

MUNICIPAL CODE  
OF  
THE CITY  
OF  
TECUMSEH, NEBRASKA

ORDINANCE NO. 10-1018

PUBLISHED BY AUTHORITY  
OF THE  
MAYOR AND CITY COUNCIL

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CITY OFFICERS  
OF  
TECUMSEH, NEBRASKA

2023

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CITY COUNCIL  
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Lorie Topp, President  
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ADMINISTRATIVE

Article 1. Elected Officials

§ 1-101 CITY MAYOR: SELECTION AND DUTIES.

The Mayor of the Municipality shall have the general, and immediate control over all property, and officials, whether elected, or appointed, of the Municipality. He shall preside at all meetings of the City Council, and may vote when his vote would provide the additional vote required to attain the number of votes equal to a majority of the number of members elected to the City Council on any pending matter, legislation or transaction and the Mayor shall, for the purpose of such vote, be deemed to be a member of the City Council. His signature must appear on the Municipal Clerk's minutes of all meetings, and warrants for the payment of money when ordered by the City Council. The mayor shall have power to veto or sign any ordinance passed by the city council and to approve or veto any order, bylaw, resolution, award of or vote to enter into any contract, or the allowance of any claim. If the mayor approves the ordinance, order, bylaw, resolution, contract, or claim, he or she shall sign it, and it shall become effective. If the mayor vetoes the ordinance, order, bylaw, resolution, contract, or any item or items of appropriations or claims, he or she shall return it to the city council stating that the measure is vetoed. The mayor may issue the veto at the meeting at which the measure passed or within seven calendar days after the meeting. If the mayor issues the veto after the meeting, the mayor shall notify the city clerk of the veto in writing. The clerk shall notify the city council in writing of the mayor's veto. Any ordinance, order, bylaw, resolution, award of or vote to enter into any contract, or the allowance of any claim vetoed by the mayor may be passed over his or her veto by a vote of two-thirds of the members of the council. If the mayor neglects or refuses to sign any ordinance, order, bylaw, resolution, award of or vote to enter into any contract, or the allowance of any claim, but fails to veto the measure within the time required by this section, the measure shall become effective without his or her signature. The mayor may veto any item or items of any appropriation bill or any claims bill, and approve the remainder thereof, and the item or items vetoed may be passed by the council over the veto as in other cases. He shall from time to time communicate to the City Council such information and recommendations as, in his opinion, may improve the Municipality. He may require at reasonable intervals any Municipal official to exhibit his accounts and make reports to the City Council on any subject pertaining to his office. He shall have the power to remit fines or pardon any offense arising under the ordinances of the Municipality. He shall have the authority to call on every male inhabitant of the Municipality over eighteen (18) years of age and under the age of fifty (50) years to aid in enforcing the laws. His territorial authority shall extend over all places within five (5) miles of the corporate limits of the Municipality for the enforcement of any health ordinance or quarantine ordinance and regulation thereof and shall have jurisdiction in all matters vested in him or her by ordinance, excepting taxation, within the extraterritorial zoning jurisdiction of such city. He shall also have such other duties as the City Council may by resolution confer upon him, or

in any other matters which the laws of the State of Nebraska repose in him. He shall be elected at the Municipal Election, and shall serve a four (4) year term of office. Any candidate for Mayor must be a registered voter and a resident of the City prior to filing for the said office. (Ref. 17-110 thru 17-117 RS Neb.)(Amended November 4, 2013)(Amended September 8, 2014) (Amended November 2017)

#### §1-102 CITY COUNCIL: ACTING PRESIDENT.

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

#### §1-103 CITY COUNCIL: SELECTION AND DUTIES.

The members of the City Council shall be elected and serve for a four (4) year term. The City Council shall be the legislative division of the Municipal Government, and shall perform such duties, and have such powers as may be authorized by law. The City Council shall maintain the peace, regulate business, protect the public health and safety, and assess such taxes and fees as are necessary and appropriate in the exercise of these functions. (Ref. 17-103, 17-104 RS Neb.)

#### §1-104 CITY COUNCIL: ORGANIZATION.

City Council Members of this Municipality shall take office, and commence their duties on the first regular meeting in December following their election. The newly elected City Council Members who have qualified as prescribed by law, together with the members of the City Council holding over, shall assemble in a regular meeting at the hour and place hereinafter prescribed and perfect the reorganization of the City Council as herein provided. After the said meeting has been called to order, the Municipal Clerk shall report to the City Council the names of all City Council Members-elect who have qualified for their respective offices, and this report shall be spread upon the minutes of the meeting preceding the roll call. Each ward of the Municipality shall be represented by at least two (2) City Council Members. No person shall be eligible who is not at the time of his election an actual resident of the ward for which he is qualified and should any City Council Member move from the ward from which he was elected, his office shall thereby become vacant. (Ref. 17-104, 17-107.01, 19-613 RS Neb.)



## §1-105 VACANCY: GENERAL PROVISIONS.

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

B. Any vacancy on the City Council shall be filled as provided in division (C) of this section. (Neb. RS 32-568)

C. 1. (a) Except as otherwise provided in division (C)(2) or (3) or §1-106, vacancies in city elective offices shall be filled by the Mayor and City Council for the balance of the unexpired term. Notice of a vacancy, except a vacancy resulting from the death of the incumbent, shall be in writing and presented to the City Council at a regular or special meeting and shall appear as a part of the minutes of such meeting. The City Council shall at once give public notice of the vacancy by causing to be published in a newspaper of general circulation within the city or by posting in 3 public places in the city the office vacated and the length of the unexpired term.

(b) The Mayor shall call a special meeting of the City Council or place the issue of filling such vacancy on the agenda at the next regular meeting at which time the Mayor shall submit the name of a qualified registered voter to fill the vacancy for the balance of the unexpired term. The regular or special meeting shall occur upon the death of the incumbent or within 4 weeks after the meeting at which such notice of vacancy has been presented. The City Council shall vote upon the nominee, and if a majority votes in favor of the nominee, the vacancy shall be declared filled. If the nominee fails to receive a majority of the votes, the nomination shall be rejected and the Mayor shall, at the next regular or special meeting, submit the name of another qualified registered voter to fill the vacancy. If the subsequent nominee fails to receive a majority of the votes, the Mayor shall continue at that meeting to submit the names of qualified registered voters in nomination and the City Council shall continue to vote upon the nominations at such meeting until the vacancy is filled. The Mayor shall cast his or her vote for or against the nominee in case of a tie vote of the City Council. All City Council members present shall cast a ballot for or against the nominee. Any member of the City Council who has been appointed to fill a vacancy on the City Council shall have the same rights, including voting, as if that person were elected.

2. The Mayor and City Council may, in lieu of filling a vacancy in a city elected office as provided above in this section, call a special city election to fill such vacancy.

3. If vacancies exist in the offices of a majority of the members of the City Council, the Secretary of State shall conduct a special city election to fill such vacancies. (Ref. 32-569 RS Neb.)

## §1-106 MAYOR: VACANCY.

Whenever a vacancy occurs in the office of Mayor, or in case of his disability or absence, the president of the City Council shall exercise the office of Mayor until such

vacancy is filled or such disability is removed, or in case of temporary absence, until the Mayor returns.

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

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

#### §1-107 VACANCY DUE TO UNEXCUSED ABSENCES.

A. In addition to the events listed in Neb. RS 32-560 and any other reasons for a vacancy provided by law, after notice and a hearing, a vacancy on the City Council shall exist if a member is absent from more than 5 consecutive regular meetings of the City Council unless the absences are excused by a majority vote of the remaining members. (Neb. RS 19-3101)

B. The City Council shall take a vote on whether to excuse a member's absence from a meeting upon either:

1. A written request from the member submitted to the City Clerk; or
2. A motion of any other City Council member.

C. If a City Council member has been absent from 6 consecutive regular meetings and none of the absences have been excused by a majority vote of the remaining members, the City Clerk shall include this as an item on the agenda for the next regular meeting. At that meeting, the City Council shall set a date for a hearing and direct the City Clerk to give the member notice of the hearing by personal service or first class mail to the member's last known address.

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

#### §1-108 ELECTED OFFICIALS: QUALIFICATIONS: RESTRICTIONS ON OTHER EMPLOYMENT OR ELECTIVE OFFICE.

1. Elected officials shall be residents and registered voters of the City.
2. The mayor and members of the City Council shall hold no other elective or appointive office or employment with the City.
3. For purposes of this section, (A) "elective office" means any office which has candidates nominated or elected at the time of a statewide primary election; any office which has candidates nominated at the time of a statewide primary election and elected at the time of a statewide general election; any office which has candidates elected at the time of a statewide general election; any office which has candidates nominated or elected at a

city election; and any office created by an act of the Legislature which has candidates elected at an election and includes an office which is filled at an election held in conjunction with the annual meeting of a public body created by an act of the Legislature; and (B) "high elective office" means a member of the Legislature, an elective office described in Article IV, Sections 1 or 20 or Article VII, Sections 3 or 10 of the Constitution of Nebraska, or a county, city or school district elective office.

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

5. Except as provided in subsection 6 or 8 of this section, no person shall be precluded from being elected or appointed to or holding an elected office for the reason that he/she has been elected or appointed to or holds another elected office.

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

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

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

9. Notwithstanding subsections 6 through 8 of this section, any person holding more than one high elective office on September 13, 1997, shall be entitled to continue to serve the remainder of all terms for which he/she was elected or appointed. (Ref. Neb. Rev. Stat. §17-108.02, 32-109, 32-603, 32-604)

## Article 2. Appointed Officials

### §1-201 APPOINTED OFFICIALS: GENERAL AUTHORITY.

The Mayor, by, and with the consent of the City Council, may appoint such officers as shall be required by ordinance or otherwise required by law. Such officers may be removed from office by the Mayor. The Mayor, by, and with the consent of the City Council, shall appoint such a number of regular policemen, and other officials as may be necessary,

and may establish a police reserve force as provided by law. All police officers, and other appointed officials shall be subject to removal at any time by the Mayor and it shall further require approval of a majority of the City Council to remove any appointee prior to the expiration of said appointee's term of office. All appointed officials shall be subject to annual reappointment and their terms of office shall commence on the first (1st) day of June of each year and shall end on the last day of May of each year. (Ref. 17-107, 81-1438 through 81-1446 RS Neb.)

#### §1-202 APPOINTED OFFICIALS: MERGER OF OFFICES.

The Governing Body may, at its discretion, by ordinance combine and merge any elective or appointive office or employment or any combination of duties of any such offices or employments, except Mayor and City Council Member, with any other elective or appointive office or employment so that one or more of such offices or employments or any combination of duties of any such offices or employments may be held by the same officer or employee at the same time. The City Manager, in a city under the city manager plan of government as provided by law, may in his or her discretion combine and merge any elective or appointive office or employment or any combination of duties of any such offices or employments, except Mayor and City Council member, with any other elective or appointive office or employment so that one or more of such offices or employments may be held by the same officer or employee at the same time. The offices or employments so merged and combined shall always be construed to be separate and the effect of the combination or merger shall be limited to a consolidation of official duties only. The salary or compensation of the officer or employee holding the merged or combined offices or employments or offices and employments shall not be in excess of the maximum amount provided by law for the salary or compensation of the office, offices, employment or employments so merged and combined. For purposes of this section, volunteer firefighters and ambulance drivers shall not be considered officers. (Ref. 17-108.02 RS Neb.) (Amended by Ord. Nos. 763, 2/1/86; 92-843, 11/2/92)

#### §1-203 APPOINTED OFFICIALS: ADMINISTRATOR-CLERK-TREASURER POSITION CREATED.

The appointive offices of City Administrator, Clerk and Municipal Treasurer are hereby combined and merged, in accordance with the authority granted to the Governing Body by section 1-202. (Amended by Ord. No. 92-844, 11/2/92)

#### §1-204 APPOINTED OFFICIALS: CITY CLERK.

A. 1. The City Clerk shall have the custody of all laws and ordinances and shall keep a correct journal of the proceedings of the City Council. After the period of time specified by the State Records Administrator pursuant to the Records Management Act, the Clerk may transfer the journal of the proceedings of the City Council to the State Archives

of the Nebraska State Historical Society for permanent preservation.

2. The Clerk shall also perform such other duties as may be required by the ordinances of the city. (Neb. RS 17-605)

B. 1. It shall be the duty of the Clerk to prepare and publish the official proceedings of the City Council within 30 days after any meeting of the City Council. The publication shall be in a newspaper of general circulation in the city, shall set forth a statement of the proceedings of the meeting, and shall also include the amount of each claim allowed, the purpose of the claim, and the name of the claimant, except that the aggregate amount of all payroll claims may be included as one item. Between July 15 and August 15 of each year, the employee job titles and the current annual, monthly, or hourly salaries corresponding to such job titles shall be published. Each job title published shall be descriptive and indicative of the duties and functions of the position. The charge for the publication shall not exceed the rates provided for in Neb. RS 23-122.(Neb. RS 19-1102)

2. Publication under division (B)(1) shall be made in one legal newspaper of general circulation in the city. If no legal newspaper is published in the city, then the publication shall be made in one legal newspaper published or of general circulation within the county in which the city is located. The cost of publication shall be paid out of the general funds of the city. (Neb. RS 19-1103)

C. The Clerk shall dispose of or destroy city public records when the records have been determined to be of no further legal, administrative, fiscal, or historical value by the State Records Administrator pursuant to the Records Management Act, provided the provisions of this division shall not apply to the minutes of the Clerk and the permanent ordinance and resolution books, or any other record classified as permanent by the State Records Administrator. (Neb. RS 18-1701)

D. 1. The Clerk shall permit any person to examine and copy the public records in the Clerk's custody, and may charge a fee for providing copies of a public record, as provided in Neb. RS 84-712 through 84-712.09.

2. The Clerk may charge a reasonable fee for certified copies of any record in his or her office as set by resolution of the City Council.

E. The Clerk shall permit no records, public papers, or other documents of the city kept and preserved in his or her office to be taken therefrom, except by such officers of the city as may be entitled to the use of the same, but only upon their leaving a receipt therefor, and except pursuant to Neb. RS 84-712(2). He or she shall keep all the records of his or her office, including a record of all licenses issued by him or her, in a blank book with a proper index. He or she shall include as part of his or her records all petitions under which the City Council shall order public work to be done at the expense of the property fronting thereon, together with references to all resolutions and ordinances relating to the same. He or she shall endorse the date and hour of filing upon every paper or document so filed in his or her office. All such filings made by him or her shall be properly docketed. Included in his or her records shall be all standard codes, amendments thereto, and other documents incorporated by reference and arranged in triplicate in a manner convenient for reference.

F. The Clerk shall deliver all ordinances, and resolutions under his or her charge to the Mayor for his or her signature. He or she shall also deliver to officers, employees, and

committees all resolutions and communications which are directed at such officers, employees, or committees. With the seal of the city, he or she shall duly attest the Mayor's signature to all ordinances, deeds, and papers required to be attested to when ordered to do so by the City Council.

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

H. The Clerk shall keep in a book with a proper index, copies of all notices required to be published or posted by the Clerk by order of the City Council or under the ordinances of the city. To each of the file copies of the notices shall be attached the printer's affidavit of publication, if the notices are required to be published, or the Clerk's certificate under seal where the same are required to be posted only.

I. The Clerk shall receive all objections to creation of paving districts and other street improvements. He or she shall receive the claims of any person against the city, and in the event that the claim is disallowed in part or in whole, the Clerk shall notify the claimant or his or her agent or attorney by letter within 5 days after the disallowance, and the Clerk shall then prepare transcripts on appeals of any disallowance of a claim in all proper cases. (Amended November 4, 2013)

#### §1-205 APPOINTED OFFICIALS: MUNICIPAL TREASURER.

A. The City Treasurer shall be the custodian of all money belonging to the city. He or she shall keep a separate account of each fund or appropriation and the debts and credits belonging thereto. He or she shall give every person paying money into the treasury a receipt therefor, specifying the date of payment and on what account paid. He or she shall also file copies of such receipts with his or her monthly reports. The Treasurer shall, at the end of every month, and as often as may be required, render an account to the City Council, under oath, showing the state of the treasury at the date of such account and the balance of money in the treasury. He or she shall also accompany such accounts with a statement of all receipts and disbursements, together with all warrants redeemed and paid by him or her, which warrants, with any and all vouchers held by him or her, shall be filed with his or her account in the City Clerk's office. If the 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 may use this failure as cause to remove the Treasurer from office. (Neb. RS 17-606)

B. 1. The 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 accompany the annual statement submitted pursuant to Section C. 1. hereof with a description of the bonds issued and sold in that year and the terms of sale, with every item of expense thereof.

C. 1. The Treasurer shall prepare and publish annually within 60 days following

the close of the city fiscal year a statement of the receipts and expenditures by funds of the city for the preceding fiscal year. The Statement shall also include the information required by Section B. 1. hereof. (Neb. RS 19-1101)

2. Publication shall be made in one legal newspaper of general circulation in the city. If no legal newspaper is published in the city, then such publication shall be made in one legal newspaper published or of general circulation within the county in which the city is located. (Neb. RS 19-1103)

D. 1. All warrants upon the Treasurer shall be paid in the order of their presentation therefor and as otherwise provided in Neb. RS 77-2201 through 77-2215. (Neb. RS 77-2201)

2. The Treasurer shall keep a warrant register, which register shall show in columns arranged for that purpose the number, the date, and the amount of each warrant presented and registered, the particular fund upon which the same is drawn, the date of presentation, the name and address of the person in whose name the warrant is registered, the date of payment, the amount of interest, and the total amount paid thereon, with the date when notice to the person in whose name such warrant is registered is mailed. (Neb. RS 77-2202)

3. The Treasurer shall make duplicate receipts for all sums which shall be paid into his or her office, which receipts shall show the source from which such funds are derived, and shall, by distinct lines and columns, show the amount received to the credit of each separate fund, and whether the same was paid in cash, in warrants, or otherwise. The Treasurer shall deliver one of the duplicates to the person making the payment and retain the other in his or her office. (Neb. RS 77-2209)

4. The Treasurer shall daily, as money is received, foot the several columns of the cash book and of the register, and carry the amounts forward, and at the close of each year, in case the amount of money received by the Treasurer is insufficient to pay the warrants registered, he or she shall close the account for that year in the register and shall carry forward the excess. (Neb. RS. 77-2210)

5. The cash book, register, and retained receipts of the Treasurer shall at all times be open to the inspection of any person in whose name any warrants are registered and unpaid. (Neb. RS 77-2212)

E. The Treasurer shall permit any person to examine and copy the public records in the Treasurer's custody, and may charge a fee for providing copies of a public record, as provided in Neb. RS 84-712 through 84-712.09.

F. The Treasurer shall keep all money belonging to the city separate and distinct from his or her own money. He or she shall cancel all bonds, coupons, warrants, and other evidences of debt against the city, whenever paid by him or her, by writing or stamping on the face thereof, "Paid by the City Treasurer," with the date of payment written or stamped thereon. He or she shall collect all special taxes, allocate special assessments to the several owners, and obtain from the County Treasurer a monthly report as to the collection of delinquent taxes. (Amended November 4, 2013)

§1-206 APPOINTED OFFICIALS: MUNICIPAL ATTORNEY.

A. The City Attorney shall be the legal advisor of the City Council. He or she shall commence, prosecute, and defend all suits and actions necessary to be commenced, prosecuted, or defended on behalf of the city, or that may be ordered by the City Council. When requested, he or she shall attend meetings of the City Council and give them his or her opinion upon any matters submitted to him or her, either orally or in writing, as may be required. He or she shall draft or review for legal correctness ordinances, contracts, franchises, and other instruments as may be required, and he or she shall perform such other duties as may be imposed upon him or her by general law or ordinance. The City Council shall have the right to pay the City Attorney compensation for legal services performed by him or her on such terms as the City Council and Attorney may agree, and to employ additional legal assistance and to pay for such legal assistance out of the funds of the city. (Neb. RS 17-610)

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

§1-207 APPOINTED OFFICIALS: MUNICIPAL PHYSICIAN.

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



§1-208 APPOINTED OFFICIALS: MUNICIPAL POLICE CHIEF.

If a Municipal Police Chief is not appointed by the Mayor and the City has contracted with a County for their Sheriff's Department to provide law enforcement services for the City, then the Sheriff and his Department are authorized to do all things under this Code that the Municipal Police Chief and his officers were authorized to do.

The Municipal Police Chief shall direct the police work of the Municipality and shall be responsible for the maintenance of law and order. He shall act as Health Inspector, and Building Inspector, except in the event the Municipality appoints another person. He shall file the necessary complaints in cases arising out of violations of Municipal ordinances, and shall make all necessary reports required by the Municipal Ordinances, or the laws of the State of Nebraska. (Ref. 17-107, 17-121 RS Neb.) (Amended October 1, 2012)(Amended November 4, 2013)

§1-209 APPOINTED OFFICIALS: MUNICIPAL FIRE CHIEF.

The City of Tecumseh does not have a Municipal Fire Department. The City is provided fire protection by the Tecumseh Rural Fire Protection District 1. The Tecumseh Rural Fire Protection District 1's Fire Chief, Assistant Fire Chief and other members of the Tecumseh Rural Fire Protection District 1 shall have all of the authority under this Code that is given to the Municipal Fire Chief, Assistant Fire Chief and other members of the Municipal Fire Department.

The Fire Chief shall enforce all laws and ordinances covering the prevention of fires; the storage and use of explosives and flammable substances; the installation of fire alarm systems; the maintenance of fire extinguishing equipment; the regulation of fire escapes; and the inspection of all premises requiring adequate fire escapes. The Fire Chief shall have the power during the time of a fire, and for a period of thirty-six (36) hours hereafter to arrest any suspected arsonist, or any person for hindering the department's efforts, conducting himself in a noisy and disorderly manner, or who shall refuse to obey any lawful order by the Fire Chief or Assistant Fire Chief. The Fire Chief, or his assistant in charge of operations at a fire may command the services of any person present at any fire in extinguishing the same or in the removal, and protection of property. Failure to obey such an order shall be a misdemeanor punishable by a fine. The Fire Chief shall have the right to enter at all reasonable hours into buildings, and upon all premises within his jurisdiction for the purpose of examining the same for fire hazards, and related dangers. (Ref. 17-147, 17-505, 35-102, 35-108, 81-506, 81-512 RS Neb.) (Amended October 1, 2012)

§1-210 APPOINTED OFFICIALS: SPECIAL ENGINEER.

A. There is hereby established in the City of Tecumseh, Nebraska, the position of City Engineer. The Mayor shall appoint the City Engineer.

The City Engineer shall make a record of the minutes of his surveys and all other work done for the Municipality. He shall, when directed by the Governing Body, accurately

make all plats, sections, profiles, and maps as may be necessary in the judgment of the Governing Body. He shall, upon request of the Governing Body, make estimates of the costs of labor and material which may be done or furnished by contract with the Municipality, and make all surveys, estimates, and calculations necessary for the establishment of grades, bridges, building of culverts, sewers, electric light system, waterworks, power plant, public heating system, curbing and gutters, and the improvement of streets and erection and repair of buildings, and shall perform such other duties as the Governing Body may require. All records of the City Engineer shall be public records which shall belong to the Municipality, and shall be turned over to his successor.

B. The Governing Body of the City or the Board of Public Works may, when they deem prudent, employ a Special Engineer to make or assist in making, any duty that could have been done by the City Engineer. Any work done by such Special Engineer shall have the same validity and serve in all respects as though executed by the City Engineer.

C. The City Engineer appointed under this Section shall also be the City Engineer for the Board of Public Works.(Ref. 17-405, 17-568, 17-568.01, 17-919 RS Neb.) (Amended by Ord. No. 726, 10/3/83)(March 2011).

#### §1-211 APPOINTED OFFICIALS; ZONING INSPECTOR.

The Mayor may appoint a Zoning Inspector. In the absence of a specific appointment by the Mayor, the Municipal Clerk is hereby designated as Zoning Inspector.

#### §1-212 APPOINTED OFFICIALS; CITY ADMINISTRATOR.

There is hereby established in the City of Tecumseh the office of City Administrator. The City Administrator shall be the chief administrative officer of the City and shall serve as administrative agent for the Mayor and City Council and Board of Public Works in the supervision of the offices and good government of the City. All the departments of the City shall be under the administrative supervision and direction of the City Administrator, and the Mayor and City Council and Board of Public Works shall deal with all departments of the City and employees through the City Administrator.

The office of City Administrator shall be filled by appointment of the Mayor by and with the consent of the majority of the City Council and shall serve at their pleasure. He/she need not be a resident of the City at the time of his/her appointment, but shall become a resident within such reasonable time as the City Council and Mayor may allow. The City Administrator shall receive such compensation and allowances as the Mayor and City Council may prescribe.

In the performance of his/her role as chief administrative officer of the City, the City Administrator duties shall include, but not be limited to the following:

1. He/she shall take charge of and direct the operations of all City departments, except the Police Department and Fire Department.
2. He/she shall have the power to employ, discipline and remove all non-elected

employees of the City; except the offices of City Treasurer, City Clerk, City Engineer, City Attorney, City Physician, Utilities Superintendent, Chief of Police, Police Officers, Fire Chief and Fire Fighters.

3. He/she shall insure the enforcement of all laws and ordinances within the City and within its extraterritorial jurisdiction insofar as their enforcement is within the power of the City and consistent with the policy of the Mayor and City Council.

4. He/she shall prepare on behalf of the Mayor and City Council the annual budget together with his/her recommendations and comments. He/she shall be responsible for the execution and administration of the adopted budget. He/she shall supervise the maintenance and custody of all accounts and records of the City and shall provide the Mayor and City Council with a report of the financial condition of the City at such times as the Mayor and City Council may require.

5. He/she shall have general supervision of employee work schedules to optimize use of the City's labor force.

6. He/she shall have supervision of personnel evaluation programs.

7. He/she shall have supervision of City office personnel.

8. He/she shall give general assistance to all appointed boards, commissions and committees of the City.

9. He/she shall have the administration of the City's business, employee health and dental, self-insurance, workmen's compensation, unemployment and other insurance programs, and employee retirement programs.

10. He/she shall serve as City Personnel Director.

11. He/she shall oversee the care and maintenance of all City property.

12. He/she shall attend all meetings of the Mayor and City Council and Board of Public Works, and advise the City Council and Board of Public Works in all matters pertaining to the City and its affairs.

13. He/she shall supervise the performance of all contracts and agreements to which the City is a part.

14. He/she shall serve as purchasing agent of the City, and no purchase will be made without his/her approval. In no case will he/she make or approve any such purchase unless the funds for same have been duly appropriated by the Mayor and City Council, and as to those purchases where the amount involved exceeds five thousand dollars (\$5,000.00), he/she shall first obtain the approval of the City Council or Board of Public Works.

15. He/she shall recommend to the Mayor and City Council and Board of Public Works such measures as he/she may deem necessary or expedient for the good government and welfare of the City.

16. He/she shall perform such other duties as the Mayor and City Council may from time to time assign.

For purposes of this section only, City or City departments shall include the Utility Department of the City. It is the intention that the City Administrator also be the executive officer of the Board of Public Works.

The City Administrator shall take no part in any election held for the purpose of

electing the Mayor, members of the City Council or other elective municipal office of the City of Tecumseh, except for the casting of his/her individual ballot. The City Administrator shall be an office of the City within the meaning if section 17-604, R.R.S. Nebr. 1943, and shall be subject to and bound by the prohibitions therein contained. Before taking office, the City Administrator shall file with the City Clerk a bond in favor of the City for the faithful performance of his/her duties in the amount of five thousand dollars (\$5,000.00). The premium of said bond shall be paid by the City. (Ord. No. 92-845, 11/2/92]

§1-213 APPOINTED OFFICIALS; BUILDING INSPECTOR.

The Mayor may appoint a Building Inspector whom shall be considered an employee of the City of Tecumseh, Nebraska. (August 1999)

§1-214 APPOINTED OFFICIALS; ECONOMIC DEVELOPER.

The Mayor may appoint an Economic Developer whom shall be considered an employee of the City of Tecumseh, Nebraska. (September 1999)

§1-215 APPOINTED OFFICIALS: MAINTENANCE CODE OFFICIAL.

The Mayor may appoint a Maintenance Code official whom shall be considered an employee of the City of Tecumseh, Nebraska. (November 2008)

§1-216 APPOINTED OFFICIALS; OVERSEER OF STREETS.

The Mayor may appoint an Overseer of Streets. The Overseer of Streets shall, at the request of the City Council, make reports on the condition of the streets, street signs, sidewalks, culverts, alleys and bridges of the City and shall direct their attention to such improvements and repairs thereof as he or she may think proper. The Overseer of Streets shall oversee repairs on the City streets, street signs, sidewalks, culverts, alleys and bridges when requested by the City Council. The Overseer of Streets shall perform such other duties as directed by the City Council. (Neb. R.S. 17-107, 17-119) (March 2011).

Article 3. Bonds and Oath

§1-301 BONDS: FORM.

A. The city may enact ordinances or bylaws to require from all officers and servants, elected or appointed, bonds and security for the faithful performance of their duty. The city may pay the premium for such bonds. (Neb. RS 17-604)

B. 1. All official bonds of officers of the city shall be in form joint and several and made payable to the city in such penalty as the City Council may fix. (Neb. RS 11-103, 11-104)

2. The penalty amount on any bond shall not fall below the legal minimum, when one has been set by the state, for each particular official.

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

1. Of all appointed officers, within 30 days after their appointment; and

2. Of elected city officers, within 30 days after the canvass of the votes of the election at which they were chosen. (Neb. RS 11-105)

D. All official bonds of city officers shall be executed by the principal named in such bonds and by at least 2 sufficient sureties who shall be freeholders of the county in which such bonds are given, or any official bond of a city officer may be executed by the officer as principal and by a guaranty, surety, fidelity, or bonding company as surety, or by 2 or more such companies. Only such companies as are legally authorized to transact business in this state shall be eligible to suretyship on the bond of a city officer. (Neb. RS 11-109)

E. The City Clerk shall carefully record and preserve the bonds in his or her office and shall give certified copies thereof, when required, under the seal of his or her office, and shall be entitled to receive for the same the usual fee allowed by law for certified copies of records in other cases. (Neb. RS 11-110)

F. The approval of each official bond shall be endorsed upon such bond by the officer approving the same, and no bond shall be filed and recorded until so approved. (Neb. RS 11-111)

G. All official bonds shall obligate the principal and sureties for the faithful discharge of all duties required by law of such principal and shall inure to the benefit of any persons injured by a breach of the conditions of such bonds. (Neb. RS 11-112)

H. No official bond shall be rendered void by reason of any informality or irregularity in its execution or approval. (Neb. RS 11-113)

I. No city official shall be taken as security on the bond of any administrator, executor, or other officer from whom by law bond is or may be required. (Neb. RS 11-114)

J. If any person elected or appointed to any office neglects to have his or her official bond executed and approved as provided by law and filed for record within the time limited by this section, the City Clerk shall immediately issue an order to such person to show cause why he or she has failed to properly file such bond and why his or her office should not be declared vacant. If such person properly files the official bond within 10 days of the issuance of the show cause order for appointed officials or before the date for taking office for elected officials, such filing shall be deemed to be in compliance with this section. If such person does not file the bond within the required time and sufficient cause is not shown within that time, his or her office shall thereupon ipso facto become vacant and such vacancy shall thereupon immediately be filled by election or appointment as the law may direct in other cases of vacancy in the same office. (Neb. RS 11-115)

K. Any person appointed to fill a vacancy, before entering upon the duties of the office, must give a bond corresponding in substance and form with the bond required of the officer originally elected or appointed, as herein provided. (Neb. RS 11-116)

L. When the incumbent of an office is reelected or reappointed, he or she shall qualify by taking the oath and giving the bond as above directed, but when such officer has

had public funds or property in his or her control, his or her bond shall not be approved until he or she has produced and fully accounted for such funds and property. When it is ascertained that the incumbent of an office holds over by reason of the non-election or non-appointment of a successor or of the neglect or refusal of the successor to qualify, he or she shall qualify anew within 10 days from the time at which his or her successor, if elected, should have qualified. (Neb. RS 11-117)

M. No person shall be surety for the same officer for more than 2 successive terms of the same office, but this provision shall not apply to incorporated surety companies. (Neb. RS 11-118)

N. If the sureties on the official bond of any appointed officer of the city, in the opinion of the City Council, become insufficient, the City Council may, by resolution, fix a reasonable time within which the officer may give a new bond or additional sureties as directed. If the officer fails, refuses, or neglects to give a new bond or additional sureties to the satisfaction and approval of the City Council, the office shall, by such failure, refusal, or neglect, become vacant and it shall be the duty of the City Council to appoint a competent and qualified person to fill the office.

§1-302 BONDS: AMOUNTS.

The following officers shall file a bond in the penal sums set out below:

Treasurer/Clerk . . . . .	\$15,000.00
Police Deputy/Secretary. . . . .	\$500.00
City Bookkeepers . . . . .	\$3,000.00
City Cashiers . . . . .	\$3,000.00
Members - Board of Public Works . . . . .	\$5,000.00

§1-303 OATH OF OFFICE: MUNICIPAL OFFICIALS.

All officials of the Municipality, whether elected or appointed, except when a different oath is specifically provided herein, shall, before entering upon their respective duties, take and subscribe the following oath which shall be endorsed upon their respective bonds:

"I \_\_\_\_\_ do solemnly swear or affirm that I will support the Constitution of the United States and the Constitution of the State of Nebraska, against all enemies foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, and without mental reservation, or for the purpose of evasion; and that I will faithfully and impartially perform the duties of the office of \_\_\_\_\_, according to law, and to the best of my ability. And I do further swear that I do not advocate, nor am I a member of any political party or organization that advocates the

overthrow of the government of the United States or of this State by force, or violence; and that during such time as I am in this position I will not advocate, nor become a member of any political party or organization that advocates the overthrow of the government of the United States or of this State by force or violence. So help me God." (Ref. 11-101 RS Neb.)

#### Article 4. Corporate Seal

##### §1-401 SEAL: OFFICIAL CORPORATE.

The official corporate Seal of the Municipality shall be kept in the office of the Municipal Clerk, and shall bear the following inscription, "Corporate Seal, Tecumseh, Johnson County, Nebraska." The Municipal Clerk shall affix an impression of the said official seal to all warrants, licenses, permits, ordinances, and all other official papers issued by order of the Governing Body and countersigned by the Municipal Clerk. (Ref. 17-502 RS Neb.)

#### Article 5. Meetings

##### §1-501 DEFINITIONS.

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

**MEETING.** All regular, special, or called meetings, formal or informal, of a public body for the purposes of briefing, discussion of public business, formation of tentative policy, or the taking of any action.

**PUBLIC BODY.**

1.(a) The City Council;

(b) All independent boards, commissions, bureaus, committees, councils, subunits, or any other bodies created by the Constitution of Nebraska, statute, ordinance, or otherwise pursuant to law; and

(c) Advisory committees of the bodies listed above.

2. **PUBLIC BODY** does not include subcommittees of such bodies unless a quorum of the public body attends a subcommittee meeting or unless the subcommittees are holding hearings, making policy, or taking formal action on behalf of their parent body. (Neb. RS 84-1409)

**VIRTUAL CONFERENCING.**

Conducting or participating in a meeting electronically or telephonically with interaction among the participants. (Amended May 3, 2021)

§1-502 OPEN TO PUBLIC; NOTICE; AGENDA.

