. No. 1497, § 4, 2-14-1985; Ord. No. 1574, § 1, 7-14-1988; Ord. No. 1978, § 1, 1-18-2007)

ARTICLE VII. "R" SINGLE-FAMILY DWELLING DISTRICT

Sec. 1. Intent and purpose of district.

The "R" single-family dwelling district is established for the purpose of low density single-family and two-family dwelling use and to allow certain public facilities. It is intended that houses be permitted in this district that will not tend to devalue property for residential purposes or interfere with the health, safety, order or general welfare of persons residing in the district. Regulations are intended to control density of population and to provide adequate open space around buildings and structures in the district to accomplish these purposes.

(Ord. No. 1727, 6-13-1996)

Sec. 2. District.

In district "R" no building or land shall be used, and no building or structure shall be erected, altered or enlarged, which is arranged, intended or designed for other than one of the uses listed in section 3 below.

Sec. 3. Use regulations.

- (1) Single-family, including Manufactured Homes in accordance with Article XXV, section 8, and two-family dwellings, but not including trailer houses or mobile homes.
- (2) Child care.
- (3) Churches and similar places of worship and parish houses.

- (4) Golf courses, except miniature golf courses and driving tees operated for commercial purposes.
- (5) Hospitals for people only on a lot, plot or tract of land five (5) acres or larger.
- (6) Nursing homes on a lot, plot or tract of land five (5) acres or larger.
- (7) Public parks, playgrounds, recreational areas.
- (8) Raising of crops, trees, shrubs and grasses not sold on the premises.
- (9) Schools—Public or parochial, elementary, junior high and high schools and private schools with equivalent curriculum.
- (10) Customary accessory uses and structures located on the same lot with the principal use including tennis courts, swimming pools, private garages, garden houses, barbecue ovens, and fireplaces, but which do not include uses unrelated to the principal use or any activity commonly conducted for gain.
- (11) Temporary structures incidental to construction work, but only for the period of such work. Basements and cellars may not be occupied for residential purposes until the building is completed.
- (12) A building or premises may be used for the following purposes in the "R" residential district if a special permit for such use has been obtained in accordance with Article XXIX of this ordinance.
 - (a) Day nurseries.
 - (b) Preschools.
 - (c) Private schools and institutions of higher learning, other than those permitted under (9) above.
 - (d) Group homes.
 - (e) Group care facilities.
- (14)[(13)] Home-Based Businesses as authorized by this Code.

(Ord. No. 1528, § 4, 9-11-1986; Ord. No. 1574, § 1, 7-14-1988; Ord. No. 1727, 6-13-1996; Ord. No. 1978, § 1, 1-18-2007; Ord. No. 2248, § 1, 6-18-2020; Ord. No. 2340, § 1, 10-20-2022)

Sec. 4. Intensity of use regulations.

Every lot shall have an area of not less than seven thousand two hundred (7,200) square feet and an average width of not less than sixty (60) feet. A lot on which there is erected a two-family dwelling shall contain an area of not less than five thousand (5,000) square feet per family. (See Article XXV, section 3, "Lots of record," for additional requirements.)

(Ord. No. 1414, 4-9-1981; Ord. No. 1497, § 6, 2-14-1985; Ord. No. 1574, § 1, 7-14-1988; Ord. No. 1978, § 1, 1-18-2007)

Sec. 5. Height regulations.

No building shall exceed thirty-five (35) feet in height.

(Ord. No. 1574, § 1, 7-14-1988)

Sec. 6. Yard regulations.

Yard regulations shall be in conformance with the following provisions and in accordance with Article XXV of this ordinance.

- (1) *Front yard:*
 - (a) There shall be a front yard having a depth of not less than twenty-five (25) feet.
 - (b) Where a lot or group of lots have a double frontage, the required front yard shall be provided on both streets.
 - (c) Where a lot is located at the intersection of two (2) or more streets, there shall be an adjacent street side yard of not less than fifteen (15) feet. No accessory building shall project beyond the respective front yard lines on either street.
 - (d) Adjustment of front yard requirements. The front yards heretofore established shall be adjusted in

the following cases:

- (1) Where forty (40) per cent or more of the frontage on the same side of a street between two (2) intersecting streets is developed with two (2) or more buildings that have (with a variation of five (5) feet or less) a front yard greater in depth than herein required, new buildings shall not be erected closer to the street than the front yard so established by the existing building nearest the street line.
- (2) Where forty (40) per cent or more of the frontage is on one side of a street between two (2) intersecting streets [and] is developed with two (2) or more buildings that have a front yard of less depth than herein required, then:
 - a. Where a building is to be erected on a parcel of land, other than a corner lot, that is within one hundred (100) feet of existing buildings on both sides, the minimum front yard shall be a line drawn between the two (2) closest front corners of the adjacent buildings on each side; or
 - b. Where a building is to be erected on a parcel of land, other than a corner lot, that is within one hundred (100) feet of an existing building on one side only, such building may be erected as close to the street as the existing adjacent building.
 - c. No reduction of front yard requirements will be made for buildings to be erected on a corner lot except as set out in paragraph (c) above.
- (2) *Side yard:* Except as hereinafter required in the additional height, area and use regulations of this ordinance there shall be a side yard having a width of a minimum of six (6) feet on each side of the principal building.
 - (a) There shall be no side yard requirement for individual dwelling units developed within a duplex arrangement. The principal structure housing such dwelling units shall be subject to the side yard requirements outlined above.
- (3) *Rear yard:* There shall be a rear yard having a depth of the smaller of twenty-five (25) feet or twenty (20) per cent of the lot depth.

(Ord. No. 1727, 6-13-1996; Ord. No. 1978, § 1, 1-18-2007)

Sec. 7. Sign regulations.

See Article XIX.

(Ord. No. 1414, 4-9-1981; Ord. No. 1497, § 6, 2-14-1985; Ord. No. 1574, § 1, 7-14-1988; Ord. No. 1727, 6-13-1996; Ord. No. 1978, § 1, 1-18-2007)

Sec. 8. Parking regulations.

See Article XX.

(Ord. No. 1414, 4-9-1981; Ord. No. 1497, § 6, 2-14-1985; Ord. No. 1574, § 1, 7-14-1988; Ord. No. 1727, 6-13-1996; Ord. No. 1978, § 1, 1-18-2007)

ARTICLE VIII. "R-2" TWO-FAMILY DWELLING DISTRICT

Sec. 1. Intent and purpose of district.

The "R-2" two-family dwelling district is intended for the purpose of allowing a slightly higher density than in district "R", yet retaining the residential qualities. This district allows duplex uses, single-family homes, certain community facilities and certain special uses.

(Ord. No. 1727, 6-13-1996)

Sec. 2. District regulations.

In District "R-2", no building or land shall be used, and no building or structure shall be erected, altered or enlarged, which is arranged, intended or designed for other than one of the uses listed in section 3 below.

Sec. 3. Use regulations.

(1) Single-family, including manufactured Homes in accordance with Article XXV, section 8, and two-family dwellings, but not including trailer houses or mobile homes.

(2) Two-family dwellings.

(3) Child care.

(4) Churches and similar places of worship and parish homes.

(5) Golf courses, except miniature golf courses and driving tees operated for commercial purposes.

(6) Hospitals (but not animal hospitals).

(7) Public parks, playgrounds, recreational areas and community buildings owned and operated by a public agency.

(8) Public or parochial elementary, junior high and high schools and private schools with equivalent curriculum.

(9) Institutions of higher learning, including dormitory accommodations when located on the same tract as the educational buildings.

(10) Raising of crops, trees, shrubs and grasses not sold on the premises.

(11) Customary accessory uses and structures located on the same lot with the principal use including tennis courts, swimming pools, private garages, garden houses, barbecue ovens, and fireplaces, but which do not include use unrelated to the principal use or any activity commonly conducted for gain.

(12) Temporary structures incidental to construction work but only for the period of such work. Basement and cellars may not be occupied for residential purposes until the building is complete.

(13) The renting of not to exceed two (2) sleeping rooms with a total occupancy of not to exceed three (3) persons for whom board may be furnished but with prohibition of separate culinary accommodations for such tenants.

(14) A building or premises may be used for the following purposes in the "R-2" residential district if a special permit for such use has been obtained in accordance with Article XXVIII [XXIX] of this ordinance.

(a) Any public building erected or land used by any department of the city, county, state or federal government.

(b) Airport or heliport.

(c) Cemetery or crematory.

(d) Telephone exchange, electric substations and regulatory stations, or other public utilities.

(e) Nursing homes and homes for the aged on a tract of land three (3) acres or larger.

(f) Day nurseries.

(g) Preschools.

(h) Private schools and institutions of higher learning, other than those permitted under (9) above.

(i) Group homes.

(j) Group care facilities.

(16)[(15)] Home-Based Businesses as authorized by this Code.

(Ord. No. 1528, § 5, 9-11-1986; Ord. No. 1737, 6-13-1996; Ord. No. 1759, § 1, 1-15-1998; Ord. No. 1978, § 1, 1-18-2007; Ord. No. 2249, § 1, 6-18-2020; Ord. No. 2339, § 1, 10-20-2022)

Sec. 4. Intensity of use regulations.

Except as hereinafter provided, all dwellings hereafter erected, enlarged, relocated or reconstructed, shall be located upon lots containing the following areas:

- (1) A lot on which there is erected a single-family dwelling shall contain an area of not less than six thousand (6,000) square feet per family.
- (2) A lot on which there is erected a two-family dwelling shall contain an area of not less than three thousand (3,000) square feet per family.
- (3) Where a single lot of record as of the effective date of this ordinance, as defined in the definitions section of this ordinance, has less area than herein required and its boundary lines, along their entire length, touched lands under other ownership on the effective date of this ordinance and have not since been changed, such lot may be used for a single-family dwelling if the structure conforms with other yard and height requirements of this district.
- (4) See Article XXV, section 3, "Lots of record," for additional requirements.

(Ord. No. 1414, 4-9-1981; Ord. No. 1497, § 7, 2-14-1985; Ord. No. 1574, § 1, 7-14-1988; Ord. No. 1727, 6-13-1996; Ord. No. 1978, § 1, 1-18-2007)

Sec. 5. Height regulations.

No building or structure shall exceed thirty-five (35) feet in height except as otherwise provided in the additional height, area and use regulations in this ordinance.

Sec. 6. Yard regulations.

Yard regulations shall be in conformance with the following provisions and in accordance with Article XXV of this ordinance.

- (1) Front yard:
 - (a) There shall be a front yard having a depth of not less than twenty-five (25) feet.
 - (b) Where lots have a double frontage, the required front yard shall be provided on both streets.
 - (c) Where a lot is located at the intersection of two (2) or more streets, there shall be an adjacent street side yard of not less than fifteen (15) feet. No accessory building shall project beyond the respective front yard lines on either street.
 - (d) Adjustment of front yard requirements. The front yards heretofore established shall be adjusted in the following cases:
 1. Where forty (40) per cent or more of the frontage on the same side of a street between two (2) intersecting streets is developed with two (2) or more buildings that have (with a variation of five (5) feet or less) a front yard greater in depth than herein required, new buildings shall not be erected closer to the street than the front yard so established by the existing building nearest the street line.
 2. Where forty (40) per cent or more of the frontage is on one side of a street between two (2) intersecting streets and is developed with two (2) or more buildings that have a front yard of less depth than herein required, then:
 - a. Where a building is to be erected on a parcel of land, other than a corner lot, that is within one hundred (100) feet of existing buildings on both sides, the minimum front yard shall be a line drawn between the two (2) closest front corners of the adjacent buildings on each side; or
 - b. Where a building is to be erected on a parcel of land, other than a corner lot, that is within one hundred (100) feet of an existing building on one side only, such building may be erected as close to the street as the existing adjacent building.
 - c. No reduction of front yard requirements will be made for buildings to be erected on a corner lot except as set out in paragraph (c) above.
- (2) Side yard: Except as hereinafter provided in the following paragraph and the additional height, area and use regulations of this ordinance, there shall be a side yard having a width of not less than five (5) feet on each side of the principal building.

(a) There shall be no side yard requirement for individual dwelling units developed within a duplex arrangement. The principal structure housing such dwelling units shall be subject to the side yard requirements outlined above.

(3) Rear yard: Except as hereinafter provided in the additional height, area and use regulations of this ordinance, there shall be a rear yard having a depth of the smaller of twenty-five (25) feet or twenty (20) per cent of the lot depth.

(4) See Article XXVI [XXV], section 4 [3], "Lots of record," for additional requirements.

(Ord. No. 1414, 4-9-1981; Ord. No. 1497, § 7, 2-14-1985; Ord. No. 1574, § 1, 7-14-1988; Ord. No. 1727, 6-13-1996; Ord. No. 1978, § 1, 1-18-2007)

Sec. 7. Parking regulations.

See Article XX.

(Ord. No. 1414, 4-9-1981; Ord. No. 1497, § 7, 2-14-1985; Ord. No. 1574, § 1, 7-14-1988; Ord. No. 1727, 6-13-1996; Ord. No. 1978, § 1, 1-18-2007)

Sec. 8. Sign regulations.

See Article XX [XIX].

(Ord. No. 1414, 4-9-1981; Ord. No. 1497, § 7, 2-14-1985; Ord. No. 1574, § 1, 7-14-1988; Ord. No. 1727, 6-13-1996; Ord. No. 1978, § 1, 1-18-2007)

ARTICLE IX. "R-3" MULTIPLE-FAMILY DWELLING DISTRICT

Sec. 1. Intent and purpose of district.

The "R-3" multiple-family dwelling district is intended for the purpose of allowing high residential density land use with the co-mingling of compatible single-family and two-family dwellings, apartments, home occupations, certain community facilities and certain special uses, yet retaining the basic residential qualities.

Sec. 2. District regulations.

In District "R-3", no building shall be used, and no building or structure shall be erected, altered or enlarged, which is arranged, intended or designed for other than one of the uses in section 3 below.

Sec. 3. Use regulations.

(1) Single-family, including manufactured homes in accordance with Article XXV, section 8, and two-family dwellings, but not including trailer houses or mobile homes.

(2) Two-family dwellings.

(3) Multiple-family dwellings, including apartment houses, apartment hotels, condominiums and town houses.

(4) Boarding and lodging houses.

(5) Child care.

(6) Churches and similar places of worship and parish homes.

(7) Day nurseries.

(8) Garage, community: A garage used exclusively for the parking and storage of vehicles owned or operated by residents of nearby dwelling units and their guests, which is not operated as a commercial enterprise and is not available to the general public, and which is owned, leased or cooperatively operated by such residents.

(9) Golf courses, except miniature golf courses and driving tees operated for commercial purposes.

(10) Home occupations.

(11) Institutions of higher learning, including dormitory accommodation.

(12) Public open spaces including parks, playgrounds and recreation areas owned and operated by a public

agency.

(13) Public or parochial elementary, junior high and high schools and private schools with equivalent curriculum.

(14) Raising of crops, trees, shrubs and grasses not sold on the premises.

(15) Hospitals (but not animal hospitals).

(16) Nonprofit institutions of an educational, or philanthropic nature, except penal or mental institutions.

(17) Nursing homes and homes for the aged.

(18) Customary accessory uses and structures located on the same lot or group of lots with the principal use, including tennis courts, swimming pools, private garages, garden houses, barbecue ovens and fireplaces, but do not include use unrelated to the principal use or any activity commonly conducted for gain.

(19) Preschool.

(20) Temporary structures incidental to construction work but only for the period of such work. Basements and cellars may not be occupied for residential purposes until the building is complete.

(21) A building or premises may be used for the following purposes in the "R-3" residential district if a special permit for such use has been obtained in accordance with Article XXIX of this ordinance.

(a) Any public building erected or land used by any department of the city, county, state or federal government.

(b) Airport or heliport.

(c) Cemetery or crematory.

(d) Telephone exchange, electric substations and regulator stations, or other public utilities.

(e) Public and private parking on lots adjacent, contiguous or across the alley from a district classified as "C-1" or "C-2."

(f) Group care facility.

(g) Group home.

(23)[(22)] Home-Based Businesses as authorized by this Code.

(Ord. No. 147, § 1, 12-8-1983; Ord. No. 1497, § 8, 2-14-1985; Ord. No. 1528, § 6, 9-11-1986; Ord. No. 1574, § 1, 7-14-1988; Ord. No. 1727, 6-13-1996; Ord. No. 1803, § 2, 11-18-1999; Ord. No. 1978, § 1, 1-18-2007; Ord. No. 2251, § 1, 7-16-2020; Ord. No. 2338, § 1, 10-20-2022)

Sec. 4. Intensity of use regulations.

Except as hereinafter provided, all dwellings hereafter erected, enlarged, relocated, or reconstructed shall be located upon lots containing the following areas:

(1) A lot on which there is erected a single-family dwelling shall contain an area of not less than five thousand (5,000) square feet.

(2) A lot on which there is erected a two-family dwelling shall contain an area of not less than two thousand five hundred (2,500) square feet per family.

(3) A lot on which there is erected a multiple dwelling shall contain an area of not less than six thousand (6,000) square feet, or fifteen hundred (1,500) square feet per family.

(4) Dormitories, lodging houses, nursing homes and boarding houses shall provide one thousand (1,000) square feet of lot area for each occupant.

(5) Where a single lot of record as of the effective date of this ordinance, as defined in the definitions section of this ordinance, has less area than five thousand (5,000) square feet and its boundary lines, along their entire length, touched lands under other ownership on the effective date of this ordinance and have not since been changed, such lot may be used only for single-family dwelling purposes, or for any other

nondwelling use permitted in this district, and providing the structure conforms with other yard and height requirements of this district.

- (6) Home occupations must comply with all of the following conditions and standards:
- (a) Occupation or activity must be carried on in the principal building.
 - (b) The occupation is carried on by a member or members of the immediate family residing on the premises.
 - (c) The occupation is customarily incidental to the use of the premises as a dwelling place.
 - (d) Not more than one nonilluminated nameplate is used. The nameplate shall be attached to the building and shall not exceed two (2) square feet in area.
 - (e) The occupation does not occupy more than twenty-five (25) per cent of the floor area of one floor of the principal building.
 - (f) No display will indicate from the exterior of the building that the premises are being used in part for any purpose other than a dwelling.
 - (g) There is no commodity displayed or stored on the premises except that which is prepared on the premises.
 - (h) No mechanical equipment is used except of a type that is normally used for purely domestic or household purposes.
 - (i) The use or occupation is one of the following:
 - (1) Office for the emergency consultation and treatment but not the general practice of a physician, surgeon, dentist, lawyer, clergyman and other recognized professions.
 - (2) Dressmaking, sewing, cosmetology, hairdressing, millinery and similar occupations.
 - (3) The giving of voice, piano or other musical instrument lessons limited to one pupil at a time.
 - (j) A consent agreement is filed with the building official which has been signed by seventy-five (75) per cent of all the owners of land located within two hundred (200) feet of the boundaries of the property on which the home occupation is located. The consent by the building official to use a premises for a home occupation shall be personal to the applicant thereof and shall not be assignable.

(Ord. No. 1414, 4-9-1981; Ord. No. 1497, § 8, 2-14-1985; Ord. No. 1574, § 1, 7-14-1988; Ord. No. 1727, 6-13-1996)

Sec. 5. Height regulations.

No buildings shall exceed forty-five (45) feet in height, except as provided in the additional height, area and use regulations of this ordinance.

Sec. 6. Yard regulations.

Yard regulations shall be in conformance with the following provisions and in accordance with Article XXV of this ordinance.

- (1) *Front yard:*
 - (a) There shall be a front yard having a depth of not less than twenty-five (25) feet.
 - (b) Where a lot or lots have double frontage, the required front yard shall be provided on both streets.
 - (c) Where a lot is located at the intersection of two (2) or more streets, there shall be an adjacent street side yard of not less than fifteen (15) feet. No accessory building shall project beyond the respective front yard lines on either street.
 - (d) Adjustment of front yard requirements. The front yards heretofore established shall be adjusted in the following cases:
 1. Where forty (40) per cent or more of the frontage on the same side of a street between two (2)

intersecting streets is developed with two (2) or more buildings that have (with a variation of five (5) feet or less) a front yard greater in depth than herein required, new buildings shall not be erected closer to the street than the front yard so established by the existing building nearest the street line.

2. Where forty (40) per cent or more of the frontage is on one side of a street between two (2) intersecting streets and is developed with two (2) or more buildings that have a front yard of less depth than herein required, then:
 - a. Where a building is to be erected on a parcel of land, other than a corner lot, that is within one hundred (100) feet of existing buildings on both sides, the minimum front yard shall be a line drawn between the two (2) closest front corners of the adjacent buildings on each side; or
 - b. Where a building is to be erected on a parcel of land, other than a corner lot, that is within one hundred (100) feet of an existing building on one side only, such building may be erected as close to the street as the existing adjacent building.
 - c. No reduction of front yard requirements will be made for buildings to be erected on a corner lot except as set out in paragraph (c) above.
- (2) *Side yard:* Except as hereinafter provided in the following paragraph and the additional height, area and use regulations of this ordinance, there shall be a side yard having a width of not less than five (5) feet on each side of a building thirty-five (35) feet or less in height, and there shall be a side yard having a width of not less than eight (8) feet on each side of a building in excess of thirty-five (35) feet.

There shall be no side yard requirement for individual dwelling units developed within a condominium or townhouse arrangement. The principal structure housing such dwelling units shall be subject to the side yard requirements outlined above.

- (3) *Rear yard.* Except as otherwise provided in the additional height, area and use regulations, there shall be a rear yard having a depth of the smaller of twenty-five (25) feet or twenty (20) per cent of the lot depth.

(Ord. No. 1414, 4-9-1981; Ord. No. 1497, § 8, 2-14-1985; Ord. No. 1574, § 1, 7-14-1988; Ord. No. 1727, 6-13-1996; Ord. No. 1978, § 1, 1-18-2007)

Sec. 7. Parking regulations.

See Article XX.

(Ord. No. 1414, 4-9-1981; Ord. No. 1497, § 8, 2-14-1985; Ord. No. 1574, § 1, 7-14-1988; Ord. No. 1727, 6-13-1996; Ord. No. 1978, § 1, 1-18-2007)

Sec. 8. Sign regulations.

See Article XXIX [XIX].

(Ord. No. 1414, 4-9-1981; Ord. No. 1497, § 8, 2-14-1985; Ord. No. 1574, § 1, 7-14-1988; Ord. No. 1727, 6-13-1996; Ord. No. 1978, § 1, 1-18-2007)

ARTICLE X. PLANNED UNIT DEVELOPMENT DISTRICT*

***Editor's note**—Ord. No. 2173, §§ 1—5, adopted March 2, 2017, amended former art. X, §§ 1—9, in its entirety to read as herein set out. Former art. X pertained to "R-P" community unit plan district and derived from Ord. No. 1241, 3-26-1973; Ord. No. 1497, § 9, 2-14-1985; Ord. No. 1574, § 1, 7-14-1988; Ord. No. 1727, 6-13-1996; Ord. No. 1803, § 3, 11-18-1999; Ord. No. 1978, § 1, 1-18-2007.

Sec. 1. Intent.

It is the intent of this district to provide considerably more land use and development flexibility than is possible through application of the zoning district regulations established by the Zoning Ordinance of the City of York where such land uses and developments will not be contrary to the intent of such ordinance, will be consistent with the current comprehensive plan and will be in the best interests of the city and the developer. Land uses and developments in this district shall be pre-planned, designed and coordinated so that the impacts of the development

can be predetermined. Development of affordable entry level and retirement housing, additional commercial and industrial uses and the encouragement of redevelopment of blighted and substandard areas within the City shall be particular objectives of this district as well as the following:

- (1) To encourage more creative and cost effective land and building site planning and design by providing flexibility and cost-saving incentives for such development.
- (2) To encourage more creative, efficient and cost effective designs of streets and public utility systems.
- (3) To encourage development of functional and aesthetically desirable open spaces and landscaping.
- (4) To encourage the effective reutilization of by-passed land or land uses so poorly planned and developed as to be a detriment to the surrounding neighborhood and the community.
- (5) To simplify the public review, platting and approval process of development proposals.

(Ord. No. 2173, § 2, 3-2-2017)

Sec. 2. Application.

The provisions of this district shall apply only to a lot, tract, series of lots or tracts or parcels of land which contain a minimum of one (1) acre of land and, if a residential development is proposed, a minimum of four (4) dwelling units.

(Ord. No. 2173, § 2, 3-2-2017)

Sec. 3. Permitted uses.

The following uses shall be permitted in this zoning district:

- (1) Residential uses of all types, including non-commercial uses of recreational, cultural or religious nature and commercial uses directly supportive of and sized to serve the proposed residential uses.
- (2) Commercial uses of all types which are compatible with each other and the adjoining land uses and which are consistent with the comprehensive plan of current adoption.
- (3) Industrial uses of all types which are compatible with each other and the adjoining land uses and which are consistent with the comprehensive plan of current adoption.
- (4) Mixed uses, including combinations of residential, commercial and/or industrial uses which are compatible with each other and the adjoining land uses and which are consistent with the comprehensive plan of current adoption.

(Ord. No. 2173, § 3, 3-2-2017)

Sec. 4. Minimum requirements.

In authorizing a planned unit development, the planning commission, in its review and recommendation of the PUD and the city council in its review and approval of any PUD, may alter the yard, building setbacks, building height, building size, lot coverage, off-street parking and loading areas, open space, landscaping, signage and other regulations normally applicable to a zoning district, provided that in no event shall a use which is inconsistent with the comprehensive plan of current adoption, which would be incompatible with adjoining land uses or which would overburden public services or facilities, overload the street or utility systems serving the area be authorized or be detrimental to the public health, safety and welfare and further provided that the following shall be minimum standards unless it is determined by the planning commission and city council that a lesser standard, including a zero (0) side yard, is appropriate and will not be detrimental to public safety.

- (a) Minimum front yard: Twenty (20) feet from the right-of-way line of the street(s) abutting the lot.
- (b) Minimum side and rear yard: Five (5) feet.

(Ord. No. 2173, § 4, 3-2-2017)

Sec. 5. Application, review and authorization procedures.