A. The formation of public policy is public business and may not be conducted in secret. Every meeting of a public body shall be open to the public in order that citizens may exercise their democratic privilege of attending and speaking at meetings of public bodies, except as otherwise provided by the Constitution of Nebraska, federal statutes, and the Open Meetings Act. (Neb. RS 84-1408)

B. Each public body shall give reasonable advance publicized notice of the time and place of each meeting by a method designated by the public body and recorded in its minutes. The notice shall be transmitted to all members of the public body and to the public. The notice shall contain an agenda of subjects known at the time of the publicized notice or a statement that the agenda, which shall be kept continually current, is readily available for public inspection at the office of the public body during normal business hours. Agenda items shall be sufficiently descriptive to give the public reasonable notice of the matters to be considered at the meeting. Except for items of an emergency nature, the agenda shall not be altered later than 24 hours before the scheduled commencement of the meeting or 48 hours before the scheduled commencement of a meeting of the City Council scheduled outside the corporate limits of the city. The public body shall have the right to modify the agenda to include items of an emergency nature only at such public meeting. (Neb. RS 84-1411)

§1-503 NOTICE TO NEWS MEDIA.

The City Clerk, in the case of the City Council, and the secretary or other designee of each other public body shall maintain a list of the news media requesting notification of meetings and shall make reasonable efforts to provide advance notification to them of the time and place of each meeting and the subjects to be discussed at that meeting. (Neb. RS 84-1411)

§1-504 COUNCIL MEETINGS; WHEN; QUORUM; VOTES.

A. Regular meetings of the City Council shall be held on the first Monday of every month at 5:00 p.m. and the third Monday of every month at 5:00 p.m., except if the first or third Monday of the month is a recognized holiday for Nebraska State Offices. If a regular Monday meeting falls on a recognized holiday for Nebraska State Offices, then the regular monthly meeting shall be held on the Tuesday immediately following the Monday holiday. Regular meetings of the City Council shall be held at the City Utility Building conference room. The date, time, or place of said regular meetings may be changed from time to time by resolution of the City Council. A majority of all the members elected to the City Council shall constitute a quorum for the transaction of any business, but a fewer number may adjourn from time to time and compel the attendance of absent members. Unless a greater vote is required by law, an affirmative vote of at least one-half (1/2) of the elected members shall be required for the transaction of any business. (Neb. RS 17-105)(Amended May 3,



2021)(Amended October 18, 2021)(Amended January 4, 2022)

B. 1. The Mayor or any 3 City Council members shall have power to call special meetings of the City Council, the object of which shall be submitted to the City Council in writing; and the call and object, as well as the disposition thereof, shall be entered upon the journal by the City Clerk. (Neb. RS 17-106)

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

C. Unless otherwise provided by the City Council, on the request of any 2 members, whether a quorum is present or not, all absent members shall be sent for and compelled to attend.

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

#### §1-505 EMERGENCY MEETINGS.

When it is necessary to hold an emergency meeting without reasonable advance public notice, the nature of the emergency shall be stated in the minutes and any formal action taken in that meeting shall pertain only to the emergency. Such emergency meetings may be held by means of virtual conferencing. The provisions of §1-503 shall be complied with in conducting emergency meetings. Complete minutes of such emergency meetings specifying the nature of the emergency and any formal action taken at the meeting shall be made available to the public by no later than the end of the next regular business day. (Neb. RS 84-1411)(Amended May 3, 2021)

#### §1-506 GOVERNOR DECLARED EMERGENCY.

A. Notwithstanding any section of Article 5 of this Code, if an emergency is declared by the Governor pursuant to the Emergency Management Act as defined in Section 81-829.39 Neb. Rev. Stat., and the territorial jurisdiction of the City is included in the emergency declaration, in whole or in part, the City may hold a meeting by virtual conferencing during such emergency if the public body gives reasonable advance publicized notice as described in Section 1-502 of this Code. The Notice shall include information regarding access for the public and news media. In addition to any formal action taken pertaining to the emergency, the public body may hold such meeting for purpose of briefing, discussion of public business, formation of tentative policy, or the taking of any action by the public body.

B. The City shall provide access by providing a dial-in number or a link to the virtual conference. The City shall also provide links to an electronic copy of the agenda, all documents being considered at the meeting, and the current Open Meetings Act. Reasonable arrangements shall be made to accommodate the public's right to hear and speak at the meeting and record the meeting. Section 1-503 of this Code shall be complied with in

conducting such meetings.

C. The nature of the emergency shall be stated in the minutes. Complete minutes of such meeting specifying the nature of the emergency and any formal action taken at the meeting shall be made available for inspection as provided in 1-513 of this Code. (May 3, 2021)

#### §1-507 ATTENDANCE OTHER THAN IN PERSON.

A public body may allow a member of the public or any other witness other than a member of the public body to appear before the public body by means of virtual conferencing. (Neb. RS 84-1411)(May 3, 2021)

#### §1-508 CLOSED SESSIONS.

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

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

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

B. The vote to hold a closed session shall be taken in open session. The entire motion, the vote of each member on the question of holding a closed session, and the time when the closed session commenced and concluded shall be recorded in the minutes. If the motion to close passes, then the presiding officer immediately prior to the closed session shall restate on the record the limitation of the subject matter of the closed session. The public body holding such a closed session shall restrict its consideration of matters during the closed portions to only those purposes set forth in the motion to close as the reason for the closed session. The meeting shall be reconvened in open session before any formal action may be taken. For purposes of this section, formal action means a collective decision or a collective commitment or promise to make a decision on any question, motion, proposal, resolution, order, or ordinance or formation of a position or policy but shall not

include negotiating guidance given by members of the public body to legal counsel or other negotiators in closed sessions authorized under division (A)(1)(a) of this section.

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

D. Nothing in this section shall be construed to require that any meeting be closed to the public. (Neb. RS 84-1410)(May 3, 2021)

#### §1-509 PROHIBITED ACTS; EXEMPT EVENTS.

A. No person or public body shall fail to invite a portion of its members to a meeting, and no public body shall designate itself a subcommittee of the whole body for the purpose of circumventing this sub-chapter or the Open Meetings Act. No closed session, informal meeting, chance meeting, social gathering, email, fax, or electronic communication shall be used for the purpose of circumventing the requirements of this sub-chapter or the Act.

B. This sub-chapter and the Act do not apply to chance meetings or to attendance at or travel to conventions or workshops of members of a public body at which there is no meeting of the body then intentionally convened, if there is no vote or other action taken regarding any matter over which the public body has supervision, control, jurisdiction, or advisory power. (Neb. RS 84-1410)(May 3, 2021)

#### §1-510 PUBLIC PARTICIPATION.

A. Subject to this sub-chapter and the Open Meetings Act, the public has the right to attend and the right to speak at meetings of public bodies, and all or any part of a meeting of a public body, except for closed sessions called pursuant to § 1-507, may be videotaped, televised, photographed, broadcast, or recorded by any person in attendance by means of a tape recorder, camera, video equipment, or any other means of pictorial or sonic reproduction or in writing.

B. It shall not be a violation of division (A) of this section for any public body to make and enforce reasonable rules and regulations regarding the conduct of persons attending, speaking at, videotaping, televising, photographing, broadcasting, or recording its meetings. A body may not be required to allow citizens to speak at each meeting, but it may not forbid public participation at all meetings.

C. No public body shall require members of the public to identify themselves as a condition for admission to the meeting. The body may require any member of the public desiring to address the body to identify himself or herself.

D. No public body shall, for the purpose of circumventing this sub-chapter or the Open Meetings Act, hold a meeting in a place known by the body to be too small to accommodate the anticipated audience.

E. No public body shall be deemed in violation of this section if it holds its meeting in its traditional meeting place which is located in this state.

F. No public body shall be deemed in violation of this section if it holds a meeting outside of this state if, but only if, a member entity of the public body is located outside of this state and the other requirements of Neb. RS 84-1412 are met.

G. The public body shall, upon request, make a reasonable effort to accommodate the public's right to hear the discussion and testimony presented at the meeting.

H. Public bodies shall make available at the meeting, for examination and copying by members of the public, at least one copy of all reproducible written material to be discussed at an open meeting. Public bodies shall make available at least one current copy of the Open Meetings Act posted in the meeting room at a location accessible to members of the public. At the beginning of the meeting, the public shall be informed about the location of the posted information. (Neb. RS 84-1412)(May 3, 2021)

#### §1-511 CITY COUNCIL; ORDER OF BUSINESS.

Promptly at the hour set by law on the day of each regular meeting, the members of the City Council, the Mayor, the City Clerk, and such other city officials that may be required shall take their regular stations in the meeting place, and the business of the city shall be taken up for consideration and disposition in the manner prescribed by the official agenda on file at the office of the City Clerk. (May 3, 2021)

#### §1-512 VOTES.

A. Any action taken on any question or motion duly moved and seconded shall be by roll call vote of the public body in open session, and the record shall state how each member voted, or if the member was absent or not voting. The requirements of a roll call or viva voce vote shall be satisfied by a city which utilizes an electronic voting device which allows the yeas and nays of each member of the City Council to be readily seen by the public.

B. The vote to elect leadership within a public body may be taken by secret ballot, but the total number of votes for each candidate shall be recorded in the minutes. (Neb. RS 84-1413)(May 3, 2021)

#### §1-513 CITY COUNCIL; PARLIAMENTARY PROCEDURE.

Unless the City Council provides otherwise, the rules of parliamentary procedure specified in this section shall apply to meetings of the City Council. The Mayor shall preserve order during meetings of the City Council and shall decide all questions of order, subject to an appeal to the City Council. When any person is called to order, he or she shall be seated until the point is decided. All resolutions or motions shall be reduced to writing before being acted upon, if requested by the City Clerk or any member of the City Council. No motion shall be put or debated unless seconded. When seconded, it shall be stated by the Mayor before being debatable. In all cases where a motion or resolution is entered on the minutes,

the name of the member of the City Council making the motion or resolution shall be entered also. After each vote, the "yeas" and "nays" shall be taken and entered in the minutes. Before the vote is actually taken, any resolution, motion, or proposed ordinance may be withdrawn from consideration by the sponsor with the consent of the member of the City Council seconding the resolution, motion, or ordinance. When, in the consideration of an ordinance, different times or amounts are proposed, the question shall be put on the largest sum, or the longest time. When any question is under debate, no motion shall be made, entertained, or seconded except the previous question, a motion to table, and to adjourn. Each of those motions shall be decided without debate. Any of the rules of the City Council for meetings may be suspended by a three-fourths (3/4) vote of the members present. In all cases in which provisions are not made by these rules, Robert's Rules of Order is the authority by which the City Council shall decide all procedural disputes that may arise. (May 3, 2021)

#### §1-514 MINUTES.

A. Each public body shall keep minutes of all meetings showing the time, place, members present and absent, and the substance of all matters discussed.

B. The minutes of all meetings and evidence and documentation received or disclosed in open session shall be public records and open to public inspection during normal business hours.

C. Minutes shall be written and available for inspection within 10 working days or prior to the next convened meeting, whichever occurs earlier, except that the city may have an additional 10 working days if the employee responsible for writing the minutes is absent due to a serious illness or emergency. (Neb. RS 84-1413)(May 3, 2021)

#### §1-515 CHANGE IN OFFICE.

A. The Mayor and City Council shall meet at the time and place of the first regular meeting in December in each election year, and the outgoing officers and the outgoing members of the City Council shall present their reports. Upon the outgoing City Council having completed its business, the outgoing members of the City Council shall surrender their offices to the incoming members, and the outgoing officers shall thereupon each surrender to their successors in office all property, records, papers, and moneys belonging to the same.

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

C. After ascertaining that all City Council members and officers are duly qualified

and after the Clerk has called the roll, the City Council shall elect a President of the City Council. The Mayor shall then proceed with the regular order of business. (May 3, 2021)

## Article 6. Ordinances

### §1-601 ORDINANCES: GRANT OF POWER.

The Governing Body shall have the responsibility of making all ordinances, by-laws, rules, regulations, and resolutions, not inconsistent with the laws of the State of Nebraska, as may be necessary and proper for maintaining the peace, good government, and welfare of the Municipality and its trade, commerce, and security. (Ref. 17-505 RS Neb.) (Amended October 1, 2012)

### §1-602 ORDINANCES: INTRODUCTION.

Ordinances shall be introduced by members of the Governing Body in either of the following ways:

1. With the recognition of the Mayor, a City Council 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 Municipal Clerk for future consideration; or

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

### §1-603 ORDINANCES: RESOLUTIONS AND MOTIONS.

Resolutions and motions shall be introduced in one of the methods prescribed for the introduction of ordinances. After their introduction, they shall be fully and distinctly read one (1) time in the presence and hearing of a majority of the members elected to the City Council. The issue raised by said resolutions or motions shall be disposed of in accordance with the usage of parliamentary law adopted for the guidance of the City Council. A majority vote shall be required to pass any resolution or motion. The vote on any resolution or motion shall be by roll call vote.

### §1-604 ORDINANCES: STYLE.

The style of all Municipal ordinances shall be:

"Be it ordained by the Mayor and City Council of the City of Tecumseh, Nebraska."  
(Ref. 17-613 RS Neb.)

§1-605 ORDINANCES: TITLE.

No ordinance shall contain a subject not clearly expressed in its title. (Ref. 17-614 RS Neb.)

§1-606 ORDINANCES: PASSAGE.

Ordinances, resolutions or orders for the appropriation of money shall require for their passage the concurrence of the majority of all the members elected of the City Council. The Mayor of the City may vote when his or her vote would provide the additional vote required to attain the number of votes equal to a majority of the number of members elected to the council, and the Mayor shall, for the purpose of such vote, be deemed to be a member of the council. Ordinances of a general or permanent nature shall be read by the title on three (3) different days. This requirement may be suspended by three-fourths (3/4) vote of the City Council, except that such requirement shall not be suspended for any Ordinance for the annexation of territory or the redrawing of boundaries for City Council election districts or wards, in such case said ordinance may be read by title or number and then moved for final passage. Three-fourths (3/4) of the City Council may require any ordinance to be read in full before final passage under either process. (Ref. 17-614 RS Neb.) (Amended November 4, 2013) (Amended September 4, 2018)

§1-607 ORDINANCES: PUBLICATION OR POSTING.

All ordinances of a general nature shall be published one (1) time within fifteen (15) days after they are passed in (a) a legal newspaper in or general circulation in the Municipality (b) in book or pamphlet form or (c) or electronic form. (Ref. 17-613 RS Neb.) (Amended by Ord. Nos. 728, 12/3/83; 766, 12/1/86) (Amended November 2017) Amended October 4, 2021)

§1-608 ORDINANCES: CERTIFICATE OF PUBLICATION OR POSTING.

The passage, approval, and publication or posting of all ordinances shall be sufficiently proven by a certificate under the Seal of the Municipality from the Municipal Clerk showing that the said ordinance was passed and approved, and when, and in what paper the same was published, or when, and by whom, and where the same was posted. When ordinances are printed in book or pamphlet form, purporting to be published by authority of the City Council, the same need not be otherwise published, and such book or pamphlet shall be received as evidence of the passage and legal publication of such ordinances as of the dates mentioned in such book or pamphlet, in all courts without further proof. (Ref. 17-613 RS Neb.) (Amended by Ord. No. 729, 12/3/83)

§1-609 ORDINANCES: EMERGENCY ORDINANCES.

In the case of riot, infectious or contagious diseases, or other upending danger,

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

#### §1-610 ORDINANCES: AMENDMENTS AND REVISIONS.

No ordinance or section thereof shall be revised or amended unless the new ordinance contains the entire ordinance or section as revised or amended, and the ordinance or action so amended shall be repealed. (Ref. 17-614 RS Neb.)

### Article 7. Elections

#### §1-701 REGISTERED VOTERS; QUALIFICATIONS.

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

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

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

#### §1-702 SPECIAL ELECTIONS.

A. 1. Except as provided in Neb. RS 77-3444, any issue to be submitted to the registered voters at a special election by the city shall be certified by the City Clerk to the Election Commissioner or County Clerk at least 50 days prior to the election. A special election may be held by mail as provided in Neb. RS 32-952 through 32-959. Any other special election under this section shall be subject to division (B) of this section.

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

3. After the Election Commissioner or County Clerk has received the certification of the issue to be submitted, he or she shall be responsible for all matters relating to the submission of the issue to the registered voters, except that the City Clerk shall be responsible for the publication or posting of any required special notice of the submission of the issue other than the notice required to be given of the statewide election issues. The Election Commissioner or County Clerk shall prepare the ballots and issue ballots for early



voting and shall also conduct the submission of the issue, including the receiving and counting of ballots on the issue. The election returns shall be made to the Election Commissioner or County Clerk. The ballots shall be counted and canvassed at the same time and in the same manner as the other ballots. Upon completion of the canvass of the vote by the County Canvassing Board, the Election Commissioner or County Clerk shall certify the election results to the City Council. The canvass by the County Canvassing Board shall have the same force and effect as if made by the City Council. (Neb. RS 32-559)

B. Any special election under the Election Act shall be held on the first Tuesday following the second Monday of the selected month unless otherwise specifically provided. No special election shall be held under the Election Act in April, May, June, October, November, or December of an even-numbered year unless it is held in conjunction with the statewide primary or general election. No special election shall be held under the Election Act in September of an even-numbered year except for a special election by a political subdivision pursuant to Section 13-519 or 77-3444 to approve a property tax levy or exceed a property tax levy limitation. (Neb. RS 32-405)(Amended May 3, 2021)

#### §1-703 ELECTION OF OFFICERS; CERTIFICATIONS REQUIRED.

No later than January 5 of each even-numbered year, the City Council shall certify to the Secretary of State, the Election Commissioner, or the County Clerk the name of the city, the number of officers to be elected, the length of the terms of office, the vacancies to be filled by election and length of remaining term, and the number of votes to be cast by a registered voter for each office. The Secretary of State, Election Commissioner, and County Clerk shall prescribe the forms to be used for certification to him or her. (Neb. RS 32-404)

#### §1-704 PARTISAN BALLOT; WHEN ALLOWED; REQUIREMENTS.

All elective city officers shall be nominated and elected on a nonpartisan basis unless the city provides for a partisan ballot by ordinance. No ordinance providing for nomination and election on a partisan ballot shall permit affiliation with any party not recognized as a political party for purposes of the Election Act. Such ordinance providing for nomination and election on a partisan ballot shall be adopted and effective not less than 60 days prior to the filing deadline. (Neb. RS 32-557)

#### §1-705 CANDIDATE FILING FORMS; DEADLINES; FILING OFFICER.

A. Any candidate for Mayor or the City Council may place his or her name on the primary election ballot by filing a candidate filing form prescribed by the Secretary of State as provided in division (B). If a candidate is an incumbent, the deadline for filing the candidate filing form shall be February 15 prior to the date of the primary election. No incumbent who resigns from elective office prior to the expiration of his or her term shall file for any office after February 15 of that election year. All other candidates shall file for office by March 1 prior to the date of the general election. (Neb. RS 32-606)

B. Candidate filing forms shall be filed in the office of the City Clerk, except that in

the case of joint elections, the filing may be either in the office of the Election Commissioner or County Clerk or in the office of the City Clerk with deputized personnel. When the City Clerk is deputized to take filings, he or she shall return all filings to the office of the Election Commissioner or County Clerk by the end of the next business day following the filing deadline. (Neb. RS 32-607)

#### §1-706 FILING FEE.

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

B. Except as provided in division (D) or (E) of this section, the filing fee shall be a sum equal to 1% of the annual salary such candidate will receive if he or she is elected and qualifies for the office for which he or she files as a candidate.

C. All declared write-in candidates shall pay the filing fees that are required for the office at the time that they present the write-in affidavit to the filing officer. Any undeclared write-in candidate who is nominated or elected by write-in votes shall pay the filing fee required for the office within 10 days after the canvass of votes by the county canvassing board and shall file the receipt with the person issuing the certificate of nomination or the certificate of election prior to the certificate being issued.

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

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

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

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

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

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

F. If any candidate dies prior to an election, the spouse of the candidate may file a claim for refund of the filing fee with the City Council prior to the date of the election. Upon approval of the claim by the City Council, the filing fee shall be refunded. (Neb. RS 32-608)

§1-707 PETITION, WRITE-IN, AND OTHER CANDIDATES FOR GENERAL ELECTION BALLOT; PROCEDURES.

A. 1. Any registered voter who was not a candidate in the primary election may have his or her name placed on the general election ballot for a partisan office by filing petitions as prescribed in this section and Neb. RS 32-621 or by nomination by political party convention or committee.

2. Any candidate who was defeated in the primary election and any registered voter who was not a candidate in the primary election may have his or her name placed on the general election ballot if a vacancy exists on the ballot under Neb. RS 32-625(2) and the candidate files for the office by petition as prescribed in divisions (B) and (C) of this section or files as a write-in candidate as prescribed in Neb. RS 32-615. (Neb. RS 32-616)

B. Petitions for nomination shall conform to the requirements of Neb. RS 32-628. Petitions shall state the office to be filled and the name and address of the candidate. Petitions for partisan office shall also indicate the party affiliation of the candidate. Petitions shall be signed by registered voters residing in the city, if candidates are chosen at large, or in the ward in which the officer is to be elected, if candidates are chosen by ward, and shall be filed with the filing officer in the same manner as provided for candidate filing forms in § 34.07. Petition signers and petition circulators shall conform to the requirements of Neb. RS 32-629 and 32-630. No petition for nomination shall be filed unless there is attached thereto a receipt showing the payment of the filing fee required pursuant to Neb. RS 32-608. The petitions shall be filed by September 1 in the year of the general election. (Neb. RS 32-617)

C. 1. The number of signatures of registered voters needed to place the name of a candidate upon the nonpartisan ballot for the general election shall be at least 10% of the total number of registered voters voting for Governor or President of the United States at the immediately preceding general election in the city or in the ward in which the officer is to be elected, as appropriate, not to exceed two thousand.

2. The number of signatures of registered voters needed to place the name of a candidate for an office upon the partisan ballot for the general election shall be at least 10% of the registered voters entitled to vote for the office. (Neb. RS 32-618) (Amended September 2016)

§1-708 ELECTIONS: WARDS.

The Municipality shall redistrict as often as necessary using the most recent Federal Census to insure that each ward is substantially equal in population. The Municipality shall stand divided into the following wards as set forth herein:

Ward Number 1

Ward Number 1 shall encompass that part of Tecumseh, Nebraska, lying South of Greeley Street and West of Fifth Street.

## Ward Number 2

Ward Number 2 shall encompass that part of Tecumseh, Nebraska, lying East of Fifth Street and South of Lincoln Street extended, all of Block 10, Kershaw's 1st Addition to Tecumseh and all of that part of Tecumseh, Nebraska lying North Lincoln Street and East of Highway 50.

## Ward Number 3

Ward Number 3 shall encompass all that part of Tecumseh, Nebraska, not included in Ward Number 1 and Ward Number 2 as previously defined. (Ref. 17-102 RS Neb.; 1-51, Code 1966) (Amended December 2001) (Amended November 7, 2011) (Amended December 20, 2021)

### §1-709 ELECTIONS: COUNCIL MEMBERS.

City Council members shall be elected from the Municipality in their respective wards as set out in 1-708. City Council members shall serve for a term of four (4) years and shall be a resident and qualified elector. Each nominee for City Council member shall be a resident and qualified elector of the ward for which he is a candidate, and only residents of that ward may sign the candidate's nomination petitions. (Ref. 5-108 RS Neb.)

### §1-710 ELECTIONS: BALLOTS.

The County Clerk shall provide printed ballots for every general Municipal election and the expense of printing and delivering the ballots and cards of instruction shall be a charge upon the Municipality. (Ref. 32-417, 32-418 RS Neb.)

### §1-711 ELECTIONS: CERTIFICATE OF ELECTION.

After the canvass of the vote at the Municipal election, the Municipal Clerk shall prepare a certificate of election for each person whom the Canvassing Board has declared to have received the highest vote, and in the form as nearly as possible prescribed by State Law, which shall be signed by the Mayor under the seal of the Municipality, and countersigned by the Municipal Clerk. The said certificate shall then be delivered to the persons so elected. (Ref. 19-3040, 19-3041, 32-4,111, 32-4,152 RS, Neb.)

### §1-712 RECALL PROCEDURE.

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

FILING CLERK. The Election Commissioner or County Clerk. (Neb. RS 32-1301)

B. 1. The Mayor, any member of the City Council, and any other elected official of the city may be removed from office by recall pursuant to this section.

2. The recall procedure and special election provisions of this section shall apply to members of the City Council who are elected by ward. Only registered voters of such member's ward may sign a recall petition or vote at the recall election. The recall election shall be held within the member's ward. When a member of the City Council is nominated by ward in the primary election and elected at large in the general election, the recall provisions shall apply to the registered voters at the general election. (Neb. RS 32-1302)

C. 1. A petition demanding that the question of removing the Mayor, a member of the City Council, or any other elected official be submitted to the registered voters shall be signed by registered voters equal in number to at least 35% of the total vote cast for that office in the last general election, except that for City Council office for which more than one candidate is chosen, the petition shall be signed by registered voters equal in number to at least 35% of the number of votes cast for the person receiving the most votes for such office at the last general election. The signatures shall be affixed to petition papers and shall be considered part of the petition.

2. Petition circulators shall conform to the requirements of Neb. RS 32-630.

3. The petition papers shall be procured from the filing clerk. Prior to the issuance of such petition papers, an affidavit shall be signed and filed with the filing clerk by at least one registered voter. Such voter or voters shall be deemed to be the principal circulator or circulators of the recall petition. The affidavit shall state the name and office of the official sought to be removed, shall include in typewritten form in concise language of 60 words or less the reason or reasons for which recall is sought, and shall request that the filing clerk issue initial petition papers to the principal circulator for circulation. The filing clerk shall notify the official sought to be removed by any method specified in Neb. RS 25-505.01 or, if notification cannot be made with reasonable diligence by any of the methods specified in Neb. RS 25-505.01, by leaving a copy of the affidavit at the official's usual place of residence and mailing a copy by first-class mail to the official's last-known address. If the official chooses, he or she may submit a defense statement in typewritten form in concise language of 60 words or less for inclusion on the petition. Any such defense statement shall be submitted to the filing clerk within 20 days after the official receives the copy of the affidavit. The filing clerk shall notify the principal circulator or circulators that the necessary signatures must be gathered within 30 days from the date of issuing the petitions.

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

5. Petition signers shall conform to the requirements of Neb. RS 32-629 and 32-630. Each signer of a recall petition shall be a registered voter and qualified by his or her place of residence to vote for the office in question. (Neb. RS 32-1303)

D. Each petition paper shall conform to the requirements of Neb. RS 32-1304.

E. 1. The principal circulator or circulators shall file, as one instrument, all petition

papers comprising a recall petition for signature verification with the filing clerk within 30 days after the filing clerk issues the initial petition papers to the principal circulator or circulators as provided in division (C) of this section.

2. Within 15 days after the filing of the petition, the filing clerk shall ascertain whether or not the petition is signed by the requisite number of registered voters. No new signatures may be added after the initial filing of the petition papers. No signatures may be removed unless the filing clerk receives an affidavit signed by the person requesting his or her signature be removed before the petitions are filed with the filing clerk for signature verification. If the petition is found to be sufficient, the filing clerk shall attach to the petition a certificate showing the result of such examination. If the requisite number of signatures has not been gathered, the filing clerk shall file the petition in his or her office without prejudice to the filing of a new petition for the same purpose. (Neb. RS 32-1305)

F. 1. If the recall petition is found to be sufficient, the filing clerk shall notify the official whose removal is sought and the City Council that sufficient signatures have been gathered. Notification of the official sought to be removed may be by any method specified in Neb. RS 25-505.01 or, if notification cannot be made with reasonable diligence by any of the methods specified in Neb. RS 25-505.01, by leaving such notice at the official's usual place of residence and mailing a copy by first-class mail to the official's last-known address.

2. If the official does not resign within 5 days after receiving the notice, the City Council shall order an election to be held not less than 30 nor more than 45 days after the expiration of the 5-day period, except that if any other election is to be held in the city within 90 days of the expiration of the 5-day period, the City Council shall provide for the holding of the removal election on the same day. After the City Council sets the date for the recall election, the recall election shall be held regardless of whether the official whose removal is sought resigns before the recall election is held.

3. If the City Council fails or refuses to order a recall election within the time required, the election may be ordered by the district court having jurisdiction over a county in which the elected official serves. (Neb. RS 32-1306)

G. The form of the official ballot at a recall election held pursuant to division (F) of this section shall conform to the requirements of Neb. RS 32-1307.

H. 1. If a majority of the votes cast at a recall election are against the removal of the official named on the ballot or the election results in a tie, the official shall continue in office for the remainder of his or her term but may be subject to further recall attempts as provided in division (I) of this section.

2. If a majority of the votes cast at a recall election are for the removal of the official named on the ballot, he or she shall, regardless of any technical defects in the recall petition, be deemed removed from office unless a recount is ordered. If the official is deemed removed, the removal shall result in a vacancy in the office which shall be filled as otherwise provided in this section and Neb. RS 32-567 to 32-570.

3. If the election results show a margin of votes equal to 1 % or less between the removal or retention of the official in question, the Secretary of State, Election Commissioner, or County Clerk shall order a recount of the votes cast unless the official named on the ballot files a written statement with the filing clerk that he or she does not want a recount.

4. If there are vacancies in the offices of a majority or more of the members of the City Council or any other governing body at one time due to the recall of such members, a special election to fill such vacancies shall be conducted as expeditiously as possible by the Secretary of State, Election Commissioner, or County Clerk.

5. No official who is removed at a recall election or who resigns after the initiation of the recall process shall be appointed to fill the vacancy resulting from his or her removal or the removal of any other member of the same governing body during the remainder of his or her term of office. (Neb. RS 32-1308)

I. No recall petition shall be filed against an elected official within 12 months after a recall election has failed to remove him or her from office or within 6 months after the beginning of his or her term of office or within 6 months prior to the incumbent filing deadline for the office. (Neb. RS 32-1309)

#### §1-713 EXIT POLLS.

No person shall conduct an exit poll, a public opinion poll, or any other interview with voters on election day seeking to determine voter preference within 20 feet of the entrance of any polling place or, if inside the polling place or building, within 100 feet of any voting booth. (Neb. RS 32-1525)

### Article 8. Fiscal Management

#### §1-801 FISCAL YEAR.

The fiscal year of the City shall commence on October 1 and extend through the following September 30. (Ref. Neb. Rev. Stat. §17-701)

#### §1-802 BUDGET PROCEDURE.

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

#### §1-803 BUDGET STATEMENT; FILING.

1. The City Council shall adopt a budget statement pursuant to the Nebraska Budget Act, to be termed "The Annual Appropriation Bill," in which the City Council shall appropriate such sums of money as may be deemed necessary to defray all necessary expenses and liabilities of the City. Such budget statement shall be prepared on forms prescribed and furnished by the state auditor and shall contain that information required by the aforementioned Manual of Instructions for City/Village: Budgets. (Ref. Neb. Rev. Stat. §17-706)

2. The annual appropriation bill shall not be amended without a majority vote of the City Council after a public hearing. Notice of the time and place of the hearing shall be

published at least four calendar days prior to the hearing date in a newspaper of general circulation within the City. For purposes of such notice, the four calendar days shall include the day of the publication, but not the day of the hearing. The income arising from the operation of proprietary functions shall be deemed especially appropriated to the payment of the current expenses of and to the cost of improvements, extensions and additions to such functions and shall not be included in the annual appropriation bill. (Ref. Neb. Rev. Stat. §13-504) (Amended November 2017)

#### §1-804 BUDGET HEARING.

Following the filing of the proposed budget statement, the City Council shall publish a proposed budget and conduct a public hearing on the said proposed budget statement. Notice of the place and time of the hearing, as well as a copy of the proposed budget, shall be published at least four calendar days prior to the hearing date in a newspaper of general circulation in the City. For purposes of such notice, the four calendar days shall include the day of the publication, but not the day of the hearing. After such hearing, the statement shall be adopted, or amended and adopted as amended, and a written record shall be made of such hearing. If the adopted budget statement reflects a change from that shown in the published proposed budget statement, a summary of such changes shall be published within 20 calendar days after its adoption. (Ref. Neb. Rev. Stat. §13-506) (Amended November 2017)

#### §1-805 BUDGET FILING.

The City Council shall file with and certify to the levying board and file with the state auditor a copy of the adopted budget statement, together with the amount of the tax to be levied and proof of publication. Such filing shall be made on or before September 20th. The City Council shall not certify any tax that exceeds the maximum levy prescribed by state law; provided, in certifying the amount to be so levied, allowance may be made for delinquent taxes not exceeding 5% of the amount to be levied plus the actual percentage of delinquent taxes for the preceding tax year. (Ref. Neb. Rev. Stat. §13-508)

#### §1-806 ANNUAL AUDIT.

1. The City Council shall cause an audit of the city's accounts to be made by a recognized independent and qualified accountant as expeditiously as possible following the close of the fiscal year and to cover all financial transactions and affairs of the City for such preceding fiscal year. Such audit shall be made on a cash or accrual method at the discretion of the City. Such audit shall be completed and the annual audit report made by such accountant submitted within six months of the close of the fiscal year in any event, unless an extension of time shall be granted by a written resolution of the City Council.

2. All public utilities shall be audited separately, and the results of such audits shall appear separately in the annual audit report. The audit shall be a form that is in general conformity with accepted accounting principles and shall set forth the financial position for



each fund of the City as well as an opinion by the accountant with respect to the financial statements. Two copies of the annual report shall be filed with the city clerk, becoming a part of the public records of the clerk's office, and will at all times thereafter be open for public inspection. One copy shall be filed with the state auditor. (Ref. Neb. Rev. Stat. §19-2901 through 19-2909)

#### §1-807 ALL-PURPOSE LEVY.

The City Council has determined that the amount of money to be raised by taxation shall be certified to the county clerk in the form of one all-purpose levy instead of certifying a schedule of levies for specific purposes added together. Said all-purpose levy shall not exceed an annual levy in excess of the legal maximum as prescribed by state law upon the assessed valuation of all taxable property in the City, except intangible property. (Ref. Neb. Rev. Stat. §17-702)

#### §1-808 CONTRACTS AND PURCHASES; BIDDING AND OTHER REQUIREMENTS.

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

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

C. Advertisements for bids shall be required for any contract costing over \$30,000 entered into:

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

2. For the purchase of equipment used in the construction of the enlargement or general improvements.

D. A city electric utility may enter into a contract for the enlargement or improvement of the electric system or for the purchase of equipment used for the enlargement or improvement without advertising for bids if the price is:

1. \$30,000 or less;
2. \$60,000 or less and the city electric utility has gross annual revenue from retail sales in excess of \$1,000,000;
3. \$90,000 or less and the city electric utility has gross annual revenue from

retail sales in excess of \$5,000,000; or

4. \$120,000 or less and the city electric utility has gross annual revenue from retail sales in excess of \$10,000,000.

E. The advertisement provided for in division (C) of this section shall be published at least 7 days prior to the bid closing in a legal newspaper published in or of general circulation in the city, and if there is no legal newspaper published in or of general circulation in the city, then in some newspaper of general circulation published in the county in which the city is located, and if there is no legal newspaper of general circulation published in the county in which the city is located, then in a newspaper, designated by the County Board, having a general circulation within the county where bids are required, and if no newspaper is published in the city or county, or if no newspaper has general circulation in the county, then by posting a written or printed copy thereof in each of 3 public places in the city at least 7 days prior to the bid closing. In case of a public emergency resulting from infectious or contagious diseases, destructive windstorms, floods, snow, war, or an exigency or pressing necessity or unforeseen need calling for immediate action or remedy to prevent a serious loss of or serious injury or damage to life, health, or property, estimates of costs and advertising for bids may be waived in the emergency ordinance authorized by Neb. RS 17-613 when adopted by a 3/4 vote of the City Council and entered of record.