Authorization of a planned unit development shall comply with the following:

(a) *Preliminary planned unit development.*

- (1) The applicant shall submit eight (8) copies of a preliminary plan [plat] for any area proposed to be included in a planned unit development district together with payment of an application fee established for such applications. Such application shall be on forms provided by the city and shall include the following information:
 - a. A site plan, drawn to a scale not smaller than one hundred (100) feet to one (1) inch, indicating the boundaries of the proposed development and the tentative arrangement of all lots, land uses and their general locations, buildings, streets, open spaces, parking and loading areas, landscaping and screening, sidewalks, common areas, recreation areas and other development elements which are integral to the proposed development. A preliminary PUD plan shall constitute and be the same as a preliminary plat as required under the subdivision regulations of the city.
 - b. The number of dwelling units, commercial or industrial uses and the approximate square footage area of each type of use.
 - c. The proposed plans for handling vehicular traffic, including service trucks and emergency vehicles, pedestrian access and circulation, surface drainage, water supply, fire hydrants and sanitary sewage.
 - d. An indication of the types of protective covenants designed to protect the integrity and stability of the development together with an indication of how the on-going financial capability for maintenance and operation of common areas, private streets or other common use shall be provided.
 - e. A tentative indication of the order or phasing of development.
- (2) Within fifteen (15) calendar days of submission of an application, the zoning administrator shall consult with the applicant regarding the completeness of the application and any modifications needed recommended to comply with the requirements of this PUD district. After such consultation, the applicant may make modifications to the proposed plan and submit revisions to the zoning administrator.
- (3) Upon receipt of a complete application, the zoning administrator shall cause the application to be filed with the planning commission for consideration as a zoning amendment subject to the procedures and public notice required for amendment of the official zoning map.
- (4) The planning commission, at public hearing, shall review the proposed development application and shall decide whether the proposed development is consistent with the comprehensive plan of current adoption and is compatible with adjoining land uses. The commission may require modifications of the plan or may attach any conditions to the plan that will assure consistency with the comprehensive plan of current adoption and to avoid or minimize conflicts with adjoining land uses or undue impacts on public services or facilities, overloading of streets or utility systems serving the area or to protect the public health, safety and welfare. The commission may recommend approval of the plan as submitted, approval with modifications or conditions or disapproval of the plan. Upon action by the commission, the commission shall forward its recommendation to the city council.
- (5) The city council, after public notice is given, shall conduct a public hearing to review the recommendations of the planning commission and shall decide whether the proposed development is consistent with the current comprehensive plan, is compatible with adjoining land uses and will not result in undue negative impacts on public services or facilities, overloading of streets or utility systems serving the area or the public health, safety and welfare. The commission may require modifications of the plan or may attach any conditions to the plan that will assure consistency with the comprehensive plan, to avoid or minimize conflicts with adjoining land uses and avoid undue negative impacts on public services or facilities, overloading of streets or utility systems serving the area or as it deems appropriate to serve the public health, safety and welfare. The city council

shall act to approve such plan as submitted, approve such plan with amendments or conditions, or disapprove such plan. After approval of a preliminary PUD, the city council shall have continuing jurisdiction of all final PUD plans and shall not require further planning commission review and recommendation.

- (6) If development of an approved preliminary PUD is not commenced within two (2) years from the date of approval of said preliminary PUD, the council may declare such approval void and may initiate an amendment to the official zoning map of the city to return the zoning district which was applicable to the land in the PUD prior to the approval of the PUD.
- (b) *Final planned unit development.*
- (1) After city council approval of a preliminary PUD, the applicant shall submit eight (8) copies of a final PUD plan for each proposed phase of a planned unit development together with payment of an application fee established for such applications. Such application shall be on forms provided by the City and shall include the following information:
 - a. Each phase of a final PUD shall indicate the locations and dimensions of all proposed lots, streets, street rights-of-way and all utility, drainage or other easements to be created as required for a final plat under the subdivision regulations of the city. Such final plat shall be accompanied with plans and specifications for all streets, water and sewer and other improvements necessary to serve the proposed development. Approval of a final PUD shall be the same as approval of a final plat. Planning Commission review of a final plat, as required in the subdivision regulations of the city, shall be waived and the final plat shall, in all instances, be recorded for public record in the office of the Registrar of Deeds of York County, Nebraska.
 - b. For each lot proposed in a final PUD, a site plan indicating the locations, sizes, heights and building elevations of all buildings and uses, surface drainage, driveways, parking, loading and off-loading areas, sidewalks, all signage, landscaping, screening, site perimeter treatments and other site developments integral to the lots and uses proposed shall be provided on the final plat of each lot.
 - c. If a PUD of commercial and/or industrial uses is to be located in an area which abuts an area of land used or zoned for residential purposes or is across a street from such areas, setbacks from such residential areas shall be increased and fences, landscape screens or buffers shall be required to minimize land use conflicts.
 - d. In residential and mixed used PUDs where the mixed uses include residential uses a minimum of twenty (20) percent of the land area included in the PUD shall be set aside as common open spaces of sufficient sizes to allow for active and passive recreation by the residents of the PUD. Such common open spaces shall be maintained by the owners of real property within the PUD and a lot owner's association shall be established to provide for assessments of property within the PUD for such maintenance.
 - e. In all residential and mixed used PUDs where the mixed uses include residential uses, sidewalks and/or a walking trail system shall be provided and be designed in such a manner as to allow reasonable access to such sidewalks and/or walking trails by each lot in the PUD.
 - (2) Approval of each phase of a final PUD by the city council shall be conditioned upon a finding by the Council that the final PUD is consistent in all respects to the approved preliminary PUD and all conditions of such approval that may have been included in the approval of such preliminary PUD. If the Final PUD and related covenants, owner's association or site plans are found to be inconsistent with the approved preliminary PUD, the application shall be returned to the applicant for modification for compliance with the approved preliminary PUD. In the event such inconsistencies are not effectively addressed in a revised final PUD, the council shall not approve such final PUD.
 - (3) In any final PUD which contains open space, facilities or utilities to be owned and maintained in common by the owners of property within the PUD or which contains private streets, the city

council shall require appropriate covenants and the creation of a lot owners' association to assure that assessments can be made against all lot owners for the perpetual maintenance of such open space, facilities, utilities and any private streets. Such covenants may include limitations on the following:

- a. Areas in which buildings and/or structures are not permitted.
 - b. Setback lines and minimum building separation distances.
 - c. Maximum height of buildings and structures.
 - d. Sign locations, heights and sizes.
 - e. Design standards.
 - f. Limitations on accessory buildings and structures.
 - g. Such other requirements or limitations as may be appropriate to a particular PUD development.
 - h. Provisions empowering the property owners within the PUD to enforce all applicable covenants and provisions to allow the city to enforce all applicable covenants in the event of failure to do so by the property owners in the PUD.
 - i. Provisions to ensure that any certificate of incorporation, declaration of covenants and restrictions, property owner association Bylaws, contracts, agreements and the legal description of the PUD shall be included in the deed or other instrument of conveyance on each lot or unit of property and shall be binding on all purchasers and lessees.
- (4) In approving any final PUD, the city council may attach any condition to assure that the final PUD is consistent with the approved preliminary PUD.
 - (5) If development of an approved final PUD is not commenced within two (2) years from the date of approval of said final PUD, the council may declare such approval void and may initiate an amendment to the official zoning map of the city to return the zoning district which was applicable to the land in the PUD prior to the approval of the PUD.

(Ord. No. 2173, § 5, 3-2-2017)

ARTICLE XI. "M-H" MOBILE HOME DISTRICT

Sec. 1. Intent and purpose of district.

It is intended that this district be established to permit mobile homes on permanent foundations where a tract of land has been subdivided to provide individual lots for private ownership.

This district is intended to allow the opportunity for individual siting and use of mobile homes for single-family dwellings consistent with the use and density characteristics of the surrounding neighborhood subject to the following regulations and minimum site requirements.

(Ord. No. 1497, § 10, 2-14-1985)

Sec. 2. District regulations.

In district "M-H" no building shall be used and no building or structure shall be erected, altered or enlarged, which is arranged, intended [or designed] for other than one of the uses in section 3 below.

(Ord. No. 1497, § 10, 2-14-1985)

Sec. 3. Use regulations.

(1) Mobile homes on permanent foundations, except that a permanent foundation is not required when a single mobile home is located on a tract of land four (4) acres or larger.

(2) Single-family dwellings, including manufactured homes in accordance with Article XXV, section 8.

(3) Child care.

- (4) Churches and similar places of worship and parish houses.
- (5) Golf courses, except miniature golf courses and driving tees operated for commercial purposes.
- (6) Hospitals for people only on a lot, plot or tract of land five (5) acres or larger.
- (7) Nursing homes on a lot, plot or tract of land five (5) acres or larger.
- (8) Public parks, playgrounds, recreational areas.
- (9) Raising of crops, trees, shrubs and grasses not sold on the premises.
- (10) Schools: Public or parochial, elementary, junior high and high schools and private schools with equivalent curriculum.
- (11) Customary accessory uses and structures located on the same lot with the principal use including tennis courts, swimming pools, private garages, garden houses, barbecue ovens and fireplaces, but which do not include uses unrelated to the principal use or any activity commonly conducted for gain.
- (12) A building or premises may be used for the following purposes in the "M-H" district if a special permit for such use has been obtained in accordance with Article XXIX of this ordinance.

- (a) Day nurseries.
- (b) Preschools.

(Ord. No. 1497, § 10, 2-14-1985; Ord. No. 1528, § 7, 9-11-1986; Ord. No. 1574, § 1, 7-14-1988; Ord. No. 1727, 6-13-1996; Ord. No. 1978, § 1, 1-18-2007)

Sec. 4. Intensity of use regulations.

Tracts of land zoned for "M-H" mobile home districts shall have a minimum size of four (4) acres.

Every individual lot shall have an area of not less than six thousand (6,000) square feet and an average width of not less than fifty (50) feet. (See Article XXV, section 3 "lots of record" for additional requirements.)

(Ord. No. 1497, § 10, 2-14-1985; Ord. No. 1574, § 1, 7-14-1988; Ord. No. 1727, 6-13-1996; Ord. No. 1978, § 1, 1-18-2007)

Sec. 5. Height regulations.

No building shall exceed thirty-five (35) feet in height.

(Ord. No. 1497, § 10, 2-14-1985; Ord. No. 1574, § 1, 7-14-1988)

Sec. 6. Yard regulations.

(1) *Front yard:*

- (a) There shall be a front yard having a depth of not less than twenty-five (25) feet.
- (b) Where a lot or group of lots have a double frontage, required front yard shall be provided on both streets.
- (c) Where a lot is located at the intersection of two (2) or more streets, there shall be an adjacent street side yard of not less than fifteen (15) feet. No accessory building shall project beyond the respective front yard lines on either street.

(d) Adjustment of front yard requirements. The front yards heretofore established shall be adjusted in the following cases:

- (1) Where forty (40) per cent or more of the frontage on the same side of the street between two (2) intersection streets is developed with two (2) or more buildings that have (with a variation of five (5) feet or less) a front yard greater in depth than herein required, new buildings shall not be erected closer to the street than the front yard so established by the existing building nearest the street line.
- (2) Where forty (40) per cent or more of the frontage is on one side of a street between two (2) intersecting streets [and] is developed with two (2) or more buildings that have a front yard of less depth than herein required, then:
 - (a) Where a building is to be erected on a parcel of land, other than a corner lot, that is within one

hundred (100) feet of existing buildings on both sides, the minimum front yard shall be a line drawn between the two (2) closest front corners of the adjacent buildings on each side; or

- (b) Where a building is to be erected on a parcel of land, other than a corner lot, that is within one hundred (100) feet of an existing building on one side only, such building may be erected as close to the street as the existing adjacent building.
- (c) No reduction of front yard requirements will be made for buildings to be erected on a corner lot except as set out in paragraph (c) above.

(2) *Side yard.* Except as hereinafter required in the additional height, area and use regulations of this ordinance, there shall be a side yard having a width of a minimum of five (5) feet on each side of the principal building.

(3) *Rear yard.* There shall be a rear yard having a depth of the smaller of twenty-five (25) feet or twenty (20) per cent of the lot depth.

(Ord. No. 1497, § 10, 2-14-1985; Ord. No. 1574, § 1, 7-14-1988; Ord. No. 1727, 6-13-1996)

Sec. 7. Sign regulations.

See Article XIX.

(Ord. No. 1497, § 10, 2-14-1985; Ord. No. 1574, § 1, 7-14-1988; Ord. No. 1727, 6-13-1996; Ord. No. 1978, § 1, 1-18-2007)

Sec. 8. Parking regulations.

See Article XX.

(Ord. No. 1497, § 10, 2-14-1985; Ord. No. 1574, § 1, 7-14-1988; Ord. No. 1727, 6-13-1996; Ord. No. 1978, § 1, 1-18-2007)

Sec. 9. Special mobile home requirements.

Mobile homes, whether of single, double or multiple width, sited on individually owned lots shall be subject to the following special requirements:

- (1) Except as otherwise provided in section 3 above, mobile homes shall be mounted on a foundation of permanent design.
- (2) All open space below such mobile home not completely enclosed by the permanent foundation shall be skirted, blocked or otherwise screened using solid materials which will assure positive closure.
- (3) Each mobile home shall be an independent dwelling unit, connected to all available utilities.
- (4) Each mobile home shall be provided with anchors and tiedowns of adequate capacity to provide stability against high winds and adverse weather conditions.
- (5) Each independent mobile home shall be sited in such a manner as to preserve the visual character of the neighborhood, which shall include provisions for landscaping and other site improvements as well as off-street parking.
- (6) No mobile home shall be occupied by more than one family.
- (7) Prior to issuance of a building permit for an individually sited mobile home, the building official shall review the proposed development plan, and shall satisfy himself that the foundation's design, tie-down arrangements and other site conditions are in compliance with manufacturer's recommendations, applicable design criteria and the requirements of these regulations.

(Ord. No. 1497, § 10, 2-14-1985; Ord. No. 1574, § 1, 7-14-1988)

ARTICLE XII. "M-P" MOBILE HOME PARK DISTRICT

Sec. 1. Intent and purpose of district.

It is the intent of the "M-P" mobile home park district to permit low density mobile home uses in a park-like atmosphere. The mobile home park district is intended for those areas where the owner proposes to develop and rent or lease individual sites.

Sec. 2. District regulations.

In district "M-P," no building shall be used and no building shall be erected, altered or enlarged, which is arranged, intended or designed for other than uses listed in section 3 below.

Sec. 3. Use regulations.

- (1) Independent mobile homes located on a well-drained concrete slab.
- (2) Parks and playgrounds.
- (3) Mobile home service buildings such as coin operated washers and driers, for exclusive use of residents of the mobile home park.
- (4) Office for manager of the mobile home park.
- (5) Storage building for vehicles used to tow mobile homes.
- (6) Storage building for blocks, skirts, pipe and other material and equipment required to set up a mobile home.
- (7) Accessory uses and buildings including swimming pools, bathhouses, patios, etc., for exclusive use of mobile home residents.

Sec. 4. General requirements.

- (1) The tract to be used for a mobile home park shall be not less than five (5) acres.
- (2) The applicant for a zoning change to permit a mobile home park must satisfy the planning commission that he is financially able to carry out the proposed plan and shall prepare and submit a schedule of construction, which construction shall commence within a period of one year following the approval of the planning commission and shall be completed within a period of two (2) years.
- (3) The applicant for a mobile home park shall demonstrate to the planning commission that the proposed development will meet the full requirements for mobile home parks as established by the Nebraska Department of Health.
- (4) The applicant for a mobile home park shall prepare or cause to be prepared an application for rezoning and a development plan and shall present three (3) copies of the plan for review and approval by the planning commission. The plot plan shall show topography and the location and size of:
 - (a) Mobile home sites.
 - (b) Service buildings.
 - (c) Off-street parking areas.
 - (d) Electrical outlets.
 - (e) Sewer outlets.
 - (f) Water outlets.
 - (g) Water lines.
 - (h) Sewer lines.
 - (i) Recreation areas.
 - (j) Landscaped areas and walls or fences.
 - (k) Roadways.
 - (l) Sidewalks.
- (5) The mobile home park shall conform with the following requirements:
 - (a) The park shall be located on a well-drained site, properly graded to insure rapid drainage and freedom from stagnant pools of water.

- (b) Mobile home parks shall have a maximum density of eight (8) trailers per gross acre and a minimum space of three thousand (3,000) square feet for each trailer.
- (c) Each mobile home space shall be at least thirty-five (35) feet wide and clearly defined.
- (d) Mobile homes shall be so located on each space that there shall be at least twenty (20) feet of clearance between mobile homes; provided, however, that with respect to mobile homes parked end-to-end, the end-to-end clearance may be less than twenty (20) feet but shall be no less than fifteen (15) feet. No mobile home shall be located closer than twenty-five (25) feet from any building within the park or from any property line bounding the park.
- (e) All mobile home spaces shall front upon a private roadway of not less than thirty-one (31) feet in width, which shall have unobstructed access to a public street, alley or highway.
- (f) Walkways, not less than thirty (30) inches wide, shall be provided from the mobile home spaces to service buildings.
- (g) All roadways and walkways within the mobile home park shall be hard surfaced and adequately lighted at night with electric lamps.
- (h) Laundry facilities for the exclusive use of the mobile home occupants may be provided in a service building.
- (i) At least one electrical service outlet supplying at least one hundred twenty (120) volts, and at least one electrical service outlet supplying at least two hundred forty (240) volts, shall be provided for each mobile home space.
- (j) A recreational area shall be provided at a central location in the mobile home park at the rate of two hundred (200) square feet for each trailer space.
- (k) A solid fence or wall and a ten (10) foot landscaped buffer area shall be provided between the mobile home park district and any adjoining property zoned for residential purposes. The solid fence or wall shall not be less than four (4) feet high nor more than six (6) feet high. The owner shall be responsible for the maintenance of the fence or wall and the landscaped buffer area.
- (l) Off roadway parking shall be provided at the rate of at least one space for each mobile home space.

(Ord. No. 1414, 4-9-1981)

Sec. 5. Sign regulations.

See Article XVIII [XIX].

(Ord. No. 1414, 4-9-1981; Ord. No. 1497, § 11, 2-14-1985; Ord. No. 1574, § 1, 7-14-1988; Ord. No. 1727, 6-13-1996)

Sec. 6. Parking regulations.

See Article XIX [XX].

(Ord. No. 1414, 4-9-1981; Ord. No. 1497, § 11, 2-14-1985; Ord. No. 1574, § 1, 7-14-1988; Ord. No. 1727, 6-13-1996)

Sec. 7. Traffic regulations.

See Article XXI [XXII].

(Ord. No. 1414, 4-9-1981; Ord. No. 1497, § 11, 2-14-1985; Ord. No. 1574, § 1, 7-14-1988; Ord. No. 1727, 6-13-1996)

Sec. 8. Water supply.

An adequate supply of pure water for drinking and domestic purposes shall be supplied by pipes to all buildings and mobile home spaces within the park. Each mobile home space shall be provided with a cold water tap at least four (4) inches above the ground. An adequate supply of hot water shall be provided at all times in the service buildings for all washing and laundry facilities.

ARTICLE XIII. "C-P" PLANNED NEIGHBORHOOD SHOPPING DISTRICT

Sec. 1. Intent and purpose of district.

It is the intent of the "C-P" planned neighborhood shopping district to allow retailing of convenience commodities and personal services which are needed for day-to-day living. Building setback, landscaped areas and ratio of parking area to floor area used in the district regulations are intended for the purpose of regulating traffic and to make uses allows more compatible with adjoining residential uses.

Sec. 2. District regulations.

In district "C-P" no building shall be used and no building or structure shall be erected, altered or enlarged, which is arranged, intended or designed for other than one of the uses listed in section 4 below.

Sec. 3. General requirements.

(1) The tract for use as a planned neighborhood shopping center shall be not less than four (4) acres in area.

(2) An applicant for a change in zone to "C-P" planned neighborhood shopping district must satisfy the planning commission that he has the ability to carry out the proposed plan and shall prepare and submit a schedule for construction. The proposed construction shall begin within a period of eighteen (18) months following approval by the governing body and forty (40) per cent of the total planned construction shall be completed within a period of three (3) years following such approval.

(3) Such applicant also shall prepare and submit a rezoning application and a preliminary development plan for review and approval by the planning commission, which plan shall include:

- (a) A topographic map showing contours at intervals of one foot.
- (b) A plot plan showing:
 - (1) Building locations on the tract to conform with the yard requirements in section 7 below.
 - (2) Access from streets.
 - (3) Parking arrangements and number of spaces (all parking shall be off-street) to conform with section 8 below.
 - (4) Interior drives and service areas.
 - (5) Landscaped buffer strips to conform with section 7 below.
- (c) Location map showing the development and zoning of the adjacent property within two hundred (200) feet, including the location, and the type of buildings and structures thereon.
- (d) The full legal description of the boundaries of the properties to be included in the area to be zoned as "C-P" district.
- (e) A map showing the general arrangement of streets within an area of one thousand (1,000) feet from the boundaries of the area to be zoned "C-P" district.
- (f) A map showing location of proposed sewer, water and other utility lines.
- (g) A description of the general character of proposed buildings.

(4) Upon approval of the preliminary development plan by the planning commission, the applicant shall prepare and submit a final development plan, which shall incorporate any changes or alterations requested. The final development plan and the planning commission recommendation shall be forwarded to the governing body for their review and final action.

(5) In the event that, within eighteen (18) months following approval by the governing body, the applicant does not proceed with construction in accordance with the plan so approved, the planning commission shall initiate action to rezone the property. A public hearing, as required by law, shall be advertised and held, at which time the applicant shall be given an opportunity to show why construction has been delayed. Following the hearing, the planning commission shall make findings of fact and an appropriate recommendation to the governing body for official action.

Sec. 4. Use regulations.

The following uses shall be permitted in district "C-P":

- (1) Artists' studios.
- (2) Bakery and pastry shops (retail only).
- (3) Banks.
- (4) Barber and beauty shops.
- (5) Book and stationery stores.
- (6) Clothing or ready-to-wear stores.
- (7) Candy stores.
- (8) Drugstores.
- (9) Dry goods or notion stores.
- (10) Dyeing, dry cleaning or laundry collection offices.
- (11) Fix-it shops for radio, television and small appliances.
- (12) Florists or gift shops.
- (13) Grocery, fruit or vegetable stores.
- (14) Hardware stores.
- (15) Ice cream stores (excluding "drive-ins").
- (16) Jewelry stores.
- (17) Laundry and dry cleaning establishments, coin-operated.
- (18) Meat markets or delicatessens.
- (19) Medical, dental and health clinics (for people only).
- (20) Music studios.
- (21) Offices.
- (22) Photographic studios and shops.
- (23) Public parking lots or stations for passenger cars or taxicabs.
- (24) Restaurants or tea rooms (excluding drive-ins).
- (25) Shoe stores or shoe repair shops.
- (26) Service stations.
- (27) Tailor shops.
- (28) Accessory uses customarily incident to the uses enumerated above, including air-conditioning plants or towers and television and radio antennae.

Sec. 5. Intensity of use regulations.

The area occupied by buildings in this district shall not exceed twenty-five (25) per cent of the net area of the district.

Sec. 6. Height regulations.

No building or structure shall exceed forty-five (45) feet in height.

Sec. 7. Yard regulations.

Yard regulations shall be in conformance with the following provisions and in accordance with Article XXV of this ordinance.

- (1) All buildings shall set back not less than fifty (50) feet from the right-of-way line of any street and from the boundary line of the district area. Additional setback from a heavily traveled thoroughfare may be

required, when found reasonable by the planning commission, for protection of the health, safety and general welfare of the community.

- (2) A solid fence or wall and a fifteen (15) foot landscaped buffer area shall be provided adjacent to any adjoining residential district and shall be maintained by the owner or owners of the "C-P" district.

(Ord. No. 1978, § 1, 1-18-2007)

Sec. 8. Parking regulations.

(1) There shall be at least three (3) times as much area devoted to off-street parking, including access ways and parking stalls as there is ground floor area devoted to buildings.

(2) The off-street parking space required above shall be provided in addition to any space to be used for commercial parking, taxicab stands, truck and bus parking, loading space or commercial delivery cars.

- (3) Ample off-street space for standard loading and unloading shall be provided within the development.

(4) The location of any driveway and illumination of parking areas shall be subject to the recommendations of the planning commission. Lights used to illuminate the parking area shall be so placed that they will not reflect on adjoining residential properties.

(5) Plans and approval required: Plans showing layout and design of all required off-street parking areas shall be submitted and approved by the building official prior to issuing a building permit. Before approving the parking layout, the building official shall satisfy himself that the spaces provided are usable and meet standard design criteria. All required off-street parking areas, including access drives, shall be improved with asphalt, concrete or similar dustfree surface and all parking spaces shall be clearly marked.

(6) Performance: In lieu of construction of the required parking lot, the governing body may accept a corporate surety bond, cashier's check, escrow account or other like security in an amount to be fixed by the governing body and conditioned upon the actual completion of such work or improvements within a specified time and the governing body may enforce such bond by all equitable means.

Sec. 9. Traffic regulations.

(1) Adequate entrances and exits for vehicles shall be located and designed as to result in a minimum interference with traffic on adjoining streets.

(2) Right-of-way for streets shall be provided as may be necessary to comply with the approved comprehensive plan requirements.

Sec. 10. Sign regulations.

See Article XIX.

(Ord. No. 1414, 4-9-1981; Ord. No. 1497, § 17, 2-14-1985; Ord. No. 1574, § 1, 7-14-1988; Ord. No. 1727, 6-13-1996; Ord. No. 1978, § 1, 1-18-2007)

ARTICLE XIV. "C-1" CENTRAL BUSINESS DISTRICT

Sec. 1. Intent and purpose of district.

The "C-1" central business district is intended for the purpose of grouping merchandising activities into a concentrated area serving the general shopping needs of the trade area. Principal permitted uses include department stores, apparel stores, general retail sales and services, and similar uses appropriate for comparison shopping. The grouping is intended to strengthen the business level of the central business activity.

Sec. 2. District regulations.

In district "C-1" no building shall be used and no building or structure altered, enlarged or erected, which is arranged, intended or designed for other than one of the uses listed in section 3 below.

Sec. 3. Use regulations.

The following uses shall be permitted in the "C-1" central business district:

- (1) Adding machine and other small business machine repair, sales and service.
- (2) Amusement places.
- (3) Antique shops and stores, providing all merchandise is displayed and sold inside a building.
- (4) Apparel and accessory stores.
- (5) Apartments on floors other than the ground floor.
- (6) Appliance stores.
- (7) Art and art supply stores.
- (8) Artist studios.
- (9) Auditoriums and similar places of public assembly.
- (10) Automobile accessory and supply stores.
- (11) Automobile sales and service.
- (12) Automobile parking lots and garages.
- (13) Bakery and pastry shops (retail only).
- (14) Banks and other saving and lending institutions.
- (15) Barbershops, beauty shops, and chiropody, massage or similar personal services.
- (16) Bicycle and motorcycle shops.
- (17) Books and stationery stores.
- (18) Bowling alleys and recreational buildings.
- (19) Business and technical schools including schools for photography, dancing and music.
- (20) Child care.
- (21) Churches.
- (22) Cigar and tobacco stores.
- (23) Clothing stores.
- (24) Clothing and costume rental shops.
- (25) Commercial recreational uses.
- (26) Custom dressmaking, millinery, tailoring and similar trades.
- (27) Delicatessens and catering establishments.
- (28) Department stores.
- (29) Drugstores and prescription shops.
- (30) Dry goods and notion stores (including coin shops and fabric shops).
- (31) Electric appliance sales and repair shops.
- (32) Electric substations, telephone exchange and utility regulator stations.
- (33) Fire stations, police stations, jails.
- (34) Fix-it shops, radio, television, small household appliances and furniture upholstery and repairs.
- (35) Florist shops and garden shops retail only.
- (36) Funeral homes and mortuaries.
- (37) Furniture and home furnishing stores.
- (38) Garage and automobile repair shops, including automobile body and fender work and automobile painting in properly enclosed and ventilated booths; providing, however, no particulate matter is emitted

into the atmosphere.