F. If, after advertising for bids as provided in this section, the City Council receives fewer than 2 bids on a contract or if the bids received by the City Council contain a price which exceeds the estimated cost, the City Council may negotiate a contract in an attempt to complete the proposed enlargement or general improvements at a cost commensurate with the estimate given.

G. If the materials are of such a nature that, in the opinion of the manufacturer and with the concurrence of the City Council or Board of Public Works, no cost can be estimated until the materials have been manufactured or assembled to the specific qualifications of the city, the City Council or Board of Public Works may authorize the manufacture and assemblage of those materials and may thereafter approve the estimated cost expenditure when it is provided by the manufacturer. (Neb. RS 17-568.01)

H. Any city bidding procedure may be waived by the City Council or Board of Public Works:

1. When materials or equipment are purchased at the same price and from the same seller as materials or equipment which have formerly been obtained pursuant to the state bidding procedure in Neb. RS 81-145 through 81-162; or

2. When the contract is negotiated directly with a sheltered workshop pursuant to Neb. RS 48-1503. (Neb. RS 17-568.02)

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

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

PERSONAL PROPERTY. Includes but is not limited to supplies, materials, and

equipment used by or furnished to any officer, office, department, institution, board, or other agency.

PURCHASING or PURCHASE. The obtaining of personal property by sale, lease, or other contractual means. (Neb. RS 18-1756)

#### §1-809 CLAIMS.

All claims against the City shall be presented to the City Council in writing, and no claim or demand shall be audited or allowed unless presented as provided for in this section. No costs shall be recovered against the City in any action brought against it for an unliquidated claim which has not been presented to the City Council to be audited, nor upon claims allowed in part unless the recovery shall be for a greater sum than the amount allowed, with the interest due. No order or warrant shall be drawn in excess of 85% of the current levy for the purpose for which it is drawn unless there shall be sufficient money in the city treasury for the appropriate fund against which it is to be drawn; provided that in the event there exist obligated funds from the federal and/or state government for the general purpose of such warrant, then such warrant may be drawn in excess of 85% but not more than 100% of the current levy for the purpose for which said warrant is drawn. (Ref. Neb. Rev. Stat. §17-714, 17-715)

#### §1-810 WARRANTS.

All warrants drawn upon the city treasury must be signed by the mayor and countersigned by the city clerk, stating the particular fund to which the warrant is chargeable, the person to whom it is payable, and the purpose of the expenditure. No money shall be otherwise paid than upon warrants so drawn. Each warrant shall specify the amount included of such fund. (Ref. Neb. Rev. Stat. §17-711)

#### §1-811 TRANSFER OF FUNDS.

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

2. Notice of the place and time for the said hearing shall be published at least five days prior to the date set for the hearing in a newspaper of general circulation in the City. The published notice shall set forth the time and place of the proposed hearing, the amount of additional money required, the purpose of the required money, a statement stating the

reasons why the adopted budget of expenditures cannot be reduced to meet the need for additional money, and a copy of the summary of the originally adopted budget previously published.

3. Upon the conclusion of the public hearing on the proposed supplemental budget and approval by the City Council, said board shall file with the county clerk and the state auditor a copy of the supplemental budget and shall certify the amount of additional tax to be levied. The City Council may then issue warrants in payment for expenditures authorized by the adopted supplemental budget. The said warrants shall be referred to as "registered warrants" and shall be repaid during the next fiscal year from funds derived from taxes levied therefor. (Ref. Neb. Rev. Stat. §13-510, 13-511)

#### §1-812 SPECIAL ASSESSMENT FUND.

All money received on special tax assessments shall be held by the city treasurer as a special fund to be applied to the payment of the improvement for which the assessment was made. (Ref. Neb. Rev. Stat. §17-710)

#### §1-813 SINKING FUNDS.

1. The City Council, subject to the limitations set forth herein, shall have the power to levy a tax not to exceed that prescribed by state law in addition to the amount of tax which may be annually levied for the purposes of the adopted budget statement of the City for the purpose of establishing a sinking fund for the construction, purchase, improvement, extension or repair of the approved uses as authorized by state law. To initiate the said sinking fund, the City Council shall declare its purpose by resolution to submit to the qualified electors of the City the proposition to provide the improvement at the next general city election. The resolution shall set forth the improvement, the estimated cost, the amount of the annual levy, the number of years required to provide the required revenue, the name of the sinking fund proposed, and the proposition as it will appear on the ballot. Notice of the said proposition shall be published in its entirety for three successive weeks before the day of the election in a legal newspaper of general circulation in the City.

2. The sinking fund may be established after the election if a majority or more of the legal votes were in favor of the establishment of the fund. The City Council may then proceed to establish the said fund in conformity with the provisions of the proposition and applicable state law. The funds received by the city treasurer shall, as they accumulate, be immediately invested with the written approval of the City Council in the manner provided by state law. No sinking fund so established shall be used for any purpose or purposes contrary to the purpose as it appeared on the ballot unless the City Council is authorized to do so by 60% of the qualified electors of the City voting at a general election favoring such a change in the use of the sinking fund. (Ref. Neb. Rev. Stat. §19-1301 through 19-1304, 77-2337, 77-2339)

#### §1-814 DEPOSIT OF FUNDS.

The City Council, at its first meeting in each fiscal year, shall designate one or more banks of approved and responsible standing in which the city treasurer shall at all times keep all money held by him/her; provided, if more than one bank in the City meets the requirements for approved banks as herein defined, the said funds shall be deposited in each of them and the city treasurer shall not give a preference to any one or more of them in the money he/she shall deposit. A bond shall be required from all banks so selected in a penal sum which equals the maximum amount on deposit at any time less the amount insured by the Federal Deposit Insurance Corporation or a pledge of sufficient assets of the bank to secure the payment of all such deposits. (Ref. Neb. Rev. Stat. §17-607, 77-2362 through 77-2364)

#### §1-815 INVESTMENT OF FUNDS.

The City Council may, by resolution, direct and authorize the city treasurer to invest surplus funds in the outstanding bonds or registered warrants of the City and other approved bonds and obligations as provided by law. The interest on such bonds or warrants shall be credited to the fund out of which the said bonds or warrants were purchased. (Ref. Neb. Rev. Stat. §17-608, 17-609, 72-1259, 77-2341)

#### §1-816 EXPENDITURES.

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

The City Council may, after meeting all the requirements of state law, issue bonds, fund bonds, and retire bonds for such purposes as may be permitted by state law. The City Council shall have the authority to levy special assessments for the payment of interest and principal on such bonds and may spread the payments up to the maximum number of years permitted by state law. (Ref. Neb. Rev. Stat. §10-201 through 10-411, 10-606 through 10-612, 12-1001, 17-529.08, 17-534, 17-905, 17-908, 17-911, 17-939, 17-958, 17-968, 18-1801 through 18-1805, 23-3513, 39-836)

#### §1-817 MOTOR VEHICLE TAX.

The City Council may levy a tax on all motor vehicles owned or used in the City, which shall be paid to the county treasurer when the registration fees as provided in Neb. Rev. Stat. §60-329 to 60-339 are paid. Such taxes shall be credited by the county treasurer to the Road Fund of the City. Such funds shall be used by the City for constructing, resurfacing, maintaining or improving streets, roads, alleys, public ways or parts thereof, for the amortization of bonded indebtedness when created for such purposes. (Ref. Neb. Rev. Stat. §18-1214)

## Article 9. Compensation

### §1-901 COMPENSATION: MUNICIPAL OFFICIALS.

The Compensation of any elective official of the Municipality shall not be increased or diminished during the term for which he shall have been elected except when there has been a merger of offices; Provided, the compensation of the members of the Governing Body, a board, or commission may be increased or diminished at the beginning of the full term of any member whether or not the terms of one or more members commence and end at different times. No elected official may be rehired at a greater salary if he resigns and desires to be rehired during the unexpired term of office. He may be rehired after the term of office during which he resigned at a greater salary. The salaries of all elected officials, appointed officials and employees of the City shall be set by ordinance of the Governing Body and will be available for public inspection at the office of the Municipal Clerk; Provided the Board of Public Works of the City of Tecumseh, with consent of the City Council, shall establish the salaries of all employees thereunder by resolution and will be available for public inspection at the office of the Municipal Clerk. (Ref. 17-108.02, 17-612 RS Neb.)

### §1-902 CONFLICT OF INTEREST INVOLVING CONTRACTS.

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

#### BUSINESS ASSOCIATION.

(a) A business:

1. In which the individual is a partner, limited liability company member, director, or officer; or
2. In which the individual or a member of the individual's immediate family is a stockholder of closed corporation stock worth \$1,000 or more at fair market value or which represents more than a 5% equity interest or is a stockholder of publicly traded stock worth \$10,000 or more at fair market value or which represents more than 10% equity interest.

(b) An individual who occupies a confidential professional relationship protected by law shall be exempt from this definition. This definition shall not apply to publicly traded stock under a trading account if the filer reports the name and address of the stockbroker. (Neb. RS 49-1408)

IMMEDIATE FAMILY. A child residing in an individual's household, a spouse of an individual, or an individual claimed by that individual or that individual's spouse as a dependent for federal income tax purposes. (Neb. RS 49-1425)

OFFICER. (a) Includes:

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

2. Any elected city official.

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

B. 1. Except as provided in Neb. RS 49-1499.04 or 70-624.04, no officer may have an interest in any contract to which his or her governing body, or anyone for its benefit, is a party. The existence of such an interest in any contract shall render the contract voidable by decree of a court of competent jurisdiction as to any person who entered into the contract or took assignment of the contract with actual knowledge of the prohibited conflict. An action to have a contract declared void under this section may be brought by the County Attorney, the governing body, or any resident within the jurisdiction of the governing body and shall be brought within one year after the contract is signed or assigned. The decree may provide for the reimbursement of any person for the reasonable value of all money, goods, material, labor, or services furnished under the contract, to the extent that the governing body has benefitted thereby.

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

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

(b) Will receive a direct pecuniary fee or commission as a result of the contract.

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

1. Makes a declaration on the record to the governing body responsible for approving the contract regarding the nature and extent of his or her interest prior to official consideration of the contract;

2. Does not vote on the matters of granting the contract, making payments pursuant to the contract, or accepting performance of work under the contract, or similar matters relating to the contract, except that if the number of members of the governing body declaring an interest in the contract would prevent the body with all members present from securing a quorum on the issue, then all members may vote on the matters; and

3. Does not act for the governing body which is a party to the contract as to inspection or performance under the contract in which he or she has an interest.

D. An officer who has no business association with the business involved in the contract, or will not receive a direct pecuniary fee or commission as a result of the contract, shall not be deemed to have an interest within the meaning of this section.

E. The receiving of deposits, cashing of checks, and buying and selling of warrants and bonds of indebtedness of any such governing body by a financial institution shall not be considered a contract for purposes of this section. The ownership of less than 5% of the outstanding shares of a corporation shall not constitute an interest within the meaning of this section.

F. If an officer's parent, spouse, or child is an employee of the officer's governing body, the officer may vote on all issues of the contract which are generally applicable to all employees, or all employees within a classification, and do not single out his or her parent, spouse, or child for special action.

G. Neb. RS 49-14,102 does not apply to contracts covered by this section. (Neb. RS 49-14,103.01)

H. 1. The person charged with keeping records for the governing body shall maintain separately from other records a ledger containing the information listed in divisions (H)(1)(a) through (H)(1)(e) of this section about every contract entered into by the governing body in which an officer of the body has an interest and for which disclosure is made pursuant to division (C) of this section. This information shall be kept in the ledger for 5 years from the date of the officer's last day in office and shall include:

- (a) The names of the contracting parties;
- (b) The nature of the interest of the officer in question;
- (c) The date that the contract was approved by the governing body;
- (d) The amount of the contract; and
- (e) The basic terms of the contract.

2. The information supplied relative to the contract shall be provided no later than 10 days after the contract has been signed by both parties. The ledger kept pursuant to this division (H) shall be available for public inspection during the normal working hours of the office in which it is kept. (Neb. RS 49-14,103.02)

I. An open account established for the benefit of any governing body with a business in which an officer has an interest shall be deemed a contract subject to this section. The statement required to be filed by division (H) of this section shall be filed within 10 days after the account is opened. Thereafter, the person charged with keeping records for the governing body shall maintain a running account of amounts purchased on the open account. Purchases made from petty cash or a petty cash fund shall not be subject to this section. (Neb. RS 49-14,103.03)

J. Notwithstanding divisions (A) through (I) of this section, the governing body may prohibit contracts over a specific dollar amount in which an officer of the governing body may have an interest. (Neb. RS 49-14,103.05)

K. The governing body hereby exempts from divisions (A) through (I) of this section, contracts involving \$100 or less in which an officer of that body may have an interest. (Neb. RS 49-14,103.06)

Other provisions on conflicts of interest, see Neb. RS 18-305 through 18-312 and 49-1499.03 through 49-14,103; Penalty for violation of restrictions on contracts, see Neb. RS 49-14,103.04

### §1-903 Compensation: Mayor and City Council Members

That the annual salary for the Mayor of the City of Tecumseh shall be \$3,000.00 and that the annual salary of the City Council Members of the City Council of the City of Tecumseh, Nebraska, shall be \$1,500.00. Effective January 1, 2023, the Mayor's salary shall increase to \$5,500.00 and the salary for the City Council members shall increase to \$4,000.00. (Ord. No. 90-828, 4/16/90; 6/6/22)

[Editor's Note: Article 10 was adopted in its entirety by Ordinance No. 732, passed on October 3, 1983 and amended by Ordinance No. 772, passed on December 1, 1986]



## Article 10. Intergovernmental Risk Management

### §1-1001 INTERGOVERNMENTAL RISK MANAGEMENT: AUTHORITY.

The Governing Body and any one or more public agencies, as defined in Section 44-4303 RS Neb., may make and execute an agreement providing for joint and cooperative action in accordance with Sections 44-4301 through 44-4339 RS Neb., to form, become members of, and operate a risk management pool for the purpose of providing to members risk management services and insurance coverages in the form of group self-insurance or standard insurance, including any combination of group self-insurance and standard insurance, to protect members against losses arising from any of the following:

1. General liability;
  2. Damage, destruction, or loss of real or personal property, including but not limited to, loss of use or occupancy, and loss of income or extra expense resulting from loss of use or occupancy;
  3. Errors and omissions liability; and
  4. Workers' compensation liability.
- (Ref. 44-4301 thru 44-4339 RS Neb.) (Ord. No. 90-802, 4/16/90)

## Article 11. Penal Provision

### §1-1101 VIOLATION: PENALTY.

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

Chapter 2  
COMMISSIONS AND BOARDS

Article 1. Standing Committees

§2-101 STANDING COMMITTEES; GENERAL PROVISIONS.

At the organizational meeting of the City Council, the Mayor shall appoint a council member to replace any council member serving as an ex-officio member on any commission or board that was not reelected to serve on the City Council. Other council members serving as ex-officio members on boards and commissions shall be appointed at the same time as the other appointed officials in June of each year. The Mayor may change the council member appointed for a board or commission at any time.

The following boards and commissions shall have a council member acting as an ex-officio member of said commission or board:

Library Board  
Parks and Recreation Commission  
Community Building Commission  
Mini-Bus Advisory Board  
Streets, Alleys, Sidewalks and Signs  
Housing Authority

Article 2. Commissions and Boards

§2-201 LIBRARY BOARD.

The Library Board shall be appointed at the same time as the other appointed officials in June of each year. The nominated members must receive a majority vote of the Governing Body. The Board shall consist of five (5) members who shall be residents of the Municipality. The members of the Library Board shall serve a four (4) year term of office as specified by Nebraska Statutes. The Board shall serve without compensation and may be required, in the discretion of the Governing Body, to give a bond in a sum set by resolution of the Governing Body, and conditioned upon the faithful performance of their duties. At the time of the Board's first (1st) meeting in July of each year, the Board shall organize by selecting from their number a chairman and secretary. It shall be the duty of the secretary to keep the full and correct minutes and records of all meetings, and to file the same with the Municipal Clerk where they shall be available for public inspection at any reasonable time. A majority of the Board members shall constitute a quorum for the transaction of business. The Board shall meet at such times as the Governing Body may designate. Special meetings may be held upon the call of the chairman, or any three (3) members of the Board. The Library Board shall have the authority to appoint a librarian and all other employees. It shall be the duty of the Board to have general charge of the Municipal Library and to establish appropriate rules and regulations for the management, operation, and use of the same. The Board shall have supervisory authority over all employees of the library including the librarian. All

actions of the Board shall be subject to the review and supervision of the Governing Body. The Board shall be responsible for making such reports and performing such additional duties as the Governing Body may designate from time to time. No member of the Governing Body shall serve as a member of the Library Board while serving a term of office as a member of the Governing Body. However, a City Council member may serve as an ex-officio member with no vote. No member of the Library Board shall serve in the capacity of both the chairman and secretary of the Board. (Ref. 51-202 RS Neb.)

#### §2-202 PLANNING COMMISSION.

The Governing Body shall appoint the Planning Commission, which shall consist of nine (9) members and one (1) alternate member, who shall represent, insofar as is possible, the different professions or occupations in the Municipality and who shall be residents of the Municipality. However two (2) of such members may be residents of the area over which the Municipality is authorized to exercise extraterritorial zoning and subdivision regulations. The members of the Commission shall serve a three (3) year term of office unless reappointed. The Commission shall serve without compensation and may be required, in the discretion of the Governing Body, to give a bond in a sum set by resolution of the Governing Body, and conditioned upon the faithful performance of their duties. At the time of the Commission's first (1st) meeting in December of each year, the Commission shall organize by selecting from its membership a chairman and secretary. It shall be the duty of the secretary to keep the full and correct minutes and records of all meetings and to file the same with the Municipal Clerk where they shall be available for public inspection at any reasonable time. The Planning Commission shall be funded by the Governing Body from time to time out of the General Fund. A majority of the Commission shall constitute a quorum for the purpose of doing business. Special meetings may be held upon the call of the chairman, or any three (3) members of the Commission. The Planning Commission shall hold at least one (1) regular meeting each calendar quarter. If no business is pending before the Commission, the chair person may cancel a quarterly meeting, but no more than three quarterly meetings may be cancelled per calendar year. It shall be the duty of the Commission to make and adopt plans for the physical development of the Municipality, including any areas outside its boundaries which, in the Commission's judgment, bear relation to the planning of the Municipality. The Governing Body authorizes the Planning Commission to make recommendations to the City Council as to whether to grant conditional uses or special exceptions to property owners for the use of their property. All actions by the Commission shall be subject to the review and supervision of the Governing Body. The Commission shall be responsible for making such reports and performing such other duties as the Governing Body may, from time to time, designate. No member of the Planning Commission shall serve in the capacity of both the chairman and secretary of the Commission. A regular or alternate member of the Planning Commission may hold any other Municipal office except (a) Mayor; (b) member of the City Council or Village Board of Trustees; (c) a member of any community redevelopment authority or limited community redevelopment authority created under Neb. Rev. Stat. § 18-2102.01; or (d) a member of any Citizen Advisory Review Committee created under Neb. Rev. Stat. §18-2715. (Ref. 18-1302

thru 18-1306 RS Neb.)(Amended November 2017)(Amended May 3, 2021)

## §2-203 BOARD OF ADJUSTMENT.

The Governing Body shall appoint the Board of Adjustment which shall consist of five (5) regular members plus one (1) additional member designated as an alternate who shall attend and serve only when one of the regular members is unable to attend for any reason. Each member of the Board shall serve a term of three (3) years, unless reappointed, and shall be removable only for good and sufficient cause by the Governing Body upon written charges and after a public hearing. The members of the Board shall serve without compensation and may be required, in the discretion of the Governing Body, to give a bond in a sum set by resolution of the Governing Body, and conditioned upon the faithful performance of their duties. One (1) member of the Board of Adjustment shall be at the same time a member of the Planning Commission at all times. Upon the loss of membership on the Planning Commission the said member shall also lose his membership on the Board of Adjustment. The Board shall organize at its first (1st) meeting in December of each year and elect from its membership a chairman and secretary. It shall be the duty of the secretary to keep complete and accurate minutes of all Board meetings and to file the same at the office of the Municipal Clerk for examination at any reasonable time by the public. The Board of Adjustment shall be funded from time to time out of the General Fund by the Governing Body. Meetings of the Board shall be held at such times as the Governing Body may designate, or at such other times as the chairman may, in his discretion call a meeting. Special meetings may be also held upon the call of any three (3) members of the Board. A majority of the board shall constitute a quorum for the purpose of doing business. It shall be the duty of the Board to hear and decide appeals where it is alleged that there is error in any order, requirement, decision, or determination made by a Municipal official based on any zoning ordinance of the Municipality; to hear and decide in accordance with the provisions of any zoning ordinance, requests for interpretation of any map; and authorize a variance from the strict application of any zoning ordinance if it is found that a specific piece of property, due to exceptional specifications existing at the time of passage of the said ordinance, would result in exceptional difficulties and undue hardship; Provided, that no variance shall be granted if the undue hardship appears to affect the property in the district generally, or if the situation of the property concerned appears to be so general or recurring in nature as to make reasonably practicable, the formulation of a general regulation to be adopted by the Governing Body as an ordinance. The concurring vote of four (4) members of the Board shall be necessary to reverse any order, requirement, decision, or determination made by a Municipal official on any matter which was governed by any Municipal zoning ordinance. The Board shall be responsible for making such reports and performing such other duties as the Governing Body may designate. No member of the Governing Body shall serve as a member of the Board of Adjustment. No member of the Board of Adjustment shall serve in the capacity of both chairman and secretary of the Board. (Ref. 19-907 thru 19-910, 84-155 RS Neb.)

## §2-204 BOARD OF HEALTH.

The Governing Body shall appoint a Board of Health which shall consist of four (4) members. The members of the Board shall include the Mayor, who shall serve as chairman; the Police Chief, who shall serve as secretary and quarantine officer; a physician who shall serve as the medical advisor; and the President of the City Council. The members of the Board shall serve, without compensation, a one (1) year term of office, unless reappointed, and shall reorganize at the first (1st) meeting in December of each year. It shall be the duty of the secretary to keep the full and correct minutes and records of all meetings and to file the same with the Municipal Clerk where they shall be available for public inspection at any reasonable time. The Board of Health shall be funded by the Governing Body from time to time out of the General Fund. A majority of the Board shall constitute a quorum for the purpose of doing business. The Board shall meet at such times as the Governing Body may designate. Special meetings may be held upon the call of the chairman, or any two (2) members of the Board. It shall be the duty of the Board to enact rules and regulations which shall have the full force and effect of law, to safeguard the health of the residents of the Municipality. Included in the duties of the Board shall be to enforce the said rules and regulations, and to provide fines and punishments for any violations thereof. It may regulate, suppress, and prevent the occurrence of nuisances and shall actively enforce all laws of the State of Nebraska and ordinances of the Municipality relating to matters of sanitation which affect the health and safety of the people. The Board shall regularly inspect such premises and businesses as the Governing Body may direct. All members of the Board shall be responsible for making such reports and performing such other duties as the Governing Body may, from time to time, designate. No member of the Board of Health shall hold more than one (1) Board of Health position. (Ref. 17-121 RS Neb.)

## §2-205 PARK AND RECREATION COMMISSION.

The Governing Body shall appoint the Park and Recreation Commission. The Commission shall have three (3) members who shall be residents of the Municipality. Also one (1) member of the Council shall serve as an ex-officio member of the Commission. The Commission members shall serve without compensation and may be required, in the discretion of the Governing Body to give a bond in a sum set by resolution of the Governing Body, and conditioned upon the faithful performance of their duties. At the time of the Commission's first (1st) meeting in December of each year, the Commission shall organize by selecting from its membership a chairman and secretary. It shall be the duty of the secretary to keep the full and correct minutes and records of all meetings, and to file the same with the Municipal Clerk where they shall be available for public inspection at any reasonable time. A majority of the Commission members shall constitute a quorum for the transaction of business. The Commission shall meet at such times as the Governing Body may designate. Special meetings may be held upon the call of the chairman, or any two (2) members of the Commission. It shall be the duty of the Commission to take immediate charge of the expenditures for the playground and recreation equipment and activities. The Commission shall also take charge of all parks and recreational facilities belonging to the

Municipality. The Commission shall be responsible for making such reports and performing such other duties as the Governing Body may, from time to time, designate. No member of the Governing Body shall serve as a member of the Recreation Commission, except as an ex-officio member, while serving a term of office as a member of the Governing Body. No member of the Recreation Commission shall serve in the capacity of both the chairman and secretary of the Commission. (Ref. 17-952 RS Neb.)

#### §2-206 COMMUNITY BUILDING COMMISSION.

There shall be a Community Building Commission, which shall consist of five (5) electors of the City and one (1) Council member who shall be a member ex-officio. The members shall be designated as a Board of Community Building Commissioners, and shall serve without pay. They shall be appointed by the Mayor, subject to the approval of the Council, at the same time as the other appointed officials in June of each year.

Each Commissioner shall hold office for a term of three (3) years after his or her appointment, except the ex-officio member from the Council, who shall be appointed for a term of one (1) year only, or until a successor shall be appointed and qualified. If a vacancy occurs it shall be filled in the same manner as is designated above for the appointment of a Commissioner but the term of office shall expire as of the date of the office of the Commissioner whose office has become vacant.

The Board of Community Building Commissioners shall have charge of the Community Building of the City, together with the surrounding grounds and all improvements now or hereafter placed thereon, and all income accruing therefrom, and shall have control of the expenditure of all money collected for or donated for the purpose of maintaining or improving said Community Building or improvements now or hereafter placed thereon, which funds shall be deposited in the Community Building Commissioners Fund, and all payments thereon shall be by check signed by the Chairman of the Board of Community Building Commissioners drawn upon the Community Building Commissioners Fund. Said Commissioners shall also have the power to establish rules and regulations for the management, care and use of said building yearly, who shall have continuous care and custody thereof at a salary to be fixed by the Commissioners and work under their supervision.

The members of the Board of Community Building Commissioners are hereby appointed special Police Officers of the City with authority, while in the Community Building or the surrounding grounds, to make arrests upon seeing anybody violating any of the by-laws, rules and regulations, of the Board of Community Building Commissioners and to bring the offender forthwith before a proper tribunal to deal with according to law.

Any person violating any of the rules and regulations adopted by the Board of Community Building Commissioners shall be deemed guilty of a misdemeanor. (Ref. 2-3-1 thru 2-3-5, Code 1966)

#### §2-207 BOARD OF ARCHITECTURAL REVIEW.

There has been established a Board of Architectural Review. Such Board shall consist

of five (5) citizen members, each to be appointed by the City Council. One (1) member shall be a member of the City Planning Commission, one (1) a resident of Tecumseh and a member of the Tecumseh Historical Society; one (1) a member of the Tecumseh Chamber of Commerce; and two (2) a residents of the City at large. Each member shall be appointed by the Mayor from a list of nominees or members of the respective organizations. In case any of the organizations entitled to make nominations shall fail to make the same within thirty (30) days after written request therefore by the Clerk of the City of Tecumseh, then the City Council, on its own nomination, shall appoint members from the City at large. The term of office of the members shall be for three (3) years, except the terms of two (2) of the members of the original Board shall expire within three (3) years; two (2) within two (2) years, and one (1) within one (1) year of the date of the appointment. An appointment to fill a casual vacancy shall be only for the unexpired portion of the term. The Board shall serve without compensation and may be required, in the discretion of the Governing Body, to give a bond in a sum set by resolution of the Governing Body, and conditioned upon the faithful performance of their duties. At the time of the Board's first (1st) meeting in December of each year, the Board shall organize by selecting from their number a chairman and secretary. It shall be the duty of the secretary to keep the full and correct minutes and records of all meetings, and to file the same with the Municipal Clerk where they shall be available for public inspection at any reasonable time. A majority of the Board members shall constitute a quorum for the transaction of business.

The Board of Architectural Review shall meet within ten (10) days after notification by the Zoning Enforcement Officer of the filing of an application for a Certificate of Appropriateness.

It shall be the function and duty of the Board of Architectural Review to determine whether a building located within the District is structurally unsound and beyond economical repair, and/or whether the exterior architectural features of the proposed construction, reconstruction, alterations or improvements to buildings or building lots within the District (wherever such exterior features are subject to public view from a public street or way) are appropriate to and in keeping with the old historic aspects of the surroundings.

#### §2-208 TREE BOARD.

There has been established a City Tree Board for the City of Tecumseh, Nebraska, which shall consist of six (6) members, citizens and residents of this City, who shall be appointed by the Mayor with the approval of the City Council.

The term of the six (6) persons to be appointed by the Mayor shall be three (3) years except that the term of two (2) of the members appointed to the first (1st) Board shall be for only one (1) year and the terms of two (2) members of the first (1st) Board shall be for two (2) years. In the event that a vacancy shall occur during the term of any member, his successor shall be appointed for the unexpired portion of the term.

Members of the Board shall serve without compensation.

It shall be the responsibility of the Board to study, investigate, counsel and develop a written plan for the care, preservation, trimming, planting, replanting, removal or disposition of trees and shrubs in public ways, streets and alleys. Such plan will be presented

to the City Council and upon their acceptance and approval shall constitute the official Comprehensive City Tree Plan for the City of Tecumseh, Nebraska.

The Board shall review annually and update if needed the Comprehensive City Tree Plan. The Board shall prepare and present an annual work plan to the City Council for their acceptance and approval.

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

The Board shall choose its own officers, make its own rules and regulations and keep a journal of its proceedings. A majority of the members shall be a quorum for the transaction of business. (Ref. 2-8-1 thru 2-8-5, Code 1966)

#### §2-209 MINI-BUS ADVISORY BOARD.

The Mayor and Council shall appoint a Mini-Bus Advisory Board. The Board shall have three (3) members, and one (1) ex-officio member of the City Council. The Board members shall serve without compensation. The members of the Board shall serve a three (3) year term; provided, however, that the ex-officio member of the City Council, shall serve a one (1) year term. In the even that a vacancy shall occur during the term of any member, his or her successor shall be appointed for the unexpired portion of the term.

It shall be the duty of the Board to supervise and regulate the operation of the Hand-Bus service. The Board shall set the rates for such service and make rules and regulations for its efficient operation.

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

#### §2-210 STREETS, ALLEYS, SIDEWALKS, SIGNS

The Mayor and City Council shall appoint one (1) City Council member to review and make recommendations to the City Council regarding the City's streets, alleys, sidewalks, and signs. Said Council member may consult with the City's Street Department and professionals in formulating his recommendations. Said Council member shall also provide supervision and recommendations directly to the Street Department.

#### §2-211 MAINTENANCE CODE BOARD OF APPEALS

The Mayor and City Council shall appoint a Maintenance Code Board of Appeals consisting of three (3) members and an alternate. Member shall be appointed for a three (3) year term. At the time this Board is created, the Mayor shall designate one member and alternate to serve for one year, one member to serve for two years, and one member to serve for three years. Thereafter, all appointed members shall serve a full three (3) year term. The Maintenance Code inspector shall be an ex-officio member of this Board, but shall have no vote on any matter before said Board. The Board shall appoint a secretary who does not



have to be a member of the Board.

It shall be the duty of this Board to hear and decide appeals of orders, decisions, or determinations made by the Maintenance Code official. The duties of the Maintenance Code of Appeals is set out in more detail elsewhere in this Municipal Code.

## §2-212 BUILDING CODE BOARD OF APPEALS

The Mayor and City Council shall appoint a Building Code Board of Appeals consisting of three (3) members and an alternate. Member shall be appointed for a three (3) year term. At the time this Board is created, the Mayor shall designate one member and alternate to serve for one year, one member to serve for two years, and one member to serve for three years. Thereafter, all appointed members shall serve a full three (3) year term. The Building Code inspector shall be an ex-officio member of this Board, but shall have no vote on any matter before said Board. The Board shall appoint a secretary who does not have to be a member of the Board.

It shall be the duty of this Board to hear and decide appeals of orders, decisions, or determinations made by the Building Code official. The duties of the Building Code of Appeals is set out in more detail elsewhere in this Municipal Code.

## §2-213 HOUSING AUTHORITY

### A. MEMBERS; TERMS; COMPENSATION

The City Council shall appoint seven persons who shall constitute the Housing Authority and who shall be called the commissioners. At least one commissioner shall be appointed each year. Each commissioner shall serve a five-year term of office or until his/her successor is duly appointed, provided that any vacancy shall be filled for the unexpired term. The City Council may appoint one of its members to serve as one of the seven members of the Housing Authority for such term as the City Council may determine. The member appointed from the City Council shall be a voting member. Also, one of the Commissioners shall be a resident commissioner as defined by the Nebraska Housing Agency Act unless no qualified person has submitted their name to the local housing agency prior to the time of the annual appointment of the commissioners. No person shall serve as a commissioner unless he or she resides within the area of operation of the Housing Authority. A certificate of the appointment or reappointment of any commissioner shall be filed with the city clerk and such certificate shall be conclusive evidence of the proper appointment of such commissioner. A commissioner shall receive no compensation for his/her services but shall be entitled to the necessary expenses, including travel expenses, incurred in discharge of his/her duties. (Ref Neb. Stat. 71-1594-71-15,104) (Amended June 6, 2011)

### B. MEETINGS; OFFICERS; DUTIES

1. A majority of commissioners shall constitute a quorum for the purpose of conducting its business, exercising its powers, and for all other purposes. Action may be

taken by the Authority upon the vote of the majority of the commissioners present unless in any case the by-laws of the Authority shall require a larger number. The commissioners shall elect a chairman and vice-chairman from among the commissioners and shall have the power to employ an executive director, who shall serve as ex-officio secretary of the Authority.

2. The Authority may employ legal counsel or it may call upon the chief law officer of the City for such services as it may require. It may employ technical experts and such other officers, agents and employees as it may require and shall determine their qualifications, duties, compensations and terms of office. The Authority may delegate such other powers and duties to its agents or employees as it may deem proper.

#### C. CONFLICT OF INTEREST

During his/her tenure and for one year thereafter, no commissioner, officer or employee of the Housing Authority shall voluntarily acquire any interest, direct or indirect, in any project or in any property included or planned to be included in any project, contract or proposed contract relating to any housing project. If any such commissioner, officer or employee involuntarily acquires any such interest or voluntarily or involuntarily acquired any such interest prior to appointment or employment as commissioner, officer or employee, he/she shall immediately disclose his/her interest in writing to the Authority. Such disclosure shall be entered upon the minutes of the Authority and he/she shall not participate in any action by the Authority relating to the property or contract in which he/she has any such interest; provided that nothing herein shall apply to the acquisition of any interest in notes or bonds of the Authority issued in connection with any housing project, or to the execution of agreements by banking institutions for deposit or handling of funds in connection with a project or to act as trustee under any trust indenture, or to utility services, the rates for which are fixed or controlled by a governmental agency. Notwithstanding any other provisions of the Nebraska Housing Agency Act, it shall not be considered a conflict of interest when a City Council Member is appointed as a Housing Authority Commissioner and he/she votes on any matter involving the City. (Ref. Neb. Stat. § 17-15,150)

#### D. REMOVAL OF COMMISSIONER

The mayor may remove a commissioner for neglect of duty or misconduct in office in the manner prescribed hereafter. The mayor shall send a notice of removal to such commissioner which shall contain a statement of the charges against him/her. Unless such commissioner files with the clerk within ten days from the receipt of such notice a request for a hearing before the City Council, the commissioner shall be deemed removed from office. If a request for a hearing is filed with the clerk, the City Council shall hold a hearing, at which the commissioner shall have the right to appear in person or by counsel and the City Council shall determine whether the removal shall be disapproved or upheld. If the removal is disapproved, the commissioner shall continue to hold his/her position.