- (39) Government buildings.
- (40) Grocery, fruit and vegetable stores (retail only).
- (41) General merchandising, including general warehousing and storage.
- (42) Hardware stores.
- (43) Heating, and air conditioning shops, providing all merchandise is located in a building.
- (44) Hobby, stamp and coin shops.
- (45) Hotels and motels.
- (46) Household appliance stores.
- (47) Interior decorator's shop.
- (48) Jewelry and metal craft stores and shops.
- (49) Laundries and dry cleaning establishments.
- (50) Leather goods and luggage stores.
- (51) Libraries and museums (public).
- (52) Liquor stores.
- (53) Lock and key shops.
- (54) Mail order catalog stores.
- (55) Medical, dental and health clinics.
- (56) Medical and orthopedic appliance stores.
- (57) Meeting halls and auditoriums (including union halls, Elk's Lodge, American Legion Home, VFW, Masons, etc.).
- (58) Messenger and telegraph service stations.
- (59) Music instrument sales and repair shops.
- (60) Music stores and studios.
- (61) Newspaper offices.
- (62) Newsstands.
- (63) Offices and office buildings; legal, accounting, insurance, real estate and other professional services.
- (64) Office supply and office equipment sales and service stores.
- (65) Optician and optometrist shops.
- (66) Paint and glass stores.
- (67) Parking lots and garages.
- (68) Parks and open spaces.
- (69) Pawnshops.
- (70) Pet shops.
- (71) Photographic equipment sales and supply stores.
- (72) Photographic studios.
- (73) Picture framing shops.
- (74) Prescription shops.
- (75) Printing and publishing houses (including newspapers).

- (76) Printing shops and printing supply stores.
- (77) Public buildings, including post office, city offices, county offices, state offices.
- (78) Radio and television studios.
- (79) Railway, taxi and bus passenger stations.
- (80) Rental outlets and storage houses (subject to the provisions of Article XXII [XXIII], Loading and Unloading Regulations).
- (81) Restaurants and tea rooms.
- (82) Service stations.
- (83) Self-service laundries and self-service dry cleaning establishments.
- (84) Sewing machine shops and stores.
- (85) Shoe stores.
- (86) Shoe repair and shoeshine shops.
- (87) Sporting and athletic goods stores.
- (88) Tailor shops.
- (89) Taverns.
- (90) Television and radio sales and service establishments.
- (91) Theaters.
- (92) Thrift shops.
- (93) Toy stores.
- (94) Travel bureaus.
- (95) Used car lots.
- (96) Utility company offices.
- (97) Variety stores.
- (98) Wallpaper and paint stores.
- (99) Watch and watch repair shops.
- (100) Accessory uses customarily incident to the above uses.
- (101) A building or premises may be used for the following purposes in the C-1 central business district if a special permit for such use has been obtained in accordance with Article XXVIII [XXIX] of this ordinance.
 - (a) Apartments on the ground floor.
 - (b) Condominiums and town houses.
 - (c) Day nurseries.
 - (d) Preschools.

(Ord. No. 1338, § 1, 7-14-1977; Ord. No. 1414, 4-9-1981; Ord. No. 1451, § 1, 10-14-1982; Ord. No. 1497, § 13, 2-14-1985; Ord. No. 1528, § 8, 9-11-1986; Ord. No. 1574, § 1, 7-14-1988; Ord. No. 1727, 6-13-1996)

Sec. 4. Intensity of use regulations.

No requirements except those to meet fire regulations.

Sec. 5. Height regulations.

No building shall exceed eighty (80) feet in height except as otherwise provided in the additional height, area and use regulations of this ordinance.

Sec. 6. Yard regulations.

Yard regulations shall be in conformance with the following provisions and in accordance with Article XXV of this ordinance.

- (1) *Front yard:* No front yard is required for any building in the "C-1" retail business district.
- (2) *Side yard:* No side yard is required for any building in the "C-1" retail business district.
- (3) *Rear yard:* No rear yard is required for any building in the "C-1" business district.

(Ord. No. 1978, § 1, 1-18-2007)

Sec. 7. Sign regulations.

See Article XIX.

(Ord. No. 1414, 4-9-1981; Ord. No. 1497, § 13, 2-14-1985; Ord. No. 1574, § 1, 7-14-1988; Ord. No. 1727, 6-13-1996; Ord. No. 1978, § 1, 1-18-2007)

Sec. 8. Parking regulations.

No parking required, except for multiple-family uses. See Article XX.

(Ord. No. 1414, 4-9-1981; Ord. No. 1497, § 13, 2-14-1985; Ord. No. 1574, § 1, 7-14-1988; Ord. No. 1727, 6-13-1996; Ord. No. 1978, § 1, 1-18-2007)

Sec. 9. Landscaping requirements.

None required.

Sec. 10. Traffic regulations.

See Article XXII.

(Ord. No. 1414, 4-9-1981; Ord. No. 1497, § 13, 2-14-1985; Ord. No. 1574, § 1, 7-14-1988; Ord. No. 1727, 6-13-1996; Ord. No. 1978, § 1, 1-18-2007)

Sec. 11. Loading and unloading regulations.

None required, except for rental outlets and storage houses. See Article XXIII.

(Ord. No. 1451, § 2, 10-14-1982; Ord. No. 1497, § 13, 2-14-1985; Ord. No. 1574, § 1, 7-14-1988; Ord. No. 1727, 6-13-1996; Ord. No. 1978, § 1, 1-18-2007)

ARTICLE XV. "C-2" BUSINESS DISTRICT

Sec. 1. Intent and purpose of district.

The "C-2" business district is intended for the purpose of providing limited highway services grouped on a single tract. Floor area is restricted, off-street parking is required and landscaping is required in order to reduce possible adverse effects on adjacent properties.

(Ord. No. 1574, § 1, 7-14-1988)

Sec. 2. District regulations.

In district "C-2" no building shall be used, and no building or structure shall be erected, altered or enlarged, which is arranged, intended or designed for other than one of the uses in section 3 below.

Sec. 3. Use regulations.

The following uses shall be permitted in district "C-2" highway commercial district:

- (1) Repealed.
- (2) Automobile sales and service.
- (3) Banking facilities.
- (4) Car wash establishments.

- (5) Child care.
- (6) Churches.
- (7) Commercial recreation facilities (bowling alleys, miniature golf courses and similar uses).
- (8) Crop and seed research offices.
- (9) Drive-in theaters.
- (10) Drug stores and pharmacies.
- (11) Electric and telephone substations.
- (12) Farm implement sales and services.
- (13) Farm supply stores.
- (14) Florist shops and garden shops.
- (15) Funeral homes and mortuaries.
- (16) Furniture, appliances and home furnishing stores.
- (17) General merchandising establishments including general warehousing and storage facilities.
- (18) Grocery stores.
- (19) Hardware stores.
- (20) Health and fitness studios including weight reducing and tanning salons.
- (21) Irrigation equipment sales and service.
- (22) Liquor stores.
- (23) Meeting halls and auditoriums (including union halls, Elk's Lodge, American Legion Home, VFW, Masons, etc.)
- (24) Mobile home sales.
- (25) Motels, including accessory service uses, such as swimming pools, liquor stores and restaurants.
- (26) Multiple-family dwellings, including apartment houses, apartment hotels, condominiums and town houses.
- (27) Nursing homes meeting requirements of the Nebraska State Department of Health and Human Services System.
- (28) Offices and office buildings; legal, accounting, insurance, real estate and other professional services.
- (29) Parks, playgrounds and community buildings.
- (30) Parking lots (customer and private).
- (31) Pawn shops.
- (32) Radio studios, transmitters and antennae.
- (33) Rental outlets and storage houses.
- (34) Restaurants and cafes.
- (35) Service stations.
- (36) Sexually oriented businesses in conformance with Article XXXV.
- (37) Specialty clothing stores.
- (38) Truck and freight terminals.
- (39) Utilities, including shops and offices.
- (40) Apartment complex.

- (41) Automobile repair.
- (42) Automobile accessories and supply stores.
- (43) Bicycle and motorcycle shops.
- (44) Convenience stores.
- (45) Home repair sales and service.
- (46) Medical and orthopedic appliance stores.
- (47) Medical, dental and health clinics.
- (48) Self-service laundries.
- (49) A building or premises may be used for the following purposes in the C-2 commercial district if a special permit for such use has been obtained in accordance with Article XXVIII [XXIX] of this ordinance.
 - (a) Apartments on the ground floor.
 - (b) Condominiums and townhouses.
 - (c) Day nurseries.
 - (d) Preschools.
 - (e) Temporary shelter/group home for the homeless and operated by a nonprofit, religious, educational or philanthropic institution.

(Ord. No. 1306, § 1, 3-11-1976; Ord. No. 1338, § 2, 7-14-1977; Ord. No. 1356, § 1, 8-10-1978; Ord. No. 1497, § 14, 2-14-1985; Ord. No. 1528, § 9, 9-11-1986; Ord. No. 1574, § 1, 7-14-1988; Ord. No. 1727, 6-13-1996; Ord. No. 1818, § 1, 3-15-2001; Ord. No. 1959, § 1, 6-15-2006; Ord. No. 1978, § 1, 1-18-2007; Ord. No. 2024, § 1, 8-20-2009; Ord. No. 2325, § 1, 6-16-2022; Ord. No. 2349, § 1, 4-20-2023)

Sec. 4. Intensity of use regulations.

Every lot shall have an area of fifteen thousand (15,000) square feet and an average width of not less than one hundred fifty (150) feet. See Article XXV, section 3, "Lots of record," for additional requirements.

(Ord. No. 1414, 4-9-1981; Ord. No. 1497, § 14, 2-14-1985; Ord. No. 1574, § 1, 7-14-1988; Ord. No. 1727, 6-13-1996; Ord. No. 1978, § 1, 1-18-2007)

Sec. 5. Height regulations.

No building or structure shall exceed forty-five (45) feet in height.

Sec. 6. Yard regulations.

Yard regulations shall be in conformance with the following provisions and in accordance with Article XXV of this ordinance.

- (1) *Front yard:*
 - (a) There shall be a front yard having a depth of not less than twenty-five (25) feet.
 - (b) Where a lot has double frontage or is a corner lot, a front yard shall be provided on both streets. No accessory buildings or structures shall project beyond the front line of either street.
- (2) *Side yard and rear yard:*
 - (a) Where a "C-2" Zone abuts an "R", "R-2", or "R-3" district zone a side and/or rear yard of not less than fifteen (15) feet shall be provided.
 - (b) Where a lot is located at the intersection of two (2) or more streets there shall be an adjacent street side yard of not less than ten (10) feet.

(Ord. No. 1414, 4-9-1981; Ord. No. 1497, § 14, 2-14-1985; Ord. No. 1574, § 1, 7-14-1988; Ord. No. 1727, 6-13-1996; Ord. No. 1978, § 1, 1-18-2007)

Sec. 7. Sign regulations.

See Article XIX.

(Ord. No. 1414, 4-9-1981; Ord. No. 1497, § 14, 2-14-1985; Ord. No. 1574, § 1, 7-14-1988; Ord. No. 1727, 6-13-1996; Ord. No. 1978, § 1, 1-18-2007)

Sec. 8. Parking regulations.

See Article XX.

(Ord. No. 1414, 4-9-1981; Ord. No. 1497, § 14, 2-14-1985; Ord. No. 1574, § 1, 7-14-1988; Ord. No. 1727, 6-13-1996; Ord. No. 1978, § 1, 1-18-2007)

Sec. 9. Landscaping regulations.

See Article XXI.

(Ord. No. 1414, 4-9-1981; Ord. No. 1497, § 14, 2-14-1985; Ord. No. 1574, § 1, 7-14-1988; Ord. No. 1727, 6-13-1996; Ord. No. 1978, § 1, 1-18-2007)

Sec. 10. Traffic regulations.

See Article XXII.

(Ord. No. 1414, 4-9-1981; Ord. No. 1497, § 14, 2-14-1985; Ord. No. 1574, § 1, 7-14-1988; Ord. No. 1727, 6-13-1996; Ord. No. 1978, § 1, 1-18-2007)

ARTICLE XVI. "C-3" HIGHWAY COMMERCIAL DISTRICT

Sec. 1. Intent and purpose of district.

The "C-3" highway commercial district is intended for the purpose of serving highway travelers and providing limited commercial services. Off-street parking and landscaping are required in order to reduce possible adverse effects on adjacent properties.

(Ord. No. 1574, § 1, 7-14-1988)

Sec. 2. District regulations.

In the district "C-3" no building shall be used and no building or structure shall be erected, altered or enlarged, which is arranged, intended or designed for other than one of the uses in section 3 below.

(Ord. No. 1574, § 1, 7-14-1988)

Sec. 3. Use regulations.

The following uses shall be permitted in the district "C-3" highway commercial district:

- (1) Automobile sales and service.
- (2) Car wash establishments.
- (3) Detached banking facilities.
- (4) Electric and telephone substations.
- (5) Farm implement sales and services.
- (6) Irrigation equipment sales and services.
- (7) Liquor stores.
- (8) Mobile home sales.
- (9) Motels, including accessory service uses, such as swimming pools, liquor stores and restaurants.
- (10) Museums.
- (11) Multiple-family dwellings, including apartment houses, apartment hotels, condominiums and town houses.
- (12) Radio studios, transmitters and antennae.

- (13) Restaurants and cafes.
- (14) Service stations.
- (15) "Small animal" veterinarian clinics, in which all animals are contained inside the building, as a closed boarding facility.
- (16) Truck and freight terminals.
- (17) Utilities, including shops and offices.
- (18) Convenience stores.
- (19) Furniture, appliances and home furnishing stores.
- (20) Truck sales and service.
- (21) Automobile accessory and supply stores.
- (22) Farm supply stores.
- (23) Medical, dental and health clinics.
- (24) Optician and optometrist shops.
- (25) Athletic/Activity center.
- (26) A building or premises may be used for the following purposes in the C-3 highway commercial district if a special permit for such use has been obtained in accordance with Article XXVIII [XXIX] of this ordinance.
 - (a) Warehouses or storage houses.
 - (b) Churches and similar places of worship and parish houses.
 - (c) "Small animal" veterinarian clinic in which some or all animals are boarding in outside pens or kennels.
 - (d) Antique stores.
 - (e) Flea markets.
 - (f) Large retail stores designed and managed as a single structure for one primary retail store. Minimum floor area of the structure shall be no less than one hundred and forty thousand (140,000) square feet. Permitted uses, incorporated within the primary large retail store, may be retail and commercial uses, including postal, optometry and ophthalmology, photographic, and pharmaceutical services, or be listed as a permitted use within the "C-3" highway commercial district. Use of spaces in the primary large retail store that are identified as a function of a user other than the primary large retail store must be a permitted use within the "C-3" highway commercial district.
 - (g) Contractor's storage yards and shops.
 - (h) Campgrounds.
 - (i) Shooting ranges to refer to an area or facility designated or operated primarily for the use of firearms or archery and which is operated in compliance with the Nebraska Shooting Range Protection Act, Neb. Rev. Stat. §§ 37-1301 et seq. (cum. Supp. 2012) [R.R.S. 1943, § 37-1301 et seq.]. Shooting range excludes shooting preserves or areas used for law enforcement or military training. A shooting range may be located in the "C-3" highway commercial district by special use permit if the range is constructed and operated in accordance with the shooting range performance standards adopted by the Nebraska Game and Parks Commission pursuant to the Act. The city council may prescribe such other conditions for the use of the property as deemed appropriate as provided by Article XXIX, Appendix A, of this Code.
 - (j) The harvest and processing of up to one hundred (100) animals per week, and the processing and packaging of animal product, and retail on-site of such animal products.

(Ord. No. 1574, § 1, 7-14-1988; Ord. No. 1727, 6-13-1996; Ord. No. 1807, § 1, 4-20-2000; Ord. No. 1860, § 1, 5-15-2003; Ord. No. 1881, § 1, 1-15-2004; Ord. No. 1918, § 1, 11-18-2004; Ord. No. 2142, § 2, 1-7-2016; Ord. No. 2152, § 1, 1-7-2016; Ord. No. 2150, § 1, 4-21-2016; Ord. No. 2269, § 1, 9-3-2020; Ord. No. 2326, § 1, 6-16-2022; Ord. No. 2350, § 1, 4-20-2023)

Sec. 4. Intensity of use regulations.

Every lot shall have an area of fifteen thousand (15,000) square feet and an average width of not less than one hundred fifty (150) feet.

(Ord. No. 1574, § 1, 7-14-1988)

Sec. 5. Height regulations.

No building or structure shall exceed forty-five (45) feet in height.

(Ord. No. 1574, § 1, 7-14-1988)

Sec. 6. Yard regulations.

Yard regulations shall be in conformance with the following provisions and in accordance with Article XXV of this ordinance.

(1) *Front yard:*

(a) There shall be a front yard having a depth of not less than twenty-five (25) feet.

(b) Where a lot has double frontage or is a corner lot, a front yard shall be provided on both streets. No accessory buildings or structures shall project beyond the front line of either street.

(2) *Side yard and rear yard:*

(a) Where a "C-3" zone abuts an "A-L," "R," "R-2," "R-3" or "R-P" district zone a side and/or rear yard of not less than fifteen (15) feet shall be provided.

(b) Where a lot is located at the intersection of two (2) or more streets there shall be an adjacent street side yard of not less than ten (10) feet.

(Ord. No. 1574, § 1, 7-14-1988; Ord. No. 1978, § 1, 1-18-2007)

Sec. 7. Sign regulations.

See Article XIX.

(Ord. No. 1574, § 1, 7-14-1988; Ord. No. 1727, 6-13-1996; Ord. No. 1978, § 1, 1-18-2007)

Sec. 8. Parking regulations.

See Article XX.

(Ord. No. 1574, § 1, 7-14-1988; Ord. No. 1727, 6-13-1996; Ord. No. 1978, § 1, 1-18-2007)

Sec. 9. Landscaping regulations.

See Article XXI.

(Ord. No. 1574, § 1, 7-14-1988; Ord. No. 1727, 6-13-1996; Ord. No. 1978, § 1, 1-18-2007)

Sec. 10. Traffic regulations.

See Article XXII.

(Ord. No. 1574, § 1, 7-14-1988; Ord. No. 1727, 6-13-1996; Ord. No. 1978, § 1, 1-18-2007)

ARTICLE XVII. "C-4" HIGHWAY COMMERCIAL DISTRICT

Sec. 1. Intent.

The "C-4" highway commercial district is intended to allow mixed retail and service type businesses, consisting of both commercial merchandise and personal services, currently or typically not available in the "C-1" or "C-2" commercial district, for the purpose of serving highway travelers and, to a more limited degree, the York local and regional community, while accommodating both vehicular and pedestrian traffic, with emphasis on a site

design which provides for and encourages safe pedestrian use throughout the district. Site development(s), throughout the district, will require the planned construction of sidewalks, streets, on- and off-street parking and landscaping, as determined by the director of public works.

(Ord. No. 1966, § 1, 8-3-2006)

Sec. 2. District regulations.

In the "C-4" highway commercial district, no building shall be used and no building or structure shall be erected, altered or enlarged, which is arranged, intended or designed for other than one (1) of the uses listed in section 3.

(Ord. No. 1966, § 3, 8-3-2006; Ord. No. 2068, § 1, 11-15-2012)

Sec. 3. Use regulations.

The following uses shall be permitted in district "C-4":

- (1) Art galleries and frame shop.
- (2) Appliance, television and furniture store.
- (3) Bakery and pastry shops (retail only).
- (4) Banks and "ATM" walk-up.
- (5) Beauty shop, spa, nail salon, barber.
- (6) Bicycle sales and service.
- (7) "Big box" discount retail/wholesale.
- (8) Book and stationery store.
- (9) Candy store.
- (10) clothing or ready-to-wear store.
- (11) Cosmetic store.
- (12) Delicatessen and catering establishment.
- (13) Drugstore and pharmacy and health and nutrition store.
- (14) Electronic and computer store.
- (15) Emergency medical care/clinic (people only).
- (16) Employment recruiting and staffing.
- (17) Fabric store.
- (18) Factory outlet store.
- (19) Florist or gift shop.
- (20) Grocery, fruit or vegetable store.
- (21) Hardware store.
- (22) Hearing aid, optical and other related assistive technology store.
- (23) Hobby store.
- (24) House wares, kitchen/bath specialty store.
- (25) Ice cream store (excluding "drive-in").
- (26) Jewelry store.
- (27) Mini-box retail outlet store (house ware store, office store, etc.).
- (28) Music and video store.

- (29) Pet supply store (no live animals).
- (30) Photocopy studio.
- (31) Public parking lots and garages.
- (32) Restaurants and cafes or tea room (excluding drive-in or drive-through).
- (33) Shoe store.
- (34) Sporting and athletic goods store.
- (35) Tanning, health and fitness salon.
- (36) Tax preparation.
- (37) Telephone store.
- (38) Wallpaper and paint store.
- (39) Accessory uses customarily incident to the uses enumerated above, including air-conditioning plants or towers and television and radio antennae..
- (40) A building or premises may be used for the following purposes in the "C-4" highway commercial district, if a special permit for such use has been obtained in accordance with article XXIX of this ordinance.
 - (a) Duplexes.
 - (b) Condominiums and townhouses.
 - (c) Cigar and tobacco store.
 - (d) Off-sale liquor and beer store.
- (41) Convention center.
- (42) Hotel and motel.
- (43) Automobile accessory and supply store.
- (44) Car wash establishments.
- (45) Farm supply stores.
- (46) Medical, dental and health clinics.
- (47) Optician and optometrist shops.
- (48) Athletic/Activity center.
- (49) Distilleries, breweries and wineries, to include retail sales and on-site tasting for the sale of alcoholic beverages and food.
- (43)[(50)] Government building.

(Ord. No. 1966, § 4, 8-3-2006; Ord. No. 2068, § 1, 11-15-2012; Ord. No. 2327, § 1, 6-16-2022)

Sec. 4. Intensity of use regulations.

Every lot shall have an area of not less than ten thousand (10,000) square feet.

(Ord. No. 1966, § 5, 8-3-2006; Ord. No. 2168, § 1, 1-5-2017)

Sec. 5. Height regulations.

No building or structure shall exceed thirty-five (35) feet in height.

(Ord. No. 1966, § 6, 8-3-2006)

Sec. 6. Yard regulations.

(1) *Front yard:*

(a) There shall be a front yard having a depth of not less than twenty-five (25) feet.

(b) Where a lot has double frontage or is a corner lot, a front yard shall be provided on both streets. No accessory buildings or structures shall project beyond the front line of either street.

(2) *Side yard and rear yard:*

(a) Where a "C-4" zone abuts an "A-L", "R", "R-2", "R-3" or "R-P" district zone a side and/or rear yard of not less than fifteen (15) feet shall be provided.

(b) Where a lot is located at the intersection of two (2) or more streets there shall be an adjacent street side yard of not less than twenty-five (25) feet.

(Ord. No. 1966, § 6, 8-3-2006)

Sec. 7. Sign regulations.

Sign regulations in this district shall be subject to the sign regulations provided in Article XIX.

(Ord. No. 1966, § 8, 8-3-2006; Ord. No. 1978, § 1, 1-18-2007)

Sec. 8. Parking regulations.

The parking regulations for this district shall be subject to the requirements provided by Article XX.

(Ord. No. 1966, § 9, 8-3-2006; Ord. No. 1978, § 1, 1-18-2007)

Sec. 9. Landscaping regulations.

Properties located within this district shall be subject to the landscaping requirements imposed by Article XXI.

(Ord. No. 1966, § 10, 8-3-2006; Ord. No. 1978, § 1, 1-18-2007)

Sec. 10. Traffic regulations.

The traffic regulations imposed by Article XXII shall apply to this district.

(Ord. No. 1966, § 11, 8-3-2006; Ord. No. 1978, § 1, 1-18-2007)

Sec. 11. Loading and unloading regulations.

The loading and unloading regulations provided by Article XXIII shall apply to this district.

(Ord. No. 1966, § 12, 8-3-2006; Ord. No. 1978, § 1, 1-18-2007)

ARTICLE XVIII. "I" INDUSTRIAL DISTRICT*

***Editor's note**—Formerly numbered as art. XVII.

Sec. 1. Intent and purpose of district.

The "I" industrial district is intended for the purpose of allowing certain industrial uses which do not:

- (1) Require intensive land coverage.
- (2) Generate large volumes of vehicular traffic.
- (3) Create obnoxious sounds, glare, dust or odor. Height and land coverage are controlled to insure compatibility with adjoining uses.

(Ord. No. 1727, 6-13-1996)

Sec. 2. District regulations.

In District "I", no building or land shall be used and no building or structure shall be erected, altered or enlarged, which is arranged, intended or designed for other than one of the uses listed in Section 3 below.

(Ord. No. 1727, 6-13-1996)

Sec. 3. Use regulations.

- (1) Automobile sales and service.
- (2) Automobile supplies.

- (3) Bottling works.
- (4) Building material sales, except for ready-mix concrete plants and similar uses which emit particulates, odor or smoke.
- (5) Carpenter, cabinet, plumbing or sheet metal shops.
- (6) Car wash establishments.
- (7) Cold storage facilities.
- (8) Contractors office and equipment storage yards, providing the storage yard is completely enclosed with an eight-foot solid fence or wall.
- (9) Dry cleaning and/or laundry plants.
- (10) Farm implement sales and service.
- (11) Farm produce sales.
- (12) Feed and seed stores.
- (13) Frozen food lockers.
- (14) Furniture warehouses.
- (15) Greenhouses and nurseries, retail and wholesale.
- (16) Groceries, retail and wholesale.
- (17) Light manufacturing operations, providing that such use is not noxious by reason of vibration or noise beyond the confines of the building, or by the emission of particulates, fumes, gas, odor, or smoke.
- (18) Machinery sales and storage lots.
- (19) Monument sales.
- (20) Motor vehicle and farm implement sales and storage.
- (21) Newspaper publishing plants.
- (22) Poultry and poultry products.
- (23) Public utility and public service uses as follows:
 - (a) Municipal power plants.
 - (b) Substations.
 - (c) Railroads.
 - (d) Telephone exchanges, microwave towers, radio towers, telephone transmission buildings, electric power plants.
 - (e) Public utility storage yards when the entire storage area is enclosed by at least a six-foot wall or fence.
- (24) Radiator repair shops.
- (25) Seed wholesale supply.
- (26) Sign printing and manufacturing.
- (27) Truck and rail terminals.
- (28) Upholstery shops.
- (29) Warehouses or storage houses.
- (30) Wholesale merchandise sales and storage.
- (31) A building or premises may be used for the following purposes in the "I" industrial district, however, a special permit for such use must be obtained in accordance with Article XXIX of this ordinance. A special permit is the only process by which an industry that is generally considered not compatible with residential and/or

commercial activity. Certain extremely obnoxious or hazardous uses will require special permission to locate in this district. The following is a listing of uses that require a special permit:

- (a) Alfalfa dehydrating mills.
- (b) Animal hospitals or clinics.
- (c) Anhydrous ammonia.
- (d) Any public building erected on land used by any department of the city, council, state or federal government.
- (e) Automobile wrecking yards, junkyards and scrap processing yards; when said yard is completely enclosed with an eight-foot solid fence, wall or hedge, and no junk or scrap is stored outside the fence or wall.
- (f) Automobile wrecker/vehicle towing service establishments; storage of vehicles for either a short or long term basis must be conducted within an eight-foot solid fence, wall or hedge, and no vehicles are to be stored outside the fence or wall.
- (g) Blacksmithing and welding shops.
- (h) Building materials, storage and sales, including ready-mix concrete plants.
- (i) Cheese factory.
- (j) Day nurseries.
- (k) Dog kennels.
- (l) Grain elevators.
- (m) Gymnastic facilities.
- (n) Irrigation equipment manufacture.
- (o) Livestock sales and holding pens.
- (p) Meat packing plants.
- (q) Mobile home manufacture.
- (r) Petroleum products and bulk storage.
- (s) Petroleum and natural gas refining and processing.
- (t) Poultry storage or slaughtering.
- (u) Ready-mix concrete and asphalt mix plants.
- (v) Recycling center of facilities.
- (w) Seed cleaning and processing, providing no particulate matter is emitted into the atmosphere.
- (x) Stockyards and slaughterhouses.
- (y) Storage yards.
- (z) Storage of bulk oil, gas, and explosives.
- (aa) Temporary shelter/group home for the homeless and operated by a non-profit, religious, educational or philanthropic institution.
- (bb) Other uses which may be noxious or offensive by reason of the emission of odor, dust, smoke, gas, noise or vibration.
- (cc) Offices used by any department of the city, state, school or federal government or any other public entity.

[(32)] _____ Data Center.

(Ord. No. 1727, 6-13-1996; Ord. No. 1734, § 1, 9-19-1996; Ord. No. 1790, § 1, 1-7-1999; Ord. No. 1804, § 1, 11-18-1999; Ord. No. 1809, § 1, 7-20-2000; Ord. No. 1978, § 1, 1-18-2007; Ord. No. 2235, § 1, 11-7-2019; Ord. No. 2321, § 1, 4-21-2022)

Sec. 4. Intensity of use regulations.

(1) A building structure or use allowed in this district may occupy all that portion of the lot except for the front yard requirement, and for that area required for off-street parking and off-street loading and unloading and their access roads.

(2) In the case where the required off-street parking and/or loading and unloading will be provided within the building or structure, then the structure may cover the entire lot except for the front yard requirement.

(Ord. No. 1727, 6-13-1996)

Sec. 5. Height regulations.

(1) When a building or structure is within one hundred fifty (150) feet of a residential district zone, said building or structure shall not exceed forty-five (45) feet in height.

(2) When a building or structure is more than one hundred fifty (150) feet from a residential district zone, said building structure shall not exceed one hundred fifty (150) feet in height.

(Ord. No. 1727, 6-13-1996)

Sec. 6. Yard regulations.

Yard regulations shall be in conformance with the following provisions and in accordance with Article XXV of this ordinance.

(1) *Front yard:* A front yard of twenty-five (25) feet shall be required for uses permitted in this district.

(Ord. No. 1727, 6-13-1996; Ord. No. 1978, § 1, 1-18-2007)

Sec. 7. Sign regulations.

See Article XIX.

(Ord. No. 1727, 6-13-1996; Ord. No. 1978, § 1, 1-18-2007)

Sec. 8. Parking regulations.

See Article XX.

(Ord. No. 1727, 6-13-1996; Ord. No. 1978, § 1, 1-18-2007)

Sec. 9. Landscaping requirements.

See Article XXI.

(Ord. No. 1727, 6-13-1996; Ord. No. 1978, § 1, 1-18-2007)

Sec. 10. Traffic regulations.

See Article XXII.

(Ord. No. 1727, 6-13-1996; Ord. No. 1978, § 1, 1-18-2007)

Sec. 11. Loading and unloading regulations.

See Article XXIII.

(Ord. No. 1727, 6-13-1996; Ord. No. 1978, § 1, 1-18-2007)

ARTICLE XIX. SIGN REGULATIONS*

***Editor's note**—Ord. No. 2271, § 1, adopted Oct. 15, 2020, amended former art. XIX, §§ 1—5, in its entirety to read as herein set out. Former art. XIX pertained to similar subject matter and derived from Ord. No. 1414, 4-4-1981; Ord. No. 1497, § 17, 2-15-1985; Ord. No. 1564, § 2, 1-14-1988; Ord. No. 1574, § 1, 7-14-1988; Ord. No. 1624, § 1, 5-9-1991; Ord. No. 1727, 6-13-1996; Ord. No. 1732, §§ 1, 2, 9-12-1996; Ord. No. 1768, § 6, 4-16-1998; Ord. No. 1791, § 1, 2-17-1999; Ord. No. 1966, § 8, 8-3-2006; Ord. No. 1967, § 1, 7-20-2006; Ord. No. 1978, § 1, 1-18-2007.

Sec. 1. Intent and purpose.

(1) It is the purpose of this article to promote the public health, safety, and general welfare through

reasonable, consistent, and non-discriminatory sign standards. The sign regulations in this article are not intended to censor speech or to regulate viewpoints, but instead are intended to regulate the adverse secondary effects of signs. The sign regulations are especially intended to address the secondary effects that may adversely impact aesthetics and traffic and pedestrian safety. This article establishes sign regulations, including provisions to control the type, design, size, location, and maintenance of signs, to achieve the following purposes:

- (a) To enable the public to locate goods, services, and facilities without difficulty or confusion;
- (b) To protect property values, public investment, and overall neighborhood character by preventing conditions that have undesirable impacts on surrounding properties;
- (c) To promote the development of attractive and harmonious residential districts, viable retail and commercial districts, and appropriately identify industrial uses;
- (d) To ensure signs are designed and located to reduce distraction and confusion that may be contributing factors to traffic congestion or accidents and maintain a safe and orderly pedestrian and vehicular environment; and
- (e) To enable the fair and consistent enforcement of these sign regulations and to provide standards regarding the non-communicative aspects of signs.

(Ord. No. 2271, § 1, 10-15-2020)

Sec. 2. General requirements.

(1) It shall be unlawful for any person to erect, move, alter, change, repair, place, suspend or cause or permit to be erected, moved, altered, changed, repaired, placed, suspended or attached any sign in violation of this zoning ordinance and this article.

(2) The regulations contained in this article shall apply to signs outside of the public right-of-way, except when specifically stated otherwise.

(3) This article is not meant to repeal or interfere with enforcement of other sections of the City of York Code of Ordinances. In cases of conflicts between local, state, or federal regulations, the more restrictive regulations shall apply.

(Ord. No. 2271, § 1, 10-15-2020)

Sec. 3. Exceptions.

The following are not regulated by this zoning ordinance and do not require a permit, so long as they meet the applicable standards described below:

- (1) Addresses of buildings are not considered signs and are not regulated by this article.
- (2) Permanent attached signs located on residential property under four (4) square feet in size, not including portable signs.
- (3) Integral signs carved, extruded, or embedded into the subject building or made of a permanent material as an integral part of the building to which they are attached are allowed in all zoning districts. Such signs may not exceed four square feet in area.
- (4) Signs not readable from the public right-of-way.
 - (a) Signs or displays located entirely inside of a building and not visible from the building's exterior;
 - (b) Signs intended to be readable from within a parking area but not readable beyond the boundaries of the lot or parcel upon which they are located or from any public right-of-way; and
 - (c) Signs located on or within City park and recreation facilities.
- (5) Governmental signs. Any sign, posting, notice, or similar signs placed, installed or required by law by a city, county, or a federal or state governmental agency in carrying out its responsibility to protect the public health, safety, and welfare, including, but not limited to, the following:
 - (a) Emergency and warning signs necessary for public safety or civil defense;

- (b) Traffic signs erected and maintained by an authorized public agency;
- (c) Signs required to be displayed by law;
- (d) Signs directing the public to points of interest; and
- (e) Signs showing the location of public facilities.

(Ord. No. 2271, § 1, 10-15-2020)

Sec. 4. Prohibited sign elements.

The following sign types and elements are not allowed anywhere in the city because of their potential to create distractions to the traveling public and create visual clutter that impacts the natural and architectural aesthetics of the city:

- (1) Abandoned signs.
- (2) Animated signs.
- (3) Intermittent signs.
- (4) Moving signs. No sign shall be permitted any part of which moves by any mechanical means.
- (5) Signs emitting sound, smoke, or odors.
- (6) Signs attached or painted on trees, rocks, fences, or natural features.
- (7) Signs in the right-of-way except for those placed by a public entity, approved banners on utility or light poles, projecting signs as allowed in this section, or other signs approved by the city.
- (8) Signs or sign support structures that obstruct means of egress, including any fire escape, window, door opening, stairway, opening, exit, walkway, utility access or Fire Department connection.
- (9) Signs that interfere with any required opening for ventilation.
- (10) Signs or sign structures which resemble, imitate, simulate, or conflict with traffic control signs or devices included in the Manual of Uniform Traffic Control Devices, which otherwise mislead or confuse persons traveling on public streets, which create a traffic hazard.
- (11) Signs not expressly allowed by this article.
- (12) Prohibited content. The narrow classifications of content that are prohibited by this item are either not protected by the United States or Nebraska Constitutions, or are offered limited protection that is outweighed by the substantial governmental interests in protecting the public safety and welfare. It is the intent of the city council that each paragraph of this Item be individually severable if a court of competent jurisdiction is to hold one or more of them to be inconsistent with the United States or Nebraska Constitutions. The following content is prohibited without reference to the viewpoint of the individual speaker:
 - (a) Text or graphics of an indecent or immoral nature and harmful to minors;
 - (b) Text or graphics that advertise unlawful activity;
 - (c) Text or graphics that are obscene, fighting words, defamation, incitement to imminent lawless action, or true threats; or
 - (d) Text or graphics that present a clear and present danger due to their potential confusion with traffic control signs or signs that provide public safety information (for example, signs that use the words "Stop," "Yield," "Caution," or "Danger," or comparable words, phrases, symbols, or characters in such a manner as to imply a safety hazard that does not exist).

(Ord. No. 2271, § 1, 10-15-2020)

Sec. 5. Measurements and illustrations.

For regulating signs as described in this article the following shall apply:

- (1) *Sign area.* Computation of sign area shall include the combination of the writing, emblem, illustrations

or other display, together with any background material or color forming an integral part of the display, but not including the supporting framework. On a multi-face sign the area is computed only from one face. Where the frame or cabinet is not in the shape of a rectangle, square, triangle or circle, the sign face area shall be determined by calculating the area of an imaginary rectangle drawn around the frame or cabinet.

- (2) *Height.* Height shall be measured from average ground level exclusive of any filling, berming, mounding, or excavating solely for locating the sign, to the highest point of the sign or support structure, whichever is taller.
- (3) *Projection.* Any building sign extending more than six (6) inches from the wall to which it is attached shall allow a minimum of ten (10) feet of clearance from the average ground level, as measured above under "height."
- (4) *Setback.* The setback of a sign is measured from the property line to the line projected to the ground plane of the nearest portion of the sign.

(Ord. No. 2271, § 1, 10-15-2020)

Sec. 6. Sign type design standards.

The guidelines set out in this section address issues related to sign compatibility, legibility, placement, color, and illumination. They are intended to complement the standards of this article and to guide quality visual environments.

- (1) *Illumination of signs.* Lighted signs facing and on property adjacent to or across a street or alley from a residential district shall not be backlit and shall be no closer than one hundred and fifty (150) feet from the nearest residential district boundary. Illuminated signs shall follow the following standards:
 - (a) The light source, whether internal or external, should be shielded from view.
 - (b) Ground-mounted external flood lighting must be shielded and properly placed and directed to avoid direct visibility of the directed light to passing motorists.
 - (c) No sign lighted by any type of indirect lighting shall have any such lighting which exceeds one thousand six hundred (1,600) milliamps rated capacity.
 - (d) Signs shall not exceed three-tenths (0.3) footcandles over ambient light conditions.
 - (e) All signs that are directly illuminated shall include a sensor or other device that automatically determines the ambient illumination and is programmed to automatically dim according to ambient light conditions, or that can be adjusted to comply with the footcandle requirement.
- (2) *Sign electrical raceways and conduits.* Electrical transformer boxes and raceways should be concealed from public view. If a raceway cannot be mounted internally behind the finished exterior wall, the exposed metal surfaces of the raceway should be finished to match the background wall or integrated into the overall sign design.
- (3) *Wall signs (flat sign).*
 - (a) A wall sign shall not extend more than eighteen (18) inches from the wall to which it is attached.
 - (b) A wall sign may not extend beyond the corner of the wall to which it is attached, except where attached to another wall sign, it may extend to provide for the attachment.
 - (c) A wall sign may not extend beyond its building's roof line.
 - (d) A wall sign in the C-1 district attached to a building on its front property line may encroach upon public right-of-way by no more than eighteen (18) inches. Such a wall sign shall provide minimum clearance of ten (10) feet.
- (4) *Projecting signs.*
 - (a) Within the C-1 district, a projecting sign may encroach into the public right-of-way based on the allowances in this article but may only come within five (5) feet from the vertical plane of the inside

- curb line.
- (b) Projecting signs must minimize visible support structures, including guy wires, cables, turnbuckles, angle iron, or other similar external support structure.
- (5) *Pole signs.*
- (a) Permitted pole signs may revolve at a rate not to exceed six (6) revolutions per minute to not be classified as a moving sign which is prohibited in this zoning ordinance.
 - (b) No electronic information sign shall be programmed in a way that suggests or resembles a traffic control device, such as a traffic signal.
- (6) *Banner and flag signs.* Banner and flag signs count against the attached wall sign area permitted on premise.
- (7) *Business and industrial centers.* In addition to its total permitted sign area, each premises identified by the city as a business or industrial park may have one additional detached sign located at the entrance to the park, subject to the following conditions:
- (a) The maximum area for the sign shall be one hundred (100) square feet;
 - (b) No sign shall be within one hundred fifty (150) feet of any other detached sign on the same or adjacent premises; and
 - (c) Each sign shall be subject to all other regulations for detached signs or graphics set forth in this article.
- (8) *Driveway signs.* Driveway signs are permitted in the C-2, C-3, C-4, C-P, and I districts in addition to the total permitted sign area in this article to direct internal traffic, identify parking areas, or supply other information, given that driveway signs are:
- (a) No larger than three (3) square feet per face;
 - (b) If building mounted, no higher than eight (8) feet from grade;
 - (c) If freestanding, no higher than three (3) feet from grade; and
 - (d) A maximum of one (1) at each driveway or two (2) at each drive through lane. Signs for drive through lane may be a maximum of fifteen (15) square feet in area and six (6) feet in height per sign.
- (9) *Subdivision entrance signs.* One illuminated or non-illuminated sign with a cumulative sign area of no more twenty-four (24) square feet is permitted per subdivision entrance from a collector or arterial or highway, provided such sign is set back no less than ten (10) feet from any property line. Each subdivision is permitted a maximum of three (3) subdivision entrance signs.
- (10) *Additional signs at entrances.* In addition to its total permitted sign area for detached signs, each property in the C-2, C-3, C-4, C-P, and I districts may have one (1) non-illuminated sign with a maximum size of twelve (12) square feet within twenty (20) feet of a public right-of-way that provides access to the property. Such sign shall be a monument or ground sign with a maximum height of four (4) feet.

(Ord. No. 2271, § 1, 10-15-2020)

Sec. 7. Permitted sign types by district.

- (1) Permitted signs below indicates the permitted sign types by each zoning district. Additional design standards and restrictions apply as may be indicated in this section. The letters indicate the following:
- (a) "P" means that the sign type is permitted for all uses in the district.
 - (b) "P(L)" means that the sign type is permitted but limited to principal non-residential and multi-family uses.
 - (c) "N" means that the sign type is not permitted in the district.
- (2) Permitted signs:

<i>Sign Types</i>	<i>A-L</i>	<i>R</i>	<i>R-2</i>	<i>R-3</i>	<i>R-P</i>	<i>M-H</i>	<i>M-P</i>	<i>C-P</i>	<i>C-1</i>	<i>C-2</i>	<i>C-3</i>	<i>C-4</i>	<i>I</i>
Detached Signs													
Residential	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Ground	P(L)	P(L)	P(L)	P(L)	P(L)	P(L)	P(L)	P	P	P	P	P	P
Pole	N	N	N	N	N	N	N	P	N	P	P	P	P
Attached Signs													
Awning	N	N	N	N	N	N	N	P	P	P	P	P	P
Banner	N	N	N	N	N	N	N	P	P	P	P	P	P
Canopy	N	N	N	N	N	N	N	P	P	P	P	P	P
Marquee	N	N	N	N	N	N	N	P	P	P	P	P	P
Projecting	N	N	N	N	N	N	N	P	P	P	P	P	P
Roof	N	N	N	N	N	N	N	P	N	P	P	P	N
Wall	P	P	P	P	P	P	P	P	P	P	P	P	P
Window	P	P	P	P	P	P	P	P	P	P	P	P	P
Miscellaneous													
Off-Premises Sign (Billboard)	N	N	N	N	N	N	N	N	N	P	P	P	P
Portable	P	P	P	P	P	P	P	P	P	P	P	P	P
Flag Sign	N	N	N	N	N	N	N	P	P	P	P	P	P

(Ord. No. 2271, § 1, 10-15-2020)

Sec. 8. Permitted sign design regulations—Off-premises signs (billboards).

<i>Billboards</i>	<i>A-L</i>	<i>R</i>	<i>R-2</i>	<i>R-3</i>	<i>R-P</i>	<i>M-H</i>	<i>M-P</i>	<i>C-P</i>	<i>C-1</i>	<i>C-2</i>	<i>C-3</i>	<i>C-4</i>	<i>I</i>
Permitted Area ¹	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	See Footnote 1			
Total size allocation on premise										500 s.f.	500 s.f.	500 s.f.	500 s.f.
Height										25 ft	25 ft	25 ft	25 ft
Maximum number of signs										1	1	1	1

Notes:

1. Separated by 2,500 feet from any other off-premise sign (billboard) measured along a street frontage and 300 feet from any other detached sign or residential district

(1) The owner shall agree, at the time of issuance of the permit, to place and maintain on such billboard the name of the person owning, in charge of or in control of said billboard.

(2) No billboard shall be erected, altered, constructed, reconstructed or moved until an application and plans shall have been filed with the building official and shall have been approved by the building official as to size, location and construction.

(3) The owner, lessee and manager of such billboard and the owner of the sign shall maintain and keep the ground area around the sign clean, sanitary, inoffensive and free and clean of weeds and noxious substances.

(4) No billboard shall project beyond the front, side or rear building line established for the district as set forth in the zoning ordinance.

(5) It shall be unlawful to construct or maintain, or cause to be constructed or maintained, any billboard in such a manner as to:

- (a) Obstruct the view of street crossing or railroad crossings.
- (b) Be unable to stand a pressure of at least forty (40) pounds per square foot of surface.
- (c) Be dangerous to the public by falling or blowing down.
- (d) Increase the danger of loss by fire or to increase fire insurance rates.
- (e) Approach nearer than five (5) feet from any building, unless attached to the building.

(6) Billboards hereafter erected, constructed, reconstructed, altered or moved in the city and the planning area shall be constructed in such a manner and of such material that they shall be safe and substantial.

(7) Billboards supported by the ground shall have all posts set in concrete.

(8) Stacked billboard signs shall be prohibited.

(Ord. No. 2271, § 1, 10-15-2020)

Sec. 9. Permitted sign design regulations—Detached sign regulations, agricultural and residential districts.

<i>Detached Signs</i> ³	<i>A-L</i>	<i>R, R-2, R-3</i>	<i>R-P</i>	<i>M-H</i>	<i>M-P</i>
Total size allocation on premises	50 square feet for non-residential uses	50 square feet for non-residential and multi-family uses		50 square feet per zoning lot	
Maximum number detached of signs	2	1		1 per 200 feet of street frontage, maximum of 2 per frontage ¹	
Ground	Subject to maximum number	1		Subject to maximum number	
Pole	0	0		0	
Maximum area per sign	50 square feet	50 square feet		50 square feet	
Illumination	Not Permitted	Directed away from adjoining residential uses permitted for non-residential and multi-family principal uses			
Electronic Message	Not Permitted	Permitted for places of worship, public institutions and not-for-profit educational facilities			
<i>Maximum height of signs</i> ²					
Ground	12 feet	12 feet		12 feet	
Pole	N/A	N/A	N/A	N/A	N/A
<i>Setback from Property Line</i>					
Front and Street Side Yard	25 feet	5 feet		5 feet	
Side Yard	10 feet	Not Allowed		Not Allowed	

Notes:

1. Frontage applies to sides of the lot line that face a public street where each frontage is treated independently of other frontages; however, that no sign shall be located closer than 50 feet to another sign measured in a straight line distance.
2. Signs shall not project above the roofline greater than 3 feet.
3. Signs on single- and two-family residential uses are not allowed, with the exception of signs that do not require a permit and allowable temporary signs.

(Ord. No. 2271, § 1, 10-15-2020)

Sec. 10. Permitted sign design regulations—Attached sign regulations, agricultural and residential districts.

<i>Attached Signs</i>	<i>A-L</i>	<i>R, R-2, R-3</i>	<i>R-P</i>	<i>M-H</i>	<i>M-P</i>
Total size allocation on premise	32 square feet	32 square feet for non-residential and multi-family uses OR 1 square feet per linear foot of street frontage up to 100 square feet for non-residential and multi-family uses		32 square feet for non-residential and multi-family uses	
	3 square feet for other residential uses	3 square feet for other residential uses	3 square feet for other residential uses	N/A	
Maximum number of signs	1 per building façade	1 per building façade	1 per building façade	1 per building façade	
Maximum area per sign for wall and window signs ¹	32 square feet	32 square feet subject to total allowed size allocation	32 square feet subject to total allowed size allocation	32 square feet	
Illumination	Not Permitted	Directed away from adjoining residential uses permitted for places of worship, public institutions and not-for-profit educational facilities			
Electronic Message	Not Permitted	Permitted for places of worship, public institutions and not-for-profit educational facilities			

Notes:

1. Wall signs shall not extend beyond the roof line of the building to which the sign is mounted.

(Ord. No. 2271, § 1, 10-15-2020)

Sec. 11. Permitted sign design regulations—Detached sign regulations, commercial and industrial districts.

<i>Detached Signs</i>	<i>C-1</i>	<i>C-2^d</i>	<i>C-3^d</i>	<i>C-4^d</i>	<i>C-P</i>	<i>I^d</i>
Total size allocation on premise	One (1) square foot per linear foot of street frontage; maximum 100 sf.		One (1) square foot per linear foot of street frontage; maximum 250 sf.		Based on frontage allowances	One (1) square foot per linear foot of street frontage; maximum

						250 sf.
Maximum number of detached ground signs	1	1 per frontage	1 per frontage	1 per frontage	1 per frontage	1 per frontage
Additional Pole Signs Allowance	0	Permitted at 1 per frontage if located within two thousand four hundred (2,400) feet of a designated interstate; subject to total size allocation on the premise				
Maximum area/sign	32 square feet	One (1) square foot per linear foot of street frontage; maximum 100 sf.	One (1) square foot per linear foot of street frontage; maximum 125 sf.		100 square feet	Subject to maximum size allocation
Illumination/Flashing	Where a sign is illuminated by light directed upon it, the direct rays of light shall not beam upon any part of any existing residential district.	Permitted. Direct rays of light shall not beam upon any residential building or into any street. Flashing signs are not permitted within one hundred and fifty (150) feet of a residential district zone	Permitted. Direct rays of light shall not beam upon any residential building or into any street. Flashing signs are permitted. Direct rays of the sign shall not be directed into any residential district.	Permitted. Direct rays of light shall not beam upon any residential building or into any street. Flashing signs are not permitted	Permitted. Direct rays of light shall not beam upon any residential building or into any street. Flashing signs are not permitted	Permitted. Direct rays of light shall not beam upon any residential building or into any street. Flashing signs are permitted. Direct rays of the sign shall not be directed into any residential district.
Electronic Message	Permitted	Permitted	Permitted	Permitted	Permitted	Permitted
<i>Maximum height of signs²</i>						
Ground	10 feet	20 feet	20 feet	20 feet	20 feet	20 feet
Pole	N/A	80 feet	80 feet	80 feet	30 feet	80 feet
<i>Setback from Property Line³</i>						
Front/Street Side Yard	0 feet ³	5 feet	5 feet	5 feet	5 feet	5 feet
Side Yard	0 feet ³	5 feet	5 feet	5 feet	5 feet	5 feet
Notes:						
1. Frontage applies to sides of the lot line that face a public street where each frontage is treated independently of other frontages; however, that no sign shall be located closer than 50 feet to another.						
2. Signs shall not project above the roofline greater than 3 feet. In C-P and I district, no sign shall project over any alley, road, street or highway right-of-way.						

3. Any sign located within three (3) feet of a driveway or parking area or within fifty (50) feet of the intersection of two (2) or more streets shall have the lowest elevations at least ten (10) feet above the curb level.
4. Detached signs shall not be permitted within fifty (50) feet of a residential district.

(Ord. No. 2271, § 1, 10-15-2020)

Sec. 12. Permitted sign design regulations—Attached sign regulations, commercial and industrial districts.