#### E. REPORT TO CITY COUNCIL

The Housing Authority shall keep an accurate account of all its activities and of all its receipts and disbursements, and shall make an annual report to the City Council at the regular meeting in January of each year. Such report shall include all mortgages and other interests in real property held by the Authority, including options to purchase and land sale contracts; a listing of all bond issues and their essential terms and obligations; and all other financial obligations of the Housing Authority over \$50,000.00. Such reports shall be considered public records. If there has been no change since the last report in the status of any of the items reported pursuant to this section, the Housing Authority may file a statement to that effect in lieu of the report. (Ref. Neb. Rev. Stat. § 71-1552)

#### E. CONTINUED EXISTENCE AS HOUSING AGENCY

1. The local Housing Authority established under prior state law and in existence on January 1, 2000, shall have continued existence as a housing agency under the Nebraska Housing Agency Act.

2. The local housing agency shall conduct its operations consistent with the Nebraska Housing Agency Act. All property, rights in land, buildings, records and equipment and any funds, money, revenue, receipts or assets of the Authority belong to the agency as successor. All obligations, debts, commitments and liabilities of the Authority are obligations, debts, commitments and liabilities of the successor agency.

3. Any resolution by the Authority and any action taken by the Authority prior to January 1, 2000, with regard to any project or program which is to be completed within or to be conducted for a 12-month period following January 1, 2000, and which resolution or action is lawful under state law as it existed prior to January 1, 2000, is a lawful resolution or action of the successor agency and binding upon the successor agency and enforceable by or against the agency notwithstanding that such resolution or action is inconsistent with, not authorized by, or prohibited under the provisions of the Nebraska Housing Agency Act.

4. All commissioners of the local housing agency and all officers, legal counsel, technical experts, directors and other appointees or employees of the agency holding office or employment by virtue of any such prior law on January 1, 2000, shall be deemed to have been appointed or employed under the Nebraska Housing Agency Act. (Ref. Neb. Rev. Stat. §71-1576)

#### F. OWNERSHIP

The Housing Authority is owned by the City and operated through the Housing Authority Commission. The Housing Authority shall constitute a body corporate and politic and shall have all the powers necessary or convenient to carry out and effectuate the purposes and provisions of the Nebraska Housing Authority Law. (Ref. Neb. Rev. Stat. §71-1529)

#### G. DEFINITIONS

Except as otherwise specifically provided, the definitions and terms set out in the

Nebraska Statutes relating to Housing Authorities under the Nebraska Housing Authority Law are hereby adopted by reference as they now exist or may hereafter be amended.

## I. RULES AND REGULATIONS

The Housing Authority may from time to time establish rules and regulations consistent with the purposes of this article concerning the priority of eligible applicants for occupancy. The Authority may give preferential treatment to applicants who are military personnel or veterans, relatives of military personnel or veterans, the elderly or disabled, those in urgent need of adequate housing or who have no adequate source of income, provided that in any such system of priority, displaced persons in need shall have a priority ahead of all other persons and, provided further, that no tenant in good standing then in occupancy and qualified for continued occupancy shall have his/her tenancy terminated in order to provide dwelling units for classes or categories of applicants as the Authority may establish.

### §2-214 AIRPORT ZONING BOARD

The Mayor and City Council shall appoint two (2) members from the City of Tecumseh, Nebraska to serve on joint Tecumseh-Johnson County Airport Zoning Commission. Said members shall serve a four (4) year term. The Airport Zoning Board shall have the duties as set out in Neb. Rev. Stat. § 3-301 - 3-333.

### §2-215 CITIZEN'S ADVISORY REVIEW COMMITTEE (ECONOMIC DEVELOPMENT)

The Mayor and City Council shall annually appoint a Citizen's Advisory Review Committee consisting of five (5) members. All members shall be registered voters of the City. The City's Economic Development Director shall serve as an ex-officio member. It is recommended that the members shall be from the fields of accounting, banking and finance, small business owners, and business professionals. No member of the Citizen's Advisory Review Committee shall be an elected or appointed City official, a member of any planning commission created under Neb. Rev. Stat. § 19-925, an employee of the City, a participant in a decision making position regarding expenditures of program funds, an official or employee of any qualifying business receiving assistance under the provision, or an official or employee of any financial institution participating directly in the Economic Development program.

The Citizen's Advisory Review Committee shall:

1. Review the functioning and progress of the Economic Development Program at regular meeting as set forth by ordinance and to advise the Governing Body of the City with regard to the Program, and
2. Report to the City Council on its findings and suggestions at a public hearing called for that purpose at least once in every six-month period. (Amended November 2017)

## §2-216 APPLICATION REVIEW COMMITTEE (ECONOMIC DEVELOPMENT)

The Mayor and City Council shall annually appoint an Application Review Committee consisting of five (5) members. The Committee shall have a minimum of one person with business finance or accounting experience. The Application Review Committee shall make the final decision regarding all applications for financial assistance and will generally oversee the Economic Development program established in the Economic Development Plan of the City of Tecumseh which is funded by the collection of local option sales and use tax.

## §2-217 BOARD OF PUBLIC WORKS.

A Board of Public Works for the City of Tecumseh is hereby created, which shall consist of three (3) members, residents of the City, and which shall be known and designated as the Board of Public Works of the City of Tecumseh, Nebraska.

At the same time as the other appointed officials are appointed in June of each year, the Mayor shall appoint, subject to approval of a majority of the Council, a member to the Board of Public Works for any vacant or expired Board member position. The terms of the Board members initially appointed to the Board of Public Works shall be for two, three and four years in the manner designated by the Mayor, as the case may be, after which the term of each member shall be for four years. Each appointment to fill an unexpired term shall be made for the remaining term of the previous appointee who held the unexpired term. If any member of the Board should be absent from three (3) consecutive regular or special meetings, the Mayor may at his option and with the approval of the majority of the Council, declare such absent member's seat upon the Board to be vacant and proceed to fill such vacancy in the manner above provided. In all such cases, however, that retiring member shall be immediately notified in writing, by the Clerk, of the action taken by the Mayor and Council. The Mayor may remove any member of the Board, for reasons other than absenteeism, subject to the approval of a majority of the members elected to the City Council, at any time.

Before entering upon the duties of such office, each member of the Board shall take an oath in writing, to be filed with the Clerk, that he will faithfully and impartially perform the duties of his office as a member of said Board, to the best of his ability, and will not in any manner be influenced in the performance of such duties by personal or political motives; and each member of said Board before entering upon the duties of his office shall be required to give bond to the City with corporate surety. Such bond shall be in the sum of five thousand (\$5,000.00) dollars and shall be conditioned for the faithful performance of the duties of said member; surety thereon to be approved by the Mayor and Council, and the bond filed with the Treasurer.

The Board of Public Works shall select from its membership a chairman, vice chairman and a secretary. The vice chairman shall act in the capacity of chairman of the Board in the event of the absence or disability of the chairman. The secretary may appoint the City Clerk who shall attend all meetings of the Board of Public Works, keeping a true and accurate record of minutes of such meetings, shall keep and maintain correspondence files and such other files and records as may be deemed necessary or advisable by the Board. The City Clerk

shall not, however, be considered a member of the Board, and shall have no vote in the deliberations of the Board. The Board of Public Works is hereby empowered to adopt rules and regulations for its government and procedures and provide for amendment of the same. The Board shall meet at such times as it shall designate, except that such meetings shall not conflict with regularly scheduled City Council meetings.

The Board of Public Works is hereby charged with the duties of operating, managing and maintaining the electrical generation, transmission and distribution system; the water supply system; and the sanitary sewer system of the City of Tecumseh. In such operation, management and maintenance, the Board shall exercise the power conferred by law upon cities of the second class to the same extent, in the same manner and in the same restrictions as a Council would do if no such Board existed; except, however, that the Board shall not make any expenditures or contract any indebtedness, except in the case of emergencies, which exceed the sum of twenty thousand (\$20,000.00) dollars without first submitting a proposal to the Mayor and Council and obtaining approval thereof by at least a majority vote of said Council. The Board of Public Works is hereby charged with the duties of collecting rents, revenues, and proceeds accruing on account of the ownership and operation on said utilities and of keeping the accounts of cash received and disbursed on account of the operation of the maintenance of said utilities, and all other accounts thereof. The Board of Public Works is hereby empowered to authorize and direct the City Treasurer to make payment, from the several utility funds hereinafter mentioned, for salaries, labor, insurance premiums, materials and supplies, and other expenses incident to the operation, maintenance and conduct of the various utility systems as the Board shall deem expedient in the management, operation and maintenance of said utilities, all for and on behalf of the City as the owner of said property; subject only to the maximum limitation of twenty thousand (\$20,000.00) dollars as hereinbefore set out in this Section. The Board shall cause monthly reports, employing the established accounting system of the City to be prepared and made available to the Mayor and Council, which report shall list receipts and expenditures in the operation of the various utilities, and shall adequately reflect the general operation and condition of said utilities. The Board of Public Works shall have a professional audit each year.

All monies received by the Board of Public Works or its employees, arising from the ownership and operation of the various utilities, shall be promptly paid over to the Treasurer, and the amounts so received shall be kept in separate funds, which shall be designated as "Combined Electric and Water Fund" and "Sanitary Sewer Rental Fund". All monies disbursed by the Treasurer at the direction of the Board shall be paid from the funds. The Treasurer shall also maintain such special funds, for specific purposes, as are required by the provisions of this Code and such special funds as may be provided for specific purposes by the Council and the Board.

The transfer of monies from the "Combined Electric and Water Fund" and from the "Sanitary Sewer Rental Fund", to the special funds herein referred to, shall be by warrant of the Treasurer, and where applicable.

The salary of each member of the Board of Public Works shall be established by the Mayor and City Council with any change in salary becoming effective with the next reorganizational meeting. Provided that the salaries of the members of the Board of Public

Works shall in no case be greater than the salaries paid the members of the City Council.

The Board of Public Works shall select a Superintendent of Utilities, by and with the consent of the City Council, who shall be responsible directly to the Board of Public Works, and shall fix and determine his compensation. The Board of Public Works shall also select such other employees of the various utility departments as the Board may deem necessary, and shall fix and determine their compensation, by and with the consent of the City Council.

The Mayor and Council, having created a Board of Public Works, and having herein vested in said Board the duties of operating, managing and maintaining the several utility systems of the City, shall not hereafter nullify, reverse, or render inoperative any decisions or actions taken by said Board in the operation, management and maintenance of said utilities; except, however, where such decisions or actions of the Board may be contrary to the Statutes of the State of Nebraska or the provisions of this Code and provided further, that this Section shall not be interpreted to preclude action by the Mayor and Council to remove members of the Board, and provided further that this section shall not be interpreted so as to preclude action by the City Council to approve or not approve a selection for the position of Superintendent of Utilities or the compensation to be paid to employees of the various utility departments.

The Board of Public Works at Tecumseh, Nebraska, is hereby granted authority to establish rules, regulations and fees regarding the use of services of electrical generation transmission, and distribution systems; the water supply system; and the sanitary sewer system including inspection and compliance of customer owned apparatus and devices connected to said utilities. This authority shall also include inspection and compliance of rules and regulations established by the Board of Public Works for customer owned sanitary sewer systems which do not connect to the public sanitary sewer system. Authority is also granted to the Board of Public Works to provide for penalties for violation of rules and regulations established under the grant of authority under this Code.

The management, operation and maintenance of the several public utilities and of the property used in connection therewith, shall at all times be in conformity with the provisions of this Code and other ordinances of the City. (Ord. No. 752, 1/7/85) (Amended by Ord. No. 90-827, 4-16-90) (Amended December 1, 2014)(Amended November 1, 2021)

## §2-218 AIRPORT AUTHORITY BOARD.

The Airport Authority Board shall have the full and exclusive jurisdiction and control over all facilities owned or hereafter acquired by the Municipality for the purpose of aviation operation, air navigation, and air safety operation. The Board is a body corporate and politic, constituting a public corporation, and an agency of the Municipality. The Board shall consist of five (5) members. Members of the Board shall be nominated and elected in the manner provided by law for the election of other elected officials and shall take office at the same time as the officers of the City.

Members of the Board shall be residents of the Municipality and shall serve a term of six (6) years. Two (2) members of the Board shall be elected in each Municipal election year; provided, that in each third (3rd) election year, one (1) member only shall be elected to the Airport Authority Board. Any vacancy on the Board resulting from any other cause than the

expiration of a term of office, shall be filled by appointment by the Mayor, with the approval of the City Council, to serve the unexpired portion of the term. A member of the Board may be removed from office for incompetence, neglect of duty, or malfeasance in office. An action for the removal of such officer may be brought, upon resolution of the City Council, in the District Court of the County. The Board shall have such other powers and duties as may be prescribed by State law. (Ref. 3-501 through 3-514 RS Neb.) (Ord. No. 90-804, 4/16/90) (Amended by Ord. No. 92-848, 11/2/92)(Amended November 4, 2013)

#### § 2-219 PRIDE COMMITTEE.

The Pride Committee shall be appointed at the same time as the other appointed officials in June of each year. The nominated members must receive a majority vote of the governing body. The Pride Committee shall consist of five (5) members who shall be residents of the Municipality or be employed in the Municipality. The members of the Pride Committee shall serve, without compensation, a one (1) year term of office, unless reappointed. No member of the Governing Body shall serve as a member of the Pride Committee while serving a term of office as a member of the Governing Body. At the time of the Pride Committee's first (1<sup>st</sup>) meeting in December of each year, the Pride Committee shall organize by selecting from its membership a Chairman and Secretary. It shall be the duty of the Secretary to keep the full and correct minutes and records of all meetings, and to file the same with the Municipal Clerk where they shall be available for public inspection at any reasonable time. A majority of the Pride Committee shall constitute a quorum for the transition of business. The Pride Committee shall meet at such times as the Governing Body may designate. Special meetings may be held upon the call of the Chairman, or any three (3) members of the Committee.

The Pride Committee shall work with property owners and tenants in an attempt to make the City of Tecumseh a more attractive place for new residents and businesses to locate and a better place for its current residents and businesses. The Pride Committee shall take complaints regarding the conditions of properties within the City of Tecumseh that constitute nuisances under the City Code or are in violation of the International Property Maintenance Code which has been adopted by the City of Tecumseh, Nebraska. The Pride Committee members themselves may also bring to the Committee's attention properties they believe constitute nuisances or believe are in violation of the International Property Maintenance Code. The Pride Committee may investigate the properties brought forward to the Pride Committee and when the Committee determines the properties appear to constitute a nuisance under the Tecumseh Municipal Code or are in violation of the International Property Maintenance Code, the Pride Committee shall contact the property owner and/or tenant and request that they abate the nuisance or repair the violation. The Pride Committee shall monitor the progress of the abatement or repair. At such time as the committee determines that the owner and/or tenant is not cooperating with the Committee to abate the nuisance or to repair the violation, the Pride Committee shall refer the property to the appropriate City official for legal action. The Pride Committee shall have no power to officially charge the owner with a violation of the Municipal Code or International Property Maintenance Code. The purpose of the Pride Committee is to voluntarily work with property



owners and/or tenants to encourage them to clean up their properties in order to make the City of Tecumseh, Nebraska a better place to live and work.

This Section shall be in addition to all other means available to the City for abatement of nuisances or violations of the City's International Property Maintenance Code. Further, the City shall not be required to use the procedures set out in this Section prior to formally seeking other legal redress against the property owners or tenants. (April 2011)

### Article 3. Penal Provision

#### §2-301 VIOLATION: PENALTY.

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

Chapter 3  
DEPARTMENTS

Article 1. Water Department

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

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

§3-102 MUNICIPAL WATER DEPARTMENT; DEFINITIONS.

The following definitions shall be applied throughout this Article. Where no definition is specified, the normal dictionary usage of the word shall apply.

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

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

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

SEPARATE PREMISES. When considering the expediency of permitting more than one (1) consumer to secure water from the same service and/or supply pipe, shall mean a separate living unit or separate and distinct business, whether in the same structure or in the same parcel of land. Each consumer shall have his meter connected directly to the service or supply pipe and each consumer shall be billed his appropriate rate.

§3-103 MUNICIPAL WATER DEPARTMENT; WATER CONTRACT.

The Municipality through its Utilities Department, shall furnish water to persons

within its corporate limits whose premises abut a street or alley in which a commercial main now is or may hereafter be laid. The Municipality may furnish water to persons within its corporate limits whose premises do not abut a street or alley in which a Municipal commercial main is now or may hereafter be laid and may also furnish water to persons whose premises are situated outside the corporate limits of the Municipality, as and when, according to law, the Governing Body may see fit to do so. The Board of Public Works shall have the authority to promulgate such rules and regulations as necessary to furnish water to all such premises and to enforce this Code and other codes as adopted. The rules, regulations, and water rates hereinafter named in this Article, shall be considered a part of every application hereafter made for water service and shall be considered a part of the contract between every consumer now or hereafter served. Without further formality, the making of application on the part of any applicant or the use or consumption of water service by present consumers thereof and the furnishing of water service to said consumer shall constitute a contract between the consumer and the Municipality, to which said contract both parties are bound. If the consumer shall violate any of the provisions of said contract or any reasonable rules and regulations that the Board of Public Works may hereafter adopt, the Water Superintendent or his agent, may cut off or disconnect the water service from the building or premise or place of such violation. No further connection for water service to said building, premise, or place shall again be made save or except by order of said Water Superintendent or his agent.

#### §3-104 MUNICIPAL WATER DEPARTMENT; MAIN SIZES.

In order to properly provide water and fire protection service to present and future building improvements, a minimum size City Commercial Water Main of six (6) inches inside diameter shall hereinafter be installed. Should a larger size be determined as necessary, by the Board of Public Works, the Utility shall pay the additional material cost difference between the established minimum size requirements and the determined size. A smaller size can be determined to be sufficient, because of a consumer's nature or location, but only upon approval by the Board of Public Works.

#### §3-105 MUNICIPAL WATER DEPARTMENT; CONSUMER'S APPLICATION.

Every person or firm desiring a supply of water from the City Waterworks System must make a tapping application therefore to the City Utility Department upon blanks to be furnished for that purpose, which application shall be made through its office. All applications for connections of premises with the commercial mains must be made by the owner of said premises, or his duly authorized agent. No person other than a duly licensed plumber or employee of the Water Department, acting in his employment capacity shall install, alter or repair any pipe, plumbing or fixtures connected to or tapped from any commercial main. If application for water service be approved, the Board of Public Works shall issue the applicant a permit in writing, for water service connection.

### §3-106 MUNICIPAL WATER DEPARTMENT; TAPPING MAIN, FEES.

No person except the person designated for that purpose shall under any circumstances, tap the commercial mains or insert ferrules therein. The City by its agent, will, for a tap fee, regardless of whether long or short tap is necessary and computed on the basis of construction to the center of the street in each instance, tap the commercial main to which the applicant's service pipe will be joined and will furnish the ferrules or clamps and corporation cocks and put same in commercial main, will furnish and install supply pipe, trenching, labor and all fittings and attachments to bring water service to a point at or near the property line where stop box is placed; Provided, the above rule shall apply only if applicant's property abuts a street where a commercial main is now laid, or hereafter laid, and provided further, if applicant's property does not abut a street where a commercial main is now laid or hereafter laid, such applicant shall at his own expense, to be paid as and when the Board of Public Works shall provide by resolution, construct and bring water service from a point at or near the property line on a street where there is a commercial main and where stop box shall be placed, to his own premises regardless of the distance from the stop box located as aforesaid. All water services must be placed at such depth that the meters can be properly set in the meter housing.

The Board of Public Works is empowered to recover all costs of fittings, corporation, supply piping, meter, meter pit, curb stop and labor to tap the City's Commercial Main or transmission line. Payment of the tapping fee installs the water supply line from a commercial main in an abutting street or alley to a point at or near the consumer's property, or as provided in Section 3-119.

### §3-107 MUNICIPAL WATER DEPARTMENT; INSTALLATION PROCEDURE.

In making excavations in streets, alleys, or sidewalks for the purpose of installing pipe, or making repairs, the paving, stones, and earth must be removed and deposited in a manner that will occasion the least inconvenience to the public and provide for adequate drainage. No person shall leave an excavation made in the street, alley, or sidewalk open at any time without a barricade, and during the night, warning lights. After service pipes are laid, the streets, alleys, and sidewalks shall be restored to good condition. If the excavation in any street, alley, or sidewalk is left open or unfinished for a period of twenty-four (24) hours or more, the Water Superintendent shall have the duty to finish or correct the work, and all expenses so incurred shall be charged to the consumer. All installation shall be done under the supervision and strictly in accordance with the rules, regulations, and specifications prescribed for such installation by the Board of Public Works. (Ref. 17-537 RS Neb.)

### §3-108 MUNICIPAL WATER DEPARTMENT; INSPECTIONS.

All installing, altering or repairing of plumbing or water service connections in any manner whatsoever that will directly or indirectly be connected with the water system of the City shall be inspected by the Water Superintendent. He shall approve such work or make

such requirements as he deems necessary for the proper completion of said work before the same shall be connected to and receive water from the water system.

#### §3-109 MUNICIPAL WATER DEPARTMENT; BOND REQUIRED.

It shall be unlawful for any person, firm or corporation installing, altering or repairing plumbing or water service in any manner whatsoever, to do any work in the City of Tecumseh, Nebraska, which necessitates the digging or opening of a ditch in the streets or parkings of said City, without first having given a bond running to said City in the sum of two thousand (\$2,000.00) dollars, signed by two (2) or more sufficient sureties, to be approved by the City Clerk and filed in his office, conditioned to insure and cover any loss or damage to any individual or property caused by the digging or opening of such ditch, or negligence in connection therewith.

#### §3-110 MUNICIPAL WATER DEPARTMENT; SERVICE PIPES.

All water service pipe installed on private premises shall be laid not nearer than four (4) feet from the surface of the ground. All supply and service pipes from the point of union with the Commercial main to the building distribution system shall be no less than three-quarters (3/4) of one (1) inch in size, and piping material must be as approved in the Uniform Plumbing Code.

#### §3-111 MUNICIPAL WATER DEPARTMENT; STOP BOX INSTALLATIONS.

There shall be a stop box installed in connection with each water service at a point at or near the outer sidewalk line in the street abutting the premises of consumer except as otherwise provided.

#### §3-112 MUNICIPAL WATER DEPARTMENT; REPAIRS AND MAINTENANCE.

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

any reasonable number of times; Provided, that if the test shows the water meter to be running two per cent (2%) or more fast, the expense of such test shall be borne by the Municipality. The Board of Public Works reserves the right to test any water service meter at any time, and if said meter is found to be beyond repair the Municipality shall always have the right to place a new meter on the customer's water service fixtures at Municipal expense. Should a consumer's meter fail to register properly, the customer shall be charged for water during the time the meter is out of repair on the basis of the monthly consumption during the same month of the preceding year; Provided, that if no such basis for comparison exists, the customer shall be charged such amount as may be reasonably fixed by the Board of Public Works. It shall be unlawful for any person to tamper with any water meter, or by any means or device to divert water from the service pipe so that the same shall not pass through said meter, or while passing through said meter, to cause the same to register inaccurately. If any water meter is found to have been tampered with, the water rent shall be estimated for the rental period and the meter shall be repaired and tested. Upon repetition of the offense, it shall be optional with the Water Superintendent to discontinue the water service or to collect the amount estimated to be due.

#### §3-113 MUNICIPAL WATER DEPARTMENT; DUTY OF CONSUMERS.

It shall be the duty of all people to report cases of leakage of water, or waste of same, and all violations of this Article or any other regulations relating to the City Water System, and the Board of Public Works shall enforce the observance of such water regulations so far as they have authority to do so.

#### §3-114 MUNICIPAL WATER DEPARTMENT; METERS; METER HOUSING; TYPE.

Meters shall hereafter be placed in a substantial frost proof meter housing or pit to be located at or near the inner line of the sidewalk on the applicant's property and shall be of such specifications as hereinafter provided. Water meters may be placed in basements or inside residences or business buildings on premises of the consumer if the City shall be convinced that said water meters so placed will be properly protected and conveniently set for reading the same. All parts and apparatus to be placed in a water service connection shall be approved. Hereafter water meters required for measuring water used by applicant or consumer shall be furnished by the City.

All water meters set and installed shall remain the property of the City Utilities. Only AWWA approved type meters will be installed, registering in cubic feet.

#### §3-115 MUNICIPAL WATER DEPARTMENT; METER REPAIR; WHEN PROPERTY OF CONSUMER.

Any water meter belonging to consumer and not surrendered to the City, shall, when necessary, be repaired, replaced or tested at the expense of consumer or owner of the property, who shall be billed for and shall pay for the same as water rent regardless of whether or not the consumer orders or requests replacement or test of said meter.

§3-116 MUNICIPAL WATER DEPARTMENT; METER READINGS AND BILLINGS.

Meters shall be so set that they are easily accessible for reading, at anytime. An unaccessible meter can have a remote location readout, installed at the consumers expense. All meters should be read monthly, for billing purposes.

§3-117 MUNICIPAL WATER DEPARTMENT; MINIMUM RATES.

All water consumers shall be liable for the minimum rate provided by resolution unless and until the consumer shall, by written order, direct the Water Department to shut off the water at the stop box, in which case he shall not be liable thereafter for water rental until the water is turned on again. (Ref. 17-542 RS Neb.)

§3-118 MUNICIPAL WATER DEPARTMENT; WATER BILLS.

Accounts between the consumer and the City shall be kept by the Board of Public Works, under an approved bookkeeping system and audited yearly. Water bills shall be due and payable monthly at the office of the Utilities Department. The Water Superintendent shall read or cause to be read water meters monthly during the first (1st) week during which service is used. It shall be the duty of the customers of the Water System to pay their bills monthly in net cash by one of the methods authorized by the Board of Public Works. The Utilities Department shall charge and collect from each customer for the amount of water consumed since the last examination together with any other charges, properly itemized, due the Utilities Department. Bills shall be due on the tenth (10th) day of each month and shall be payable by the twentieth (20th) of each month. Bills paid after the twentieth (20th) day of each month shall have a penalty charge added thereto of ten per cent (10%) of the amount of said bill. The Utilities Department shall assess an additional fee set by resolution of the Governing Body and on file at the office of the Municipal Clerk in the event that water is shut off for the non-payment of any water bill, to compensate the Municipality for the additional hook-up necessary to again provide water service to the delinquent customer. (Ref. 17-542, 18-416 RS Neb.) (Amended October 4, 2021)

§3-119 MUNICIPAL WATER DEPARTMENT; SERVICE BEYOND CORPORATE LIMITS.

The City, by resolution of the Board of Public Works, shall have the authority, to contract with any person, to sell water service beyond its Corporate Limits when in the judgment of the Board of Public Works it is beneficial for the City to do so. The City shall not incur any cost or expense beyond its commercial mains in providing the means of such service. Service shall not be instituted or continued except to the extent that the facilities for supplying water service are in excess of the requirements of the inhabitants of the City. For furnishing water service beyond its Corporate Limits, subject to the above conditions, the Board of Public Works may establish rates with such persons, without regard to the rates specified in Sections 3-101 and 3-117.

The City shall furnish water meters, supervise all digging within six (6) feet of water

main and do all tapping onto the water main, the City will not be liable for property or water damage due to hookup, make no guarantee as to pounds of pressure of such water service, and may shut off any user of service in case of emergency or upon delinquency of account.

The customer shall submit plans to the Water Superintendent for approval before commencement of work; shall place the water meter in a pit below the frost line; shall procure all necessary grants and easements in connection with hookup; shall have all piping installed by a licensed plumber and do all digging and submit to supervision by the City within six (6) feet of water main; shall bear all expense of hookup and be liable for property or water damage due to hookup and shall submit to temporary shutoff in case of emergency or upon delinquency of account.

#### §3-120 MUNICIPAL WATER DEPARTMENT; SERVICE FOR OTHER ENTITIES.

Water service furnished by the water system of the City to other City agencies, the State of Nebraska and its subdivisions, or any subdivision of the United States shall be measured by meter and shall be paid for upon a statement rendered at such rates as the Governing Body shall, by resolution, fix and determine.

#### §3-121 MUNICIPAL WATER DEPARTMENT; LIEN.

In addition to all other remedies, if a customer shall for any reason remain indebted to the Municipality for water service furnished, such amount due, together with any rents and charges in arrears, shall be considered a delinquent water rent which is hereby declared to be a lien upon the real estate for which the same was used. The Municipal Clerk shall notify in writing or cause to be notified in writing, all owners of premises or their agents whenever their tenants or lessees are sixty (60) days or more delinquent in the payment of water rent. It shall be the duty of the Water Superintendent on the first (1st) day of June of each year to report to the Governing Body a list of all unpaid accounts due for water together with a description of the premise upon which the same was used. The report shall be examined, and if approved by the Governing Body, shall be certified by the Municipal Clerk to the County Clerk to be collected as a special tax in the manner provided by law.

#### §3-122 MUNICIPAL WATER DEPARTMENT; SINGLE PREMISE.

No consumer shall supply water to other families, or allow them to take water from his premise, nor after water is supplied into a building shall any person make or employ a plumber or other person to make a tap or connection with the pipe upon the premise for alteration, extension, or attachment without the written permission of the Water Superintendent. It shall further be unlawful for any person to tamper with any water meter or by means of any contrivance or device to divert the water from the service pipe so that the water will not pass through the meter or while passing through said meter to cause the meter to register inaccurately. (Ref. 17-537 RS Neb.)



### §3-123 MUNICIPAL WATER DEPARTMENT; RESTRICTED USE.

The City shall in no manner be liable for any damages caused by shutting off the supply of water of any consumer while the system or any part thereof is undergoing repairs, or caused by the freezing of the main or the breaking of any pipe or service cock, or by a shortage of water due to accident, to circumstances over which such City has no control, or to an act of God.

The Water Department and its employees holds the right at all times to shut off the water for necessary repairs or extensions.

The Board of Public Works has the right to suspend or curtail the use of water, whenever, in its opinion, an emergency exists.

The Mayor and Council holds the right to amend or alter the rules and regulations in this Chapter, when they deem advisable.

### §3-124 MUNICIPAL WATER DEPARTMENT; FIRE HYDRANTS.

All hydrants for the purpose of extinguishing fires are hereby declared to be public hydrants, and it shall be unlawful for any person other than members of the Municipal Fire Department under the orders of the Fire Chief, or the Assistant Fire Chief; or members of the Water Department to open or attempt to open any of the hydrants and draw water from the same, or in any manner to interfere with the hydrants.

### §3-125 MUNICIPAL WATER DEPARTMENT; POLLUTION.

It shall be unlawful for any person to pollute or attempt to pollute any stream or source of water for the supply of the Municipal Water Department. (Ref. 17-536 RS Neb.)

### §3-126 MUNICIPAL WATER DEPARTMENT; WATER SERVICE CONTRACTS.

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

### §3-127 MUNICIPAL WATER DEPARTMENT; WATER SERVICE DEPOSIT FUND.

An applicant for water use who is a tenant or occupant and not the owner of the premises served, shall be required to accompany his application with a service deposit, the precise amount to be determined by the Board of Public Works to insure the payment of water bills and other charges. Applicants who are owners of the premises may also be assessed a deposit if they have a history of failing to timely pay their utility bills.

Service deposits, when received by the City Utilities, shall be held separate and apart in a fund to be known as the Water Service Deposit Fund. When for any reason water service is no longer required by said consumer, said service deposit shall be returned to the customer with proper deductions, of any, for unpaid billings of water services or meter damage as outlined in Section 3-112. The Utilities Clerk shall give each applicant or consumer a separate receipt for all service deposits received, with said receipt being surrendered for cancellation by the consumer when seeking repayment of said service deposit.

#### §3-128 MUNICIPAL WATER DEPARTMENT; INSPECTION.

The Water Superintendent, or his duly authorized agents, shall have free access, at any reasonable time, to all parts of each premise and building to, or in which, water is delivered for the purpose of examining the pipes, fixtures, and other portions of the system to ascertain whether there is any disrepair or unnecessary waste of water. (Ref. 17-537 RS Neb.)

#### §3-129 MUNICIPAL WATER DEPARTMENT; DESTRUCTION OF PROPERTY.

It shall be unlawful for any person to willfully or carelessly break, injure, or deface any building, machinery, apparatus, fixture, attachment, or appurtenance of the Municipal Water Department. No person may deposit anything in a stop box or commit any act tending to obstruct or impair the intended use of any of the above mentioned property without the written permission of the Water Superintendent.

#### §3-130 MUNICIPAL WATER DEPARTMENT; TIME.

Except in the case of any emergency, all taps or plumbing work done on or to the Municipal water system shall be done between the hours of eight (8:00) o'clock A.M. and five (5:00) o'clock P.M. (Ref. 17-537 RS Neb.)

#### §3-131 BACKFLOW PREVENTION DEVICE

The cross-connection control officer for the City of Tecumseh, Nebraska, shall be the Water Superintendent for the City of Tecumseh, Nebraska, Department of Utilities and will oversee the enforcement of this ordinance. This person shall be responsible for reviewing the surveys submitted by the customers of the municipal water department and determining if a backflow prevention device is required to comply with Title 179 NAC 22, "Regulations Governing Public Water Supply Systems."

All customers of the municipal water department shall be required to report to the cross-connection control officer any potential cross-connections which may be on their premises. This report shall be made at least every five (5) years.

A customer of the municipal water department may be required by the cross-connection control officer to install and maintain a properly located backflow

prevention device, at the customer's expense, appropriate to the potential hazard as set forth in Title 179 NAC 22, "Regulations Governing Public Water Supply Systems" and approved by the cross-connection control officer.

The customer shall make application to the cross-connection control officer to install a required backflow prevention device on a form provided by the municipality. The application shall contain, at a minimum, the name and address of the applicant, the type of backflow prevention device to be installed, including make and model number, and the location of the proposed installation.

The cross-connection control officer shall approve and disapprove the application based on whether such installation will protect the municipal water distribution system from potential backflow and back-siphonage hazards.

When a testable backflow prevention device shall be required, the customer shall also certify to the municipality, at least one (1) time annually, that the backflow prevention device has been tested by a Nebraska Health and Human Services System Grade VI certified water operator. Such certification shall be made on a form available at the office of the municipal clerk.

Any decision of the cross-connection control officer may be appealed to the Mayor and the City Council of the City of Tecumseh, Nebraska, whose decision shall be final. (Amended September 2016)

### §3-132 PROHIBITION OF LEAD PIPES, SOLDER AND FLUX

1. Any pipe, solders or flux used in the installation or repair of any residential or non-residential facility which is connected to the public water supply system shall be lead free. For purposes of this section, "lead free" shall mean:

A. Solders and flux -- not more than .2% lead, and

B. Pipe and pipe fittings -- not more than a weighted average of twenty-five hundredths percent lead when used with respect to wetted surfaces of pipes, pipe fittings, plumbing fittings and fixtures.