<i>Attached Signs</i> ¹	<i>C-1</i>	<i>C-2</i>	<i>C-3</i>	<i>C-4</i>	<i>C-P</i>	<i>I</i>
Total size allocation on premise	150 square feet	400 square feet	400 square feet	400 square feet	Based on frontage allowances	400 square feet
Maximum number of signs	No limit within size allocations					
Maximum area of all wall and window signs ⁴	15% of wall surface; 40% of window area, only the lowest 40' of the wall surface qualifies	Three (3) sq. ft. of signage per one (1) ft. of frontage of the building; maximum of 400 square feet			Based on sign design program	Three (3) sq. ft. of signage per one (1) ft. of frontage of the building; maximum of 400 square feet
Maximum area per sign for projecting signs ^{2,3}	One (1) square foot per lineal foot of facade width to a maximum of seventy (70) square feet	One (1) square foot per lineal foot of facade width to a maximum of seventy (70) square feet; Minimum spacing of forty (40) feet from another projecting sign; except that each building or business may have a projecting sign.				
Marquee ²	Permitted	N/A	N/A	N/A	N/A	N/A
Maximum area	100 square feet total	N/A	N/A	N/A	N/A	N/A
Maximum projection from facade	10 feet	N/A	N/A	N/A	N/A	N/A
Illumination/Flashing	Where a sign is illuminated by light directed upon it, the direct rays of light shall not beam upon any part of any existing	Permitted. Direct rays of light shall not beam upon any residential building or into any street. Flashing signs are not permitted within one hundred and fifty (150) feet of a residential district zone	Permitted. Direct rays of light shall not beam upon any residential building or into any street. Flashing signs are permitted.	Permitted. Direct rays of light shall not beam upon any residential building or into any street. Flashing signs are not permitted	Permitted. Direct rays of light shall not beam upon any residential building or into any street. Flashing signs are permitted.	Permitted. Direct rays of light shall not beam upon any residential building or into any street. Flashing signs are permitted.

	residential district.			Direct rays of the sign shall not be directed into any residential district.		Direct rays of the sign shall not be directed into any residential district.
Electronic Message	Permitted	Permitted	Permitted	Permitted	Permitted	Permitted
Notes:						
1. Signs shall not project above the roofline greater than ten (10) feet.						
2. Shall provide clearance of ten (10) feet above pedestrian walkways and 15 feet above driveways.						
3. A projecting sign shall not extend outward from the building more than 4 feet, six inches, or overhanging the road, street or alley right-of-way and no sign shall be located in a manner to constitute a traffic hazard.						
4. A wall sign shall not extend more than 18 inches from the wall to which it is attached.						

(Ord. No. 2271, § 1, 10-15-2020)

Sec. 13. Portable and temporary signs.

The purpose of these regulations is to ensure that portable signs, also classified as temporary signs, do not create a distraction to the traveling public by eliminating the aesthetic blight and litter caused by portable signs.

- (1) *Sign types.* The following signs types are classified as portable signs:
 - (a) A-Frame or upright signs (Sandwich board signs).
 - (b) Vertical banners. Only permitted in non-residential districts and not permitted in the C-1 district.
 - (c) Yard signs. Permitted in all zoning districts on a temporary basis not to exceed six (6) months.
 - (i) In residential zoning districts, any yard sign used on a temporary basis shall not exceed four (4) square feet in area and three (3) square feet in height.
 - (ii) In non-residential zoning district, any yard sign used on a temporary basis shall not exceed thirty-two (32) square feet in area and eight (8) square feet in height.
 - (d) Wall banner. Only permitted in non-residential districts and may only be displayed for thirty (30) days per calendar year and not used as permanent signage.
 - (e) Window sign. Only permitted in non-residential districts and may only be displayed for thirty (30) days per calendar year and not used as permanent signage. The total area combined with permanent window signs shall not exceed forty (40) percent of the area of the window.
 - (f) Other. Other portable sign types may be allowed, such as fuel pump toppers and wraps around waste receptacles, provided the max area limitation for all portable signs is not exceeded.
- (2) *General regulations.* Portable signs are subject to all location and design regulations described in this article, unless stated otherwise in this section.
- (3) *Aggregate size.* The total amount of portable signage permitted on any premises shall be the smaller of five (5) percent of the area of all street facades or sixty (60) square feet, whichever is less.
- (4) *Individual size.* The maximum size of an individual portable sign shall be thirty-two (32) square feet in area in non-residential districts and four (4) square feet in area in residential districts.
- (5) *Location.* Signs shall be located no closer than five (5) feet from any property line and shall not obstruct the view of traffic approaching a street intersection.
- (6) *Signs in the public right-of-way.* Unless otherwise prohibited in the York Municipal Code, portable/temporary signs may be placed in the right-of-way if they meet all the following standards:

- (a) The sign shall not be placed in medians, traffic islands, roundabouts, or other areas within the roadway.
 - (b) The sign shall not be placed on a sidewalk or obstruct pedestrian or wheelchair access to the sidewalk.
 - (c) The sign shall not be placed in parking spaces or identified pedestrian or bicycle routes.
 - (d) The sign shall be placed entirely outside of the sight-distance-triangle of a right-of-way corner or drive through.
 - (e) The sign shall be no larger than ten (10) square feet in size, with no single sign face larger than six (6) square feet in size, and no portion of the sign shall exceed three (3) feet in height.
 - (f) The sign shall remain portable and may not be anchored in any way to trees or to public property including, but not limited to, utility or light poles, utility boxes, street signs, parking meters, fences, or pavement.
 - (g) The city shall have the authority to remove a sign in the public right-of-way at any time that does not meet the standards in this article, such as interference with traffic signs and motorists.
- (7) *Building placement.* When said sign is affixed to a building, it shall not project higher than ten (10) feet above ground level.
- (8) *Durability.* Portable signs shall be constructed of sufficient weight and durability to withstand wind gusts, storms, and other natural elements.

(Ord. No. 2271, § 1, 10-15-2020)

Sec. 14. Sign maintenance.

All signs shall be kept in good repair and free from peeling paint, rust, damaged or rotted supports, framework or other material, broken or missing faces or missing letters. Any signs not maintained may be ordered to be removed. For maintenance of non-conforming signs, the following shall apply:

- (1) *Activities considered normal maintenance and repair.* Normal maintenance and repair shall include activities such as replacement, restoration, or improvement. Following damage or destruction, replacement of a nonconformity shall mean that the sign face or sign structure and site, if reinstated with a nonconformity as allowed under the terms of the zoning ordinance, shall be reconstructed to match the conditions of the sign face or sign structure that precluded damage or destruction. Reasonable conditions may be imposed by the city to mitigate any newly created impact on adjacent property.
- (2) *Items not considered normal maintenance and repair.* Changes made to the location, size, height or bulk of the sign or addition of illumination are not considered normal maintenance and repair and shall require that a nonconforming sign be brought into conformance with all requirements of this zoning ordinance.

(Ord. No. 2271, § 1, 10-15-2020)

Sec. 15. Sign enforcement.

(1) All signs shall be constructed, located and placed in accordance with local ordinances and the laws of the State of Nebraska.

(2) Any sign not in compliance with the standards in this article shall be subject to Article XXVII, Enforcement, Violation and Penalty of this Code.

(Ord. No. 2271, § 1, 10-15-2020)

Sec. 16. Sign master plan.

For projects with an overall site area more than five (5) acres, an applicant may submit a sign master plan, detailing the size, location, and design of all signs on the site. The sign master plan may adjust the strict application of these standards but must clarify the exact nature of the adjustments. Such a sign master plan shall be approved by the city council after review and recommendation by the commission. This review follows the same process as review of a planned unit development district.

(Ord. No. 2271, § 1, 10-15-2020)

Sec. 17. Nonconforming signs.

The lawful use of land for advertising, business signs or bulletin boards which are not installed or maintained in accordance with this article and other city, county, state and federal requirements pertaining to construction, location and size which existed prior to the effective date of Ordinance No. 1574, shall be removed within fifteen (15) days after the sign becomes obsolete due to construction deterioration or when the advertised business, service or event ceases operation.

(Ord. No. 2271, § 1, 10-15-2020)

Sec. 18. Removal of signs.

All signs shall be removed within fifteen (15) days when a business ceases operation. This includes advertising, sandwich, business, billboard, pole, temporary, and mobile signs. Signs located on vacant buildings shall be removed by the property owner or his authorized agent within fifteen (5) days after said premises are vacated.

(Ord. No. 2271, § 1, 10-15-2020)

ARTICLE XX. PARKING REGULATIONS*

***Editor's note**—Formerly numbered as art. XIX

Sec. 1. Space requirements.

Whenever a structure is erected, converted or structurally altered and where required by this ordinance there shall be provided off-street parking space as follows:

- (1) *Single- and two-family dwellings and mobile homes:* One off-street parking space shall be provided for each dwelling unit.
- (2) *Multiple-family dwelling units, townhouses and condominiums:* One and one-half (1½) off-street parking spaces per unit shall be provided in the side or rear yard.
- (3) *Home occupations:* Two (2) off-street parking spaces shall be provided in the side or rear yard for home occupations. These shall be in addition to those required for dwelling purposes.
- (4) *Schools:* Schools shall provide off-street parking spaces as follows:
 - (a) *Elementary school:* Two (2) parking spaces for each classroom.
 - (b) *Junior high school:* Four (4) parking spaces for each classroom.
 - (c) *High school:* Eight (8) parking spaces for each classroom.
- (5) *Churches and other places of public assembly:* One off-street parking space shall be provided for each five (5) seats based on maximum seating capacity of the main assembly room or sanctuary.
- (6) *Golf courses:* One space for each five (5) members.
- (7) *Hospitals, nursing homes, boardinghouses and lodging houses:* One off-street parking space shall be provided in the side or rear yard for each five (5) beds.
- (8) *Dormitory, fraternity or sorority house or other similar use or establishment:* One off-street parking space shall be provided for each three (3) sleeping accommodations provided.
- (9) *Businesses and professional offices and retail sales establishments:* One off-street parking space for each two hundred (200) square feet of gross floor area.
- (10) *Eating and lounge establishments:* One off-street parking space for each three (3) seats.
- (11) *Medical, dental or health clinics:* One off-street parking space for each five hundred (500) square feet of gross floor area.
- (12) *Motels:* One off-street parking space for each living or sleeping unit.

- (13) *Personal service establishments including barbershops, beauty shops, shoeshine shops, cleaning and laundry pick-up stations, shoe repair shops, self-service laundry, custom dressmaking, furrier, millinery and tailor shops, service stations and similar personal service uses:* One off-street parking space for each five hundred (500) square feet of gross floor area.
- (14) *Industrial uses permitted in "I" district:* One off-street parking space for each one thousand (1,000) square feet of gross floor area.

(Ord. No. 1497, § 18, 2-14-1985; Ord. No. 1574, § 1, 7-14-1988; Ord. No. 1727, 6-13-1996)

Sec. 2. Location of off-street parking lots.

(1) Off-street parking lots for single- or multiple-family dwellings, home occupations, schools, churches and similar places of public assembly, hospitals, nursing homes, boarding and lodging houses, dormitories, fraternity or sorority houses shall be located in the side or rear yard.

(2) Off-street parking spaces for uses permitted in "C-2" and "I" districts shall be located back of the front property line and shall be within three hundred (300) feet of the building they serve.

(Ord. No. 1414, 4-9-1981; Ord. No. 1727, 6-13-1996)

Sec. 3. Plans and approval required.

Plans for off-street parking lots, other than for single-family dwellings, shall be prepared and submitted to the building official for review and approval prior to issuance of a building permit. Before approving any parking layout, the building official shall satisfy himself that the spaces provided are usable and meet standard design criteria. All required off-street parking spaces shall be clearly marked. Additionally, parking is prohibited in each of the zoning districts in the area between the street curb and the sidewalk, or property line.

Sec. 4. Construction requirements.

Parking lots for other than single-family dwellings shall be surfaced with asphalt, concrete or similar dust-free surface.

Sec. 5. Performance.

In lieu of construction of the required parking lot, the governing body of the city may accept a corporate surety bond, cashier's check, escrow account or other like security in an amount to be fixed by the governing body and conditioned upon the actual completion of such work or improvement, within a specified time, and the governing body may enforce such bond by all equitable means.

ARTICLE XXI. LANDSCAPING REQUIREMENTS*

***Editor's note**—Formerly numbered as art. XX.

Sec. 1. Schedule.

(1) The open, unpaved areas of each property shall be graded to provide for the adequate drainage of all storm water and shall be free of hazards, nuisances or unsanitary conditions.

(2) Open, unpaved areas shall be appropriately landscaped to provided an attractive appearance to enhance the character of the neighborhood.

(3) No vegetation shall overhang a public street or sidewalk or obstruct views of pedestrian and vehicular movements.

(4) Where districts "R-P," "M-P," "C-1," "C-2," "C-3," "C-4," and "I" adjoin "R," "R-2," "R-3," and "M-H" districts, they shall be appropriately separated by a landscaped area of at least ten (10) feet wide or a decorative architectural screen of at least six (6) feet high.

(5) Parking areas abutting public walkways or streets shall be appropriately separated by a landscaped area or a decorative architectural screen. The landscaped area or architectural screen shall not exceed four (4) feet in height.

(6) No hedge located in the front yard in districts, "R," "R-2," "R-3," "R-P," "M-H" and "M-P" shall exceed

four (4) feet in height.

(Ord. No. 1497, § 19, 2-14-1985; Ord. No. 1574, § 1, 7-14-1988; Ord. No. 1727, 6-13-1996; Ord. No. 1978, § 1, 1-18-2007)

ARTICLE XXII. TRAFFIC REGULATIONS*

***Editor's note**—Formerly numbered as art. XXI.

Sec. 1. Requirements.

Plans for the erection or structural alteration of any business use dependent on vehicles entering onto the business site or parking lot shall be approved by the building official. The building official may require such changes therein in relation to yards, location of curb cuts, width of drives, location of signs and accessory uses and buildings and construction of buildings as it may deem best suited to ensure safety, to minimize traffic difficulties and to safeguard adjacent properties.

(Ord. No. 1574, § 1, 7-14-1988)

Sec. 2. Visibility at intersections.

On a corner lot in all districts except "C-1" a sight triangle shall be provided where no obstruction between a height of three and one-half (3½) and ten (10) feet shall exist. The triangle shall be formed from the center line of the intersecting streets for a distance of seventy-five (75) feet. (See illustration at the end of this article.)

(Ord. No. 1574, § 1, 7-14-1988)

[GRAPHIC]

Sight Triangle Illustration

ARTICLE XXIII. LOADING AND UNLOADING REGULATIONS*

***Editor's note**—Formerly numbered as art. XXII.

Sec. 1. Space requirements.

(1) Loading and unloading spaces shall be provided off-street and on the premises and in the side or rear yard for commercial and industrial uses involving receipt or distribution of materials or merchandise by motor vehicle or rail. All loading and unloading operations shall be so located as to avoid undue interference with public use of streets, alleys and walkways. The number of spaces shall be provided as follows:

<i>Number of Spaces</i>	<i>Gross Floor Area in Square Feet</i>
1	3,000 to 20,000
2	20,000 to 40,000
3	40,000 to 60,000
4	60,000 to 80,000
5	80,000 to 100,000
6	100,000 to 150,000

One additional space shall be provided for each fifty thousand (50,000) square feet above one hundred fifty thousand (150,000) square feet.

Sec. 2. Plans and approval required.

Plans showing the layout and design of all required loading and unloading areas shall be submitted and approved by the building official prior to issuance of a building permit. Before approving the layout, the building official shall satisfy himself that all spaces provided are usable and meet standard design criteria and that the complete loading and unloading operation is performed off-street.

Sec. 3. Performance.

In lieu of actual construction of the required off-street loading and unloading area, the governing body may accept a corporate surety bond, cashier's check, escrow account or other like security in an amount fixed by the governing body and conditioned upon actual construction of such work or improvement, within a specified time, and the governing body may enforce such bonds by all equitable means.

ARTICLE XXIV. BUILDINGS AND USES AFFECTED

Sec. 1. Minimum building requirements.

No building or structure shall be erected, enlarged, reconstructed or moved into the City of York or its planning area with less than the following:

- (1) *Motels:*
 - (a) The number of motel units permitted on a tract of land shall not exceed the number obtained by dividing the total square feet of area of the site by fifteen hundred (1,500).
 - (b) Motels shall be served with an approved public water supply and approved public sanitary sewer system.
 - (c) Each motel unit shall contain not less than two hundred (200) square feet of floor area.
- (2) *Tents:* No tent, except play tents for children, and camping in areas authorized by the governing body, shall be used for any purpose except those authorized by the governing body.

(Ord. No. 1574, § 1, 7-14-1988)

Sec. 2. Buildings and structures moved in.

Buildings and structures may be moved into various districts providing:

- (1) The proposed use conforms with the district zoning regulations of the district into which it is to be moved; and
- (2) The building or structure meets applicable building, fire, safety and health regulations; and
- (3) The city council shall hold a public hearing at which time parties in interest and citizens shall have an opportunity to be heard. Notice of the purpose, time and place of such hearing shall be given by publication in a newspaper of general circulation at least ten (10) days prior to such hearing. Approval by the city council shall be required before a building or structure is moved.

(Ord. No. 1574, § 1, 7-14-1988)

Sec. 3. Elevation.

Unless otherwise directed by the building official, the first floor elevation of a building or group of buildings shall be at least eighteen (18) inches above grade of the center of the street or roadway.

ARTICLE XXV. ADDITIONAL HEIGHT, AREA AND USE REGULATIONS*

*Editor's note—Formerly numbered as art. XXIV.

Sec. 1. Qualifications and supplementations to district regulations.

The regulations hereinafter set forth in this section qualify or supplement, as the case may be, the district regulations appearing elsewhere in this ordinance.

- (1) In districts where public buildings, semi-public buildings, public service buildings, hospitals, institutional buildings, schools, and churches and similar places of worship are permitted, one foot of additional height will be permitted for each one foot of additional building setback provided.
- (2) Chimneys, cooling towers, corn sizing towers, elevator headhouses, fire towers, grain elevators, monuments, stacks, lofts, tanks, water towers, ornamental towers, and spires, church steeples, radio and television towers or necessary mechanical appurtenances, which do not conflict with airport approach zones, may be erected to a height not to exceed one hundred fifty (150) feet.

- (3) Accessory buildings are intended to remain secondary in nature or subordinate to the primary building or structure on the parcel or tract of land in which they are located. Accessory buildings are to remain subordinate to the primary structure, both as to square footage and to height.

Accessory buildings shall not exceed more than two (2) individual buildings that combined have a maximum area of one thousand three hundred (1,300) square feet. However, parcels that have an area of at least ninety-eight thousand ten (98,010) square feet (or two and one-fourth (2¼) acres) shall have a maximum of two (2) accessory buildings, that shall not exceed a combined area of one thousand five hundred (1,500) square feet.

In all residential zoning districts, the maximum height shall be eighteen (18) feet for any accessory building on a parcel of less than ninety-eight thousand ten (98,010) square feet (or two and one-fourth (2¼) acres). Parcels that exceed ninety-eight thousand ten (98,010) square feet (or two and one-fourth (2¼) acres) shall have a maximum height for a detached garage and/or other accessory building of twenty (20) feet.

Parcels located in an R-3 residential district, in addition to the above, may also have one (1) garage for each apartment unit, with a maximum area of two hundred seventy-five (275) square feet.

Accessory buildings may be built in a rear yard but such accessory building shall not be nearer than the main building to any side lot line, except that when a garage is entered from an alley, it shall not be located closer than twenty (20) feet from the alley line.

- (4) No accessory building shall be constructed upon a lot until the construction of the main building has been actually commenced, and no accessory building shall be used for dwelling purposes.
- (5) The setback line shall be determined by measuring the horizontal distance from all property lines to the main building line and in the case of a front yard to the nearest architectural projection. Decks added onto existing dwellings, or designed as part of a house to be constructed, shall conform with all setback requirements.
- (6) Open or lattice-enclosed fire escapes, fireproof outside stairways and balconies opening upon fire towers, and the ordinary projections of chimneys and flues into the rear yard may be permitted by the building official for a distance of not more than three and one-half (3½) feet and where the same are so placed as not to obstruct light and ventilation.
- (7) For the purpose of the side yard regulations, a two-family dwelling, or a multiple-family dwelling shall be considered as one building occupying one lot.
- (8) Temporary buildings and temporary construction signs that are used in conjunction with construction work may be permitted in any district during the period that the building is being constructed, but such temporary building and/or sign shall be removed upon completion of the construction work.
- (9) Where a lot or tract is used for a nonresidential purpose, more than one principal use may be located upon the lot or tract but only when the building or buildings conform to all yard and open space requirements for the district in which the lot or tract is located.
- (10) No side yards are required where dwelling units are erected above commercial and industrial structures.
- (11) Radio and television towers shall be permitted in any commercial or industrial district, which do not conflict with airport approach zones, and may be erected to a height not to exceed one hundred fifty (150) feet.

(Ord. No. 1574, § 1, 7-14-1988; Ord. No. 2058, § 1, 4-5-2012)

Sec. 2. Fences.

Except as otherwise specifically provided in other codes, ordinances or resolutions, the following regulations shall apply to the construction of fences:

- (1) No solid fence shall be constructed closer to the street than the front setback line established for the district in which such fence is to be erected.

- (2) No fence erected in a required front yard shall materially obstruct public view. Permitted types of fences shall include split rail, chain link, woven wire or other similar material which has been approved by the building official.
- (3) No fence shall be constructed which will constitute a traffic hazard and no permit shall be granted for the construction of a fence unless the building official has certified that the proposed fence will not constitute a traffic hazard.
- (4) No fence shall be constructed in such a manner or be of such design as to be hazardous or dangerous to persons or animals.
- (5) No person shall erect or maintain any fence which will materially damage the adjacent property by obstructing the view, shutting out the sunlight or hindering ventilation, or any fence which shall adversely affect the public health, safety and welfare.
- (6) No fence, except fences erected upon public or parochial school grounds or in public parks and in public playgrounds, shall be constructed of a height greater than six (6) feet; provided, however, that the board of adjustment may, as a variance, authorize the construction of a fence higher than six (6) feet if the board finds the public welfare is preserved.
- (7) All fences shall conform to the construction standards of the building code and other applicable ordinances and resolutions.

(Ord. No. 1456, § 2, 1-13-1983; Ord. No. 1574, § 1, 7-14-1988)

Sec. 3. Lots of record.

A lot or group of lots which were platted and recorded in the office of the register of deeds prior to the effective date of this ordinance may be used for any purpose permitted in the district in which it is located; provided, however, that no residential building permit shall be issued for construction of a residential structure on a lot or group of lots that do not conform with the minimum yard and height requirements unless specifically authorized by the board of adjustment.

(Ord. No. 1727, 6-13-1996)

Sec. 4. Canopy and marquee.

A canopy or marquee may be permitted to "overhang a public way" in district "C-1" providing:

- (1) The canopy or marquee is constructed and maintained in accordance with the city building code and other codes, ordinances and resolutions.
- (2) No portion of the canopy or marquee shall be less than eight (8) feet above the level of the sidewalk or other public way.
- (3) The canopy or marquee shall not extend beyond a point two (2) feet inside the curb line of a public street.

(Ord. No. 1727, 6-13-1996)

Sec. 5. Occupancy above or below public property.

(0) *Definitions.* For the purpose of this section, the following definitions shall prevail:

- (a) *Owner* shall mean and include the record owner of the fee simple of property or the lessee of a term of twenty-five (25) years or more of such property, or purchaser in possession under land contract.
- (b) *Story* shall mean the distance between the lower surface of any ceiling and the lower surface of the ceiling immediately above or below it, but if the distance between such ceiling surface and the floor immediately below is more than sixteen (16) feet such distance shall be considered to be not less than two (2) stories in depth.
- (c) *Structure* shall mean and include, but not be limited to, vaults, underpasses, areaways, basements, liquid storage tanks, boilers, and cantilevered areas of buildings.

(1) *Permit required.* It shall be unlawful for any person to use any space underneath or above the surface of any street, alley, sidewalk, or other public ground within the city, or to construct any structure thereunder or

thereover unless approved by the city by a permit issued as a privilege. No permit shall be issued except to the owner of the lot or land adjacent to the space sought to be used, and no permit shall be issued unless authorized by action of the city council. A building permit shall also be required from the building inspector if a permit would be required under the ordinances of the city to construct a similar structure upon private property.

(2) *Application for permit.* Applications for such permit shall be made to the director of public works, and such application shall be in writing stating specifically the space desired, its length, breadth and depth, and the use intended to be made thereof, or the structure to be built therein; and the director of public works shall then refer said application to the city council.

(3) *Bond and public liability insurance.*

(a) Every applicant for such permit shall file with the application required, a continuing bond in the sum of not less than five thousand dollars (\$5,000.00) with such surety as the city council may approve, but in the event that the city council in the resolution authorizing the permit shall fix a different sum, then a bond for such sum so fixed shall be substituted and filed with the application. All bonds and sureties shall be approved by the city council before such permit becomes effective. All bonds shall be conditioned that the person to whom such permit shall be issued and his heirs, successors or assigns shall save and keep the city free and harmless from any and all loss or damages, or claims for damages arising from or out of the use of the space or structure therein mentioned, and for the maintenance of the street, alley, sidewalk or other public way in such condition that said street, alley, sidewalk or other public way shall at all times after such structure is completed or such space is covered, be safe for the public use; for the full and complete protection of the city against any and all litigation growing out of the granting of such permit or anything done under such permit and for the removal of any structure permitted in the public space by such permit at the sole expense of the permittee and his heirs, successors or assigns; for the faithful performance and observance of all the terms and conditions of this chapter; and where the permit is given to use space which under this chapter is taxed, such bond shall also be conditioned for the prompt and full payment of the compensation required by this chapter, or any other ordinance required to be paid during the period said permit shall be outstanding. Following the issuance of such permit and as long as the use continues or as long as the structure exists in such public space, the owners of such property from time to time shall also be responsible to the city for the performance of all of the conditions of said bond above described.

(b) Whenever the city council shall be of the opinion that the surety on such bond given for such permit issued hereunder has become insufficient and shall so declare by resolution, a new bond for such permit shall thereupon be filed with a new surety to be approved by the city council.

(c) In addition to the bond, the applicant shall at all times have in full force and effect a policy of liability insurance in the minimum amount of three hundred thousand dollars (\$300,000.00) for the injury or death of any number of persons per occurrence, and one hundred thousand dollars (\$100,000.00) for property damage per occurrence. Such coverage shall name the City of York as an additional insured. All such policies and certificates of insurance shall be issued by companies authorized to do business in Nebraska, and shall be approved as to form by the city attorney before the commencement of such use and provide that it cannot be cancelled until thirty (30) days' written notice of such cancellation shall have been filed with the city clerk. Any termination or lapse of such insurance will automatically revoke any permit issued pursuant to this section.

(4) *Interference with sewer, gas or water pipes.* No person shall ever use the space under any such street, alley, or public way in such manner as to interfere with any wastewater collector, gas, water, or any other public works or utilities lawfully in such street, alley, or other public way unless by consent of the city council especially granted by resolution; and no such permit shall be granted until the applicant therefor has deposited with said public utilities a sum of money equal to the estimated cost prepared by said public utilities to defray the cost and expense of removing, replacing, and relaying such wastewater collector, gas, water pipes, or other public works or utilities, and making the necessary connections therewith. Each and every applicant disturbing any such wastewater collector, gas, water pipes, or other public works or utilities, shall, within ten (10) days after so disturbing it, restore the same to such condition as will meet with the approval of the director of public works. When such wastewater collector, gas, water pipes, or other public works or utilities are so restored by said applicant, the sum so deposited

with the said public utilities shall be refunded to such applicant less any sums which may be necessary to defray any damages which might arise from such disruption. If such applicant shall fail to restore such wastewater collector, gas, or water pipes, or other public works or utilities within ten (10) days after the same is disturbed, then the director of public works shall cause the same to be restored in a manner meeting with his/her approval, and the cost thereof shall be paid out of the sum thus deposited.

(5) *Revocation of permit; removal of structure.* A permit issued under this section may be revoked by resolution of the city council upon the giving of five (5) days' written notice to such person by the city clerk, for the following reasons:

- (a) Failure of the permit holder to pay the compensation required within ten (10) days after the date for payment is due;
- (b) Failure or neglect of the permit holder to comply with the provisions of this section or any of the provisions of the York Municipal Code or provisions of the permit;
- (c) Failure to use the space for which the permit was granted for a continuous period of at least six (6) months; or
- (d) Upon a determination by the city that the space for which the permit was granted is needed for public use.

Upon revocation of a permit, the permit holder shall forthwith remove or abandon the space for which the permit was granted, together with the removal of any structures at his/her own cost and expense and return that space to the City of York, free and clear of all structures or encroachments of any type, at no expense to the city. If said space is below ground, such space shall be filled to the satisfaction of the director of public works at the expense of the permit holder. If a removal, abandonment, or fill has been requested and the said removal, abandonment, or fill is not completed within six (6) months after revocation of such permit, the city council may cause such removal, abandonment, or fill to be so done, and the costs of such work shall become a lien against the property of the permit holder.

(6) *Application of section; exceptions.* The provisions of this section shall apply to all uses of any space under or over the public space where said use involves the construction of or excavation for structures to be placed in that space. The provisions of this chapter shall not apply to public utilities located above or under the public space, the use of street or sidewalk areas during construction work occurring on adjacent property and for marquees, awnings or signs for which a permit has been issued.

(Ord. No. 1574, § 1, 7-14-1988; Ord. No. 1727, 6-13-1996)

Sec. 6. Wind energy conversion systems (WECS).

Wind energy conversion systems (WECS) may be permitted subject to the following requirements:

- (1) The minimum distance from any lot line to any tower, pole or other support structure of the wind energy conversion system shall be established by the following minimum standards:

<i>Rotor diameter (feet)</i>	<i>Setback Distance (feet)</i>
5	100
10	165
15	220
20	270
25	310
30	340
35	365
40	385

Intermediate rotor size distances shall be interpolated from the above values.

- (2) The WECS shall not be located in any required yard.
- (3) The WECS shall not cause interference to microwave communications or radio and television reception in the area. Noise levels measured at the lot line shall not exceed sixty (60) dBA in a residential zone.
- (4) To limit climbing access to WECS tower, or other support structure, a six (6) foot high fence with locking portal shall be placed around the WECS support or if a tower is utilized, the tower climbing apparatus shall be limited to lower than twelve (12) feet from the ground or the WECS support may be mounted on a roof top.
- (5) All blades of a WECS shall be constructed of nonmetallic substances. If the applicant can prove, in written form, that no electromagnetic interference will result, a metal content of up to twenty-five (25) per cent will be acceptable.
- (6) The WECS shall be located in compliance with the guidelines of the federal aviation regulations with regard to airport approach and clearance around VOR and DVOR stations.
- (7) Height of the WECS shall not exceed the maximum height restriction in the zone where it is located by more than twenty (20) feet. The height of the WECS shall be measured at the center of the blade diameter.
- (8) Data pertaining to the WECS's safety and structural integrity shall be certified by a licensed engineer and filed with the building permit application. The tower or support and top adaptor shall meet the restrictions specified in the city's building code.
- (9) The WECS, if interconnected to a utility system, shall meet the requirements for interconnection and operation as set forth in the electric utility's current service regulations applicable to WECS.
- (10) A plot plan shall be submitted with the application for building permit showing the proposed location and height of the WECS, fencing and all existing buildings within two hundred (200) feet of the exterior lot lines.
- (11) The owner/operator shall provide covenants, easements or similar documentation to assure sufficient wind to operate the WECS unless adequate accessibility to the wind is provided by the site.
- (12) The owner/operator shall certify that the WECS does not violate any covenants of record.
- (13) The applicant shall provide a certificate of liability insurance. Annually the owner/operator shall present evidence to the zoning administrator that the liability insurance is still in effect.

(Ord. No. 1574, § 1, 7-14-1988; Ord. No. 1727, 6-13-1996)

Sec. 7. Satellite receiving antennas.

Satellite receiving antennas (dish-type) and associated equipment may be permitted subject to the following requirements:

- (1) Dish antenna equipment may not be placed in either a front or side yard, and when placed in a rear yard, may not be closer to the rear lot line than the standard side yard requirement.
- (2) Dish antenna equipment located outside the principal structure in any zoning district shall be ground mounted only. No such antenna shall project higher than twelve (12) feet above ground level.
- (3) All antennas and associated equipment shall conform to the requirements of the building and utility codes of the City of York.
- (4) No person shall erect or maintain any antenna which will materially damage the adjacent property by obstructing the view, hindering ventilation, or which will present a hazard to the public health, safety and welfare.
- (5) The antenna and associated equipment shall not cause interference with microwave communication or radio or television reception in the area.

- (6) No person shall install, use or maintain any dish-type satellite receiving antenna and associated equipment in any zoning district except upon written permit from the City of York.
- (7) In instances where satellite dish measures less than twenty-four (24) inches in diameter, installation may take place in an unobtrusive location.
- (8) Prior to issuance of a permit for a satellite receiving antenna in a zoning district, the building official shall review the proposed installation and shall satisfy himself that the proposed application is in compliance with applicable design criteria, City Code requirements and the terms of these regulations.

(Ord. No. 1459, § 2; Ord. No. 1497, § 23, 2-14-1985; Ord. No. 1574, § 1, 7-14-1988; Ord. No. 1727, 6-13-1996)

Sec. 8. Manufactured homes.

All manufactured homes located outside mobile home parks shall meet the following standards:

- (1) The home shall have no less than nine hundred (900) square feet of floor area.
- (2) The home shall have no less than an eighteen (18) foot exterior width.
- (3) The roof shall be pitched with a minimum vertical rise of two and one-half (2½) inches for each twelve (12) inches of horizontal run.
- (4) The exterior material shall be of a color, material and scale comparable with those existing in residential site-built, single family construction.
- (5) The home shall have a non-reflective roof material which is or simulates asphalt or wood shingles, tile or rock.
- (6) The home shall have wheels, axles, transporting lights and removable towing apparatus removed.
- (7) Nothing in this article shall be deemed to supersede any valid restrictive covenants of record.
- (8) The home must meet building code requirements adopted by the City.

(Ord. No. 1978, § 1, 1-18-2007)

Sec. 9. Zoning Ordinance to apply to all streets, alleys, sidewalks and street rights-of-way.

The requirements of this Zoning Code shall apply to all streets, alleys, sidewalks and street rights-of-way located in the zoning districts of the City of York and its extraterritorial zoning jurisdiction.

(Ord. No. 2204, § 1, 9-20-2018)

Sec. 10. Shipping containers.

Shipping containers placed on any site shall comply with the provisions of this section, except that portable moving containers/moving pods placed on private property for no more than thirty (30) days in any twelve-month period shall not be regulated by this chapter.

- (a) *A-L district.* Shipping containers are allowed in the A-L district, provided that the use is an accessory use to the primary use, and is in conformance with current permitted zoning uses. Shipping containers used only for storage do not require a building permit or engineering foundation.
- (b) *Residential and mobile home districts.* Shipping containers are not allowed in residential or mobile home districts. A temporary shipping container can be approved by the zoning administrator or public works director or designee, when accessory to a project that has a valid residential building permit for up to one hundred eighty (180) consecutive days for temporary storage after the building permit is issued. In the event that the building permit is renewed or extended, a shipping container may not remain on the property for a period of more than a total of three hundred sixty (360) days.
- (c) *Commercial districts.*
 - (1) Comply with applicable screening standards.
 - a. An approved site plan.
 - b. Are located in the rear yard of the property for new construction.

- c. Are not permanently affixed to the ground or installed with an engineering foundation.
 - d. Shipping containers shall only be used for storage of nonhazardous material and not be used for residential uses, commercial sales or service, or other use types.
 - e. Comply with applicable screening standards.
- (2) Shipping containers are not allowed in commercial districts when the primary use is a nonconforming use.
- (d) *Industrial district.*
- (1) Shipping containers are allowed in the industrial district, provided that the use is in conformance with current permitted zoning uses. Shipping containers used only for storage do not require a building permit or engineering foundation.
 - (2) Shipping containers are not allowed on industrially zoned properties on which the primary use is a nonconforming use.
- (e) *Construction sites.* Shipping containers are allowed on construction sites in districts other than the residential district where there is an active building permit, if the container is accessory to a project that has an active permit. The zoning administrator or public works director or designee may allow placement of a container at a commercial or industrial building site for up to one (1) year for temporary storage after the building permit is issued.
- (f) *Similar containers.* Look-alike shipping container buildings or metal buildings marketed as "containers" or "portable storage units" are regulated as shipping containers to which this section shall apply.
- (g) *Shipping containers on public streets.* Placing a shipping container on a city street or right-of-way is not allowed.
- (h) *Development standards.*
- (1) A building permit is required prior to placement of a shipping container(s) larger than two hundred (200) square feet in area, ensuring effective anchoring/foundation according to the then most current edition of the International Building Code. The application shall show the proposed cargo container is accessory to the permitted use of the property and meets the placement criteria for the zone.
 - (2) The setback, height, and lot coverage requirements in the underlying zoning district shall apply.
 - (3) All applicable screening standards shall apply to shipping containers.
- (i) *Exception.* Properties owned or occupied by federal, state or local government entities, schools and religious organizations shall be exempt from the regulations of this ordinance.

(Ord. No. 2291, § 1, 8-19-2021)

ARTICLE XXVI. NONCONFORMING AND NONSTANDARD USES*

***Editor's note**—Formerly numbered as art. XXV.

Sec. 1. Nonconforming uses which may be continued.

- (1) The following lawful nonconforming uses of land may be continued:
 - (a) A use of land which existed prior to the effective date of Zoning Ordinance No. 1241.
 - (b) A use of land existing at the time of an annexation.
 - (c) A use of land existing at the time an amendment is made to the zoning ordinance which changes such land to the more restricted district.
- (2) The lawful use of a building located upon any land, except as provided in section 2 below, may be continued although such use does not conform with the provisions of this zoning ordinance and such use may be continued throughout the building if no structural alterations are made therein, except those required by law or ordinance. If no structural alterations are made in such building, a nonconforming use of the building may be

changed to another nonconforming use of the same or more restricted use classification. The foregoing provisions shall also apply to any uses of buildings which may be made nonconforming by any subsequent amendment or change of this zoning ordinance.

Sec. 2. Nonconforming uses which may not be continued.

(1) Whenever a nonconforming use of a building has been changed to a more conforming use, such use shall not thereafter be changed to a less conforming use.

(2) A nonconforming building which has been damaged to the extent of more than fifty (50) per cent of its structural value by fire, explosion, act of God, or the public enemy shall not be restored, except in accordance with all zoning regulations of the zoning district, unless a special use permit is obtained to authorize such restoration. In the event a question may arise on the structural value of such a building, the same shall be determined by three (3) appraisers; one shall be elected by the governing body, one shall be elected by the owner of the building, and the third appraiser shall be selected by the two (2) selected appraisers. If the first two (2) appraisers selected cannot agree on the selection of the third such appraiser, the county court judge shall be requested to appoint the third appraiser. The decision of the appraisers, or a majority of them, shall be final and conclusive and shall be binding upon all concerned to the purpose of determining whether the damaged property may be restored. The cost of such appraisal shall be paid by the property owner. The fees of the appraisers shall be set as provided by State statute in eminent domain proceedings.

(3) Existing nonconforming structures and buildings may not be enlarged, extended or reconstructed unless a special use permit is obtained.

(Ord. No. 1955, § 1, 4-20-2006)

Sec. 3. Discontinuance of nonconforming use.

In the event that a nonconforming use of any building or premises is discontinued or its normal operation stopped for a period of eighteen (18) months, the use of the same shall thereafter conform to the uses permitted in the district in which it is located unless a special use permit is obtained to allow the nonconforming use to continue. In the event that a special use permit is obtained such nonconforming use may continue even though it was previously discontinued for a period of eighteen (18) months.

(Ord. No. 1574, § 1, 7-14-1988; Ord. No. 1956, § 1, 4-20-2006)

Sec. 4. Continuation of nonstandard uses.

Nonstandard uses existing immediately prior to the effective date of Ordinance No. 1574 may be continued, although such uses do not conform to the provisions of the district regulations. Nonstandard structures and buildings may be enlarged, extended or reconstructed, as follows:

- (1) Enlargements, extensions or reconstructions may be made as required by law or ordinance.
- (2) Enlargement, extension or reconstruction of buildings or structures may otherwise be made if such changes comply with the minimum requirements as to front yard, side yard, rear yard and height for the district in which they are located.

(Ord. No. 1574, § 1, 7-14-1988)

ARTICLE XXVII. ENFORCEMENT, VIOLATION AND PENALTY*

***Editor's note**—Formerly numbered as art. XXVI.

Sec. 1. Enforcement.

The building official shall administer and enforce this zoning ordinance. Appeals from the decisions of the building official may be made to the board of adjustment.

Sec. 2. Certificate of occupancy.

- (1) Subsequent to the effective date of this zoning ordinance no change in the use or occupancy of land nor any change in the use or occupancy of an existing building shall be made, nor shall any new building be occupied, until a certificate of occupancy has been issued by the building official. The certificate of

occupancy shall state that the land and/or building complies with the provisions of this zoning ordinance.

- (2) No permit for excavation or the erection or alteration of any building shall be issued before an application has been made and approved for a certificate of occupancy and compliance and no building or premises shall be occupied until such certificate is issued.
- (3) A record of all certificates of occupancy shall be kept on file in the office of the building official and copies shall be furnished for two dollars (\$2.00) on request by any person having an interest in the land or building affected.
- (4) Buildings used for single-family purposes shall be exempt from this requirement.

Sec. 3. Plats.

Each application for a building permit shall be accompanied by a plot plan, drawn to scale, showing the actual dimensions of the lot to be built upon, the size, shape, and location of the building to be erected and such other information as may be necessary to provide for the enforcement of this regulation. A record of applications and plats shall be kept in the office of the building official.

Sec. 4. Violation and penalty.

(1) The owner or agent of a building or premises in or upon which a violation of any provision of this ordinance has been committed or shall exist; or the lessee or tenant of an entire building or entire premises in or upon which a violation has been committed or shall exist; or the agent, architect, building contractor or any other person who commits, takes part or assists in any violation or who maintains any building or premises in or upon which a violation has been committed or shall exist, shall be punished by a fine not to exceed five hundred dollars (\$500.00). Each and every day that such violation continues shall constitute a separate offense.

(2) In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building, structure or land is used, in violation of this zoning ordinance, the appropriate authorities of said area, in addition to other remedies, may institute injunction, mandamus, or other appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance or use, or to correct or abate such violation or to prevent the occupancy of said building, structure or land.

State law reference—Penalty for zoning ordinance violations, R.R.S. 1943, § 19-913.

ARTICLE XXVIII. BOARD OF ADJUSTMENT*

***Note**—Formerly numbered as art. XXVII.

State law reference—Board of adjustment, R.R.S. 1943, § 19-907 et seq.

Sec. 1. Board of adjustment established.

The board of adjustment shall consist of five (5) regular members plus one additional member designated as an alternate who shall serve only in the absence of a regular member. The members of the board shall be appointed by the mayor and confirmed by a majority of the members of the council, and shall be appointed for a term of three (3) years and removable for cause by the appointing authority upon written charges and after public hearings. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant in the same manner as in the case of the original appointments. One member only of the board of adjustment shall be appointed from the membership of the planning commission, and the loss of membership on the planning commission by such member shall also result in his immediate loss of membership on the board of adjustment and the appointment of another planning commissioner to the board of adjustment.

(Ord. No. 1414, 4-9-1981)

State law reference—Board membership, R.R.S. 1943, § 19-908.

Sec. 2. Officers.

The board of adjustment shall annually elect from within the regular membership a chairman. The city clerk shall act as secretary.

(Ord. No. 1414, 4-9-1981)

Sec. 3. Rules of procedure.

The board shall adopt by-laws and rules of procedure for the conduct of business.

Sec. 4. Meetings.

Meetings of the board shall be held at the call of the chairman and at such other times as the board may determine.

State law reference—Similar provisions, R.R.S. 1943, § 19-908.

Sec. 5. Records.

The board shall keep minutes of its proceedings, showing evidence presented, findings of fact by the board, decisions of the board and voting upon each question. Records of all official actions of the board shall be filed in its office and shall be a public record.

State law reference—Similar provisions, R.R.S. 1943, § 19-908.

Sec. 6. Filing fee.

For the purpose of wholly or partially defraying the cost of the proceedings prescribed herein, including publication costs, the applicant, upon filing an appeal, shall pay to the city clerk a fee in the amount of thirty-five dollars (\$35.00). Promptly upon filing the appeal and required filing fee, the city clerk shall refer said appeal to the secretary of the board of adjustment.

Sec. 7. Public hearing and notice.

The board of adjustment shall fix a reasonable time for hearing of an appeal or other matter referred to it, give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing, any party may appear in person or by agent or attorney.

State law reference—Appeals, R.R.S. 1943, § 19-909.

Sec. 8. Appeals.

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

State law reference—Appeals to board of adjustment, R.R.S. 1943, § 19-909.

Sec. 9. Powers of the board of adjustment.

The board of adjustment shall, subject to such appropriate conditions and safeguards as may be established by the legislative body, have the following powers:

- (1) To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official or an agency based on or made in the enforcement of any zoning regulation or any regulation relating to the location or soundness of structures;
- (2) To hear and decide, in accordance with the provisions of any regulation, requests for interpretation of any map, or for decisions upon other special questions upon which the board is authorized by any such

regulation to pass;

- (3) Whereby reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of the enactment of the regulation, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property, the strict application of any enacted regulation under this act would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardships upon the owner of such property, to authorize, upon an appeal relating to the property, a variance from such strict application so as to relieve such difficulties or hardship, if such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of any ordinance or resolution.

State law reference—General powers of board of adjustment, R.R.S. 1943, § 19-910.

Sec. 10. Conditions necessary to grant variance.

No such variance shall be authorized by the board unless it finds that:

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

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

In exercising the above-mentioned powers such board may, in conformity with the provisions of this ordinance, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as ought to be made and to that end shall have all the powers of the officer from whom the appeal is taken.

The concurring vote of four (4) members of the board shall be necessary to reverse any order, requirement, decision or determination of any such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under any such ordinance or to effect any variation in such ordinance.

State law reference—Similar provisions, R.R.S. 1943, § 19-910.

ARTICLE XXIX. SPECIAL USE PERMIT*

***Editor's note**—Formerly numbered as art. XXVIII.

Sec. 1. Generally.

The city council may authorize by special permit after public hearing, by both the planning commission and city council, any of the uses specifically identified in the ordinance as permitted special uses in the designated zoning districts.

(Ord. No. 1574, § 1, 7-14-1988)

Sec. 2. Procedures.

- (1) Prior to review of the request for a special permit, by the planning commission, the applicant shall:
 - (a) File an application on forms provided.
 - (b) File with the application a statement certifying that the applicant is the lawful owner of the real estate upon which the special permitted use is proposed or that he has the lawful right to receive a conveyance thereof if the application is granted.
 - (c) File a form of declaration of restrictions indicating use which is to be made by the legal owner if the

application is granted. Said restriction must show that use of the land will be solely that which was applied for as a special permitted use. The restrictions must provide that, if such use is abandoned or is proposed to be changed, the subsequent use shall be in conformity with the zoning restrictions in effect as to the land prior to authorization of the special permitted use, unless a new application for a special use permit is made and granted.

- (2) A plot plan shall be filed with the application showing:
 - (a) Legal dimension of the tract to be used.
 - (b) Location of all proposed improvements including curb-cut access, off-street parking and other such facilities as the applicant proposes to install.
 - (c) Grade elevations.
 - (d) Building setback from all property lines.
 - (e) Front, side and rear elevations of all improvements to be erected.
 - (f) Perspective drawings of the proposed improvements, in such detail as will clearly show the finished appearance of the improvements proposed.
 - (g) Location and type of planting, screening or walls.
 - (h) Such other items as shall be deemed reasonably necessary to properly process the application.

(3) Upon receipt of such application, the building official shall forward the application to the planning commission for its recommendation. Upon hearing, the planning commission shall forward its recommendation to the city council, as soon as is practicable. Upon hearing, the city council may allow or deny the application in whole or in part, or prescribe conditions for such use of the property. No special use permit shall become effective until after separate public hearings are held by both the planning commission and the city council in relation thereto, at which time parties in interest and citizens shall have an opportunity to be heard. Notice of the purpose, time, and place of such hearing shall be given by publication thereof in a paper of general circulation at least ten (10) days prior to such hearing. (Ref. 19-904 R.S. Neb.)

(4) In addition to the publication of the notice herein prescribed, a notice of the purpose, time, and place of the hearing shall be posted in a conspicuous place on or near the property on which such action is pending. The notice shall be placed at least ten (10) days prior to the date of each hearing.

(5) In considering any application for special use permit hereunder, the planning commission and city council shall give consideration to the comprehensive plan, and the health, safety, morals, comfort and general welfare of the inhabitants of the city and the planning area, including but not limited to the following factors:

- (a) The stability and integrity of the various zoning districts.
- (b) Conservation of property values.
- (c) Protection against fire and casualties.
- (d) Observation of general police regulations.
- (e) Prevention of traffic congestion.
- (f) Promotion of traffic safety and the orderly parking of motor vehicles.
- (g) Promotion of the safety of individuals and property.
- (h) Provisions for adequate light and air.
- (i) Prevention of overcrowding and excessive intensity of land uses.
- (j) Provision for public utilities and schools.
- (k) Be compatible with and similar to the use(s) permitted in the district.
- (l) Value, type and character of existing or authorized improvements and land uses.
- (m) Encouragement of improvements and land uses in keeping with overall planning.

(n) Provision for orderly and proper urban renewal, development and growth.

(6) Special use permits may be authorized and granted by the city council only in those zones and for those uses which are specifically authorized by the individual district regulations.

(Ord. No. 1574, § 1, 7-14-1988)

Sec. 3. Performance.

(1) Special use permits for automobile wrecking yards, junkyards and scrap processing yards shall be subject to the following:

- (a) Located on a tract of land at least three hundred (300) feet from a residential district zone.
- (b) The operation shall be conducted wholly within a noncombustible building or within an area completely surrounded on all sides by a fence, wall or hedge. The fence, wall or hedge shall be of uniform height (at least eight (8) feet high) and uniform texture and color shall be so maintained by the proprietor as to ensure maximum safety to the public and preserve the general welfare of the neighborhood. The fence, wall or hedge shall be installed in such a manner as to retain all scrap, junk or other material within the yard.
- (c) No junk shall be loaded, unloaded or otherwise placed, either temporarily or permanently, outside the enclosed building, hedge, fence or wall, or within the public right-of-way.
- (d) Burning of paper, trash, junk or other waste materials shall be permitted only after approval of the fire department. Said burning, when permitted, shall be done during daylight hours only.
- (e) Any other requirement deemed appropriate and necessary by the city council for the protection of the general health and welfare.
- (f) Special use permits granted under this section shall be subject to annual review and renewal by the city council.

(2) In making any decision granting a special use permit, the city council shall impose such restrictions, terms, time limitations, landscaping, improvement of off-street parking lots, and other appropriate safeguards as required to protect adjoining property.

(3) In lieu of actual construction of an approved off-street parking lot, the city council may accept, in the name of the city a corporate surety bond, cashier's check, escrow account or other like security in an amount to be fixed by the city and conditioned upon actual completion of such improvement, within a specified time, and the governing body may enforce such bond by all equitable means. Bonds or other security shall be filed with the city clerk.

(Ord. No. 1427, pg. 2, 7-23-1981; Ord. No. 1574, § 1, 7-14-1988)

Sec. 4. Protest.

In case of protest against such special use permit, signed by the owners of twenty (20) per cent or more of the area of lots located within three hundred (300) feet of the outer limits of said area to which the applicant desires a special use permit, such special use permit shall not become effective except by the favorable vote of three-fourths of all members of the city council.

(Ord. No. 1574, § 1, 7-14-1988)

ARTICLE XXX. AMENDMENTS*

***Editor's note**—Formerly numbered as art. XXIX.

State law reference—Zoning amendments, R.R.S. 1943, § 19-905.

Sec. 1. Amendments.

The governing body may from time to time amend, supplement or change the district boundaries or regulations contained in this zoning ordinance. A proposal for an amendment or a change in zoning may be initiated by the governing body or by the planning commission or upon application of the owner of the property affected. All such

proposed changes shall first be submitted to the planning commission for recommendation and report. Upon the development of tentative recommendations, the planning commission shall hold a public hearing thereon and shall cause an accurate, written summary to be made of the proceedings.

Sec. 2. Applications.

(1) Any party desiring any change in zoning district boundaries or regulations contained in this zoning ordinance as to any lot, tract or area of land, shall file with the city clerk an application upon forms provided, and such application shall be accompanied by such data and information as may be prescribed by the planning commission. The proposed construction shall begin and be completed within the specified time limits as outlined in the general requirements section in each of the above named zoning districts. At the time of filing said application with the city clerk, the applicant shall provide the city clerk with the names and addresses of all owners of any land located within three hundred (300) feet of the outer limits of said area to which the applicant desires change of zoning.