2. All new lines shall have check valves installed, and such installation shall be inspected and approved by the director of public works, who shall have the authority to refuse to turn on the city water on any premises until the plumbing has been made to comply with all statutory sections. (Ref. Neb. Rev. Stat. §71-5301) (Amended September 2016)

## Article 2. Sewer Department

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

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

1. Maintain the proportional distribution of operation, maintenance and replacement (OM&R) costs among users and user classes;
2. Generate adequate revenues to pay the costs of OM&R;
3. If bonds or other form of indebtedness are issued whose sole or partial security is the revenue of the sewer system, then said charges shall be sufficient to maintain, in addition to the above named costs, a bond and interest fund, bond and interest reserve fund and a surplus fund or any other fund established by the issuance of bonds or indebtedness.

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

### §3-202 MUNICIPAL SEWER DEPARTMENT; SEWER CONTRACT.

The Municipality through the Municipal Sewer Department shall furnish sewer services to persons within its corporate limits whose premises abut a street or alley in which a commercial main is now or may hereafter be laid. The Municipality may also furnish sewer service to persons whose premises are situated outside the corporate limits of the Municipality, as and when, according to law, the Board of Public Works may see fit to do so. The rules, regulations, and sewer rental rates hereinafter named in this Article, shall be considered a part of every application hereafter made for sewer service and shall be considered a part of the contract between every customer now or hereafter served. Without further formality, the making of the application on the part of any applicant or the use of sewer service by present customers thereof shall constitute a contract between the customer and the Municipality to which said contract both parties are bound. If the customer shall violate any of the provisions of said contract or any reasonable rules and regulations that the Board of Public Works may hereafter adopt, the Sewer Superintendent, or his agent, may cut off or disconnect the sewer service from the building, or premise of such violation. No further connection for sewer service to said building or premise shall again be made save or except by order of the Sewer Superintendent or his agent.

### §3-203 MUNICIPAL SEWER DEPARTMENT; APPLICATION FOR PERMIT.

Any person wishing to connect with the Sewer System shall make an application therefor to the City Utility Department. The Department may require any applicant to make a service deposit in such amount as he deems necessary subject to the review of the Board of Public Works. Sewer service may not be supplied to any house or building except upon the written order of the Sewer Superintendent. The Department shall not supply sewer service to any person outside the corporate limits without special permission from the Board of Public Works; Provided, that the entire cost of pipe and other installation charges shall be paid by such consumers. Nothing herein shall be construed to obligate the Municipality to provide sewer service to non-residents. (Ref. 17-149, 19-2701 RS Neb.)

### §3-204 MUNICIPAL SEWER DEPARTMENT; DEFINITION OF TERMS.

Unless the context specifically indicates otherwise, the meaning of terms used in this ordinance shall have the meanings hereinafter designated:

**ACT:** The Federal Water Pollution Control Act also referred to as the Clean Water Act, as amended, 33. U.S.C. 1251, et seq.

**ASTM:** American Society for Testing Materials.

**AUTHORITY:** Tecumseh, Nebraska or its representative thereof.

**BOD5 or Biochemical Oxygen Demand:** The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at 20 degrees Centigrade in terms of milligrams per liter (mg/l).

**BUILDING DRAIN:** That part of the lowest horizontal piping of a drainage system which receives the discharge from waste and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five (5) feet outside the building wall.

**BUILDING SEWER:** The extension from the building drain to the public sewer or other place of disposal, also referred to as a house connection or service connection.

**CITY:** The area within the corporate boundaries of the City as presently established or as amended by ordinance or other legal actions at a future time. The term "City" when used herein may also be used to refer to the City Council and its authorized representative.

**CHEMICAL OXYGEN DEMAND (COD):** The quantity of oxygen utilized in the chemical oxidation of organic matter as determined by standard laboratory procedures, and as expressed in terms of milligrams per liter (mg/l).

**COMPATIBLE POLLUTANT:** Biochemical oxygen demand, suspended solids, pH, and fecal coliform bacteria, plus additional pollutants identified in the NPDES/SDS Permit if the treatment facilities are designed to treat such pollutants to a degree which complies with effluent concentration limits imposed by the permit.

**CONTROL MANHOLE:** A structure specially constructed for the purpose of measuring flow and sampling of wastes.

**EASEMENT:** An acquired legal right for the specific use of land owned by others.

**FECAL COLIFORM:** Any number of organisms common to the intestinal tract of man and animals whose presence in sanitary sewage is an indicator of pollution.

**FLOATABLE OIL:** Oil, fat, or grease in a physical state, such that it will separate by gravity from wastewater.

**GARBAGE:** Animal and vegetable waste resulting from the handling, preparation, cooking, and serving of food.

**INCOMPATIBLE POLLUTANT:** Any pollutant that is not defined as a compatible pollutant including non-biodegradable dissolved solids.

**INDUSTRY:** Any non-governmental or nonresidential user of a publicly owned treatment works which is identified in the Standard Industrial Classification Manual, latest edition, which is categorized in Divisions A, B, D, E and I.

**INDUSTRIAL WASTE:** Gaseous, liquid, and solid wastes resulting from industrial or manufacturing processes, trade or business, or from the development, recovery, and processing of natural resources, as distinct from residential or domestic strength wastes.

**INFILTRATION:** Water entering the sewage system (including building drains and pipes) from the ground through such means as defective pipes, pipe joints, connections, and manhole walls.

**INFILTRATION/INFLOW (I/I):** The total quantity of water from both infiltration and inflow.

**INFLOW:** Water other than wastewater that enters a sewer system (including building drains) from sources such as, but not limited to, roof leaders, cellar drains, yard and area drains, foundation drains, drains from springs and swampy areas, manhole covers, cross-connections from storm sewers, catch basins, surface runoff, street wash waters or drainage.

**INTERFERENCE:** The inhibition or disruption of the City's wastewater disposal system processes or operations which causes or significantly contributes to a violation of any requirement of the City's NPDES Permit. The term includes of sewage sludge use or disposal by the City in accordance with published regulations providing guidelines under Section 405 of the Act or any regulations developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or more stringent State criteria applicable to the method of disposal or use employed by the City.

**NATIONAL CATEGORICAL PRETREATMENT STANDARDS:** Federal regulations establishing pretreatment standards for introduction of pollutants in publicly-owned wastewater treatment facilities which are determined to be not susceptible to treatment by such treatment facilities or would interfere with the operation of such treatment facilities, pursuant to Section 307(b) of the Act.

**NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NDPES) PERMIT:** A permit issued by the NDEQ, setting limits on pollutants that a permittee may legally discharge into navigable waters of the United States pursuant to Sections 402 and 405 of the Act.

**NATURAL OUTLET:** Any outlet, including storm sewers and combined sewers, which overflow into a watercourse, pond, ditch, lake or other body of surface water or ground water.

**NDEQ:** Nebraska Department of Environmental Quality.

**NON-CONTACT COOLING WATER:** The water discharged from any use such as air conditioning, cooling or refrigeration, or during which the only pollutant added, is heat.

**NORMAL DOMESTIC STRENGTH WASTE:** Wastewater that is primarily introduced by residential users with a BOD5 concentration not greater than 200 mg/l and a suspended solids (TSS) concentration not greater than 250 mg/l.

**PERSON:** Any individual, firm, company, association, society, corporation, or group.

**pH:** The logarithm of the reciprocal of the concentration of hydrogen ions in terms of grams per liter of solution.

**PRETREATMENT:** The treatment of wastewater from industrial sources prior to the introduction of the waste effluent into a publicly-owned treatment works. (See NATIONAL CATEGORICAL PRETREATMENT STANDARDS above)

**PROPERLY SHREDDED GARBAGE:** The wastes from the preparation, cooking and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers with no particle greater than 1/2 inch (1.27 cm) in any dimension.

**SEWAGE:** The spent water of a community. The preferred term is wastewater.

**SEWER:** A pipe or conduit that carries wastewater or drainage water.

- a. "Collection Sewer" - a sewer whose primary purpose is to collect wastewaters from individual point source discharges and connections.
- b. "Combined Sewer" - a sewer intended to serve as a sanitary sewer and a storm sewer.
- c. "Force Main" - a pipe in which wastewater is carried under pressure.

- d. "Interceptor Sewer" - a sewer whose primary purpose is to transport wastewater from collection sewers to a treatment facility.
- e. "Private Sewer" - a sewer which is not owned and maintained by a public authority.
- f. "Public Sewer" - a sewer owned, maintained and controlled by a public authority.
- g. "Sanitary Sewer" - a sewer intended to carry only liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions together with minor quantities of ground, storm, and surface waters which are not admitted intentionally.
- h. "Storm Sewer or Storm Drain" - a drain or sewer intended to carry storm waters, surface runoff, ground water, sub-surface water, street wash water, drainage, and unpolluted water from any source.

SHALL/MAY: "Shall" is mandatory; "May" is permissive.

**SIGNIFICANT INDUSTRIAL USER:** Any industrial user of the wastewater treatment facility which has a discharge flow (1) in excess of 25,000 gallons per average work day, or (2) has exceeded five percent (5%) of the total flow received at the treatment facility, or (3) whose waste contains a toxic pollutant in toxic amounts pursuant to Section 307(a) of the Act, or (4) whose discharge has a significant effect, either singly or in combination with other contributing industries, on the wastewater disposal system, the quality of sludge, the system's effluent quality, or emissions generated by the treatment system.

**SLUG:** 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 fifteen (15) minutes, more than five (5) times the average 24-hour concentration of flows during normal operation, and shall adversely affect the collection and/or performance of the wastewater treatment works.

**SUPERINTENDENT:** The utilities superintendent or a deputy, agent or representative thereof.

**SUSPENDED SOLIDS OR TOTAL SUSPENDED SOLIDS (TSS):** The total suspended matter that either floats on the surface of, or is in suspension in water, wastewater or other liquids, and is removable by laboratory filtering as prescribed in "Standard Methods for the Examination of Water and Wastewater", latest edition, and referred to as non-filterable residue.

**TOXIC POLLUTANTS:** The concentration of any pollutant or combination of pollutants which upon exposure to or assimilation into any organism will cause adverse effects as defined in standards issued pursuant to Section 307(a) of the Act.



UNPOLLUTED WATER: 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 benefitted by discharge to the sanitary sewers and wastewater treatment facilities. (See "Non-contact Cooling Water.")

USER: Any person who discharges or causes or permits the discharge of wastewater into the City's wastewater disposal system.

WASTEWATER: The spent water of a community and referred to as sewage. From the standpoint of source, it may be a combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions together with any ground water, surface water and storm water that may be present.

WASTEWATER TREATMENT WORKS OR TREATMENT WORKS: An arrangement of any devices, facilities, structures, equipment, or processes owned or used by the City for the purpose of the transmission, storage, treatment, recycling, and reclamation of municipal sewage, domestic sewage or industrial wastewater, or structures necessary to recycle or reuse water including interceptor sewers, outfall sewers, collection sewers, pumping, power, and other equipment and their appurtenances; extensions, improvements, remodeling, additions, and alterations thereof; elements essential to provide a reliable recycled water supply such as standby treatment units and clear well facilities; and any works including land which is an integral part of the treatment process or is used for ultimate disposal of residues resulting from such treatment.

WATERCOURSE: A natural or artificial channel for the passage of water, either continuously or intermittently.

WPCF: The Water Pollution Control Federation.

### §3-205 MUNICIPAL SEWER DEPARTMENT; CONTROL OF SEWERS.

The Board of Public Works shall have control and general supervision of all public sewers and service connections in the City, and shall be responsible for administering the provisions of this ordinance to the end that a proper and efficient public sewer is maintained.

### §3-206 PUBLIC SEWERS REQUIRED; UNLAWFUL DEPOSIT OF WASTES.

It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the City, or in any area under jurisdiction, any human or animal excrement, garbage or objectionable waste.

§3-207 PUBLIC SEWERS REQUIRED; UNLAWFUL DISCHARGE OF UNTREATED SEWAGE.

It shall be unlawful to discharge to any natural outlet any wastewater or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this ordinance and the City's NPDES Permit.

§3-208 PUBLIC SEWERS REQUIRED; CESSPOOLS, PRIVIES AND SEPTIC TANKS PROHIBITED.

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

§3-209 PUBLIC SEWERS REQUIRED; MANDATORY HOOK-UP.

The owner(s) of all houses, buildings, or properties used for human occupancy, employment, recreation or other purposes from which wastewater is discharged, and which is situated within the City and adjacent to any street, alley, or right-of-way in which there is now located, or may in the future be located, a public sanitary sewer of the City, shall be required at the owner(s) expense to install a suitable service connection to the public sewer in accordance with provisions of this Code, within 90 days of the date said public sewer is operational, provided said public sewer is within 200 feet of the structure generating the wastewater. All future buildings constructed on property adjacent to the public sewer shall be required to immediately connect to the public sewer. If sewer connections are not made pursuant to this section, an official 10-day notice shall be served instructing the affected property owner to make said connection. (Amended September 2016)

§3-210 PUBLIC SEWERS REQUIRED; FAILURE TO CONNECT.

If any property owner neglects or fails, within a period of ten (10) days after notice has been given to him or her by certified or registered mail or by publication in some newspaper published or of general circulation in such city, to make connection with the sewage system as provided under 3-209, the City may cause the connection to be done, assess the costs thereof against the property as a special assessment and collect the special assessment in the manner provided for collection of other special assessments. The rights of the City shall be in addition to any remedial or enforcement provisions of this ordinance. (Amended September 2016)

§3-211 PRIVATE SEWAGE DISPOSAL; WHEN AVAILABLE.

Where a public sewer is not available under the provisions 3-209; the building sewer shall be connected to a private wastewater disposal system complying with the provisions of this Article.

§3-212 PRIVATE SEWAGE DISPOSAL; PERMIT.

Prior to commencement of construction of a private wastewater disposal system, the owner(s) shall first obtain a written permit signed by the City. The application for such permit shall be made on a form furnished by the City, which the applicant shall supplement by any plans, specifications, and other information as are deemed necessary to the City.

§3-213 PRIVATE SEWAGE DISPOSAL; COMPLETED TO SATISFACTION OF CITY.

A permit for a private wastewater disposal system shall not become effective until the installation is completed to the satisfaction of the City or its authorized representative. The City or its representative shall be allowed to inspect the work at any stage of construction, and, in any event, the applicant for the permit shall notify the City when work is ready for final inspection, and before any underground portions are covered. The inspection shall be made within Twenty-four (24) hours of the receipt of the notice, except no inspection will be done on Saturday or Sunday.

§3-214 PRIVATE SEWAGE DISPOSAL; SPECIFICATIONS.

The type, capacities, location, and layout of a private wastewater disposal system shall comply with all requirements of the Nebraska Department of Environmental Quality (NDEQ). No septic tank or cesspool shall be permitted to discharge to any natural outlet.

§3-215 PRIVATE SEWAGE DISPOSAL; CONNECTING TO PUBLIC SEWER.

At such time as a public sewer becomes available to a property serviced by a private wastewater disposal system, a direct connection shall be made to the public sewer within 90 days in compliance with this Article, and within 30 days any septic tanks, cesspools, and similar private wastewater disposal systems shall be cleaned of sludge. The bottom shall be broken to permit drainage, and the tank or pit filled with suitable material.

§3-216 PRIVATE SEWAGE DISPOSAL; MAINTENANCE.

The owner(s) shall operate and maintain the private wastewater disposal facilities in a sanitary manner at all times at no expense to the City.

§3-217 PRIVATE SEWAGE DISPOSAL; ADDITIONAL REQUIREMENTS.

No statement contained in this article shall be construed to interfere with any additional requirements that may be imposed by the NDEQ and the Nebraska Department of Health and Human Services. (NDHHS)

§3-218 BUILDING SEWER INSTALLATION; AVAILABLE CAPACITY.

Any new connection(s) to the sanitary sewer system shall be prohibited unless sufficient capacity is available in all downstream facilities including, but not limited to capacity for flow, BOD5, and suspended solids, as determined by the Superintendent.

§3-219 BUILDING SEWER INSTALLATION; PERMIT REQUIRED.

No person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the City.

§3-220 BUILDING SEWER INSTALLATION; CLASSIFICATION; PERMIT APPLICATION.

There shall be two (2) classes of building sewer permits: (a) for residential and commercial service, and (b) for service to establishments producing industrial wastes. In either case, the application shall be supplemented by any plans, specifications, or any other information considered pertinent in the judgment of the City. The industry, as a condition of permit authorization, must provide information describing its wastewater constituents, characteristics, and type of activity.

§3-221 BUILDING SEWER INSTALLATION; EXPENSE.

All costs and expenses incidental to the installation and connection of the building sewer shall be borne by the owner(s). The owner(s) shall indemnify the City from any loss or damage that may be directly or indirectly occasioned by the installation building of the sewer.

§3-222 BUILDING SEWER INSTALLATION; SINGLE PREMISE.

A separate and independent building sewer shall be provided for every building, except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway. The building sewer from the front building may be extended to the rear building and the whole considered one building sewer. The City does not and will not assume any obligation or responsibility for damage caused by or resulting from any such connection aforementioned.

§3-223 BUILDING SEWER INSTALLATION; USE OF EXISTING SEWERS.

Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the superintendent or his representative, to meet all requirements of this ordinance.

§3-224 BUILDING SEWER INSTALLATION; CONSTRUCTION CODES.

The size, slopes, alignment, materials of construction of a building sewer, and the methods to use in excavating, placing of the pipe, jointing, testing, and backfilling of the trench, shall all conform to the requirements of the City's Building and Plumbing Codes or other applicable rules and regulations of the City. In the absence of code provisions or in the amplification thereof, the materials and procedures set forth in appropriate specifications of the ASTM and WPCF Manual of Practice No. 9, shall apply.

#### §3-225 BUILDING SEWER INSTALLATION; ELEVATION.

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

#### §3-226 PROHIBITED DISCHARGES; SURFACE RUNOFF AND GROUNDWATER.

No person(s) shall make connection of roof down spouts, foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or indirectly to the wastewater disposal system.

#### §3-227 BUILDING SEWER INSTALLATION; CONNECTIONS.

The connection of the building sewer into the public sewer shall conform to the requirements of the City's Building and Plumbing Codes or other applicable rules and regulations of the City, or the procedures set forth in appropriate specifications of the ASTM and the WPCF Manual of Practice No. 9. All such connections shall be made gas tight and watertight, and verified by proper testing to prevent the inclusion of infiltration/inflow. Any deviation from the prescribed procedures and materials must be approved by the City prior to installation.

#### §3-228 BUILDING SEWER INSTALLATION; INSPECTION.

The applicant for the building sewer permit shall notify the City when the building sewer is ready for inspection and connection to the public sewer. The connection and inspection shall be made under the supervision of the superintendent or authorized representative thereof.

#### §3-229 BUILDING SEWER INSTALLATION; EXCAVATIONS.

All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work, shall be restored in a manner satisfactory to the City.

§3-230 BUILDING SEWER INSTALLATION; BOND REQUIRED.

Any person, firm or corporation desiring to make service connections to the City's public sewers must submit satisfactory evidence to the Sewer Superintendent that the Applicant or his employer has sufficient training to perform the work. The Applicant shall also post a bond with the City in the amount of \$5,000.00 in the form approved by the City Clerk conditioned that the applicant will indemnify and save harmless the City from all suits, accidents, and damage that may arise by reason of any opening in any street, alley, or public ground, made by the applicant or by those in the applicant's employment for any purpose whatever, and that the applicant will replace and restore the street and alley over such opening to the condition existing prior to installation, adequately guard with barricades and lights and will keep and maintain the same to the satisfaction of the Superintendent, and shall conform in all respects to the rules and regulations of the Board of Public Works relative thereto, and pay all fines that may be imposed on the applicant by law.

§3-231 PROHIBITED DISCHARGES; UNPOLLUTED WATER.

No person(s) shall discharge or cause to be discharged any unpolluted water such as storm water, ground water, roof runoff, surface drainage, or non-contact cooling water to any sanitary sewer.

§3-232 UNPOLLUTED DRAINAGE; DISCHARGE TO STORM SEWERS.

Storm water and all other unpolluted drainage shall be discharged to such sewers as are specifically designed as storm sewers or to a natural outlet approved by the City and other regulatory agencies. Industrial cooling water or unpolluted process waters may be discharged to a storm sewer or natural outlet on approval of the City and upon approval and the issuance of a discharge permit by the NDEQ.

§3-233 HAZARDOUS AND PROHIBITED DISCHARGES; FLAMMABLE, OBSTRUCTIVE SUBSTANCES, CORROSIVE AND TOXIC.

No person(s) shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:

a. Any liquids, solids, or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the wastewater disposal system or to the operation of the system. Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides, and sulfide.

b. Solid or viscous substances which will cause obstruction to the flow in a sewer or other interference with the operation of the wastewater treatment facilities such as,

but not limited to, grease, garbage with particles greater than one-half (1/2) inch in any dimension, animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastic, asphalt residues, residues from refining or processing of fuel or lubricating oil, mud or glass grinding or polishing wastes.

c. Any wastewater having a pH of less than 5.0 or greater than 9.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the wastewater disposal system.

d. Any wastewater containing toxic pollutants in sufficient quantity, either singly or by interaction with other pollutants, to inhibit or disrupt any wastewater treatment process, constitute a hazard to humans or animals, or create a toxic effect in the receiving waters of the wastewater disposal system. A toxic pollutant shall include but not be limited to any pollutant identified pursuant to Section 307(a) of the Act.

### §3-234 HAZARDOUS AND PROHIBITED DISCHARGES; CONCENTRATIONS OR QUANTITIES.

The following described substances, materials, water, or wastes shall be limited in discharges to municipal systems to concentrations or quantities which will not harm either sewers, the wastewater treatment works treatment process or equipment, will not have an adverse effect on the receiving stream and/or soil, vegetation and ground water, or will not otherwise endanger lives, limb, public property, or constitute a nuisance. The Superintendent may set limitations lower than limitations established in the regulations below if, in his opinion, such more severe limitations are necessary to meet the above objections. In forming his opinion as to the acceptability of wastes, the Superintendent will give consideration to such factors as the quantity of subject waste in reaction to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, the City's NPDES permit, capacity of the sewage treatment plant, degree of treat ability of wastes in the sewage treatment plant, and other pertinent factors. The limitations or restrictions on materials or characteristics of waste or waste waters discharged to the sanitary sewer which shall not be violated without approval of the Superintendent are as follows:

a. Any wastewater having a temperature greater than 150 degrees F (65.6 degrees C), or causing, individually or in combination with other wastewater, the in fluent at the wastewater treatment plant to have a temperature exceeding 104 degrees F (40 degrees C), or having heat in amounts which will inhibit biological activity in the wastewater treatment works resulting in interference therein.

b. Any wastewater containing fats, wax, grease, or oils, whether emulsified or not, in excess of 100 mg/l or containing substances which may solidify or become viscous

at temperatures between 32 degrees F and 150 degrees F (0 degrees C and 65.6 degrees C); and any wastewater containing oil and grease concentrations of mineral origin of greater than 100 mg/l, whether emulsified or not.

c. Any quantities or flow, concentrations, or both which constitute a "slug" as defined herein.

d. Any garbage not properly shredded, as defined in this Article. 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 on the premises or when served by caterers.

e. Any noxious or malodorous liquids, gases, or solids which either singly or by interaction with other wastes are capable of creating a public nuisance or hazard to life, or are sufficient to prevent entry into the sewers for their maintenance and repair.

f. Any wastewater with objectionable color not removed in the treatment process, such as, but not limited to dye wastes and vegetable tanning solutions.

g. Non-contact cooling water or unpolluted storm, drainage, or ground water.

h. Wastewater containing inert suspended solids (such as, but not limited to, Fullers earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate) in such quantities that would cause disruption with the wastewater disposal system.

i. Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the superintendent in compliance with applicable state or federal regulations.

j. Any waters or wastes containing the following substances to such degree that any such material received in the composite wastewater at the wastewater treatment works in excess of the following limits for such materials:

Waste or Chemical	Daily Maximum Concentration (mg/l)	30-Day Average Concentration (mg/l)
Arsenic	0.34	0.15
Cadmium	1.2	0.5
Copper	4.5	1.8
Cyanide	0.8	0.23



Lead	0.6	0.3
Mercury	0.054	0.002
Nickel	4.1	1.8
Silver	0.019	N/A
Total Chromium	7	2.5
Zinc	4.2	1.8
Total Heavy Metals (Copper, Chromium, Nickel, Zinc)	10.5	5

Phenolic compounds which cannot be removed by City's wastewater treatment system.

k. Any wastewater which creates conditions at or near the wastewater disposal system which violates any statute, rule, regulation, or ordinance of any regulatory agency, or state or federal regulatory body.

l. Any waters or wastes containing BOD5 or suspended solids of such character and quantity that unusual attention or expense is required to handle such materials at the wastewater treatment works, except as may be permitted by specific written agreement subject to the provisions of 3-247 of this Article.

**§3-235 HAZARDOUS AND PROHIBITED DISCHARGES; REJECTION, PRETREATMENT, CONTROL OF DISCHARGE RATE OR USE FEE SURCHARGE.**

If any waters or wastes are discharged or are proposed to be discharged to the public sewers which contain substances or possess the characteristics enumerated in 3-233, 3-234, and/or which in the judgment of the Superintendent, may have a deleterious effect upon the wastewater treatment facilities, processes, or equipment; receiving water and/or soil, vegetation, and ground water; or which otherwise create a hazard to life or constitute a public nuisance, the City may:

- a. Reject the wastes,
- b. Require pretreatment to an acceptable condition for discharge to the public sewers, pursuant to Section 307(b) of the Act and all addendums thereof,
- c. Require control over the quantities and rates of discharge, and/or,
- d. Require payment to cover the added costs of handling, treating, and disposing of wastes not covered by existing taxes or sewer service charges.

If the City permits the pretreatment or equalization of waste flows, the design, installation, and maintenance of the facilities and equipment shall be made at the owner's expense, and shall be subject to the review and approval of the City pursuant to the requirements of the NDEQ.

#### §3-236 HAZARDOUS PROHIBITED SUBSTANCES; DILUTING OF DISCHARGE.

No user shall increase the use of process water or, in any manner, attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in 3-233 and 2-234 of this Article, or contained in the National Categorical Pretreatment Standards or any state requirements.

#### §3-237 PRELIMINARY TREATMENT OF FLOW EQUALIZATION FACILITIES; MAINTENANCE BY OWNER.

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 at the expense of the owner(s).

#### §3-238 GREASE, OIL AND SAND INTERCEPTORS; WHEN REQUIRED.

Grease, oil, and sand interceptors shall be provided when, in the opinion of the Superintendent, they are necessary for the proper handling of liquid wastes containing floatable grease in excessive amounts, as specified in 3-234(b), any flammable wastes as specified in 3-233(a), 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 the type to be readily and easily accessible for cleaning and inspection. In the maintaining of these interceptors, the owner(s) shall be responsible for the proper removal and disposal of the captured materials by appropriate means, and shall maintain a record of dates and means of disposal which are subject to review by the Superintendent. Any removal and hauling of the collected materials not performed by the owner's personnel, must be performed by a currently licensed waste disposal firm.

#### §3-239 CONTROL MANHOLES/SAMPLING STATIONS; WHEN REQUIRED; INSTALLATION AND MAINTENANCE.

Where required by the City, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable structure, or control manhole, with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of wastes. Such structure shall be accessible and safely located, and shall be constructed in accordance with plans approved by the City. The structure shall be installed by the owner at his expense and shall be maintained by the owner to be safe and accessible at all times.

### §3-240 INDUSTRIAL WASTE; SAMPLING.

The owner of any property serviced by a building sewer carrying industrial wastes may, at the discretion of the City, be required to provide laboratory measurements, tests, or analyses of waters or wastes to illustrate compliance with this Article and any special conditions for discharge established by the City or regulatory agencies having jurisdiction over the discharge. The number, type, and frequency of sampling and laboratory analyses to be performed by the owner shall be as stipulated by the City. The industry must supply a complete analysis of the constituents of the wastewater discharge to assure that compliance with Federal, State and local standards are being met. The owner shall report the results of measurements and laboratory analyses to the City at such times and in such manner as prescribed by the City. The owner shall bear the expense of all measurements, analyses, and reporting required by the City. At such times as deemed necessary, the City reserves the right to take measurements and samples for analysis by an independent laboratory.

### §3-241 SAMPLING; METHODS, LOCATION, TIMES, DURATION AND FREQUENCIES.

All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this Article shall be determined in accordance with the latest edition of Standard Methods for the Examination of Water and Wastewater, published by the American Public Health Association. Sampling methods, location, times, duration and frequencies are to be determined on an individual basis subject to approval by the Superintendent.

### §3-242 ACCIDENTAL DISCHARGE; PREVENTION; NOTIFICATION OF CITY.

Where required by the City, the owner of any property serviced by a sanitary sewer shall provide protection from an accidental discharge of prohibited materials or other substances regulated by this Article. Where necessary, facilities to prevent accidental discharges of prohibited materials shall be provided and maintained at the owner's expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the Superintendent for review and approval prior to construction of the facility. Review and approval of such plans and operating procedures shall not relieve any user from the responsibility to modify the user's facility as necessary to meet the requirements of this ordinance. Users shall notify the Superintendent immediately upon having a slug or accidental discharge of substances of wastewater in violation of this ordinance to enable countermeasures to be taken by the Superintendent to minimize damage to the wastewater treatment works. Such notification will not relieve any user of any liability for any expense, loss or damage to the wastewater treatment system or treatment process, or for any fines imposed on the City on account thereof under any State and Federal law. Employees shall insure that all employees who may cause or discover such a discharge, are advised of the emergency notification procedure.

### §3-243 OBSTRUCTION TO FLOW; INSTALL CATCH BASIN; REPAIR EXISTING CATCH

## BASIN.

No person, having charge of any building or other premises which drains into the public sewer, shall permit any substance or matter which may form a deposit or obstruction to flow or pass into the public sewer. Within 90 days after receipt of written notice from the City, the owner shall install a suitable and sufficient catch basin or waste trap, or if one already exists, shall clean out, repair or alter the same, and perform such other work as the Superintendent may deem necessary. Upon the owner's refusal or neglect to install a catch basin or waste trap or to clean out, repair, or alter the same after the period of 120 days, the Superintendent may cause such work to be completed at the expense of the owner or representative thereof.

## §3-244 SERVICE CONNECTION; CLOGGED, OBSTRUCTED, BROKEN OR UNFIT; NOTICE TO REPAIR; COMPLETION OF WORK.

Whenever any service connection becomes clogged, obstructed, broken or out of order, or detrimental to the use of the public sewer, or unfit for the purpose of drainage, the owner shall repair or cause such work to be done as the Superintendent may direct. Each day after seven (7) days that a person neglects or fails to so act shall constitute a separate violation of this section, and the Superintendent may then cause the work to be done, and recover from such owner or agent the expense thereof by an action in the name of the City.

## §3-245 MOTOR VEHICLE WASHING OR SERVICING; PREVENTION OF GREASE, DIRT, OIL OR MINERAL DEPOSIT.

The owner or operator of any motor vehicle washing or servicing facility shall provide and maintain in serviceable condition at all times, a catch basin or waste trap in the building drain system to prevent grease, oil, dirt or any mineral deposit from entering the public sewer system.

## §3-246 VIOLATION; ASSESSMENT OF COSTS.

In addition to any penalties that may be imposed for violation of any provision of this chapter, the City may assess against any person the cost of repairing or restoring sewers or associated facilities damaged as a result of the discharge of prohibited wastes by such person, and may collect such assessment as an additional charge for the use of the public sewer system or in any other manner deemed appropriate by the City.

## §3-247 INDUSTRIAL USERS; SPECIAL AGREEMENT.

No statement contained in this Article shall be construed as preventing any special agreement or arrangement between the City and any industrial concern whereby an

industrial waste of unusual strength or character may be accepted by the City for treatment, subject to payment therefore by the industrial concern, providing that National Categorical Pretreatment Standards and the City's NPDES Permit limitations are not violated.

§3-248 CRIMINAL LIABILITY; MALICIOUS DESTRUCTION OR TAMPERING.

No person(s) shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance, or equipment which is part of the wastewater facilities. Any person violating this provision shall be subject to immediate arrest under the charge of a misdemeanor.

§3-249 MUNICIPAL SEWER DEPARTMENT; RATE SETTING.

Each user of sewer service shall pay the charge(s) applicable to the type of service, and in accordance with the rates set by the Board of Public Works. The rates shall be on file in the office of the Municipal Clerk.

§3-250 MUNICIPAL SEWER DEPARTMENT; COLLECTION OF SEWER USE FEES.

Sewer rental bills shall be due and payable at the same time and in the same manner as water bills are due and payable. All penalties and procedures concerning delinquent accounts with the Municipal Water Department shall also be applicable to delinquent accounts with the Municipal Sewer Department.

§3-251 MUNICIPAL SEWER DEPARTMENT; ENTER FOR INSPECTIONS.

The superintendent or other duly authorized employees of the City, bearing proper credentials and identification, shall be permitted to enter all properties for the purpose of inspection, observations, measurement, sampling, and testing pertinent to the discharges to the City's sewer system in accordance with the provisions of this ordinance.

§3-252 MUNICIPAL SEWER DEPARTMENT; INFORMATION FROM INDUSTRIAL USERS.

The superintendent or other duly authorized employees are authorized to obtain information concerning industrial processes which have a direct bearing on the type and source of discharge to the wastewater collection system.

§3-253 MUNICIPAL SEWER DEPARTMENT; OBSERVATION OF COMPANY'S SAFETY RULES.

While performing necessary work on private properties, the superintendent or duly authorized employees of the City shall observe all safety rules applicable to the premises

established by the company, and the company shall be held harmless for injury or death to the City employees and the City shall indemnify the company against loss or damage to its property by City employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions.

#### §3-254 MUNICIPAL SEWER DEPARTMENT; EASEMENTS.

The superintendent or other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all private properties through which the City holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the wastewater facilities lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

#### §3-255 VIOLATIONS; NOTICE TO VIOLATOR; CORRECTION OF VIOLATION.

Any person found to be violating any provision of this ordinance, shall be served by the City with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations. If the offender does not timely correct the violation, the City may cut off or disconnect the offenders sewer service.

#### §3-256 VIOLATION; FINE.

Any person who shall continue any violation beyond the time limit provided for in 3-255 of this Article, shall be guilty of a misdemeanor, and on conviction thereof, shall be fined in the amount not exceeding \$500 for each violation. Each day in which any such violation occurs shall be deemed as a separate offense.

#### §3-257 VIOLATION; LIABILITY FOR DAMAGE.

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

### Article 3. Fire Department

#### §3-301 MUNICIPAL FIRE DEPARTMENT: OPERATION AND FUNDING.

The Municipality operates the Municipal Fire Department through the Municipal Fire Chief and Firemen. The Governing Body, for the purpose of defraying the cost of the management, maintenance, and improving the Fire Department may each year levy a tax not exceeding the maximum limits prescribed by State law, on the actual valuation of all real estate and personal property within the Municipality that is subject to taxation. The revenue from the said tax shall be known as the Fire Department Fund. The Fund shall be at all times in the possession of the Municipal Treasurer. The Municipality may enter into an agreement with the appropriate rural fire district for cooperation in providing mutual aid and protection for all the residents therein. (Ref. 17-147, 17-718, 17-953 RS Neb.)

### §3-302 MUNICIPAL FIRE DEPARTMENT: EQUIPMENT.

All fire extinguishment apparatus and equipment, including fire trucks, belonging to the City shall be under the direct and immediate control and care of the Chief of the Fire Department subject to any regulations and orders that the Mayor and Council may from time to time by resolution make in regard to the same.