(2) An applicant for a change in zone to "R-P" community unit plan district or "M-P" mobile home park district must satisfy the planning commission that he has the ability to carry out the proposed plan and shall prepare and submit a schedule for construction. The proposed construction shall begin within a period of eighteen (18) months following approval by the governing body and forty (40) per cent of the total planned construction shall be completed within a period of three (3) years following such approval. Such applicant shall also prepare and submit a rezoning application and a preliminary development plan for review and approval by the planning commission which plan shall include:

- (a) A topographic map showing contours at intervals of two (2) feet.
- (b) A plot plan showing:
 - (1) Building locations on the tract to conform with the yard requirements of the district.
 - (2) Access from streets.
 - (3) Location and number of off-street parking spaces.
 - (4) Interior drives and service areas.
 - (5) Landscaped buffer strips and walls or fences.
- (c) Location map showing the development and zoning of the adjacent property within three hundred (300) feet, including the location and the type of buildings and structures thereon.
- (d) The full legal description of the boundaries of the properties to be included in the area to be rezoned.
- (e) A map showing the general arrangement of streets within an area of one thousand (1,000) feet from the boundaries of the area to be zoned.
- (f) A map showing location of proposed sewer, water and other utility lines.
- (g) A description of the general character of proposed buildings.
- (h) Applicants for a "M-P" Mobile Home Park District shall show on a copy of the plot plan the following:
 - Location of mobile home sites.
 - Location of service buildings.
 - Location of off-street parking area.
 - Location and size of electrical outlets.
 - Location and size of sanitary lines and sewer outlets.
 - Location and size of water line and connections.
 - Location and size of recreation areas.
 - Location and width of sidewalks.
- (3) Upon approval of the zoning application and preliminary development plan by the planning commission,

the applicant shall prepare and submit a final development plan, which shall incorporate any changes or alterations requested. Alterations in the preliminary schedule of construction shall be submitted at this time. The final development plan and the planning commission recommendation shall be forwarded to the governing body for their review and final action. In the event that within eighteen (18) months following approval by the governing body of a "R-P", "M-P", or "C-P" district, the applicant does not proceed with construction substantially in accordance with the plan so approved, the planning commission shall initiate action to rezone the property. A public hearing, as required by law, shall be advertised and held, at which time the applicant shall be given an opportunity to show why construction has been delayed. Following the hearing, the planning commission shall make findings of fact and shall submit their recommendation to the governing body for official action.

(Ord. No. 1497, § 27, 2-14-1985)

Sec. 3. Filing fee.

For the purpose of wholly or partially defraying the costs of the proceeding prescribed herein, including publication costs, the applicant, upon the filing of the application shall pay to the city clerk a fee in the amount of thirty-five dollars (\$35.00). Promptly upon the filing of any such application, the city clerk shall refer the application to the planning commission for study and recommendation and shall report to the governing body concerning the nature of the application and that said application has been referred to the planning commission.

Sec. 4. Public hearing and notice.

Before the planning commission shall, by proper action, formulate its recommendation to the governing body on any such proposed or requested change of zoning district boundary or regulation, whether initiated by the governing body or planning commission or by others, the planning commission shall hold a public hearing on such proposal. The secretary of the planning commission shall cause a notice of public hearing to be published once in the official newspaper and at least ten (10) days shall elapse between the date of such publication and the date set for hearing. Such notice shall fix the time and place for such hearing and shall contain a statement regarding the proposed changes in the regulations or restrictions or in the boundary of any district and, if such proposed amendment will affect the specific property; the legal description and general street address shall be given; provided that, in addition to such publication notice, written notice of such proposed change shall be mailed to all the owners of land located within three hundred (300) feet of the area proposed to be altered and an opportunity granted to interested parties to be heard. Failure to receive such notice shall not invalidate any subsequent action taken.

(Ord. No. 1497, § 27, 2-14-1985)

Sec. 5. Protest.

If a protest against such amendment is filed in the office of the city clerk within fourteen (14) days after the date of the conclusion of the public hearing pursuant to said publication notice, said protest duly signed and acknowledged by the owners of twenty (20) per cent or more of any real property proposed to be rezoned or by the owners of twenty (20) per cent of the area, except public streets and ways, located within or without the corporate limits of the city and located within three hundred (300) feet of the boundaries of the property proposed to be rezoned, such amendment shall not be passed except by at least three-fourths (3/4) vote of the members of the governing body.

(Ord. No. 1497, § 27, 2-14-1985)

ARTICLE XXXI. VALIDITY*

***Editor's note**—Formerly numbered as art. XXX.

Sec. 1. Severability.

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this ordinance.

ARTICLE XXXII. APPROVAL AND EFFECTIVE DATE*

***Editor's note**—Formerly numbered as art. XXXI.

Sec. 1. Repeal of zoning ordinance.

Zoning Ordinance No. 1068 and all amendments thereto are hereby repealed.

Sec. 2. Effective date.

This ordinance shall become effective upon its publication once in the York Daily News-Times.

(Ord. No. 1414, 4-9-1981)

ARTICLE XXXIII. FAIR HOUSING*

***Editor's note**—Formerly numbered as art. XXXII.

Sec. 1. Purpose.

The purpose of this article is to promote the general welfare of the residents of York, Nebraska, by endorsing the provision of the Nebraska Fair Housing Act, Sections 20-301 through 20-344, R.S. Neb. [R.R.S. 1943, §§ 20-301—20-344], to the effect that there shall be no discrimination in the City of York, Nebraska, in the acquisition, ownership, possession or enjoyment of housing in accordance with Article 1, Section 25 of the Constitution of the State of Nebraska.

(Ord. No. 1658, § 1, 8-12-1993)

Sec. 2. Fair housing definitions.

(a) *Aggrieved person* shall include any person who:

- (1) Claims to have been injured by a discriminatory housing practice; or
- (2) Believes that he or she will be injured by a discriminatory housing practice that is about to occur.

(b) *Commission* shall mean the Nebraska Equal Opportunity Commission.

(c) *Dwelling* shall mean any building, structure, or portion thereof which is occupied as or designed or intended for occupancy as a residence for one or more families and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure or portion thereof.

(d) *Familiar status* shall mean one or more minors being domiciled with:

- (1) A parent or another person having legal custody of such individual; or
- (2) The designee of a parent or other person having legal custody, with written permission of the parent or other person.

(e) *Handicap* shall mean, with respect to a person:

- (1) A physical or mental impairment, excluding the current illegal use of or addiction to a controlled substance as defined in Section 28-401 R.S. Neb., which substantially limits one or more of such person's major life activities;
- (2) A record of having such an impairment; or
- (3) Being regarded as having such an impairment.

(f) *Person* shall include one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers and fiduciaries.

(g) *Rent* shall include lease, sublease, let and otherwise grant for consideration the right to occupy premises not owned by the occupant.

(h) *Restrictive covenant* shall mean any specification limiting the transfer, rental, or lease of any housing because of race, creed, religion, color, national origin, sex, handicap, familial status, or ancestry.

(Ord. No. 1658, § 2, 8-12-1993)

Sec. 3. Unlawful acts.

It shall be unlawful to:

- (a) Refuse to sell or rent after the making of a bona fide offer, refuse to negotiate for the sale or rental of or otherwise make unavailable or deny, refuse to show, or refuse to receive and transmit an offer for a dwelling to any person because of race, color, religion, national origin, familial status, or sex.
- (b) Discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling or in the provision of services or facilities in connection therewith because of race, color, religion, national origin, familial status or sex.
- (c) Make, print, publish or cause to be made, printed or published any notice, statement or advertisement with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, national origin, handicap, familial status, or sex or an intention to make any such preference, limitation or discrimination.
- (d) Represent to any person because of race, color, religion, national origin, handicap, familial status or sex, that any dwelling is not available for inspection, sale or rental when such dwelling is in fact so available.
- (e) Cause to be made any written or oral inquiry or record concerning the race, color, religion, national origin, handicap, familial status or sex of a person seeking to purchase, rent, or lease any housing.
- (f) Include in any transfer, sale, rental or lease of housing any restrictive covenants or honor or exercise or attempt to exercise any restrictive covenant pertaining to housing.
- (g) Discharge or demote an employee or agent or discriminate in the compensation of such employee or agent because of such employee's compliance with this article or the Nebraska Fair Housing Act.
- (h) Induce or attempt to induce, for profit, any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, national origin, handicap, familial status or sex.

The protections afforded against discrimination on the basis of familial status shall apply to any person who is pregnant or is in the process of securing legal custody of any minor.

(Ord. No. 1658, § 3, 8-12-1993)

Sec. 4. Handicapped persons; discriminatory practices prohibited, design and construction standards.

It shall be unlawful to:

- (a) Discriminate in the sale or rental of or otherwise make unavailable or deny a dwelling to any buyer or renter because of a handicap of:
 - (1) The buyer or renter;
 - (2) Any person associated with the buyer or rental;
 - (3) A person residing in or intending to reside in the dwelling after it is so sold, rented or made available.
- (b) Discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling or in the provision of services or facilities in connection with a dwelling because of a handicap of:
 - (1) Such person;
 - (2) Any person associated with such person;
 - (3) A person residing in or intending to reside in the dwelling after it is so sold, rented or made available.

For purposes of this section, discrimination shall include:

- (a) A refusal to permit, at the expense of the handicapped person reasonable modifications of existing premises occupied or to be occupied by the person if the modifications may be necessary to afford the person full enjoyment of the premises, except that in the case of rental, the landlord may, when it is

- reasonable to do so, condition permission for a modification on the renter agreement to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted;
- (b) A refusal to make reasonable accommodations in rules, policies, practices, or services when such accommodations may be necessary to afford the handicapped person equal opportunity to use or enjoy a dwelling; and
 - (c) In connection with the design and construction of covered multifamily dwelling for first occupancy after September 1, 1991, a failure to design and construct the dwellings in such a manner that:
 - (1) The public use and common use portions of the dwelling are readily accessible to and usable by handicapped persons;
 - (2) All doors designed to allow passage into and within all premises within the dwelling are sufficiently wide to allow passage by handicapped persons in wheelchairs; and
 - (3) All premises within the dwellings contain the following features of adaptive design:
 - (a) An accessible route into and through the dwelling;
 - (b) Light switches, electrical outlets, thermostats, and other environmental controls in accessible locations;
 - (c) Reinforcements in bathroom walls to allow later installation of grab bars; and
 - (d) Kitchens and bathrooms such that a handicapped person in a wheelchair can maneuver about the space.
 - (d) Compliance with the appropriate requirements of the American National Standards Institute standard for buildings and facilities providing accessibility and usability for physically handicapped people. ANSI A117.1 shall satisfy the requirements of subdivision (c)(3)(d).
 - (e) For purposes of this section, covered multifamily dwellings shall mean:
 - (1) Buildings consisting of four (4) or more units if such buildings have one or more elevators; and
 - (2) Ground floor units in other buildings consisting of four (4) or more units.
 - (f) Nothing in this section shall require that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others.

(Ord. No. 1658, § 4, 8-12-1993)

Sec. 5. Transaction related to residential real estate; discriminatory practices prohibited.

- (a) It shall be unlawful for any person or other entity whose business includes engaging in transactions related to residential real estate to discriminate against any person in making available such a transaction because of race, color, religion, sex, handicap, familial status, or national origin.
- (b) For purpose of this section, transaction related to residential real estate shall mean any of the following:
 - (1) The making or purchasing of loans or providing other financial assistance:
 - (a) For purchasing, constructing, improving, repairing, or maintaining a dwelling; or
 - (b) Secured by residential real estate; or
 - (2) The selling brokering or appraising of residential real property.
- (c) Nothing in this section shall prohibit a person engaged in the business of furnishing appraisals of real property from taking into consideration factors other than race, color, religion, national origin, handicap, familial status or sex.

(Ord. No. 1658, § 5, 8-12-1993)

Sec. 6. Multiple listing service; other service; discriminatory practices prohibited.

It shall be unlawful to deny any person access to or membership or participation in any multiple listing service,

real estate brokers organization, or other service, organization or facility relating to the business of selling or rental dwellings or to discriminate against any person in the terms or conditions of such access, membership or participation on account of race, color, religion, national origin, handicap, familial status or sex.

(Ord. No. 1658, § 6, 8-12-1993)

Sec. 7. Religious organization, private home; private club, or housing for older persons; restricting use not prohibited.

(a) Nothing in this article shall prohibit a religious organization, association or society in any nonprofit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association or society from limiting the sale, rental or occupancy of a dwelling which it owns or operates from other than commercial purposes to persons of the same religion or from giving preferences to such persons unless membership in such religion is restricted on account of race, color, national origin, handicap, familial status or sex.

(b) Nothing in this article shall prohibit a private club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodgings which it owns or operates for other than commercial purposes, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members.

(c) Nothing in this article shall prohibit or limit the right of a person or his or her authorized representative to refuse to rent a room or rooms in his or her own home for any reason or for no reason or to change tenants in his or her own home as often as desired, except that this exception shall not apply to any person who makes available for rental or occupancy more than four (4) sleeping rooms to a person or family within his or her home.

(d) Nothing in this article regarding familial status shall apply with respect to housing for older persons. For purposes of this subsection, housing for older persons shall mean housing:

- (1) Provided under any state program that the commission determines is specifically designed and operated to assist elderly persons or defined in the program;
- (2) Intended for and solely occupied by persons sixty-two (62) years of age or older; or
- (3) Intended and operated for occupancy by at least one person fifty-five (55) years of age or older per unit.

(Ord. No. 1658, § 7, 8-12-1993)

Sec. 8. Fair housing information.

The City Clerk upon request shall make available to an aggrieved person, or any other person, information regarding the Nebraska Fair Housing Act and the Nebraska Equal Opportunity Commission without cost to such individual (Ref. 20-301 through 20-322 R.S. Neb.).

(Ord. No. 1658, § 8, 8-12-1993)

ARTICLE XXXIV. WELLHEAD PROTECTION AREA*

***Editor's note**—Formerly numbered as art. XXXIII.

Sec. 1. Definitions.

Wellhead protection area means the surface and subsurface area surrounding a public water supply well or wellfield, supplying a public water supply system, through which contaminants are reasonably likely to move toward and reach such water well or wellfield.

(Ord. No. 1796, § 1, 5-6-1999; Ord. No. 2154, § 1, 6-16-2016)

Sec. 2. Wellhead protection area designated.

The city council designates a wellhead protection area for the purpose of protecting the public water supply system. the boundaries of the wellhead protection area area as shown on Exhibit "A" to Ord. No. 2154, and are based upon the delineation map published by the Nebraska Department of Environmental Quality on January 4, 2016. The boundaries of the wellhead protection area are:

All of Sections 22, 23, 24, 25, 26, 27, the east half of Section 28, that part of the northeast quarter of Section 33 lying north of the Burlington Northern Railroad, all of Sections 34, 35, and 36, all in Township 11 North, Range

3 West, together with all of Sections 1 and 2, the east half of Section 3, the north half of Section 11, the north half of Section 12, all in Township 10 North Range 3 West, together with the west half of Section 4, all of Sections 5 and 6, the north half of Section 7, the north half of Section 8, all in Township 10 North, Range 2 West, together with all of Section 19, the southwest quarter of Section 20, the southwest quarter of Section 28, all of Sections 29, 30, 31, 32, and the west half of Section 33, all in Township 11 North, Range 2 East of the Sixth P.M., York County, Nebraska, containing 14560 acres, more or less.

and The southeast quarter of Section 25 and the northeast quarter of Section 36, all in Township 10 North, range 3 West, together with the southwest quarter of Section 30 and the northwest quarter of Section 31, all in Township 10 North, Range 2 West of the Sixth P.M., York County Nebraska, containing 640 acres, more or less.

(Ord. No. 1796, § 1, 5-6-1999; Ord. No. 2154, § 2, 6-16-2016)

Editor's note—Exh. A to Ord. No. 2154, adopted June 16, 2016, is not set out herein but is available at the office of the department of utilities. Wellhead protection area Map # 1 has not been set out herein but is available in the office of the city clerk.

ARTICLE XXXV. SEXUALLY ORIENTED BUSINESSES*

***Editor's note**—Formerly numbered as art. XXXIV.

Sec. 1. Purpose and findings.

(a) *Purpose.* It is the purpose of this article to regulate sexually oriented businesses in order to promote the health, safety, morals, and general welfare of the citizens of the city, and to establish reasonable and uniform regulations to prevent the inappropriate location and concentration of sexually oriented businesses within the city. The provisions of this article have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent nor effect of this article to restrict or deny access by adults to sexually oriented materials protected by the first amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this article to condone or legitimize the distribution of obscene material.

(b) *Findings.* Based on evidence concerning the adverse secondary effects of adult uses on the community presented in hearings and in reports made available to the Council, and on findings incorporated in the cases of *City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986); *Young v. American Mini Theatres*, 426 U.S. 50 (1976); *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560 (1991); *City of Erie v. Pap's A.M.*, TDA "Kandyland", 529 U.S. 277 (2000); *City of Los Angeles v. Alameda Books, Inc.*, 121 S. Ct. 1223 (2001); *California v. LaRue*, 409 U.S. 109 (1972); *44 Liquormart, Inc. v. Rhode Island*, 517 U.S. 484 (1996); *Jake's Ltd., Inc. v. City of Coates*, 284 F.3d 884 (8th Cir. 2002); *Bzaps, Inc. v. City of Mankato*, 268 F.3d 603 (8th Cir. 2001); *DLH, Inc. v. Nebraska Liquor Control Commission*, 266 Neb. 361, 665 N.W.2d 629 (2003); *Village of Winslow v. Sheets*, 261 Neb. 203, 622 N.W.2d 595 (2001); *Major Liquors, Inc., v. City of Omaha*, 188 Neb. 628, 198 N.W.2d 483 (1972); and on studies in other communities including, but not limited to, Phoenix, Arizona; Tucson, Arizona; Garden Grove, California; Los Angeles, California; Whittier, California; Adams County, Colorado; Denver, Colorado; Manatee County, Florida; Indianapolis, Indiana; Kansas City, Kansas; Minneapolis, Minnesota; St. Paul, Minnesota; Las Vegas, Nevada; Ellicottville, New York; Islip, New York; New York City, New York; Syracuse, New York; Times Square, New York; New Hanover, North Carolina; Cleveland, Ohio; Oklahoma City, Oklahoma; Amarillo, Texas; Austin, Texas; Beaumont, Texas; Cleburne, Texas; Dallas, Texas; El Paso, Texas; Ft. Worth, Texas; Houston, Texas; Newport, Virginia; Bellevue, Washington; Des Moines, Washington; Seattle, Washington; St. Croix County, Wisconsin; and also on findings from the Environmental Research Group to the American Center for Law & Justice (March 31, 1996), the council finds:

- (1) Sexually oriented businesses lend themselves to ancillary unlawful and unhealthy activities that are presently uncontrolled by the operators of the establishments. Further, there is presently no mechanism to make the owners of these establishments responsible for the activities that occur on their premises.
- (2) Certain employees of sexually oriented businesses defined in this article as adult theaters and cabarets engage in higher incidence of certain types of illicit sexual behavior than employees of other establishments.
- (3) Sexual acts, including masturbation, and oral and anal sex, occur at sexually oriented businesses,

especially those which provide private or semi-private booths or cubicles for viewing films, videos, or live sex shows.

- (4) Offering and providing such space encourages such activities, which creates unhealthy conditions.
- (5) Persons frequent certain adult theaters, adult arcades, and other sexually oriented businesses for the purpose of engaging in sex within the premises of such sexually oriented businesses.
- (6) Sexually oriented businesses have operational characteristics which should be reasonably regulated in order to protect those substantial governmental concerns.
- (7) A reasonable licensing procedure is an appropriate mechanism to place the burden of that reasonable regulation on the owners and the operators of the sexually oriented businesses. Further, such a licensing procedure will place an incentive on the operators to see that the sexually oriented business is run in a manner consistent with the health, safety and welfare of its patrons and employees, as well as the citizens of the city. It is appropriate to require reasonable assurances that the licensee is the actual operator of the sexually oriented business, fully in possession and control of the premises and activities occurring therein.
- (8) Removal of doors on adult booths and requiring sufficient lighting on premises with adult booths advances a substantial governmental interest in curbing the illegal and unsanitary sexual activity occurring in adult theatres.
- (9) Requiring licensees of sexually oriented businesses to keep information regarding current employees and certain past employees will help reduce the incidents of certain types of criminal behavior by facilitating the identification of potential witnesses or suspects and by preventing minors from working in such establishments.
- (10) The disclosure of certain information by those persons ultimately responsible for the day-to-day operation and maintenance of the sexually oriented business, where such information is substantially related to the significant governmental interest in the operation of such uses, will aid in preventing the spread of sexually transmitted diseases.
- (11) The fact that an applicant for an adult use license has been convicted of a sexually related crime leads to the rational assumption that the applicant may engage in that conduct in contravention of this article.
- (12) The barring of such individuals from the management of adult uses for a period of years serves as a deterrent to and prevents conduct which leads to the transmission of sexually transmitted diseases.
- (13) The general welfare, health, morals and safety of the citizens of the city will be promoted by the enactment of this article.

(Ord. No. 1940, § I, 6-16-2005)

Sec. 2. Definitions.

Adult arcade means any place to which the public is permitted or invited wherein coin-operated, slug-operated, or for any form of consideration, or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, video or laser disc players, or other image-producing devices are maintained to show images to five (5) or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of "specified sexual activities" or "specified anatomical areas."

Adult bookstore, adult novelty store or adult video store means a commercial establishment which, as one of its principal purposes, offers for sale or rental for any form of consideration any one or more of the following:

- (1) Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, compact discs, digital video discs, slides, or other visual representations which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas"; or
- (1)~~(2)~~ Instruments, devices, or paraphernalia which are designed for use in connection with "specified sexual activities."

A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing "specified sexual activities" or "specified anatomical areas" and still be categorized as "adult bookstore," "adult novelty store," or "adult video store." Such other business purposes will not serve to exempt such commercial establishments from being categorized as an "adult bookstore," "adult novelty store," or "adult video store" so long as one of its principal business purposes is the offering for sale or rental for consideration the specified materials which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

Adult cabaret means a nightclub, bar, restaurant, or other commercial establishment which features:

- (1) Persons who appear in a state of nudity or semi-nude; or
- (2) Live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities".

Adult motel means a hotel, motel or similar commercial establishment which:

- (1) Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas"; and has a sign visible from the public right of way which advertises the availability of this adult type of photographic reproductions; or
- (2) Offers a sleeping room for rent for a period of time that is less than ten (10) hours; or
- (3) Allows a tenant or occupant of a sleeping room to subrent the room for a period of time that is less than ten (10) hours.

Adult motion picture theater means a commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, compact discs, digital video discs, slides, or similar photographic reproductions are regularly shown which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas." This shall not include hotels or motels which offer adult movies for viewing as part of a selection of available movies that includes non-adult movies, on a pay-per-view basis.

Adult theater means a theater, concert hall, auditorium, or similar commercial establishment which features persons who appear in a state of nudity or semi-nude, or live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities."

Employee means a person who performs any service on the premises of a sexually oriented business on a full-time, part-time or contract basis, whether or not the person is denominated an employee, independent contractor, agent or otherwise and whether or not said person is paid a salary, wage or other compensation by the operator of said business. Employee does not include a person exclusively on the premises for repair or maintenance of the premises or equipment on the premises, or for the delivery of goods to the premises.

Escort means a person who, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

Escort agency means a person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration.

Establishment means and includes any of the following:

- (1) The opening or commencement of any sexually oriented business as a new business;
- (2) The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business;
- (3) The addition of any sexually oriented business to any other existing sexually oriented business; or
- (4) The relocation of any sexually oriented business.

Licensee means a person in whose name a license to operate a sexually oriented business has been issued, as well as the individual listed as an applicant on the application for a license; and in the case of an employee, a person in whose name a license has been issued authorizing employment in a sexually oriented business.

Nude model studio means any place where a person who appears semi-nude, in a state of nudity, or who displays "specified anatomical areas" and is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration. Nude Model Studio shall not include a proprietary school licensed by the State of Nebraska or a college or junior college.

Nudity or a *state of nudity* means the showing of the human male or female genitals, pubic area, vulva, anus, anal cleft or cleavage with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering of any part of the nipple, or the showing of the covered male genitals in a discernibly turgid state.

Person means an individual, proprietorship, partnership, corporation, association, or other legal entity.

Semi-nude or in a *semi-nude condition* means the showing of the female breast below a horizontal line across the top of the areola at its highest point or the showing of the male or female buttocks. This definition shall include the entire lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breast, exhibited by a dress, blouse, skirt, leotard, bathing suit, or other wearing apparel provided the areola is not exposed in whole or in part.

Sexual encounter center means a business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration:

- (1) Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or
- (2) Activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nude.

Sexually oriented business means an adult arcade, adult bookstore, adult novelty store, adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio, or sexual encounter center.

Specified anatomical areas means:

- (1) The human male genitals in a discernibly turgid state, even if completely and opaquely covered; or
- (2) Less than completely and opaquely covered human genitals, pubic region, buttocks or a female breast below a point immediately above the top of the areola.

Specified criminal activity means any of the following offenses:

- (1) Prostitution or promotion of prostitution; dissemination of obscenity; sale, distribution or display of harmful material to a minor; sexual performance by a child; possession or distribution of child pornography; public lewdness or public indecency; indecent exposure; indecency with a child; engaging in organized criminal activity; sexual assault; molestation of a child; gambling; or distribution of a controlled substance; or any similar offenses to those described above under the criminal or penal code of other states or countries;
- (2) For which less than ten (10) years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date;
- (3) The fact that a conviction is being appealed shall have no effect on the disqualification of the applicant or a person residing with the applicant.

Specified sexual activities means any of the following:

- (1) The actual or simulated fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts;
- (2) Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, masturbation, or sodomy; or
- (3) Excretory functions as part of or in connection with any of the activities set forth in (1) through (2) above.

Substantial enlargement of a sexually oriented business means the increase in floor areas occupied by the business by more than twenty-five (25) percent, as the floor areas exist on the date this article takes effect.

Transfer of ownership or control of a sexually oriented business means and includes any of the following:

- (1) The sale, lease, or sublease of the business;
- (2) The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange, or similar means; or
- (3) The establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

(Ord. No. 1940, § II, 6-16-2005)

Sec. 3. Classification.

Sexually oriented businesses are classified as follows:

- (1) Adult arcades;
- (2) Adult bookstores, adult novelty stores, or adult video stores;
- (3) Adult cabarets;
- (4) Adult motels;
- (5) Adult motion picture theaters;
- (6) Adult theaters;
- (7) Escort agencies;
- (8) Nude model studios; and
- (9) Sexual encounter centers.

(Ord. No. 1940, § 3, 6-16-2005)

Sec. 4. License required.