### §3-303 MUNICIPAL FIRE DEPARTMENT: FIRE CHIEF.

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

### §3-304 MUNICIPAL FIRE DEPARTMENT: MEMBERSHIP.

The Fire Chief shall appoint no more than twenty-five (25) members for each Fire Department Company subject to the review and approval of the Governing Body. All vacancies shall be filled in this manner. Said members shall be considered to be employees of the Municipality for the purpose of providing them with workmen's compensation and other benefits. Each member shall be entitled to a term life insurance policy in the amount of at least ten thousand (\$10,000.00) dollars for death from any cause to age sixty-five (65) and such policy shall, at the option of the individual fireman, be convertible to a permanent form of life insurance at age sixty-five (65); Provided, that the firemen covered are actively and faithfully performing the duties of their position. The Fire Department shall consist of so many members as may be decided by the Governing Body. The members may organize themselves in any way they may decide, subject to the review of the Governing Body. They may hold meetings and engage in social activities with the approval of the Governing Body. The secretary shall upon request keep a record of all meetings and shall make a report to the Governing Body of all meetings and activities of the Fire Department. The Governing Body

may, for services rendered, compensate or reward any member or members of the Fire Department in an amount set by resolution. All members of the Fire Department shall be subject to such rules and regulations, and shall perform such duties, as may be prescribed or required of them by the Fire Chief or the Governing Body. The members of the Fire Department shall, during the time of a fire or great, public danger, have and exercise the powers and duties of policemen and shall have full power and authority to arrest all persons guilty of any violation of the Municipal Code, or the laws of the State of Nebraska.

Provided, however, Volunteer Firefighters and rescue squad members testifying as a witness in connection with his or her officially assigned duties in that capacity alone shall not be deemed employees of the State of Nebraska or of the Municipality. (Ref. 33-139.01, 35-101 thru 35-103, 35-108 RS Neb.) (Amended by Ord. No. 774, 12/1/86)

### §3-305 MUNICIPAL FIRE DEPARTMENT: FIRES.

It shall be the duty of the Fire Department to use all proper means for the extinguishment of fires; to protect property within the Municipality; and to secure the observance of all ordinances, laws, and other rules and regulations with respect to fires and fire prevention.

### §3-306 MUNICIPAL FIRE DEPARTMENT: DISTANT FIRES.

Upon the permission of the Fire Chief, the Mayor, or pursuant to any agreement with a Rural Fire District for mutual aid and protection, such fire equipment of the Municipality as may be designated by the Governing Body as rural equipment may be used beyond the corporate limits to extinguish reported fires.

### §3-307 MUNICIPAL FIRE DEPARTMENT: FIGHTING DISTANT FIRES.

The fire fighters of the Municipality shall be considered as acting in the performance and within the scope of their duties in fighting fire or saving property or life outside the corporate limits of the Municipality when directed to do so by the Mayor, pursuant to an agreement with a Rural Fire District, or when directed by the Chief of the Fire Department or some person authorized to act for such Chief and in so doing, may take such fire equipment of the Municipality as may be designated by the Governing Body.

### §3-308 MUNICIPAL FIRE DEPARTMENT: PRESERVATION OF PROPERTY.

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



progress of a fire for the purpose of extinguishing or checking the same.

§3-309 MUNICIPAL FIRE DEPARTMENT: HOSE TESTED.

All fire hose shall be pressure tested at least one (1) time each year.

§3-310 MUNICIPAL FIRE DEPARTMENT: POWER OF ARREST.

The Municipal Fire Chief or the assistant Fire Chief shall have the power during the time of a fire and for a period of thirty-six (36) hours after its extinguishment, to arrest any suspected arsonist, or other person hindering or resisting the fire fighting effort, or any person who conducts himself in a noisy or disorderly manner. The said officials shall be severally vested with the usual powers and authority of Municipal Policemen to command all persons to assist them in the performance of their duties.

§3-311 MUNICIPAL FIRE DEPARTMENT: FIRE INVESTIGATION.

It shall be the duty of the Fire Department to investigate or cause to be investigated, the cause, origin, and circumstances of every fire occurring in the Municipality in which property has been destroyed or damaged in excess of five hundred (\$500.00) dollars. All fires of unknown origin shall be reported, and such officers shall especially make an investigation and report as to whether such fire was the result of carelessness, accident, or design. Such investigation shall begin within two (2) days of the occurrence of such fire and the State Fire Marshal shall have the right to supervise and direct the investigation whenever he deems it expedient or necessary. The officer making the investigation of fires occurring within the Municipality shall immediately notify the State Fire Marshal and shall, within one (1) week of the occurrence of the fire, furnish him with a written statement of all the facts relating to the cause and origin of the fire, and such further information as he may call for. (Ref. 81-506 RS Neb.)

Article 4. Police Department

§3-401 POLICE DEPARTMENT: DUTIES.

The Police Department shall consist of the Chief of Police and such further number of regular police officers as may be duly ordered by resolution of the Council. The Chief of Police shall, subject to the direction of the Mayor, have control and management of all matters relating to the Police Department, its officers and members, and shall have the custody and control of all property and books belonging to the department. He shall devote his whole time to the municipal affairs, interests of the Municipality, and to the preservation of peace, order, safety, and cleanliness thereof. The Department shall execute and enforce all laws and also the orders of the Mayor. It shall be the duty of the Department to protect the rights of persons and property. There shall be a proper police force at all fires. The Department shall take notice of all nuisances, impediments, obstructions, and defects in the

streets, avenues, alleys, business places, and residences of the Municipality. The Department shall execute, or cause to be executed, the processes issued and shall cause all persons arrested to be brought before the proper court for trial as speedily as possible. The Chief of Police and all regular and special policemen shall become thoroughly conversant with the laws of the Municipality, and shall see that the same are strictly enforced and shall make sworn complaints against any person or persons for violation of the same.

### §3-402 POLICE DEPARTMENT: RESERVE OFFICER BOND.

No appointment of a law enforcement reserve officer shall be valid until a bond in the amount of two thousand (\$2,000.00) dollars, payable to the City, has been filed with the Municipal Clerk by the individual appointed, or a blanket surety bond arranged and paid for by the Governing Body and bonding all such officers of the Governing Body has been filed. Such bonds shall be subject to the provisions of Chapter 11, Article 1, Nebraska Revised Statutes. (Ref. 81-1444 RS Neb.) (Ord. No. 775, 12/1/86)

### §3-403 POLICE OFFICERS: DISCIPLINE OR REMOVAL FROM DUTY.

1. No Police Officer shall be disciplined, suspended, demoted, removed or discharged, except upon the written accusation of the Police Chief, Mayor, or any citizen or taxpayer. Police Officer for purposes of 3-403 shall include Police Chief.

2. The written accusation shall set forth the alleged misconduct, charges or grounds for the investigation of the Police Officer.

The investigation shall also include the following information:

A. That the Police Officer has a right to have an attorney or representative retained by the Police Officer present with him or her at all hearings or proceedings regarding the written accusation.

B. That the Police Officer or his or her attorney or representative retained by the Police Officer has the right to be heard and present evidence.

C. That the Police Officer as well as the individual imposing the action or their respective attorneys or representatives shall have the right to record all hearings or proceedings regarding the written accusation.

The written accusation shall be filed with the City Clerk. The City Clerk shall cause said written accusation to be delivered to the Police Officer personally or by certified mail addressed to the address of the Police Officer as shown in the City's personnel record. Prior to the decision of the Police Chief (or the Mayor if the Police Chief is being accused) as to what discipline, if any, is warranted, the City may conduct additional investigations within a reasonable amount of time. As part of that investigation, the Police Chief (or Mayor if the Police Chief is accused) shall offer to meet with the employee on an informal basis. At the informal meeting with the employee, the Police Chief (or Mayor if the Police Chief is accused) shall explain the basis of the employer's evidence against the employee and the employee shall have a right to present his or her version of the circumstances which resulted in the written accusation.

3. No Police Officer shall be disciplined, suspended, demoted, removed, or discharged

except upon written notice stating the reasons for that disciplinary action, suspension, demotion, removal or discharge. The notice shall also contain a statement informing the Police Officer of his or her right to a hearing before the City Council.

4. Any Police Officer so disciplined, suspended, demoted, removed, or discharged may, within 10 days after being notified of the disciplinary action, suspension, demotion, removal, or discharge, file with the City Clerk a written demand for a hearing before the City Council. The City Council shall set the matter for hearing not less than 10 nor more than 20 days after the filing of the written demand for a hearing. The City Council shall give the Police Officer written notice of the hearing not less than 7 nor more than 14 days prior to the hearing.

5. At the hearing, the Police Officer shall have the right to:

- (a) Respond in person to the charges and to present witnesses and documentary evidence;
- (b) Confront and cross-examine available adverse witnesses; and
- (c) Be represented by counsel or other representative.
- (d) Have the right to record the hearing.

6. Not later than 30 days following the adjournment of the meeting at which the hearing was held, the City Council shall vote to uphold, reverse, or modify the disciplinary action, suspension, demotion, removal, or discharge. The failure of the City Council to act within 30 days or the failure of a majority of the elected City Council members to vote to reverse or modify the disciplinary action, suspension, demotion, removal, or discharge shall be construed as a vote to uphold the disciplinary action, suspension, demotion, removal, or discharge. The decision of the City Council shall be based upon its determination that, under the facts and evidence presented at the hearing, the challenged disciplinary action, suspension, demotion, removal, or discharge was necessary for the proper management and the effective operation of the Police Department in the performance of its duties under the state statutes.

7. Nothing in this section shall be construed to prevent the peremptory suspension or immediate removal from duty of an officer, pending the hearing authorized by this section, in cases of gross misconduct, neglect of duty, or disobedience of orders. (Ref 17-107 RS Neb.)

8. Section 3-403 shall not apply to a Police Officer during his probationary period.

## Article 5. Parks

### §3-501 MUNICIPAL PARKS; OPERATION AND FUNDING.

The Municipality owns and operates the Municipal Parks and other recreational areas through the Board of Park and Recreation Commission. The Governing Body, for the purpose of defraying the cost of the care, management, and maintenance of the Municipal Park may each year levy a tax not exceeding the maximum limit prescribed by State law, on the actual valuation of all real estate and personal property within the corporate limits that is subject to taxation. The revenue from the said tax shall be known as the Park Fund and shall remain in the custody of the Municipal Treasurer. The Commission shall have the

authority to adopt rules and regulations for the efficient management of the Municipal Parks and other recreational areas of the Municipality, subject to the review and approval of the Governing Body. The Commission shall not enter into a contract of any nature which involves an expenditure of funds, except for ordinary operating expenses, unless the contract has been approved by resolution of the majority of the members of the Governing Body prior to the contractual agreement. (Ref. 17-948 thru 17-952 RS Neb.)

### §3-502 MUNICIPAL PARKS; INJURY TO PROPERTY.

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

### §3-503 MUNICIPAL PARKS; HOURS DESIGNATED.

Eleven (11:00) o'clock P.M. hereby is designated as the closing time of the City park of Tecumseh, Nebraska.

The City park of Tecumseh, Nebraska, shall include all property being used as park or recreational facilities with the exception of the Municipal tennis courts and ball fields which are expressly excluded from the eleven (11:00) o'clock P.M. closing hour.

Anyone found within the park after closing hours and before the opening of the park, shall be guilty of a misdemeanor.

The official opening hour of the park is hereby set at seven (7:00) o'clock A.M. (Ord. No. 626)

### §3-504 MUNICIPAL PARKS; UNAUTHORIZED VEHICLES.

It is hereby declared unlawful for any unauthorized automobile, motorcycle, other motorized vehicles, bicycles and livestock to be within all City park areas except at expressly designated areas. (Ord. No. 619)

## Article 6. Swimming Pool

### §3-601 MUNICIPAL SWIMMING POOL; OPERATION AND FUNDING.

The Municipality owns and manages the Municipal Swimming Pool. The Governing Body, for the purpose of defraying the cost of the management, maintenance, and improvements of the Swimming Pool may each year levy a tax not exceeding the maximum limit prescribed by State law, on the actual valuation of all real estate and personal property within the Municipality that is subject to taxation. The revenue from the said tax shall be known as the Swimming Pool Fund and shall include all gifts, grants, deeds of conveyance, bequests, or other valuable income-producing personal property and real estate from any

source for the purpose of endowing the Swimming Pool. The Swimming Pool Fund shall at all times be in the custody of the Municipal Treasurer. The Park and Recreation Commission shall manage the Swimming Pool. The Commission shall have the power and authority to hire and supervise the Swimming Pool Manager and such employees as they may deem necessary and shall pass such rules and regulations for the operation of the Swimming Pool as may be proper for its efficient operation. All actions by the Commission shall be under the supervision and control of the Governing Body. (Ref. 17-948, 17-951, 17-952 RS Neb.)

#### §3-602 MUNICIPAL SWIMMING POOL; ADMISSION CHARGE.

The Park and Recreation Commission may, for the purpose of defraying the expenses involved in maintaining, improving, managing, and beautifying the Swimming Pool, make a reasonable admission charge for the use by any person of the Municipal Swimming Pool. The said charges shall be on file at the office of the Municipal Clerk and shall also be posted in a conspicuous place at the Municipal Swimming Pool for public inspection. Such rates may be structured for classes of persons in a reasonable manner; Provided, that nothing herein shall be construed to permit or allow discrimination on the basis of race, creed, color, or national origin in the classification of persons for admission charges. (Ref. 17-949 RS Neb.)

#### §3-603 MUNICIPAL SWIMMING POOL; RENTALS.

The Park and Recreation Commission shall have the authority to rent the Municipal Swimming Pool to such organizations and other persons as they may in their discretion see fit, subject to the review of the Governing Body. The Commission shall prescribe rules and regulations for such rentals and shall require an appropriate number of qualified lifeguards to be in attendance during the rental period. Such fees and other costs shall be on file at the office of the Municipal Clerk and posted in a conspicuous place at the Municipal Swimming Pool. (Ref. 17-949 RS Neb.)

#### §3-604 MUNICIPAL SWIMMING POOL; RULES AND REGULATIONS.

The Park and Recreation Commission shall have the power and authority to enact bylaws, rules, and regulations for the protection of those using the Swimming Pool and for the efficient management thereof. They may provide suitable penalties for the violation of such bylaws, rules, and regulations subject to the review and supervision of the Governing Body. (Ref. 17-949 RS Neb.)

### Article 7. Electrical System

#### §3-701 MUNICIPAL ELECTRICAL SYSTEM; OWNERSHIP.

The Municipality owns and operates the Municipal Electrical System through the

Board of Public Works. The Board of Public Works, for the purpose of defraying the cost of the care, management, and maintenance of the Municipal Electrical System may each year levy a tax not exceeding the maximum limit prescribed by State law, on the actual valuation of all real estate and personal property within the corporate limits that is subject to taxation. The revenue from the said tax shall be known as the Electrical Fund and shall remain in the custody of the Municipal Treasurer. The Electric Superintendent shall have the direct management and control of the Municipal Electrical System and shall faithfully carry out the duties of his office. The Board of Public Works shall have the authority to adopt rules and regulations for the safe and efficient management of the Electrical System. (Ref. 17-902 thru 17-904, 17-906, 17-909 RS Neb.)

### §3-702 MUNICIPAL ELECTRICAL SYSTEM; CONTRACTS AND TERMS.

The rules, regulations, and rates for electric service, hereinafter named, in this Article, shall be considered a part of every application hereafter made for electric service and shall be considered a part of the contract between every consumer now served by the Utilities Department. Without further formality, the making of application on the part of any applicant or the use or consumption of electric energy by present customers and the furnishing of electric service to said applicant or customer shall constitute a contract between applicant or customer and the Municipality, to which both parties are bound. If customer should violate any of the provisions of said contract or any reasonable rules and regulations that the Board of Public Works may hereafter adopt, the Electric Superintendent, or his agent, shall cut off or disconnect the electric service from the building or place of such violation (in compliance with Section 3-801) and no further connection of electric service for such building or place shall again be made save or except by order of the Electric Superintendent or his agent.

### §3-703 MUNICIPAL ELECTRICAL SYSTEM; CONSUMER'S APPLICATION.

Every person or persons desiring electrical service must make application therefore to the Utilities Department. Applicant may be required to make a service deposit under the procedures and policies as set out in Section 3-127. Electricity may not be supplied to any house or building except upon the written order of the Electric Superintendent. (Ref. 17-902, 19-2701 RS Neb.)

### §3-704 MUNICIPAL ELECTRICAL SYSTEM; ELECTRICAL SERVICE CONTRACTS.

Contracts for electrical service are not transferable. Any person wishing to change from one location to another shall make a new application and sign a new contract. If any consumer shall sell, dispose, or remove from the premise where service is furnished in his name, or if the said premise is destroyed by fire or other casualty, he shall at once inform the Electric Superintendent who shall cause the electrical service to be shut off from the said premise. If the consumer should fail to give such notice, he shall be charged for all electricity used on the said premise until the Electric Superintendent is otherwise advised of such

circumstances. (Ref. 17-902 RS Neb.)

### §3-705 MUNICIPAL ELECTRICAL SYSTEM; LICENSED ELECTRICIAN.

Under no circumstances shall connections be made between the wires of the electrical distribution system of this Municipality and the meter of the consumer, except by an employee of the Utilities Department. The consumer may have wiring done by any competent licensed electrician from the meter to the points of distribution. All wiring, equipment, and apparatus shall be installed according to the electrical code duly adopted by the Municipality. All installation shall be done under the supervision and strictly in accordance with the rules, regulations, and specifications for such installation prescribed by the Board of Public Works. (Ref. 17-902 RS Neb.)

### §3-706 MUNICIPAL ELECTRICAL SYSTEM; INSTALLATION EXPENSE.

The expense of installation and equipment of the meter loop, with the exception of the meter socket and meter, shall be the responsibility of the consumer. The meter socket, meter and overhead service drop shall be the responsibility of the Municipality. However, when a multiple meter setup (2 or more meters) is installed, the consumer shall also be responsible for the cost of the meter sockets. The City will provide underground or overhead installation on a cost-sharing basis with the consumer. Such basis shall be set by the Board of Public Works. Maintenance and replacement expense shall be apportioned in the same manner. (Ref. 17-902 RS Neb.) (Amended March 5, 2012)

### §3-707 MUNICIPAL ELECTRICAL SYSTEM; FEES AND COLLECTIONS.

The Board of Public Works has the power and authority to fix the rates to be paid by electrical consumers for the use of electricity. All rates shall be on file for public inspection at the office of the Municipal Clerk. The Utilities Department shall bill the consumers and collect all money received by the Municipality on the account of the Municipal Electrical System. The Department shall faithfully account for and pay over the same to the Municipal Treasurer all revenue so collected, taking a receipt therefor in duplicate, filing one (1) with the Municipal Clerk and keeping the other on file in its official records. (Ref. 17-902 RS Neb.)

### §3-708 MUNICIPAL ELECTRICAL SYSTEM; COLLECTION OF ELECTRICAL BILLS.

Electric bills shall be due and payable at the same time and in the same manner as water bills are due and payable. All penalties and procedures concerning delinquent accounts with the Municipal Water Department shall also be applicable to delinquent accounts with the Municipal Electrical System.

### §3-709 MUNICIPAL ELECTRICAL SYSTEM; MINIMUM RATES.

All electrical consumers shall be liable for the minimum rate provided by the Board of Public Works unless and until the consumer shall, by written order direct the Board of Public Works to shut off the electricity in which case he shall not be liable thereafter for electrical service until the electricity is turned on again. (Ref. 17-902 RS Neb.)

§3-710 MUNICIPAL ELECTRICAL SYSTEM; RESTRICTED USE.

The Municipal Electrical System does not guarantee the delivery of electric current over the lines of the distribution system except when it has sufficient power, current, equipment, and machinery to do so. The Board of Public Works has the power and authority to disconnect or discontinue such service for any good and sufficient reason without liability. The Municipality shall use due care and reasonable diligence to provide and supply uninterrupted service to consumers, but shall not be liable for damages resulting from interruption of service due to causes over which the Municipality has no control and the Municipality expressly reserves the right to discontinue or disconnect any consumer's service without preliminary notice for reasons of repair, maintenance, or to protect the health or safety of the consumer or the general public. (Ref. 17-902 RS Neb.)

§3-711 MUNICIPAL ELECTRICAL SYSTEM; METER IN DISREPAIR.

In the event that any customer's meter falls out of repair or fails to register properly, the Utilities Department shall charge such customer the same amount billed one (1) year previous to such disrepair. In the event that there is no such basis for comparison, the Utilities Department shall charge the customer such amount as he deems is fair both to the customer and the Municipality.

§3-712 MUNICIPAL ELECTRICAL SYSTEM: INSPECTIONS.

The Electric Superintendent or his duly authorized agents shall have free access at any reasonable time to each premise and building to or in which electricity is supplied; Provided, that in the event of an emergency, such inspections may take place at any time. (Ref. 17-902 RS Neb.)

§3-713 ELECTRICAL INTERCONNECTION STANDARDS; NET METERING.

The Board of Public Works for the City of Tecumseh, Nebraska shall adopt Electrical Interconnection Standards, Procedures, Agreements, Charges and Fees regarding Net Metering. These documents shall be kept on file with the City Clerk.

Article 8. Utilities Generally

§3-801 UTILITIES GENERALLY: DISCONTINUANCE OF SERVICE. NOTICE PROCEDURE.

The Municipality shall have the right to discontinue services and remove its properties



if the charges for such services are not paid within twenty (20) days after the date that the same becomes delinquent. Before any termination, the Department of Utilities shall first give notice to any subscriber whose service is proposed to be terminated. Such notice shall be given in person, by first class mail, or by electronic delivery, except that electronic delivery shall only be used if the subscriber has specifically elected to receive such notices by electronic delivery. If notice is given by first class mail, or electronic delivery, such notice shall be conspicuously marked as to its importance. Service shall not be discontinued for at least seven (7) days after notice is sent or given. Holidays and weekends shall be excluded from the seven (7) days.

The notice shall contain the following information:

1. The reason for the proposed disconnection;
2. A statement of the intention to disconnect unless the domestic subscriber either pays the bill or reaches an agreement with the Department regarding payment of the bill;
3. The date upon which service will be disconnected if the domestic subscriber does not take appropriate action;
4. The name, address, and telephone number of the employee or department to whom the domestic subscriber may address an inquiry or complaint;
5. The domestic subscriber's right, prior to the disconnection date, to request a conference regarding any dispute over such proposed disconnection;
6. A statement that the Department may not disconnect service pending the conclusion of the conference;
7. A statement to the effect that disconnection shall be postponed or prevented upon presentation of a duly licensed physician's, physician assistant's, or advanced practice registered nurse's certificate which shall certify that the domestic subscriber or resident within such subscriber's household has an existing illness or handicap which would cause such subscriber or resident to suffer an immediate and serious health hazard by the disconnection of the utility's service to that household. Such certificate shall be filed with the Department of Utilities within five (5) days of receiving notice under this Section, excluding holidays and weekends, and will prevent the disconnection of the Department's services for a period of at least thirty (30) days from such filing. Only one (1) postponement of disconnection shall be required under this subsection for each incidence of non-payment of any due account;
8. The cost that will be borne by the domestic subscriber for restoration of service;
9. A statement that the domestic subscriber may arrange with the Department for an installment payment plan;
10. A statement to the effect that those domestic subscribers who are welfare recipients may qualify for assistance in payment of their utility bill and that they should contact their caseworker in that regard; and
11. Any additional information not inconsistent with this Section which has received prior approval from the Governing Body.

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

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

This Section shall not apply to any disconnections or interruptions of services made necessary by the utility for reasons of repair or maintenance or to protect the health or safety of the domestic subscriber or of the general public. (Ref. 19-2702 et seq. RS Neb.)(Amended by Ord. Nos. 734, 10/3/83; 776, 12/1/86) (Amended September 2016) (Amended November 6, 2017)(Amended May 3, 2021)

### §3-802 UTILITIES GENERALLY: DIVERSION OF SERVICES: PENALTY.

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

In any civil action brought pursuant to this Section, the Municipality shall be entitled, upon proof of willful or intentional bypassing, tampering, or unauthorized metering to recover as damages:

- A. The amount of actual damage or loss if the amount of the damage or loss is susceptible of reasonable calculation; or
- B. Liquidated damages of seven hundred fifty (\$750.00) dollars if the amount of actual damage or loss is not susceptible of reasonable calculation.

In addition to damage or loss under subdivision A or B of this Section the Municipality may recover all reasonable expenses and costs incurred on account of the bypassing, tampering, or unauthorized metering including, but not limited to, disconnection, reconnection, service calls, equipment, costs of the suit, and reasonable attorneys' fees in cases within the scope of Section 25-1801 Reissue Revised Statutes of Nebraska 1943.

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

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

The remedies provided by this Section shall be deemed to be supplemental and

additional to powers conferred by existing laws and the remedies provided in this Section are in addition to and not in limitation of any other civil or criminal statutory or common law remedies. (Ref. 86-331.01 thru 86-331.04 RS Neb.) (Ord. No. 735, 10/3/83)

### §3-803 APPLICATION FOR CITY UTILITIES

Any Applicant desiring to receive utility services, including City Trash Service, from the City of Tecumseh through the Board of Public Works, shall submit an application for said services on a form provided by the Board of Public Works and pay any required deposit for said services.

Any tenant or renter applying for utility services, must include with such application and deposit, Landlord Utility Agreement for the specific property, and a Landlord Notification Authorization. The Landlord must also have on file with the City, a Landlord Disconnect/Reconnect Agreement. In addition, all Landlords must agree to be responsible for all unpaid utility charges, including unpaid trash services, in order for the renter to tenant to receive utility services. (November 6, 2023)

### Article 9. Penal Provision

#### §3-901 VIOLATION; PENALTY.

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

Chapter 4  
HEALTH AND SANITATION

Article 1. General Provisions

§4-101 HEALTH: REGULATIONS.

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

§4-102 HEALTH: ENFORCEMENT OFFICIAL.

The Municipal Police Chief, as the Quarantine Officer, shall be the chief health officer of the Municipality. It shall be his duty to notify the Governing Body and the Board of Health of health nuisances within the Municipality and its zoning jurisdiction.

§4-103 HEALTH: COUNTY HEALTH BOARD.

It shall be the duty of the Board of Health to work closely with the County Health Board in protecting the health and welfare of the residents of the Municipality.

Article 2. Garbage Disposal

§4-201 GARBAGE: DEFINED

The term "garbage" as used herein shall be defined to mean kitchen refuse, decayed waste, dead animals, or anything that may decompose and become offensive to the public health.

§4-202 RUBBISH AND TRASH: DEFINED.

The terms "rubbish" or "trash" as used herein shall be defined as discarded or dismantled machinery, discarded or dismantled equipment, discarded or dismantled toys, pieces of wood, sticks, dead trees, branches, bottles, broken glass, crockery, tin cans, boxes, papers, rags, or any other litter or debris that is not an immediate hazard to the health of the residents of the Municipality. (Amended October 1, 2012)(Amended December 2019)

§4-203 WASTE: DEFINED.

The term "waste" as herein defined shall mean building rubble, building debris, cinders, ashes, plaster, brick, stone, sawdust, or sand. (Amended December 2019)

#### §4-204 GARBAGE DISPOSAL: TIME.

It shall be unlawful for any person to throw, sweep or deposit any garbage, wastepaper, ashes, rubbish, waste or trash of any nature or to allow any garbage, wastepaper, ashes, rubbish, waste and trash to accumulate for more than seven (7) days upon any property not belonging to the City of Tecumseh within the City limits.

If the Mayor ascertains that any person is in violation of the above provision, he may cause a written notice to be sent to the owner of the property or to any person residing on said property. Said notice shall state that failure to remove such garbage, wastepaper, ashes, rubbish, waste and trash of any nature within seven (7) days may result in a complaint being filed and such person being charged with a misdemeanor. (Rev. 7-1-14, Code 1966)(Amended October 1, 2012)

#### §4-205 GARBAGE AND REFUSE COLLECTION: AUTHORITY.

The governing body for the City may provide for the collection and removal of garbage, wastepaper, ashes, rubbish, waste and trash found upon any lot or land within its corporate roads, or alleys abutting such lot or land which constitutes a public nuisance. The City may require the owner, duly authorized agent, or tenant of such lot or land to remove the garbage, wastepaper, ashes, rubbish, waste and trash from such lot or land and streets, roads, or alleys. (Ref. 18-1752 RS Neb.) (Ord. No. 90-805, 4/16/90)(Amended October 1, 2012)

#### §4-206 GARBAGE AND REFUSE COLLECTION: NOTICE: REMOVAL.

Notice that removal of garbage, wastepaper, ashes, rubbish, waste and trash, if necessary, shall be given to each owner or owner's duly authorized agent and to the tenant, if any. Such notice shall be provided by personal service or by certified mail. If said garbage, wastepaper, ashes, rubbish, waste and trash is not removed within 7 days of the receipt of said Notice, the City through its proper offices shall, in addition to other proper remedies, remove the garbage, wastepaper, ashes, rubbish, waste and trash, or cause it to be removed, from such lot or land and streets, roads, or alleys. (Ref. 18-1752 RS Neb.) (Ord. No. 90-805, 4/16/90)(Amended October 1, 2012)

#### §4-207 GARBAGE AND REFUSE COLLECTION: NUISANCE.

If the Mayor declares that the accumulation of such garbage, wastepaper, ashes, rubbish, waste and trash upon any lot or land constitutes an immediate nuisance and hazard to public health and safety, the City shall remove the garbage, wastepaper, ashes, rubbish, waste and trash or cause it to be removed, from such lot or land within forty-eight (48) hours after notice by personal service or following receipt of a certified letter in accordance with section 4-206 if such garbage, wastepaper, ashes, rubbish, waste and trash has not been removed. (Ref. 18-1752 RS Neb.) (Ord. No. 90-805, 4/16/90)(Amended October 1, 2012)

#### §4-208 GARBAGE AND REFUSE COLLECTION: LIEN.

Whenever a City removes any garbage, wastepaper, ashes, rubbish, waste and trash or causes it to be removed, from any lot or land pursuant to this article, it shall, after a hearing conducted by the governing board, assess the cost of the removal against such lot or land. (Ref. 18-1752 RS Neb.) (Ord No. 90-805, 4/16/90)(Amended October 1, 2012)

#### §4-209 GARBAGE DISPOSAL: MANDATORY COLLECTION; BILLING; AND LIENS.

There is hereby established mandatory garbage pickup in the City of Tecumseh. Every occupied residential household must have their garbage removed by a trash hauler whom has been approved by the City of Tecumseh. All residential household garbage service shall be at curbside (within 10 feet of Street). There will be no residential household alley pickup in the municipality unless the trash hauler or City notifies the household in writing that their trash will be collected in the alley.

Every commercial enterprise shall have their garbage removed at least once every seven days. Said commercial enterprises may contract with a City approved hauler or haul their own garbage to a State approved landfill or State approved transfer station.

The City of Tecumseh may contract with one or more persons or businesses to provide trash service for the City of Tecumseh under terms and conditions as the parties may agree.

The City Council may by resolution set rules, regulations and fees for the trash service provided to the residents of Tecumseh, Nebraska.

If the charges so established for residential households are not paid when due, such sum may be recovered by the municipality in a civil action and/or it may be certified to the tax assessor and assessed against the premises served, and collected or returned in the same manner as other municipal taxes are certified, assessed, collected and returned.

That no household or commercial enterprise shall deposit yard waste or garden waste for collection by the trash hauler on its regular City Route. Provided, that households or commercial enterprises may make special arrangements directly with individuals, businesses or the City approved trash hauler for the disposal of said yard and garden waste.

Residential households and all commercial enterprises shall not leave garbage, yard waste, garden waste, trash receptacles or trash barrels on City property or right of way for longer than 48 consecutive hours. (October 4, 1993)

Commercial enterprises shall be defined as any commercial enterprise which generates garbage. Commercial include all multiunit residential households.

#### §4-210 GARBAGE: UNLAWFUL THROWING OR DEPOSITING.

It shall be unlawful for any person to deposit or throw any garbage, wastepaper, ashes, rubbish, waste and trash of any nature on property not owned or leased by said person without the consent of the owner of the property. (July 7, 2003)(Amended October 1, 2012)

### Article 3. Nuisances

#### §4-301 NUISANCES: GENERALLY DEFINED.

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

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

#### §4-302 NUISANCE: SPECIFICALLY DEFINED.

The maintaining, using, placing, depositing, leaving, or permitting of any of the following specific acts, omissions, places, conditions, and things are hereby declared to be nuisances:

1. Any odorous, putrid, unsound or unwholesome grain, meat, hides, skins, feathers, vegetable matter, or the whole or any part of any dead animal, fish, or fowl.
2. Privies, vaults, cesspools, dumps, pits or like places which are not securely protected from flies or rats, or which are foul or malodorous.
3. Filthy, littered or trash-covered cellars, house yards, barnyards, stable-yards, factory-yards, mill yards, vacant areas in rear of stores, granaries, vacant lots, houses, buildings, or premises.
4. Animal manure in any quantity which is not securely protected from flies and the elements, or which is kept or handled in violation of any ordinance of the Municipality.
5. Liquid household waste, human excreta, garbage, butcher's trimmings and offal, parts of fish or any waste vegetable or animal matter in any quantity; provided, nothing herein contained shall prevent the temporary retention of waste in receptacles in a manner provided by the health officer of the Municipality, nor the dumping of non-putrifying 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 bins or galvanized iron receptacles.
7. Trash, litter, rags, accumulations of barrels, boxes, crates, packing crates, mattresses, bedding, excelsior, packing hay, straw or other packing material, lumber not neatly piled, scrap iron, tin or other metal not neatly piled, old automobiles or parts thereof, or any other waste materials when any of said articles or materials create a condition in which flies or rats may breed or multiply, or which may be a fire danger or which are so

unsightly as to depreciate property values in the vicinity thereof.

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

9. All places used or maintained as junk yards, or dumping grounds, or for the wrecking and 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 builders or by other persons, which said places are kept or maintained so as to essentially interfere with the comfortable enjoyment of life or property by others, or which are so unsightly as to tend to depreciate property values in the vicinity thereof.

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

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

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

#### §4-303 NUISANCES: ABATEMENT PROCEDURE.

A. The owner or occupant of any real estate within the corporate limits or zoning jurisdiction of the city shall keep such real estate free of nuisances. Except to the extent that conflicting procedures are otherwise provided, the procedures in this section shall apply to abatement of nuisances.

B. Upon determination by the Board of Health or designated official that the owner or occupant of any such real estate has failed to keep the real estate free of nuisances, notice to abate and remove such nuisance and notice of the right to a hearing before the City Council and the manner in which it may be requested shall be given to each owner or owner's duly authorized agent and to the occupant, if any, by personal service or by certified mail. If notice by personal service or certified mail is unsuccessful, notice shall be given by publication in a newspaper of general circulation in the city or by conspicuously posting the notice on the real estate upon which the nuisance is to be abated and removed. The notice shall describe the condition as found by the Board of Health or designated official and state that the condition has been declared a nuisance and must be remedied at once.

C. If within 5 days after receipt of such notice or publication or posting, whichever is applicable, the owner or occupant of the real estate does not request a hearing with the



city or fails to comply with the order to abate and remove the nuisance, the city may have such work done.

D. If within 5 days after receipt of such notice or publication or posting, whichever is applicable, the owner or occupant requests in writing a hearing with the City Council, the Council shall fix a time and place at which a hearing will be held. Notice of the hearing shall be given by personal service or certified mail and require the owner or occupant to appear before the Council to show cause why such condition should not be found to be a nuisance and remedied. The notice shall be given not less than 7 nor more than 14 days before the time of the hearing. Upon the date fixed for the hearing and pursuant to the notice, the Council shall hear all objections made by the owner or occupant and shall hear evidence submitted by the Board of Health or designated official. If after consideration of all the evidence, the City Council finds that the condition is a nuisance, it shall, by resolution, order and direct the owner or occupant to remedy the nuisance at once. If the owner or occupant refuses or neglects to promptly comply with the order to abate and remove the nuisance, the Council may have such work done.

E. The costs and expenses of any such work shall be paid by the owner. If unpaid for 2 months after such work is done, the city may either:

1. Levy and assess the costs and expenses of the work upon the real estate so benefitted in the same manner as other special taxes for improvements are levied and assessed; or

2. Recover in a civil action the costs and expenses of the work upon the real estate and the adjoining streets and alleys.

#### §4-304 NUISANCES: JURISDICTION.

The Mayor and Chief of Police of the Municipality are directed to enforce this Municipal Code against all nuisances. The jurisdiction of the Mayor, Chief of Police, and court shall extend to, and the territorial application of this Chapter shall include, all territory adjacent to the limits of the Municipality within the extraterritorial zoning jurisdiction thereof and all territory within the corporate limits. (Ref. 18-1720 RS Neb.) (Amended November 2017)

#### §4-305 NUISANCES; ADJOINING LAND OWNERS; INTERVENTION BEFORE TRIAL.

In cases of appeal from an action of the Governing Body condemning real property as a nuisance or as dangerous under the police powers of the Municipality, the owners of the adjoining property may intervene in the action at any time before trial. (Ref. 19-710 RS Neb.) (Ord. No. 777, 12/1/86)

#### §4-306 NUISANCES: OUTDOOR STORAGE OF FURNITURE MANUFACTURED FOR INDOOR USE.

In addition to the other nuisances described in this Code, the following is hereby declared a nuisance within the City of Tecumseh, Nebraska:

The storage or use of furniture manufactured for indoor use only, on porches and other exterior areas which are open to the elements. Furniture manufactured for indoor use only shall include, but not be limited to: sofas, couches, recliners, divans, ottomans, bedding, bed mattresses, and bed box springs.

1. It shall be unlawful for every owner, occupant or lessee of real estate within the City of Tecumseh, Nebraska, to allow a nuisance as described in the paragraph above on real estate they own, occupy or lease.

2. Notwithstanding any other provisions of this Code to the contrary, the following procedures may be used by the City to abate the before described nuisances:

A. The Mayor shall cause the owner, occupant or lessee of the real estate where the nuisance is maintained to receive a Notice to abate or remove such nuisance within five (5) days of the receipt of said Notice. Said Notice may be served by personal service, certified mail or publication one time in a newspaper of general publication in the City of Tecumseh, Nebraska. However, a Notice is not required to prosecute a violation of Paragraph 1 above.

B. Said Notice shall provide that the owner, occupant or lessee may request a hearing with the City if they wish to contest the fact that they have a nuisance on the real estate they own, occupy or lease. Said request for hearing shall be in writing, shall state that they are requesting a hearing, shall state their name, shall state their mailing address for purposes of the nuisance proceedings and shall be signed and dated. The written request must be received by the City Clerk at 122 South 4th Street, Tecumseh, Nebraska, on or before the fifth (5th) day after they were given Notice of the nuisance by the Mayor in one of the ways described above. Said hearing will be informal and will be heard by the City Clerk or someone appointed by the City Clerk.

C. If a hearing is not requested within the five (5) day period and the nuisance has not been abated, the City may cause such nuisance to be removed or abated. Upon completion of the work, the City is authorized to bill the owner, occupant or lessee of the real estate for the work done, or to levy the cost as a Special Assessment against the real estate. Said Special Assessment shall be a lien on the real estate and shall be collected in the manner provided for Special Assessments.

D. If the owner, occupant or lessee requests a hearing within the five (5) day period, the City shall set a date and time for said hearing and Notice of said hearing shall be mailed to the person requesting the hearing, not less than five (5) days prior to said hearing date. Said hearing will be informal and will be heard by the City Clerk or someone appointed by the City Clerk. The decision of the City Clerk or the appointee shall be in writing and mailed to the owner, occupant or lessee at the address provided to the City on their request for hearing.

E. If the City Clerk or his/her appointee makes a determination that a nuisance exists, and the owner, occupant or lessee does not timely appeal, the City may cause the nuisance to be removed or abated as set out in Paragraph C above.

F. If a determination is made by the City Clerk or his/her appointee that a nuisance exists, the owner, occupant or lessee may appeal the decision to the City Council. Said appeal shall be in writing, shall state that they are appealing the decision of the City Clerk or appointee, shall state their name, shall state their mailing address for purposes of

the nuisance appeal proceedings, and shall be signed and dated. Said written appeal must be received by the City Clerk at 122 South 4th Street, Tecumseh, Nebraska, on or before the fifth (5th) day after the mailing of the decision to the owner, occupant or lessee. If the owner, occupant or lessee requests an appeal within the five (5) day period, the City shall set a date and time for the hearing with the City Council and Notice of said hearing shall be mailed to the person requesting a hearing, not less than five (5) days prior to said hearing date. At the hearing, the City Council shall hear the evidence of the owner, occupant or lessee and shall hear the evidence submitted by the City. The City Council shall make a determination by a majority vote of those council members present as to whether a nuisance exists. The City Council's determination shall be mailed to the owner, occupant or lessee by U.S. Mail to the address provided to the City on his/her Notice of Appeal.

G. If the City Council makes a determination that a nuisance exists, and the owner, occupant or lessee does not timely appeal, the City may cause the nuisance to be removed or abated as set out in Paragraph C above.

H. The owner, occupant or lessee may appeal the decision of the City Council to the appropriate Court. (April 15, 2004)(November 4, 2013)

#### § 4-307 NUISANCES: PARKING ON RESIDENTIAL LOTS.

The outside parking or storage on residential zoned property in violation of the requirements set forth below is declared to be a public nuisance because such parking and storage obstructs views on streets and private property, creates cluttered and otherwise unsightly areas, drags mud and debris onto city streets, ruts the city right of way and front yards of residences, decreases adjoining landowners and occupants enjoyment of their property and neighborhood, creates hazards related to fire and life safety, and otherwise adversely affects property values and neighborhood patterns.

- A. A person must not cause, undertake, or permit parking or storage of any vehicles, except a motorcycle, car, SUV or pickup, in a residential zoned district on the City right-of-way between the sidewalk or property line and the curb line or street edge.
- B. All new driveways and parking surfaces to be constructed on a residential zoned property within the City right-of-way between the sidewalk or property line and the curb line or street edge, shall be constructed out of concrete, asphalt, brick, or similar surface and must be approved by the City as provided by § 8-110 of the Tecumseh Municipal Code. The driveway and/or parking area shall use no more than fifty percent (50%) or thirty-six feet (36'), whichever is less, of the City right-of-way between the sidewalk or property line and the curb line or street edge which is adjacent to the residential zoned property. If the residential zoned property is a corner lot, each street front shall be calculated separately in determining the 50% or 36 feet limitation.
- C. Irregardless of the above, no more than four (4) vehicles per residential dwelling unit or apartment may be parked or stored on the residential zoned property and the

adjacent property owned by the residential dwelling or apartment owner, or the adjacent City Right-of-Way between the sidewalk or property line and the street curb line or street edge. This maximum number of vehicles does not include vehicles stored or parked inside a totally enclosed garage or vehicles owned by occasional guests who do not reside on the property.

- D. For purposes of this Section, vehicles are defined as any of the following: motorcycles passenger cars, pickups, trucks, recreational vehicles, trailers, boats, vans, SUV's, farm machinery, all-terrain vehicles or utility-type vehicle, and construction equipment. (July 2017)
- E. This Section shall become effective on January 1, 2019. (Amended September 4, 2018)

#### § 4-308 DEAD ANIMALS.

It shall be unlawful for a person to allow the body, or parts thereof, of any dead animal to be kept, held or disposed of in violation of this section.

1. No person shall keep, skin, dismember, dissect, cut up, feed, or dispose of anywhere in the City, a dead animal or parts thereof, in any manner that creates offensive odors or sights and constitutes a public nuisance which affects health and comforts in any respect. (August 1, 2022)

### Article 4. Penal Provisions

#### §4-401 VIOLATION: PENALTY.

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

#### §4-402 ABATEMENT OF NUISANCE.

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

Whenever, in any action, it is established that a nuisance exists, the court may together with the fine or penalty imposed, enter an order of abatement as part of the judgment in the case. (Ref. 18-1720, 18-1722 RS Neb.)

Chapter 5  
TRAFFIC REGULATIONS

Article 1. Municipal Traffic Regulations

§5-101 DEFINITIONS.

The words and phrases used in this Chapter, pertaining to motor vehicles and traffic regulations, shall be construed as defined in Chapter 60 of the Reissued Revised Statutes of Nebraska, as now existing or hereafter amended. If not defined in the designated statutes, the word or phrase shall have its common meaning.

§5-102 TRUCK ROUTES.

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

§5-103 ONE-WAY TRAFFIC.

The Governing Body may, by resolution, provide for one-way travel in any street, or alley located in the Municipality and shall provide for appropriate signs and markings when said streets have been so designated by resolution.

§5-104 TURNING: "U" TURNS.

No vehicle shall be turned so as to proceed in the opposite direction, except at an unmarked street intersection. No vehicle shall be turned so as to proceed in the opposite direction at any intersection where a sign is posted indicating that U-turns are prohibited.

§5-105 TURNING: GENERALLY.

Vehicles turning to the right into an intersecting street shall approach such intersection in the lane of traffic nearest to the right hand side of the highway and must turn the corner as near the right hand curb as possible to keep between the curb to the right and the center of the intersection of the two (2) streets. The driver of a vehicle intending to turn to the left shall approach such center line of the highway, and in turning shall pass as near as possible to the center of the intersection, passing as closely as practicable to the right thereof before turning such vehicle to the left. For the purposes of this Section, the center of the intersection shall mean the meeting point of the medial lines of the highways

intersecting one another. (Ref. 60-1590 RS Neb.)

#### §5-106 TURNING; SIGNALS.

A signal of intention to turn right or left shall be given continuously during not less than the last 50 feet traveled by the vehicle before turning. The signals herein required shall be given either by means of the hand and arm or by a signal device of a type approved by the Department of Roads.

#### §5-107 RIGHT-OF-WAY.

When two (2) vehicles approach, or enter an intersection at approximately the same time, the driver of the vehicle on the left shall yield the right-of-way to the vehicle on the right when the paths of such vehicles intersect and there is danger of a collision, unless otherwise directed by a Municipal Policeman stationed at the intersection. The driver of a vehicle intending to turn to the left within an intersection, or into an alley, private road, or driveway shall yield the right-of-way to any vehicle approaching from the opposite direction which is within the intersection or so close thereto as to constitute an immediate hazard. The driver of a vehicle on any street shall yield the right-of-way to a pedestrian crossing such street within any clearly marked crosswalk, or at any regular pedestrian crossing at the end of a block where the movement of traffic is being regulated by traffic officers or traffic direction devices. Every pedestrian crossing a street at any point other than a pedestrian crossing, crosswalk, or intersection shall yield the right-of-way to vehicles upon the street. The driver of a vehicle entering a Municipal street from a private road, or drive shall yield the right-of-way to all vehicles approaching on such streets. The driver of a vehicle upon a street shall yield the right-of-way to authorized emergency vehicles when the latter are operated upon official business and the drivers thereof make proper use of visual or audible signals. (Ref. 60-6,149 thru 60-6,150 RS Neb.)

#### §5-108 RIGHT-OF-WAY: EMERGENCY VEHICLES.

Upon the approach of any authorized emergency vehicle, every vehicle within one (1) block of the route of such emergency vehicle shall immediately stop, except at the time they are on or crossing a street intersection, in which event, such vehicle shall drive clear of the street intersection and then stop. Every vehicle along the route of such emergency vehicle shall immediately move to a position as near the right hand curb as possible and remain there until such authorized emergency vehicle or vehicles have passed; provided, said vehicles are operated on official business and the drivers thereof make use of proper visual or audible signals. (Ref. 60-6,151 RS Neb.)

#### §5-109 POSITION OF VEHICLE ON HIGHWAY: GENERALLY.

Upon all highways of sufficient width, one-way streets excepted, the driver of a vehicle shall drive the same on the right half of the roadway, in passing or meeting other

vehicles, drivers shall give each other at least one half (1/2) of the main traveled portion of the roadway. (Ref. 60-6,131 RS Neb.)

#### §5-110 CROSSWALKS.

The Governing Body may, by resolution, establish and maintain, by appropriate devices, markers, or lines upon the street, crosswalks, at intersections where there is particular danger to pedestrians crossing the street, and at such other places as it may deem necessary. (Ref. 60-6,153 RS Neb.)

#### §5-111 SIGNS. SIGNALS.

The Governing Body may, by resolution, provide for the placing of stop signs, or other signs, signals, standards, or mechanical devices in any highway, street or alley under the Municipality's jurisdiction for the purpose of regulating, or prohibiting traffic thereon. Such resolution shall described the portion of the street or alley wherein traffic is to be regulated or prohibited; the regulation or prohibition; the location where such sign, signal, standard or mechanical device shall be placed; and the hours when such regulation or prohibition shall be effective. It shall be unlawful for any person to fail, neglect, or refuse to comply with such regulation, or prohibition. It shall also be unlawful for any person to fail, neglect, or refuse to comply with any stop sign or other signs, signals, standards, or mechanical devices in any highway, street or alley within the Municipality's city limits that has been erected by the Nebraska Department of Roads or "Local Authority" as defined by the Nebraska Rules of the Road. (Amended August 2001)

#### §5-112 STOP SIGNS.

Every person operating any vehicle shall, upon approaching any stop sign erected by the Governing Body, Nebraska Department of Road, or "Local Authority" as defined by the Nebraska Rules of the Road, cause such vehicle to come to a complete stop before entering or crossing any street, highway, or railroad crossing. The vehicle operation shall stop at a marked stop line, or, if there is no stop line, before entering the crosswalk; but if neither is indicated, then as near the right-of-way line of the intersecting roadway as possible. (Ref. 60-678 thru 60-681, 60-6,121 RS Neb.; amended August 2001)

#### §5-113 SIGNS. TRAFFIC CONTROL DEVICES. TRAFFIC SURVEILLANCE DEVICES: DEFACING OR INTERFERING WITH.

It shall be unlawful for any person to willfully or maliciously deface, injure, remove, obstruct, knock down or interfere with any official traffic sign or signal, traffic control device, or traffic control surveillance device. (Ref. 60-6,129 thru 60-6,130 RS Neb.) (Ord No. 90-806, 4/16/90)

## Article 2. Prohibitions and Enforcement

### §5-201 LITTERING.

It shall be unlawful for any person to drop, or cause to be left, upon any municipal highway, street, or alley, except at places designated by the Governing Body, any rubbish, debris, or waste, and any person so doing shall be guilty of littering. When any litter is thrown from any motor vehicle, the driver or registered owner of such vehicle shall be held prima facie responsible. (Ref. 39-311 RS Neb.)

### §5-202 THROWING AT VEHICLES.

No person shall, within the limits of the City, throw or threaten to throw any article into or at any vehicle, or the driver thereof, or the passengers therein. (Ref. 9-1-17, Code 1966)

### §5-203 SIREN DEVICES: PROHIBITED.

No vehicle operating within the limits of the City shall be equipped with a siren of any nature, except such vehicles as are operated by the Police Department and other law enforcement agencies, the Fire Department, or authorized ambulances and utility vehicles when proceeding on emergency calls. (Ref. 9-1-18, Code 1966)

### §5-204 LOADING: UNLOADING AT CURB.

No vehicle shall remain backed up to the curb unless it is actually being loaded or unloaded, and in no case shall remain in such position longer than the actual loading or unloading requires, nor in any event remain in such position longer than thirty (30) minutes, nor obstruct the normal flow of traffic in any way. (Ref 9-1-21, Code 1966)

### §5-205 BLIND PEDESTRIANS.

Blind pedestrians, by holding out horizontally a white cane in the direction they desire to travel over crosswalks on any street, shall be given the right-of-way over all pedestrians and vehicles, except those of the Police, Fire Department and ambulances. (Ref 9-1-22, Code 1966)

### §5-206 VEHICLES: LUGS PROHIBITED. TRANSPORTATION OF FLAMMABLE LIQUIDS.

It shall be unlawful for any person to drive or permit to be driven any vehicle with steel tracks with lugs or with steel wheels with lugs, on or across any paved or hard surfaced street within the limits of the City, except by first planking the street surface under the tracks or wheels in such a manner as to prevent damage to the street surfacing. It shall be unlawful for any person to drive or permit to be driven any gasoline transport vehicle, or



other vehicle for the transportation of flammable liquid fuels, upon the following portions of streets in the City: Broadway between Third and Fourth Streets; Clay Street between Third and Fourth Streets; Third Street between Broadway and Clay Streets; Fourth Street between Broadway and Clay Streets. (Ref. 9-1-23, Code 1966)

#### §5-207 GLASS: POINTED OBJECTS.

No person shall throw, cast, lay, or place upon any street any thorns, nails, tacks, glass, bottles, window glass, or other articles made of, or containing, glass, and in case of an accident causing the breaking of any glass upon any street, the owner or person in charge of such glass, or the person responsible for such breakage, shall at once remove, or cause the same to be removed, from the street. (Ref. 39-311 RS Neb.)

#### §5-208 SIGNS: DEFACING OR INTERFERING WITH.

It shall be unlawful for any person to willfully deface, injure, remove, obstruct or interfere with any official traffic sign or signal. (Ref. 60-6,129 thru 60-130 RS Neb.)

#### § 5-209 SPEED LIMITS.

No person shall drive a vehicle on any street within the City at a rate of speed greater than is reasonable and proper having regard for the traffic use and condition of the streets, or at such speed as to endanger the life, limb or property of any persons; and under no circumstances at a greater rate of speed than:

A. Fifteen (15) miles per hour on the streets around the Court House Square and the blocks abutting thereon in every direction, and on all streets within one (1) block of any public school grounds in every direction. Irregardless of the above, the speed limit shall be ten (10) miles per hour for the alley located in Block 17, Original Town of Tecumseh, Nebraska.

B. It shall be unlawful for any person to operate a motor vehicle on U. S. Highway No. 136 within the City at a rate of speed in excess of forty (40) miles per hour starting at the point where U. S. Highway No. 136 intersects First (1st) Street of the City to a point six hundred (600) feet east of the middle of the intersection of Fifth (5th) Street and U. S. Highway No. 136; it shall be unlawful for any person to operate a motor vehicle on U. S. Highway No. 136 within the City at a rate of speed in excess of fifty (50) miles per hour from a point six hundred (600) feet east of the middle of the intersection of Fifth (5th) Street and U. S. Highway No. 136 to the eastern boundary of the City; it shall be unlawful for any person to operate a motor vehicle on U.S. Highway No. 136 within the City at a rate of speed in excess of forty (40) miles per hour where U.S. Highway No. 136 runs in conjunction with 1st Street; and it shall be unlawful for any person to operate a motor vehicle on U.S. Highway No. 136 within the City at a rate of speed in excess of forty (40) miles per hour from the intersection of First and Lincoln proceeding to the western limits of the City of Tecumseh.

C. It shall be unlawful for any person to operate a motor vehicle on 1st Street within

the City Limits at a rate over twenty-five (25) miles per hour from the South line of the intersection of 1st Street and U.S. Highway No. 136 to the Southern limits of the City of Tecumseh, Nebraska.

D. It shall be unlawful for any person to operate a motor vehicle on Nebraska State Highway No. 50 within the City at a rate of speed in excess of forty (40) miles per hour, from the southern limits of the City to the middle of the intersection of Lincoln Street and Nebraska State Highway No. 50, and it shall be unlawful for any person to operate a motor vehicle on Nebraska State Highway No. 50 within the City at a rate of speed in excess of fifty (50) miles per hour from the middle of the intersection of Lincoln Street and Nebraska State Highway No. 50 to the northern limits of the City of Tecumseh.

E. It shall be unlawful for any person to operate a vehicle on any street in the Shawnee Ridge Addition to the City of Tecumseh, Nebraska at a rate of speed in excess of fifteen (15) miles per hour.

F. It is hereby ordained and declared that fifteen (15) miles per hour shall be the lawful speed on that street known as Lincoln Street between Fifth (5th) Street and Eighth (8th) Street, within the City Limits.

G. The speed limit on all streets in the City of Tecumseh, Nebraska other than the streets set out above, shall be 25 miles per hour and it shall be unlawful for any person to operate a motor vehicle at a speed in excess of twenty-five (25) on said streets.

However any speed limits established in this Section shall not apply to physicians, surgeons, or ambulances when answering emergency calls demanding excessive speed, or to Fire Department vehicles and vehicles operated by members of the Fire Department when responding to a fire alarm or other emergency alarm, or to police vehicles in the performance of official duties. (Ref. 9-1-3, Code 1966) (Amended July 7, 2003) (Amended June 5, 2006) (Amended July 7, 2014)(Amended December 1, 2014)

#### §5-210 SPEED; ELECTRONIC DETECTION.

Determinations made regarding the speed of any motor vehicle based upon the visual observation of any law enforcement officer may be corroborated by the use of radio microwaves or other electronic device. The results of such radio microwave or other electronic speed measurement may be accepted as competent evidence of the speed of such motor vehicle in any court or legal proceeding when the speed of the vehicle is at issue. Before the Municipality may offer in evidence the results of such radio microwave or other electronic speed measurement for the purpose of establishing the speed of any motor vehicle, the Municipality shall prove the following:

A. The measuring device was in proper working order at the time of conducting the measurement;

B. The measuring device was being operated in such a manner and under such conditions so as to allow a minimum possibility of distortion or outside interference;

C. The person operating such device and interpreting such measurement was qualified by training and experience to properly test and operate the device; and

D. The operator conducted external tests of accuracy upon the measuring device, within a reasonable time both prior to and subsequent to an arrest being made, and the

measuring device was found to be in proper working order.

The driver of any such motor vehicle may be arrested without a warrant under the authority herein granted if the arresting officer is in uniform or displays his or her badge of authority; provided, that such officer shall have observed the recording of the speed of such motor vehicle by the radio microwaves, or other electronic device or had received a radio message from the officer who observed the speed of the motor vehicle recorded by the radio microwaves or other electronic device. In the event of an arrest based on such a message, such radio message must have been dispatched immediately after the speed of the motor vehicle had been recorded, and must include a description of the vehicle and the recorded speed. (Ref. 60-6,192 RS Neb.) (Amended by Ord. No. 736, 10/3/83)

#### §5-211 CARELESS DRIVING.

Any person who drives any motor vehicle in this Municipality carelessly or without due caution so as to endanger a person or property shall be guilty of careless driving. (Ref. 60-6,212 RS Neb.)

#### §5-212 RECKLESS DRIVING.

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

#### §5-213 WILLFUL RECKLESS DRIVING.

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

#### §5-214 BACKING.

It shall be unlawful for any person to back a motor vehicle on the Municipal streets except to park in or to remove the vehicle from a permitted parking position, to move the vehicle from a driveway, or to back to the curb for unloading where such unloading is permitted; provided, a vehicle shall be backed only when such movement can be made in safety and in no case shall the distance of the backing exceed one and one half (1-1/2) lengths of the vehicle.

#### §5-215 UNNECESSARY STOPPING.

It shall be unlawful for any person to stop any vehicle on any public street or alley, other than in permitted parking areas, except when such a stop is necessary for emergency

situations, to comply with traffic control devices and regulations, or to yield the right-of-way to pedestrians or to other vehicles.

#### §5-216 PASSING: INTERSECTIONS.

The driver of a vehicle shall not overtake and pass another vehicle proceeding in the same direction, while traversing a street intersection, if such passing requires such overtaking vehicle to drive to the left of the center of the street. (Ref. 60-6,136 RS Neb.)

#### §5-217 DRIVING ABREAST.

Two (2) or more vehicles shall not be driven abreast except when passing, or when traversing a multi-lane or one-way street; provided, motorcycles may be driven no more than two (2) abreast in a single lane. (Ref. 60-6,139, 60-308 RS Neb.)

#### §5-218 FUNERAL PROCESSIONS.

No vehicle, except police vehicles, fire department vehicles, when responding to emergency calls or orders in their several departments, ambulances responding to emergency calls, or vehicles carrying United States mail shall be driven through a funeral procession or cortege except with the permission of a police officer.

#### §5-219 CROWDING: FRONT SEAT.

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

#### §5-220 DRAGGING: ROPE. CHAIN.

No person shall permit any rope, strap, chain or other article to drop behind any vehicle while in use on the streets, except persons operating vehicles transporting gasoline, benzene or other flammable materials.

#### §5-221 RIDING: OUTSIDE VEHICLE.

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

#### §5-222 CLINGING TO MOTOR VEHICLES.

No person riding upon any bicycle or roller skates shall attach the same or himself

to any moving vehicle upon any roadway, and it shall be unlawful for the driver of any vehicle to suffer or permit any person traveling upon any bicycle or roller skates to cling to or attach himself or his bicycle, or roller skates, to such vehicle so driven and operated by him. (Ref. 60-6,316 RS Neb.)

#### §5-223 VEHICLE: MUFFLER.

Every motor vehicle operated within this Municipality shall be provided with a muffler in good working order to prevent excessive or unusual noise or smoke. No person shall modify or change the exhaust muffler, intake muffler or any other noise abatement device of a motor vehicle in a manner such that the noise emitted by the motor vehicle is increased above that emitted by the vehicle as originally manufactured. It shall be unlawful to use a "muffler cutout" on any motor vehicle upon any streets; provided, the provisions of this Section shall not apply to authorized emergency vehicles. The Police Officer who stops any driver for a violation of this Section may, at his or her discretion, issue the driver a repair citation. (Ref. 60-6,371 RS Neb.)

#### §5-224 EMERGENCY REGULATIONS.

The Chief of Police is hereby empowered to make and enforce temporary traffic regulations to cover emergencies.

#### §5-225 POLICE: ENFORCEMENT.

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

#### §5-226 POLICE: REFUSAL TO OBEY.

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

#### §5-227 TRAFFIC CITATIONS: FORM AND RECORDS.

The Police Chief shall provide, in appropriate form, traffic citations containing notices to appear. The Police Chief shall require and retain a receipt for every book so issued. The Municipal Clerk shall require the return of all copies of every traffic citation which has been spoiled, or upon which any entry has been made, and not issued to an alleged violator.

## §5-228 CHILD PASSENGER RESTRAINT SYSTEM.

1. Any person in Nebraska who drives any motor vehicle which has or is required to have an occupant protection system shall ensure that:

(a) All children up to six years of age being transported by such vehicle use a child passenger restraint system of a type which meets Federal Motor Vehicle Safety Standard 213 as developed by the National Highway Traffic Safety Administration, as such standard existed on January 1, 2008, and which is correctly installed in such vehicle; and

(b) All children six years of age and less than eighteen years of age being transported by such vehicle use an occupant protection system.

This subsection shall apply to every motor vehicle which is equipped with an occupant protection system or is required to be equipped with restraint systems pursuant to Federal Motor Vehicle Safety Standard 208, as such standard existed on January 1, 2008, except taxicabs, mopeds, motorcycles, and any motor vehicle designated by the manufacturer as a 1963 year model or earlier which is not equipped with an occupant protection system.

2. Whenever any licensed physician determines, through accepted medical procedures, that use of a child passenger restraint system by a particular child would be harmful by reason of the child's weight, physical condition, or other medical reason, the provisions of subsection (1) of this section shall be waived. The driver of any vehicle transporting such a child shall carry on his or her person or in the vehicle a signed written statement of the physician identifying the child and stating the grounds for such waiver.

3. The drivers of authorized emergency vehicles shall not be subject to the requirements of subsection (1) of this section when operating such authorized emergency vehicles pursuant to their employment.

4. A driver of a motor vehicle shall not be subject to the requirements of subsection (1) of this section if the motor vehicle is being operated in a parade or exhibition and the parade or exhibition is being conducted in accordance with applicable state law and local ordinances and resolutions.

5. The Department of Motor Vehicles shall develop and implement an ongoing statewide public information and education program regarding the use of child passenger restraint systems and occupant protection systems and the availability of distribution and discount programs for child passenger restraint systems.

6. All persons being transported by a motor vehicle operated by a holder of a provisional operator's permit or a school permit shall use such motor vehicle's occupant protection system. (Ref. 60-6,267 RS Neb.)

## §5-229 OCCUPANT RESTRAINT SYSTEM.

1. Except as provided in subsection (2) of this section, no driver shall operate a motor vehicle upon a highway or street in this state unless the driver and each front-seat occupant in the vehicle are wearing occupant protection systems and all occupant protection systems worn are properly adjusted and fastened.

2. The following persons shall not be required to wear an occupant protection

system:

(a) A person who possesses written verification from a physician that the person is unable to wear an occupant protection system for medical reasons;

(b) A rural letter carrier of the United States Postal Service while performing his or her duties as a rural letter carrier between the first and last delivery points; and

(c) A member of an emergency medical service while involved in patient care.

3. For purposes of this section, motor vehicle shall mean a vehicle required by section 60-6,266 to be equipped with an occupant protection system. (Ref. 60-6,270 RS Neb.)

#### §5-230 MOTORCYCLE; HELMET.

A person shall not operate or be a passenger on a motorcycle or moped on any highway unless such person is wearing a protective helmet of the type and design manufactured for use by operators of such vehicles and unless such helmet is secured properly on his or her head with a chin strap while the vehicle is in motion. All such protective helmets shall be designed to reduce injuries to the user resulting from head impacts and shall be designed to protect the user by remaining on the user's head, deflecting blows, resisting penetration, and spreading the force of impact. Each such helmet shall consist of lining, padding, visor, and chin strap and shall meet or exceed the standards established in the United States Department of Transportation's Federal Motor Vehicle Safety Standard No. 218, 49 C.F.R. 571.218, for motorcycle helmets. (Ref. 60-6,279 RS Neb.) (Ord No. 90-807, 4/16/90)

#### §5-231 DRIVING ON SHOULDERS OF HIGHWAY.

No person shall drive on the shoulders of highways, except that (1) vehicles may be driven onto the shoulders of roadways (a) by federal mail carriers while delivering the United States mail or (b) to safely remove a vehicle from traffic lanes and (2) implements of husbandry may be driven onto the shoulders of roadways. (Ref. 60-6,142 RS Neb.)

#### §5-232 VEHICLE ENGINE COMPRESSION BRAKES.

The operation of vehicle engine compression brakes is hereby prohibited within the City limits of Tecumseh, Nebraska. The governing body shall cause notices to be posted or erected indicating such prohibition. (April 2002)

### Article 3. Parking

#### §5-301 PARKING: GENERALLY.

No person shall park any vehicle, or approach the curb with a vehicle, except when headed in the direction of the traffic. Vehicles, when parked, shall stand parallel with and adjacent to the curb or edge of the roadway, in such manner as to have both right wheels within twelve (12) inches of the curb or edge of the roadway, and so as to leave at least four

(4) feet between the vehicle so parked and any other parked vehicles, except where the Governing Body designates that vehicles shall be parked at an angle so as to have the front right wheel at the curb or edge of the roadway. Where stalls are designated either on the curb or pavement, vehicles shall be parked within such stalls. If any vehicle is found in violation of this Section and the identity of the driver cannot be readily determined, the owner or person in whose name such vehicle is registered shall be held prima facie responsible for such violation.(Ref. 60-6,167RS Neb.) (Amended September 2016)

#### §5-302 PARKING: DESIGNATION.

The Governing Body may, by resolution, designate any street, or portion thereof, where vehicles shall be parked parallel with and adjacent to the curb or at an angle so as to have the right front wheel at the curb. If any vehicle is found in violation of this Section and the identity of the driver cannot be readily determined, the owner or person in whose name such vehicle is registered shall be held prima facie responsible for such violation. (Ref. 60-6,167 RS Neb.)(Amended September 2016)

#### §5-303 PARKING: AREAS.

The Governing Body may, by resolution, set aside any street, alley, public way, or portion thereof where the parking of a particular kind or class of vehicle shall be prohibited, or where the parking of any vehicle shall be prohibited. No vehicle prohibited from parking thereon shall stand or be parked adjacent to the curb of said street, alley, public way, or portion thereof, longer than a period of time necessary to load and unload freight or passengers. If any vehicle is found in violation of this Section and the identity of the driver cannot be readily determined, the owner or person in whose name such vehicle is registered shall be held prima facie responsible for such violation. (Ref. 60-6,167 RS Neb.)(Amended September 2016)

#### §5-304 PARKING: TIME LIMIT.

The Governing Body may, by resolution, entirely prohibit, or fix a time limit for, the parking and stopping of vehicles on any street, streets, or district designated by such resolution, and the parking, or stopping, of any vehicle in any such street, streets, or district, for a period of time longer than fixed in such resolution shall constitute a violation of this Article. If any vehicle is found in violation of this Section and the identity of the driver cannot be readily determined, the owner or person in whose name such vehicle is registered shall be held prima facie responsible for such violation. (Ref. 60-6,167 RS Neb.)(Amended September 2016)

#### §5-305 PARKING: FIRE HYDRANTS AND STATIONS.

No vehicle shall be parked within fifteen (15) feet in either direction of any fire hydrant nor within twenty (20) feet of the driveway entrance to any fire station. The curb



space within such area of fifteen (15) feet in either direction of such fire hydrant shall be painted red to indicate such prohibition. If any vehicle is found in violation of this Section and the identity of the driver cannot be readily determined, the owner or person in whose name such vehicle is registered shall be held prima facia responsible for such violation. (Ref. 60-6,166 RS Neb.)(Amended September 2016)

#### §5-306 PARKING: STREET INTERSECTIONS.

Except in compliance with traffic control devices, no vehicle shall be parked or left standing for any purpose, except momentarily to load or discharge passengers, within twenty-five (25) feet of the intersection of curb lines, or if none, then within fifteen (15) feet of the intersection of property lines. Such no-parking areas shall be painted red. If any vehicle is found in violation of this Section and the identity of the driver cannot be readily determined, the owner or person in whose name such vehicle is registered shall be held prima facia responsible for such violation. (Ref. 60-6,166 RS Neb.)(Amended September 2016)

#### §5-307 PARKING: CURBS. PAINTED.

It shall be the duty of the Street Department to cause the curb space to be painted and keep the same painted as provided in this Article. No person, firm, or corporation shall paint the curb of any street, or in any manner set aside, or attempt to prevent the parking of vehicles in any street, or part thereof, except at such places where the parking of vehicles is prohibited by the provisions of this Article. The marking or designating of portions of streets or alleys where the parking of vehicles is prohibited or limited shall be done only by the Municipality through its proper officers, at the direction of the Governing Body. If any vehicle is found in violation of this Section and the identity of the driver cannot be readily determined, the owner or person in whose name such vehicle is registered shall be held prima facia responsible for such violation. (Ref. 60-6,167 RS Neb.)(Amended September 2016)

#### §5-308 PARKING: MAXIMUM TIME LIMIT.

The parking of a motor vehicle on a public street overnight where such parking is posted as being prohibited is unlawful, except where a different maximum time limit is posted. (Ref. 60-6,167 RS Neb.)