(a) It is unlawful:

- (1) For any person to operate a sexually oriented business without a valid sexually oriented business license issued by the city pursuant to this article.
- (2) For any person who operates a sexually oriented business to employ, contract with, arrange, or allow or permit a person to work for the sexually oriented business who is not licensed as a sexually oriented business employee by the city pursuant to this article.
- (3) For any person to obtain employment with a sexually oriented business without having secured a sexually oriented business employee license pursuant to this article.

(b) An application for a license must be made on a form provided by the city.

(c) All applicants must be qualified according to the provisions of this article. The application may request and the applicant shall provide such information (including fingerprints) as to enable the city to determine whether the applicant meets the qualifications established in this article.

(d) A person, who wishes to operate a sexually oriented business, must sign the application for a license as an applicant. If a person other than an individual wishes to operate a sexually oriented business, all persons legally responsible for the operations of the sexually oriented business or who have power to control or direct its operations must sign the application for a license as applicant. Such persons include, but are not limited to, general partners, corporate officers, corporate directors, and controlling shareholder(s). Each application must be qualified under the following section and each applicant shall be considered a licensee if a license is granted.

(e) The completed application for a sexually oriented business license shall contain the following information and shall be accompanied by the following documents:

(1) If the applicant is:

- (a) An individual, the individual shall state his/her legal name and any aliases and submit proof that he/she is nineteen (19) years of age;

- (b) A partnership, the partnership shall state its complete name, and the names of all partners, whether the partnership is general or limited, and a copy of the partnership agreement, if any;
 - (c) A corporation, the corporation shall state its complete name, the date of its incorporation, evidence that the corporation is in good standing under the laws of its state of incorporation, the names and capacity of all officers, directors and controlling stockholders, and the name of the registered corporate agent and the address of the registered office for service of process.
- (2) If the applicant intends to operate the sexually oriented business under a name other than that of the applicant; he or she must state 1) the sexually oriented business's fictitious name and 2) submit the required registration documents.
 - (3) Whether the applicant, or a person residing with the applicant, has been convicted of a specified criminal activity as defined in this article, and, if so, the specified criminal activity involved, the date, place, and jurisdiction of each.
 - (4) Whether the applicant, or a person residing with the applicant, has had a previous license under this article or other sexually oriented business ordinance from another city or county denied, suspended or revoked, including the name and location of the sexually oriented business for which the permit was denied, suspended or revoked, as well as the date of the denial, suspension or revocation, and whether the applicant or a person residing with the applicant has been a partner in a partnership or an officer, director or principal stockholder of a corporation that is licensed under this article whose license has previously been denied, suspended or revoked, including the name and location of the sexually oriented business for which the permit was denied, suspended or revoked as well as the date of denial, suspension or revocation.
 - (5) Whether the applicant or a person residing with the applicant holds any other licenses under this article or other sexually oriented business ordinance from another city or county and, if so, the names and locations of such other licensed businesses.
 - (6) A description of each classification of sexually oriented business for which the applicant submits an application for a license.
 - (7) The location of the proposed sexually oriented business, including a legal description of the property, street address, and telephone number(s), if any.
 - (8) The applicant's mailing address and residential address.
 - (9) A recent photograph of the applicant(s).
 - (10) The date, issuing state and number of driver's permit or other identification card information for the applicant.
 - (11) A sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared, but it must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six (6) inches.
 - (12) A current certificate and straight-line drawing prepared within thirty (30) days prior to application by a registered land surveyor depicting the property lines and the structures containing any existing sexually oriented businesses within four hundred (400) feet of the property to be certified; the property lines of any established religious institution/synagogue, school, or public park or recreation area within four hundred (400) feet of the property to be certified. For purposes of this section, a use shall be considered existing or established if it is in existence at the time an application is submitted.
 - (13) If an applicant wishes to operate a sexually oriented business, other than an adult motel, which shall exhibit on the premises, in a viewing room or booth of less than one hundred fifty (150) square feet of floor space, films, video cassettes, compact discs, digital video discs or other video reproductions, or live entertainment which depict specified sexual activities or specified anatomical areas, then the applicant shall comply with the application requirements set forth in section 14 of this article.
- (f) Before any applicant may be issued a sexually oriented business employee license, the applicant shall

submit on a form to be provided by the city the following information:

- (1) The applicant's name or any other name (including "stage" names) or aliases used by the individual;
 - (2) Age, date, and place of birth;
 - (3) Height, weight, hair and eye color;
 - (4) Present residence address and telephone number;
 - (5) Present business address and telephone number;
 - (6) Date, issuing state and number of driver's permit or other identification card information; and
 - (7) Proof that the individual is at least nineteen (19) years of age.
- (g) Attached to the application form for a sexually oriented business employee license as provided above, shall be the following:
- (1) A color photograph of the applicant clearly showing the applicant's face, and the applicant's fingerprints on a form provided by the police department. Any fees for the photographs and fingerprints shall be paid by the applicant.
 - (2) A statement detailing the license history of the applicant for the five (5) years immediately preceding the date of the filing of the application, including whether such applicant previously operated or is seeking to operate, in this or any other county, city, state, or country has ever had a license, permit, or authorization to do business denied, revoked, or suspended, or had any professional or vocational license or permit denied, revoked, or suspended. In the event of any such denial, revocation, or suspension, state the name, the name of the issuing or denying jurisdiction, and describe in full the reason for the denial, revocation, or suspension. A copy of any order of denial, revocation, or suspension shall be attached to the application.
 - (3) A statement whether the applicant has been convicted of a specified criminal activity as defined in this article and, if so, the specified criminal activity involved, the date, place and jurisdiction of each.

(Ord. No. 1940, § IV, 6-16-2005)

Sec. 5. Issuance of license.

(a) Upon the filing of said application for a sexually oriented business employee license, the city shall issue a temporary license to said applicant. The application shall then be referred to the appropriate city departments for an investigation to be made on such information as is contained on the application. The application process shall be completed within thirty (30) days from the date the completed application is filed. After the investigation, the city shall issue a license, unless it is determined by a preponderance of the evidence that one or more of the following findings is true:

- (1) The applicant has failed to provide information reasonable necessary for issuance of the license or has falsely answered a question or request for information on the application form;
- (2) The applicant is under the age of nineteen (19) years;
- (3) The applicant has been convicted of a "specified criminal activity" as defined in this article;
- (4) The sexually oriented business employee license is to be used for employment in a business prohibited by local or state law, statute, rule or regulation, or prohibited by a particular provision of this article; or
- (5) The applicant has had a sexually oriented business employee license revoked in the city or in any other jurisdiction within five (5) years of the date of the current application. If the sexually oriented business employee license is denied, the temporary license previously issued is immediately deemed null and void. Denial, suspension, or revocation of a license issued pursuant to this subsection shall be subject to appeal as set forth in section 10 of this article.

(b) A license granted pursuant to this section shall be subject to annual renewal upon the written application of the applicant and a finding by the city that the applicant has not been convicted of any specified criminal activity as defined in this article or committed any act during the existence of the previous license, which would be grounds

to deny the initial license application. The renewal of the license shall be subject to the payment of the fee as set forth in section 6 of this article.

(c) Within thirty (30) days after receipt of a completed sexually oriented business application, the city shall approve or deny the issuance of a license to an applicant. The city shall approve the issuance of a license to an applicant unless it is determined by a preponderance of the evidence that one or more of the following findings is true:

- (1) An applicant is under nineteen (19) years of age.
- (2) An applicant or a person with whom applicant is residing is overdue in payment to the city of taxes, fees, fines, utility services, or penalties assessed against or imposed upon him/her in relation to any business.
- (3) An applicant has failed to provide information reasonably necessary for issuance of the license or has falsely answered a question or request for information on the application form.
- (4) The applicant, or a person residing with the applicant, has had a previous license under this article or other sexually oriented business ordinance from another city or county denied, suspended or revoked, including the name and location of the sexually oriented business for which the permit was denied, suspended or revoked, as well as the date of the denial, suspension or revocation, and whether the applicant or a person residing with the applicant has been a partner in a partnership or an officer, director or principal stockholder of a corporation that is licensed under this article whose license has previously been denied, suspended or revoked, including the name and location of the sexually oriented business for which the permit was denied, suspended or revoked as well as the date of denial, suspension or revocation.
- (5) An applicant or a person with whom the applicant is residing has been convicted of a specified criminal activity defined in this article.
- (6) The premises to be used for the sexually oriented business have not been approved by the health department, fire department, and the building official as being in compliance with applicable laws and ordinances.
- (7) The license fee required by this article has not been paid.
- (8) An applicant of the proposed establishment is in violation of or is not in compliance with any of the provisions of this article.

(d) The license, if granted shall state on its face the name of the person or persons to whom it is granted, the expiration date, the address of the sexually oriented business and the classification for which the license is issued pursuant to section 3 of this article. All licenses shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that they may be easily read at any time.

(e) The health department, fire department, and the building official shall complete their certification that the premises is in compliance or not in compliance within twenty (20) days of receipt of the application by the city.

(f) A single sexually oriented business license shall issue for the premises although there may be more than one classification of sexually oriented business for such premises as described pursuant to section 4(e)(6) of this article. In the event that the applicant wishes to add an additional category of sexually oriented business that is not described in the application for the premises, then a new application describing such additional classification of sexually oriented business must be submitted and a new license obtained for the premises before the additional sexually oriented business so described may be operated on the premises.

(Ord. No. 1940, § V, 6-16-2005)

Sec. 6. Fees.

(a) Every application for a sexually oriented business license (whether for a new license or for renewal of an existing license) shall be accompanied by a five hundred dollar (\$500.00) non-refundable application and investigation fee.

(b) In addition to the application and investigation fee required above, every sexually oriented business that is granted a license (new or renewal) shall pay to the city an annual non-refundable license fee of two thousand five

hundred dollars (\$2,500.00) within thirty (30) days of license issuance or renewal.

(c) Every application for a sexually oriented business employee license (whether for a new license or for renewal of an existing license) shall be accompanied by an annual fifty dollar (\$50.00) application, investigation, and license fee.

(d) All license applications and fees shall be submitted to the clerk of the city prior to the issuance of the license.

(Ord. No. 1940, § VI, 6-16-2005)

Sec. 7. Inspection.

(a) An applicant or licensee shall permit representatives of the police department, health department, fire department, zoning department, or other city departments or agencies to inspect the premises of a sexually oriented business for the purpose of insuring compliance with the law, at any time it is occupied or open for business.

(b) A person who operates a sexually oriented business or his agent or employee commits a misdemeanor if he refuses to permit such lawful inspection of the premises at any time it is open for business.

(Ord. No. 1940, § VII, 6-16-2005)

Sec. 8. Expiration of license.

(a) Each license shall expire one year from the date of issuance and may be renewed only by making application as provided in section 4 of this article. Application for renewal shall be made at least thirty (30) days before the expiration date, and when made less than thirty (30) days before the expiration date, the expiration of the license will not be affected.

(b) When the city denies renewal of a license, the applicant shall not be issued a license for one (1) year from the date of denial. If, subsequent to denial, the city finds that the basis for denial of the renewal license has been corrected or abated, the applicant may be granted a license if at least ninety (90) days have elapsed since the date denial became final.

(Ord. No. 1940, § VIII, 6-16-2005)

Sec. 9. Suspension.

(a) The city shall suspend a license for a period not to exceed ninety (90) days if it determines that a licensee or an employee of a licensee has:

- (1) Violated or is not in compliance with any section of this article;
- (2) Refused to allow an inspection of the sexually oriented business premises as authorized by this chapter.

(Ord. No. 1940, § IX, 6-16-2005)

Sec. 10. Revocation.

(a) The city shall revoke a license if a cause of suspension in section 9 of this article occurs and the license has been suspended within the preceding twelve (12) months.

(b) The city shall revoke a license if it determines that:

- (1) A licensee gave false or misleading information in the material submitted during the application process;
- (2) A licensee has knowingly allowed possession, use, or sale of controlled substances on the premises;
- (3) A licensee has knowingly allowed prostitution on the premises;
- (4) A licensee knowingly operated the sexually oriented business during a period of time when the licensee's license was suspended;
- (5) Except in the case of an adult motel, a licensee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation, or other sex act to occur in or on the licensed premises; or
- (6) A licensee is delinquent in payment to the city, county, or state for any taxes or fees past due, or payment for utility services.

(c) When the city revokes a license, the revocation shall continue for one (1) year, and the licensee shall not be issued a sexually oriented business license for one (1) year from the date the revocation became effective. If, subsequent to revocation, the city finds that the basis for the revocation has been corrected or abated, the applicant may be granted a license if at least ninety (90) days have elapsed since the date the revocation became effective.

(d) After denial of an application, or denial of a renewal of an application, or suspension or revocation of any license, the applicant or licensee may seek prompt judicial review of such administrative action in the District Court of York County.

(Ord. No. 1940, § X, 6-16-2005)

Sec. 11. Transfer of license.

A licensee shall not transfer his/her license to another, nor shall a licensee operate a sexually oriented business under the authority of a license at any place other than the address designated in the application.

(Ord. No. 1940, § XI, 6-16-2005)

Sec. 12. Location of sexually oriented businesses.

(a) A sexually oriented business may only be located in the C-2 district as defined and described in the city zoning ordinance. A person violates this article and is subject to the penalty as provided herein if that person locates or operates or causes to be located or operated a sexually oriented business in any zoning district other than the C-2 district.

(b) A person commits an offense if the person operates or causes to be operated a sexually oriented business within four hundred (400) feet of:

- (1) A church, synagogue, mosque, temple or building which is used primarily for religious worship and related religious activities;
- (2) A public or private educational facility including but not limited to child day care facilities, nursery schools, preschools, kindergartens, elementary schools, private schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special education schools, colleges and universities; school includes the school grounds, but does not include facilities used primarily for another purpose and only incidentally as a school;
- (3) A boundary of a residential district as defined in the city zoning ordinance;
- (4) A public park or recreational area which has been designated for park or recreational activities including but not limited to a park, playground, nature trails, swimming pool, reservoir, athletic field, basketball or tennis courts, pedestrian/bicycle paths, wilderness areas, or other similar public land within the city which is under the control, operation, or management of the city park and recreation authorities;
- (5) The property line of a lot devoted to a residential use as defined in the city zoning ordinance;
- (6) An entertainment business which is oriented primarily towards children or family entertainment; or
- (7) A facility primarily used for activities for senior citizens, or for the housing and/or care of senior citizens;
- (8) A youth or adult correctional facility;
- (9) A library;
- (10) A mortuary/funeral home;
- (11) A medical clinic, hospital, nursing home, mental health facility, mental health agency, developmental disability facility or developmental disability home;
- (12) A licensed premises, licensed to serve and/or sell alcoholic beverages by the Nebraska Liquor Control Commission.

(c) A person commits a misdemeanor if that person causes or permits the operation, establishment, substantial enlargement, or transfer of ownership or control of a sexually oriented business within four hundred (400) feet of another sexually oriented business.

(d) A person commits a misdemeanor if that person causes or permits the operation, establishment, or maintenance of more than one (1) sexually oriented business in the same building, structure, or portion thereof, or the increase of floor area of any sexually oriented business in any building, structure, or portion thereof containing another sexually oriented business without first obtaining a license for such additional business or floor area.

(e) For the purpose of subsection (b) of this section, measurement shall be made in a straight line, without regard to the intervening structures or objects, from the nearest portion of the building or structure used as the part of the premises where a sexually oriented business is conducted, to the nearest property line of the premises of a use listed in subsection (b). Presence of a city, county or other political subdivision boundary shall be irrelevant for purposes of calculating and applying the distance requirements of this section.

(f) For purposes of subsection (c) of this section, the distance between any two sexually oriented businesses shall be measured in a straight line, without regard to the intervening structures or objects or political boundaries, from the closest exterior wall of the structure in which each business is located.

(g) Any sexually oriented business lawfully operating on June 1, 2005, that is in violation of subsection (a) through (f) of this section shall be deemed a nonconforming use. The nonconforming use will be permitted to continue for a period not to exceed one (1) year, unless sooner terminated for any reason or voluntarily discontinued for a period of thirty (30) days or more. Such nonconforming uses shall not be increased, enlarged, extended, or altered except that the use may be changed to a conforming use. If two (2) or more sexually oriented businesses are within four hundred (400) feet of one another and otherwise in a permissible location, the sexually oriented business which was first established and continually operating at a particular location is the conforming use and the later established business(es) is/are nonconforming.

(h) A sexually oriented business lawfully operating as a conforming use is not rendered a nonconforming use by the location, subsequent to the grant or renewal of the sexually oriented business license, of a use listed in subsection (b) of this section within four hundred (400) feet of the sexually oriented business. This provision applies only to the renewal of a valid license, and does not apply when an application for a license is submitted after a license has expired or been revoked.

(Ord. No. 1940, § XII, 6-16-2005)

Sec. 13. Additional regulations for adult motels.

(a) Evidence that a sleeping room in a hotel, motel, or a similar commercial establishments has been rented and vacated two (2) or more times in a period of time that is less than ten (10) hours creates a rebuttable presumption that the establishment is an adult motel as that term is defined in this article.

(b) A person commits a misdemeanor if, as the person in control of a sleeping room in a hotel, motel, or similar commercial establishment that does not have a sexually oriented business license, he rents or subrents a sleeping room to a person and, within ten (10) hours from the time the room is rented, he rents or subrents the same sleeping room again.

(c) For purposes of subsection (B) of this section, the terms "rent" or "subrent" mean the act of permitting a room to be occupied for any form of consideration.

(Ord. No. 1940, § XIII, 6-16-2005)

Sec. 14. Regulations pertaining to exhibition of sexually explicit films, videos or live entertainment in viewing rooms.

(a) A person who operates or causes to be operated a sexually oriented business, other than an adult motel or a motel or hotel which features pay per view adult movies, which exhibits on the premises in a viewing room of less than one hundred fifty (150) square feet of floor space, a film, video cassette, compact disc, digital video disc, live entertainment, or other video reproduction which depicts specified sexual activities or specified anatomical areas, shall comply with the following requirements:

- (1) Upon application for a sexually oriented business license, the application shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one or more manager's stations and the location of all overhead lighting fixtures and designating any portion of the premises in which patrons will not be permitted. A manager's station may not exceed thirty-two (32) square feet of floor

area. The diagram shall also designate the place at which the permit will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram should be oriented to the north or to some designated street or object and should be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus six (6) inches. The city may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.

- (2) The application shall be sworn to be true and correct by the applicant.
- (3) No alteration in the configuration or location of a manager's station may be made without the prior approval of the city.
- (4) It is the duty of the licensee of the premises to ensure that at least one (1) licensed employee is on duty and situated in each manager's station at all times that any patron is present inside the premises.
- (5) The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose, excluding restrooms. Restrooms may not contain video reproduction equipment. If the premises has two (2) or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of the manager's stations. The view required in this subsection must be by direct line of sight from the manager's station.
- (6) It shall be the duty of the licensee to ensure that the view area specified in subsection (5) remains unobstructed by any doors, curtains, partitions, walls, merchandise, display racks or other materials and, at all times, to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted in the application filed pursuant to subsection (1) of this section.
- (7) No viewing room may be occupied by more than one (1) person at any time.
- (8) The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than five (5.0) foot-candles as measured at the floor level.
- (9) It shall be the duty of the licensee to ensure that the illumination described above is maintained at all times that any patron is present in the premises.
- (10) No licensee shall allow openings of any kind to exist between viewing rooms or booths.
- (11) No person shall make or attempt to make an opening of any kind between viewing booths or rooms.
- (12) The licensee shall, during each business day, regularly inspect the walls between the viewing booths to determine if any openings or holes exist.
- (13) The licensee shall cause all floor coverings in viewing booths to be nonporous, easily cleanable surfaces, with no rugs or carpeting.
- (14) The licensee shall cause all wall surfaces and ceiling surfaces in viewing booths to be constructed of, or permanently covered by, nonporous, easily cleanable material. No wood, plywood, composition board or other porous material shall be used within forty-eight (48) inches of the floor.

(b) A person having a duty under subsection (1) through (14) of subsection (a) above commits a misdemeanor if he knowingly fails to fulfill that duty.

(Ord. No. 1940, § XIV, 6-16-2005)

Sec. 15. Additional regulations for escort agencies.

- (a) An escort agency shall not employ any person under the age of nineteen (19) years.
- (b) A person commits an offense if the person acts as an escort or agrees to act as an escort for any person

under the age of nineteen (19) years.

(Ord. No. 1940, § XV, 6-16-2005)

Sec. 16. Additional regulations for nude model studios.

(a) A nude model studio shall not employ any person under the age of nineteen (19) years.

(b) A person under the age of nineteen (19) years commits an offense if the person appears semi-nude or in a state of nudity in or on the premises of a nude model studio. It is a defense to prosecution under this subsection if the person under nineteen (19) years was in a restroom not open to public view or visible to any other person.

(c) A person commits an offense if the person appears in a state of nudity, or knowingly allows another to appear in a state of nudity in an area of a nude model studio premises which can be viewed from the public right-of-way.

(d) A nude model studio shall not place or permit a bed, sofa, or mattress in any room on the premises, except that a sofa may be placed in a reception room open to the public.

(Ord. No. 1940, § XVI, 6-16-2005)

Sec. 17. Additional regulations concerning public nudity.

(a) It shall be a misdemeanor for a person to knowingly and intentionally, in a sexually oriented business, appear in a state of nudity or depict specified sexual activities.

(b) It shall be a misdemeanor for a person to knowingly or intentionally, in a sexually oriented business appear in a semi-nude condition unless the person is an employee who, while semi-nude, shall be at least ten (10) feet from any patron or customer and on a stage at least two feet above the floor.

(c) It shall be a misdemeanor for an employee, while semi-nude in a sexually oriented business, to solicit any pay or gratuity from any patron or customer or for any patron or customer to pay or give any gratuity to any employee, while said employee is semi-nude in a sexually oriented business.

(d) It shall be a misdemeanor for an employee, while semi-nude, to touch a customer or the clothing of a customer, and it shall be a misdemeanor for a customer to touch an employee or the clothing of the employee, while the employee is semi-nude.

(e) No person may appear in a state of nudity or semi-nudity in any premises licensed to sell alcoholic beverages by the Nebraska Liquor Control Commission. It shall be a misdemeanor for any person to appear in a state of nudity or semi-nudity in a licensed premises, and it shall be a misdemeanor for any license holder, manager or employer of a licensed premises to cause, encourage, permit, or allow any person to appear in such licensed premises in a state of nudity or semi-nudity.

(Ord. No. 1940, § XVII, 6-16-2005)

Sec. 18. Prohibition against children in a sexually oriented business.

A person commits a misdemeanor if the person knowingly allows a person under the age of nineteen (19) years on the premises of a sexually oriented business.

(Ord. No. 1940, § XVIII, 6-16-2005)

Sec. 19. Hours of operation.

No sexually oriented business, except for an adult motel, may remain open at any time between the hours of eleven o'clock (11:00) p.m. and nine o'clock (9:00) a.m. on weekdays and Saturdays, and eleven o'clock (11:00) p.m. and noon (12:00) p.m. on Sundays.

(Ord. No. 1940, § XIX, 6-16-2005)

Sec. 20. Penalty.

Violations of this article shall be subject to an action for an injunction and shall also be punishable by a fine of not to exceed one thousand dollars (\$1,000.00) and/or thirty (30) days imprisonment. Each day a violation occurs is a separate offense. Violations of this article shall further be subject to any remedies available by law.

(Ord. No. 1940, § XXI, 6-16-2005)

State law reference—Penalty for zoning ordinance violation, R.R.S. 1943, § 19-913.

Sec. 21. Severability.

If any section, subsection, or clause of this article shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections, and clauses shall not be affected.

(Ord. No. 1940, § XXII, 6-16-2005)

Sec. 22. Conflicting ordinances repealed.

All ordinances or parts of ordinances in conflict with the provisions of this article are hereby repealed.

(Ord. No. 1940, § XXIII, 6-16-2005)

Sec. 23. Effective date.

This article shall take effect and be in full force from and after its passage, approval and publication as required by law.

(Ord. No. 1940, § XXIV, 6-16-2005)

SCHEDULE OF ZONING DISTRICT REGULATIONS

SCHEDULE OF ZONING DISTRICT REGULATIONS

<i>Zoning District</i>	<i>Lot</i>		<i>Yard</i>			<i>Building</i>	<i>Use Regulations</i>
	<i>Width</i>	<i>Area</i>	<i>Front</i>	<i>Side</i>	<i>Rear</i>	<i>Height</i>	
"A-L" Agricultural	Varies	4 acres	40 ft.	15 ft.	40 ft.	60 ft. (Max.)	Agricultural, park and recreation, churches, public buildings and certain permitted uses
"R" Single-family dwelling	60 ft.	7,200 s.f.	25 ft.	6 ft.	25 ft. or 20% of lot depth	35 ft.	Single-family dwellings, churches, public buildings, parks and recreation
"R-2" Two-family dwelling	Varies	6,000 s.f.	25 ft.	5 ft.	25 ft. or 20% of lot depth	35 ft.	Single-family dwellings, two-family dwellings, public buildings, churches, parks and recreation
"R-3" Multiple-family dwelling	Varies	5,000 s.f.	25 ft.	5 ft.	25 ft. or 20% of lot depth	45 ft.	Single-family, two-family, multiple-family dwellings, dormitories, public buildings, churches, parks and recreation
"R-P" Community unit	Special provisions—See ordinance						Dwellings:

plan							attached, detached, semi-detached, multistoried, religious, cultural, recreational and limited commercial
"M-H" Mobile home	50 ft.	6,000 s.f.	25 ft.	5 ft.	25 ft. or 20% of lot depth	35 ft.	Single-family dwellings, churches, public buildings, mobile homes, parks and recreation
"M-P" Mobile home park	35 ft.	3,000 s.f.	25 ft.	See Ord.	25 ft.	35 ft.	Independent mobile homes and incidental uses
"C-P" Planned neighborhood shopping	Special provisions—See ordinance						Planned neighborhood shopping centers or districts with incidental uses
"C-1" Central business district	See ordinance		None	None	None	80 ft.	General retail and services, see ordinance for permitted use
"C-2" Business	150 ft.	15,000 s.f.	25 ft.	See ordinance		45 ft.	Automobile and farm implement sales, commercial, recreation, grocery stores, motels, restaurants, service stations, parks and public buildings
"C-3" Highway commercial	150 ft.	15,000 s.f.	25 ft.	See ordinance		45 ft.	Automobile and farm implement sales, mobile home sales, motels, restaurants, service stations, liquor stores, truck and freight terminals
"I" Industrial	Varies	Varies	See ordinance			See ordinance	Industrial manufacturing operations, not offensive by reason of smoke,

					odor, dust or noise
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(Ord. No. 1574, § 1, 7-14-1988; Ord. No. 1727, 6-13-1996)

PROOFS