#### §5-309 PARKING: EMERGENCY AND ADVISORY DECLARATIONS.

##### A. SNOW EMERGENCY DECLARATION

1. The Mayor, City Clerk, Public Property Foreman, or their designated representative, shall cause each Snow Emergency Declaration to be publicly announced by means of broadcast from broadcasting station(s) with a normal operating range covering the City and they may cause said declaration to be

further posted at City Hall. Each announcement shall state that a snow emergency has been declared in the City of Tecumseh, Nebraska and the time it will go into effect.

2. Whenever the Mayor, City Clerk, Public Property Foreman, or their designated representative shall determine, on the basis of falling snow, sleet or freezing rain, or on the basis of an official weather forecast predicting snow, sleet or freezing rain, that weather conditions will make it advisable that parking on City Snow Routes be prohibited for snow plowing or other purposes, the Mayor, City Clerk, Public Property Foreman, or their designated representatives, may place into effect a parking prohibition on all Snow Routes, from 2:00 o'clock a.m. to 7:00 o'clock a.m., by declaring a snow emergency. While the prohibition is in effect, no person shall park or allow to remain parked, any vehicle or trailer on any portion of the Snow Emergency Routes between 2:00 a.m. to 7:00 o'clock a.m.

**B. MAINTENANCE ADVISORY**

1. The Mayor, City Clerk, Public Property Foreman or their designated representative, may order any street, alley, or portion thereof, vacated for street or utility maintenance. Notice shall be given by posting appropriate signs along the streets and alleys. Such signs shall be posted not less than four (4) hours prior to the time that the vacation order will go into effect, and said vacation order shall continue until said signs are removed by the City. While the vacation order is in effect, no person shall park or allow to remain parked, any vehicle or trailer on any portion of said vacated street. (Amended November 2, 1010)

**§5-310 PARKING: SNOW EMERGENCY ROUTES.**

The following streets in the City of Tecumseh, Nebraska are hereby declared to be Snow Emergency Routes:

Broadway Street from 1<sup>st</sup> Street to 12<sup>th</sup> Street;  
Clay Street from 2<sup>nd</sup> Street to 4<sup>th</sup> Street;  
3<sup>rd</sup> Street from Broadway Street to Clay Street; and  
4<sup>th</sup> Street from Broadway Street to Clay Street.

The City shall post signs on all Emergency Snow Routes to identify them as such. (Amended November 1, 2010)

**§5-311 PARKING; REMOVAL OF ILLEGALLY PARKED VEHICLES; CITATIONS.**

A. Whenever any Law Enforcement Officer shall find a vehicle or trailer parked or stalled upon a street or alley in violation of any of the provisions of Chapter 5 Article 3 of this Code, such officer may have the vehicle or trailer towed to a place not on said street or alley.

B. The owner or other person lawfully entitled to the possession of any vehicle towed shall be responsible for the cost of towing and storage of the vehicle or trailer. Any such towing or storing fees shall be a lien upon the vehicle prior to all other claims. Any person towing or storing a vehicle shall be entitled to retain possession of such vehicle until such charges are paid.

C. It is the duty of the Law Enforcement Officer causing a vehicle to be towed to cause Notice of said towing to be mailed to the owner of the vehicle at the address shown on the registration of said vehicle.

D. It shall be the duty of the Law Enforcement Officer causing a vehicle or trailer to be towed to keep a record of each vehicle towed, its license number, the date and time of its removal, where it was removed from, where it was moved to, the name and address of the owner, and the parking violation involved.

E. This section shall be supplemental to any other provisions of law granting Law Enforcement Authorities authorization to remove vehicles.

F. In any prosecution with regard to a vehicle or trailer parked or left in violation of any provision of this Article, proof that the defendant named in the citation or complaint was at the time a registered owner of such vehicle or trailer, shall constitute prima facie evidence that the defendant was the person who parked or left the vehicle or trailer in violation of this Article. (Amended November 1, 2010)

#### §5-312 PARKING; PARKING; HANDICAPPED OR DISABLED PERSONS: DESIGNATION OF ON STREET PARKING SPACES: DISPLAY OF PERMITS.

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

Whenever the Governing Body so designates a parking space, it shall be indicated by a sign which is in conformance with Neb. Rev. Stat. §18-1737. In addition to such sign, the space may also be indicated by blue paint on the curb or edge of the paved portion of the street adjacent to the space.

#### §5-313 PARKING; HANDICAPPED OR DISABLED PERSONS, DESIGNATION OF OFF-STREET PARKING SPACES.

The Governing Body and any person in lawful possession of any off-street parking facility may designate stalls or spaces in such facility for the exclusive use of (a) handicapped or disabled persons whose vehicles display the distinguishing license plates

issued to such individuals pursuant to section 60-311.14, RS Neb., (b) such other handicapped or disabled persons or temporarily handicapped or disabled persons, as certified by the Governing Body, whose vehicles display the identification specified, and (c) such other motor vehicles, as certified by the Governing Body, which display such identification. Such designation shall be made by posting immediately adjacent to and visible from each stall or space a sign which is in conformance with the nineteenth edition of the Manual on Uniform Traffic Control Devices for Streets and Highways issued by the Federal Highway Administration.

#### §5-314 PARKING; HANDICAPPED OR DISABLED PERSONS; DEFINED.

For the purposes of this Article, handicapped or disabled person shall mean any individual with a severe visual or physical impairment which limits personal mobility and results in an inability to travel more than two hundred feet (200') without stopping or without the use of a wheelchair, crutch, walker, or prosthetic, orthotic, or other assistant device, any individual whose personal mobility is limited as a result of respiratory problems, and any individual who has permanently lost all or substantially all the use of one or more limbs. Temporarily handicapped or disabled person shall mean any handicapped or disabled person whose personal mobility is expected to be limited in such a manner for no longer than one year. (Amended September 2016)

#### §5-315 PARKING; HANDICAPPED OR DISABLED PERSONS: PERMIT ISSUANCE.

The Municipal Clerk shall take an application from handicapped or disabled or temporarily handicapped or disabled persons or their parent, legal guardian, or foster parent for a permit which will entitle the holder thereof or a person driving a motor vehicle for the purpose of transporting such holder to park in those spaces provided for by this Article. Persons applying for a permit shall provide proof of identity and complete such forms as are provided to the Municipal Clerk by the Department of Motor Vehicles.

The Municipal Clerk shall forward said application documents to the Department of Motor Vehicles and the Department shall be responsible for the processing and issuance of the Handicapped parking permits.

#### §5-316 PARKING: HANDICAPPED OR DISABLED PERSONS: MOTOR VEHICLE PERMIT ISSUANCE.

The Municipal Clerk shall take an application from any person for a motor vehicle permit which will entitle the holder thereof or a person driving the motor vehicle for the purpose of transporting handicapped or disabled persons or temporarily handicapped or disabled persons to park in those spaces provided by this Article, if the motor vehicle is used primarily for the transportation of such persons. Such parking permit shall be used only when the motor vehicle for which it was issued is being used for the transportation of handicapped or disabled persons or temporarily handicapped or disabled persons.

Persons applying for permits pursuant to this section shall apply for a permit for each

motor vehicle used for the transportation of handicapped or disabled persons or temporarily handicapped or disabled persons, shall provide proof of identity and complete such forms as are provided by the Department of Motor Vehicles.

The Municipal Clerk shall forward said application documents to the Department of Motor Vehicles and the Department shall be responsible for the processing and issuance of the Handicapped parking permits.

§5-317 PARKING; HANDICAPPED OR DISABLED PERSONS; PERMITS NONTRANSFERABLE; VIOLATION; SUSPENSION.

Permits issued under this Article shall not be transferable, and shall be used only by the party to whom issued or for the motor vehicle for which issued and only for the purpose for which it is issued. Use by any other person, for any other motor vehicle, or for any other purpose shall be cause for suspension of such permit for a period of six (6) months. In addition to the fine set by local ordinance, the trial court shall impose a fine of not more than two hundred fifty dollars (\$250.00), which may be waived by the court if, at the time of sentencing, all handicapped parking permits issued to or in the possession of the offender are returned to the court. At the expiration of such period, a suspended permit may be renewed as provided by the Department of Motor Vehicles.

§5-318 PARKING; HANDICAPPED OR DISABLED PERSONS; REMOVAL OF UNAUTHORIZED VEHICLE; PENALTY.

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

Anyone parking in any onstreet parking space which has been designated exclusively for handicapped or disabled persons or temporarily handicapped or disabled persons or motor vehicles for the transportation of such persons, or in any so exclusively designated parking space in any offstreet parking facility, without properly displaying the proper identification or when the handicapped or disabled person to whom or for whom the license plate or permit is issued is not being transported shall be guilty of a traffic infraction as defined in Section 18-1741.01 RS Neb., and shall be subject to the penalties and procedures set forth in Sections 18-1736 through 18-1742 RS Neb. (Ref. 18-1736 through 18-1742, RS Neb, Amended February 7, 2000.)

## Article 4. Operator and Vehicle Qualifications

### §5-401 REGISTRATION; OPERATOR AND VEHICLE LICENSE.

No person shall operate a motor vehicle upon any street, alley, or public highway without having first registered the same in accordance with Chapter 60, Article 3, RS Neb., except as provided in this section. A person may operate a motor vehicle without registration for a period not to exceed thirty (30) days from the date of purchase. Upon registration, such vehicle shall have the required number plates displayed upon said vehicle in the manner and places provided for by section 60-323, RS Neb.

No person shall operate a motor vehicle upon any street, alley, or public highway without having obtained a motor vehicle operator's license in accordance with Chapter 60, Article 4, RS Neb. It shall be unlawful for any person to operate a motor vehicle upon any street, alley, or public highway during the period that his or her operator's license has been revoked or canceled, or when he does not have on his person his motor vehicle operator's license. (Ref. 60-302, 60-320, 60-320.01, 60-323 RS Neb.) (Amended by Ord. Nos. 90-812, 4/16/90; 92-851, 11/2/92)

### §5-402 VEHICLES; EQUIPMENT AND MAINTENANCE.

Every motor vehicle, while in use on the streets, alleys, or public highways of the Municipality shall be equipped with efficient brakes adequate to control the movement of, to stop, and to hold such vehicle, including two (2) separate means of applying the brakes, and shall be further equipped with a good and sufficient horn in good working order, or other efficient signal devices. Every motor vehicle, except autocycles and motorcycles, shall have from one-half (1/2) hour after sunset until one-half (1/2) hour before sunrise, two (2) or more whitish lights on the front thereof, and one (1) on each side, which lights and all other lighting devices, including taillights, shall be in compliance with the laws of the State of Nebraska. Autocycles and motorcycles shall be equipped with at least one and not more than two headlights and with a taillight, all in compliance with the laws of the State of Nebraska. No person shall operate any vehicle which is equipped with an electric light or lights that confuse travelers or pedestrians on streets or crosswalks within the corporate limits. Every motor vehicle having a width of eighty inches (80") or more shall display clearance lights as required by the laws of the State of Nebraska. All vehicle brakes shall be maintained in good working order; provided, motorcycles need only be equipped with one (1) brake. All horns on motor vehicles shall be capable of emitting sound audible under normal conditions from a distance of not less than two hundred feet (200'); provided, no vehicle except herein provided, shall be equipped with; nor shall any person use upon a vehicle, any siren, or horn otherwise than as a reasonable warning; nor shall any person use any horn or warning device upon a vehicle to make any unnecessary, loud, or harsh sound; and provided further that, every Police, Fire Department, and fire patrol vehicle, ambulance, or other authorized emergency vehicle used for emergency calls shall be equipped with a bell, siren, or whistle of the type approved by the Governing Body. (Amended September 2016)

§5-403 VEHICLE: MUFFLER.

Every motor vehicle operated within this Municipality shall be provided with a muffler in good working order to prevent excessive or unusual noise or smoke. It shall be unlawful to use a "muffler cut-out" on any motor vehicle upon any streets; provided, the provisions of this section shall not apply to authorized emergency vehicles. (Ref. 60-6,371 RS Neb.)

§5-404 LOADS: PROJECTING.

When any vehicle shall be loaded in such a manner that any portion of the load extends more than four feet (4') beyond the rear of the bed or the body of such vehicle, a red flag of not less than twelve inches (12") both in length and width shall be carried by day, and red light after sunset at the extreme rear end of such load. (Ref. 60-243 RS Neb.)

Article 5. Bicycles

§5-501 BICYCLES: EQUIPMENT.

It shall be unlawful for any person to operate or be in control of a bicycle upon the City streets between the hours of dusk and dawn, unless the same shall be equipped with a lighted lamp on the front thereof visible under normal atmospheric conditions, from a distance of three hundred (300) feet in front of such bicycle and shall also be equipped with a reflecting mirror or lamp on the rear exhibiting a red light visible under like conditions from a distance of at least three hundred (300) feet to the rear of such bicycle. (Ref. 9-1-28, Code 1966)

§5-502 BICYCLES: PROHIBITED AREAS.

It shall be unlawful for any person to ride or drive any bicycle on the sidewalks of that area of the City known as the City Square and those areas extending one (1) block from the four (4) corners of said City Square. Upon apprehension, any person violating this Section shall have his or her bicycle impounded by the Police until any such fine for a violation of this Section levied by the County Court of Johnson County has been paid.

Article 6. Minibikes

§5-601 MINIBIKES: UNLAWFUL OPERATION.

It shall be unlawful for any person to operate a minibike upon any street or highway within the corporate limits of the Municipality. For purposes of this Article, "minibike" shall

mean a two-wheel motor vehicle which has a total wheel and tire diameter of less than fourteen (14) inches or an engine rated capacity of less than forty-five (45) cubic centimeters displacement or a seat height less than twenty-five (25) inches from the ground or any other two-wheel motor vehicle primarily designed by the manufacturer for off-road use only. (Ref. 60-6,352, 60-2107 RS Neb.)

#### §5-602 MINIBIKES: EMERGENCIES AND PARADES.

Minibikes shall be exempt from the provisions of this Article during any public emergency or while being used in parades by regularly organized units of any recognized charitable, social, educational or community service organization. (Ref. 60-6,347, 60-6,352 RS Neb.)

#### §5-603 MINIBIKES: PUBLIC LANDS.

Minibikes shall be prohibited upon the public lands owned by the Municipality except where allowed by resolution of the Governing Body. (Ref 60-6,352 RS Neb.)

#### §5-604 MINIBIKES: TRAFFIC LAWS INAPPLICABLE.

The provisions of Chapter 60, Articles 3, 4, 5, and 17 of the Nebraska Statutes shall not be applicable to the owners and operators of any minibike. (Ref. 60-6,347 RS Neb.)

### Article 7. All-Terrain Vehicles

[Editor's Note: Article 7 was adopted in its entirety by Ordinance No. 90-810, passed on April 16, 1990]

#### § 5-701 ALL-TERRAIN VEHICLES, UTILITY-TYPE VEHICLES AND GOLF CARTS DEFINED.

For purposes of this Article:

A. "All-Terrain Vehicle (ATV)" means any motorized off-highway vehicle which (1) is 50 inches or less in width, (2) has a dry weight of 1200 pounds or less, (3) travels on three or more non-highway tires, and (4) is designed for operator use only with no passengers or is specifically designed by the original manufacturer for the operator and one passenger.

B. (1) "Utility-Type Vehicle (UTV)" means any motorized off-highway vehicle which (a) is 74 inches in width or less, (b) is not more than 180 inches in length, including the bumper, (c) has a dry weight of 2000 pounds or less, and (d) travels on four or more non-highway tires.

(2) "Utility-Type Vehicle" does not include all-terrain vehicles, golf cart vehicles or low-speed vehicles.

C. "Golf Cart" means a vehicle that has at least four (4) wheels, has a maximum level ground speed of less than twenty (20) miles per hour, has a maximum payload capacity of one thousand two hundred (1,200) pounds, has a maximum gross weight of two thousand



five hundred (2,500) pounds, has a maximum passenger capacity of not more than four (4) persons, and is designed and manufactured for operations on a golf course for sporting and recreational purposes, and is not being operated within the boundaries of a golf course. (Amended January 3, 2023)

§ 5-702 ALL-TERRAIN VEHICLES, UTILITY-TYPE VEHICLES AND GOLF CARTS: OPERATION.

An ATV, UTV or a Golf Cart may be operated on streets and highways within the corporate limits of the City only if the operator and the vehicle comply with the provisions of this Article.

A. An ATV, UTV and Golf Cart may be operated only between the hours of sunrise and sunset. An ATV and UTV shall not be operated at a speed in excess of 30 miles per hour or the posted speed limit, whichever is less. A Golf Cart shall not be operated at a speed in excess of 20 miles per hour or the posted speed limits, whichever is less. When an ATV, UTV or Golf Cart is in operation as authorized in this section, the headlights and taillight of the vehicle shall be on and the vehicle shall be equipped with a bicycle safety flag which extends no less than five feet above ground attached to the rear of such vehicle. The bicycle safety flag shall be triangular in shape with an area of not less than 30 square inches and shall be Day-Glo in color.

B. Any person operating an ATV, UTV or Golf Cart as authorized in this section shall abide by the following additional rules:

1. Shall have a valid Class O operator's license;
2. Shall not allow a passenger on ATV that is younger than 16 years of age; and,
3. Shall have liability insurance coverage for the ATV, UTV and Golf Cart while in operation on a street or highway. The liability insurance coverage shall be subject to limits, exclusive of interest and costs, be at least in the amounts as follows: Twenty-five thousand dollars because of bodily injury to or death of one person in any one accident and, subject to such limit for one person, fifty thousand dollars because of bodily injury to or death of two or more persons in any one accident, and twenty-five thousand dollars because of injury to or destruction of property of others in any one accident. The person operating ATV, UTV or Golf Cart shall provide proof of such insurance coverage to any peace officer requesting such proof. Any operator unable to produce current and effective liability insurance coverage to said ATV, UTV or Golf Cart upon request of a law enforcement officer shall be allowed 5 days after the date of request to provide proof of the liability coverage at the time of the original request. (Amended September 8, 2014) (Amended January 3, 2023)

§ 5-703 ALL-TERRAIN VEHICLES, UTILITY-TYPE VEHICLES AND GOLF CARTS: PARADES.

ATVs, UTVs and Golf Carts may be operated without complying with Section 5-702 of this Article on streets and highways in parades which have been authorized by the State or any department, board, commission or political subdivision of the State. (Amended January 3, 2023)

§ 5-704 ALL-TERRAIN VEHICLES, UTILITY-TYPE VEHICLES AND GOLF CARTS:  
CONTROLLED-ACCESS HIGHWAY AND CROSSING HIGHWAYS.

An ATV, UTV or a Golf Cart shall not be operated on any controlled-access highway with more than two marked traffic lanes and the crossing of any highway other than a controlled-access highway with more than two marked traffic lanes shall not be permitted, except as provided in Section 5-705 of this Article. An ATV, UTV or a Golf Cart shall not cross a controlled-access highway with more than two marked traffic lanes except as provided in Section 5-706. (Amended September 2016) (Amended January 3, 2023)

§ 5-705 ALL-TERRAIN VEHICLES, UTILITY-TYPE VEHICLES AND GOLF CARTS:  
CROSSING OF HIGHWAY.

Subject to Section 5-704 of this Article, the crossing of a highway, other than a controlled-access highway with more than two marked traffic lanes, shall be permitted by an ATV, UTV or a Golf Cart without complying with 5-702 of this Article only if:

A. The crossing is made at an angle of approximately 90 degrees to the direction of the highway and at a place where no obstruction prevents a quick and safe crossing;

B. The vehicle is brought to a complete stop before crossing the shoulder or roadway of the highway;

C. The operator yields the right-of-way to all oncoming traffic that constitutes an immediate potential hazard;

D. In crossing a divided highway, the crossing is made only at an intersection of such highway with another highway; and

E. Both the headlight and taillight of the vehicle are on when the crossing is made. (Amended September 2016) (Amended January 3, 2023)

§ 5-706 ALL-TERRAIN VEHICLES, UTILITY-TYPE VEHICLES AND GOLF CARTS:  
CROSSING CONTROLLED-ACCESS HIGHWAY WITH MORE THAN TWO (2) MARKED LANES.

The crossing of a controlled-access highway with more than two (2) marked traffic lanes shall be permitted by a utility-type vehicle if the operation is in accordance with the operation requirements of Section 5-702 of this Article and if the following requirements are met:

A. The crossing is made at an intersection that:

1. Is controlled by a traffic control signal; or

2. For any intersection located outside of the corporate limits of a city or village, is controlled by stop signs.

B. The crossing at such intersection is made in compliance with the traffic control signal or stop sign.

C. The crossing at such intersection is specifically authorized as follows:

1. If such intersection is located within the corporate limits of a city or village, by Ordinance of such city or village.

2. If such intersection is located within an unincorporated village, by Resolution of the County Board of the County in which such unincorporated village is located; or
3. If such intersection is located outside the corporate limits of a city or village, by Resolution of the County Board of the County in which such intersection is located. (Amended September 2016)
4. When the use of the all-terrain vehicle or utility-type vehicle is for agricultural purposes, the crossing of a controlled-access highway with more than two marked traffic lanes shall be permitted, if such vehicle is operated in accordance with 5-702 of this article. (Amended May 3, 2021) (Amended January 3, 2023)

§ 5-707 ALL-TERRAIN VEHICLES, UTILITY-TYPE VEHICLES AND GOLF CARTS: PROHIBITIONS.

No person shall:

- A. Equip the exhaust system of an ATV, UTV or a Golf Cart with a cutout, bypass or similar device;
  - B. Operate an ATV, UTV or a Golf Cart with an exhaust system so modified; or
  - C. Operate an ATV, UTV or a Golf Cart with the spark arrester removed or modified.
- (Article 5-701 through 5-707 was adopted August 1, 2011) (Amended January 3, 2023)

Article 8. Penal Provision

§5-801 VIOLATION: PENALTY.

Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this Chapter, set forth at full length herein or incorporated by reference shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be fined not more than five hundred (\$500.00) dollars for each offense. A new violation shall be deemed to have been committed every twenty-four (24) hours of such failure to comply. (Ord. No. 90-811, 4/16/90)

Chapter 6  
POLICE REGULATIONS

Article 1. Dogs and Cats

§ 6-101 DOGS; LICENSE.

Every owner or possessor of any dog over 6 months of age within the City of Tecumseh, Nebraska shall within 30 days of the acquisition of the dog, acquire a license for each dog from the City Clerk. The owner shall renew the license annually for each dog on January 1 of each year. For any license issued more than 30 days after it is due, the license fee shall be increased by \$10.00 per dog.

The license fee for every male or female dog shall be \$50.00 per dog. The license fee for every neutered/spayed dog shall be \$10.00. In the event that the license tag is lost and upon satisfactory evidence that the original plate or tag was issued in accordance with the provisions herein, the City Clerk shall issue a duplicate or new tag for the balance of the year for which the tag has been paid and shall charge and collect a fee of one-half of the cost of the original tag.

In addition to the above licensing fees, every owner or possessor of each and every dog shall pay to the City Clerk one dollar twenty-five cents (\$1.25) per year payable on the first (1<sup>st</sup>) day of January for the fees required by R.R.S. 54-603(3).

No license shall be issued until the fees as described herein are paid and proof of the compliance with R.R.S. 71-4401, et, seq., requiring the vaccination for rabies is provided to the City Clerk.

It shall be unlawful to own, maintain or possess any dog within the limits of the City, unless a license fee is paid and dog tags are constantly worn by the dogs. (Ref. 7-7-4, Code 1966) (Amended by Ord. No. 92-852,11/2/92) (Amended March 2002) (Amended November 2009) (Amended September 2010) (Amended August 1, 2011)(Amended November 5, 2012) (Amended October 4, 2021)

§ 6-102 DOG GUIDES, HEARING AID DOGS AND SERVICE DOGS; EXEMPT FROM LICENSE TAX.

Every dog guide for a blind or visually impaired person, hearing aid dog for a deaf or hearing impaired person, and service dog for a physically limited person shall be licensed as required by this code, but no license tax shall be charged upon a showing by the owner 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 of the dog shall be liable for the payment of the required license tax. (November 5, 2012)

§ 6-103 DOGS; NUMBER PERMITTED.

It shall be unlawful to own, keep or harbor at any time, more than three (3) dogs

over 6 months of age per residential or dwelling unit in the City of Tecumseh, Nebraska. This section shall not apply to any state licensed veterinary establishment.

Any dog owner in the City of Tecumseh, Nebraska that on November 5, 2012 owns, keeps or harbors more than three (3) dogs, shall be allowed to maintain the additional dogs until January 1, 2013, at which time the owner, keeper or harborer must be in compliance with only owning, keeping or harboring no more than three (3) dogs within the City of Tecumseh, Nebraska. (November 5, 2012)

#### §6-104 DOGS; WRONGFUL LICENSING.

It shall be unlawful for the owner, keeper, or harborer of any dog to permit or allow such dog to wear any license, metallic tag or other Municipal identification than that issued by the City Clerk for dogs, nor shall the owner, keeper, or harborer wrongfully and knowingly license an unspayed female dog with a license prescribed for a male or spayed female dog. (Amended by Ord. No. 92-852, 11/2/92) (Amended August 1, 2011).

#### §6-105 DOGS: OWNER DEFINED.

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

#### §6-106 DOGS: PROCLAMATION.

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

#### §6-107 DOGS: UNCOLLARED.

All dogs found running at large upon the streets and public grounds of the Municipality without a collar or harness are hereby declared a public nuisance. Uncollared dogs found running at large shall be killed or impounded in the Municipal Dog Shelter by the Municipal Police. (Ref. 54-604 RS Neb.)

#### §6-108 DOGS; RUNNING AT LARGE.

It shall be unlawful for the owner of any dog to allow such dog to run at large at any

time within the corporate limits of the Municipality. It shall be the duty of the Municipal Police to cause any dog found to be running at large within the Municipality to be taken up and impounded. "Running at Large" shall mean any dog found off the premise of the owner, and not under control of the owner or a responsible person, either by leash, cord, chain, wire, rope, cage or other suitable means of physical restraint.

#### §6-109 DOGS; CAPTURE IMPOSSIBLE.

The Municipal Police shall have the authority to kill any animals showing vicious tendencies, or characteristics of rabies which make capture impossible because of the danger involved. (Ref. 54-605 RS Neb.)

#### §6-110 DOGS: INTERFERENCE WITH POLICE.

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

#### §6-111 DOGS: KILLING AND POISONING.

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

#### §6-112 DOGS: BARKING AND OFFENSIVE.

It shall be unlawful for any person to own, keep, or harbor any dog which by loud, continued, or frequent barking, howling, or yelping shall annoy or disturb any neighborhood, or person, or which barks at or chases pedestrians, drivers, or owners of horses or vehicles while they are on any public sidewalks, streets, or alleys in the Municipality. (Amended by Ord. No. 90-813. 4/16/90)

#### §6-113 DOGS REMOVAL OF TAGS.

It shall be unlawful for any person to remove or cause to be removed, the collar, harness, or metallic tag from any licensed dog without the consent of the owner, keeper, or possessor thereof.

#### §6-114 DOGS: IMPOUNDING.

It shall be the duty of the Municipal Police to capture, secure and remove in a humane manner to the Municipal Animal Shelter any dog violating any of the provisions of this Article. The dogs so impounded shall be treated in a humane manner and shall be provided with a sufficient supply of food and fresh water each day. Each impounded dog shall be kept and maintained at the pound for a period of not less than three (3) days for licensed dogs and five (5) days for unlicensed dogs after public notice has been given unless reclaimed earlier by the owner. However, if a dog is impounded that is severely injured, or which has a contagious disease other than rabies, and in the judgment of the Municipal Police or its designee the dog is suffering and recovery is doubtful, he may destroy said dog. Notice of impoundment of all dogs, including any significant marks or identifications, shall be posted at the office of the Municipal Clerk within twenty-four (24) hours after impoundment as public notification of such impoundment. Any dog may be reclaimed by its owner during the period of impoundment by a payment of a general impoundment fee of \$25.00 and an additional fee for feeding and care of \$10.00 per day of impoundment or fraction, thereof. The owner shall then be required to comply with the licensing and rabies vaccination requirements within seventy-two (72) hours after release. If the dog is not claimed at the end of required waiting period after public notice has been given, the Municipal Police or its designee may dispose of the dog in accordance with the applicable rules and regulations pertaining to the same; Provided, that if, in the judgment of the Municipal Police or its designee, a suitable home can be found for any such dog within the Municipality, the said dog shall be turned over to that person and the new owner shall then be required to meet all licensing and vaccinating requirements provided in this Article. The Municipality shall acquire legal title to any unlicensed dog impounded in the Animal Shelter for a period longer than the required waiting period after giving notice. All dogs shall be destroyed in a humane manner unless a suitable home can be found for such dog. (Ref. 17-548, 71-4408 RS Neb.) (Amended December 1, 2003)

#### §6-115 DOGS: ANIMAL SHELTER.

The Animal Shelter shall be safe, suitable, and conveniently located for the impounding, keeping, and destruction of dogs. The said shelter shall be sanitary, ventilated, and lighted. (Ref. 17-548 RS Neb.)

#### §6-116 DANGEROUS DOGS: DEFINITIONS.

Animal Control Authority shall mean the City or the Johnson County Sheriff's Department. The Johnson County Sheriff's Department is hereby authorized to enforce the animal control laws of the municipality.

Animal Control Officer shall mean any individual employed, appointed, or authorized by an animal control authority for the purpose of aiding in the enforcement of this act or any other law or ordinance relating to the licensing of animals, control of animals, or seizure and impoundment of animals and shall include any state or local law enforcement or other

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

Dangerous Dog shall mean any dog that, according to the records of an animal control authority:

a. has killed or inflicted severe injury on a human being on public or private property;  
b. has killed a domestic animal without provocation while the dog was off the owner's property; or

c. has been previously determined to be a potentially dangerous dog by an animal control authority and the owner has received notice of such determination and such dog again aggressively bites, attacks, or endangers the safety of humans or domestic animals. A dog shall not be defined as a dangerous dog if the threat, any injury that is not a severe injury, or the damage was sustained by a person who, at the time, was committing a willful trespass as defined in Neb. Rev. Stat. § 28-520, or 28-521 or any other tort upon the property of the owner of the dog, who was tormenting, abusing, or assaulting the dog, who has, in the past, been observed or reported to have tormented, abused, or assaulted the dog, or who was committing or attempting to commit a crime;

Domestic Animal shall mean a cat, a dog, or livestock;

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

Potentially Dangerous Dog shall mean:

a. any dog that when unprovoked;  
(i) inflicts a non-severe injury on a human or injures a domestic animal either on public or private property, or;

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

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

Severe injury shall mean any physical injury that results in disfiguring lacerations requiring multiple sutures or cosmetic surgery or one or more broken bones or that creates a potential danger to the life or health of the victim. (Ref. 54-617 RS Neb.) (Ord. No. 90-814, 4/16/90) (Amended November 4, 2013)

#### §6-117 DANGEROUS DOGS: RESTRAINED.

No person, owning, harboring, or having the care of a dangerous dog shall permit such dog to be out of confinement (as defined in Section 6-116), on or off the premises of the person, unless such dog is securely leashed with a leash of a fixed length no longer than four (4) feet, and muzzled. "Muzzled" for the purposes of this section shall mean that the jaws of the dangerous dog are confined by a device that prevents it from biting. (Ref. 54-618 RS Neb.) (Ord No. 90-814, 4/16/90) (Amended 12/4/06)



#### §6-118 DANGEROUS DOGS: CONFINED.

A dangerous dog shall be securely confined, in a humane manner, indoors or in a securely enclosed and locked pen or structure suitably designed to prevent the entry of young children and to prevent the dog from escaping. The pen or structure shall have secure sides and a secure top. If the pen or structure has no bottom secured to the sides, the sides shall be embedded into the ground. The pen or structure shall also protect the dog from the elements. The owner of a dangerous dog shall post warning signs to be readily discernible and clearly visible from the public sidewalk or property line at any actual or customary point of entry on the premises. An additional sign shall be conspicuously displayed on the pen of the dangerous dog. The signs shall be at least ten inches (10") by twelve inches (12") in size; contain the words "Warning, Dangerous Dog"; be in high contrast lettering; and the lettering must be no less than three inches (3") high. (Ref. 54-619 RS Neb.) (Ord. No. 90-814, 4/16/90) (Amended. 12/4/06)

#### §6-119 DANGEROUS DOGS; FAILURE TO COMPLY.

Any dangerous dog may be immediately confiscated by an animal control officer if the owner is in violation of this article. The owner shall be responsible for the reasonable costs incurred by the animal control authority for the care of a dangerous dog confiscated by an animal control officer or for the destruction of any dangerous dog if the action by the animal control authority is pursuant to law and if the owner violated this article.

In addition to any other penalty, a court may order the animal control authority to dispose of a dangerous dog in an expeditious and humane manner. (Ref. 54-620 RS Neb.) (Ord. No. 90-814, 4/16/90)

#### §6-120 DANGEROUS DOGS; ADDITIONAL REGULATIONS.

Nothing in this article shall be construed to restrict or prohibit any governing body of the municipality from establishing and enforcing laws or ordinances at least as stringent as the provisions of this article. (Ref. 54-624 RS Neb.) (Ord. No. 90-814,4/16/90)

#### §6-121 PROOF OF INSURANCE FOR DANGEROUS DOGS.

Any person owning or harboring a dog within the City of Tecumseh, that has been determined to be a dangerous dog must, within thirty (30) days, present written proof of public liability insurance, covering any damage or injury that may be caused by said dog, of not less than one hundred thousand dollars (\$100,000.00), to the City Clerk. The policy shall contain a provision requiring the insurance company to provide written notice to the City not less than fifteen (15) days prior to any cancellation, termination, or expiration of said policy. This section shall only apply to dogs that are determined to be dangerous dogs after the passage of this section. (12/4/06) (Amended November 4, 2013)

#### §6-122 MICROCHIP IDENTIFICATION FOR DANGEROUS DOGS.

Dogs determined to be dangerous shall be implanted with microchip identification by a licensed veterinarian at the owner's expense within thirty (30) days of such determination being made. The chip identification number shall be provided to the authority within seventy-two (72) hours of procedures being completed. This section, shall only apply to dogs that are determined to be dangerous after the passage of this section. (12/4/06)

#### §6-123 REGISTRY OF DANGEROUS DOGS.

The owner of any dog that has been determined to be dangerous as defined in Section 6-114 after the passage of this Section shall register such dog with the authority within thirty (30) days of such determination. Such registration shall include the following information:

- (a) The name of the current owner of the dog;
- (b) The address where the dog is harbored;
- (c) A description of the dog, including name, breed, sex, coloring and a color photograph of the dog;
- (d) The current license number for the dog;
- (e) The carrier and policy number for public liability insurance as required in Section 6-119, including a copy of the policy or certificate of insurance;
- (f) Microchip manufacturer and microchip identification number.

In January of each year, the authority shall publish in the local newspaper a list of dogs on the above registry, providing the name of the owner, the address where the animal is harbored, and a description of the animal including name and breed.

Any person who has registered a dog pursuant to this section shall have a continuing obligation to provide updated registration information to the authority and shall, within thirty (30) days of the sale or transfer of such dog, provide to the authority the date of such sale or transfer, the name of the new owner, and the address where the dog will be harbored. (12/4/06)

#### §6-124 APPEALS.

The determination that any dog is dangerous or potentially dangerous as defined herein shall be deemed to have been made upon written notice to the owner of such dog by personal service or registered mail to the last known address of the owner. Upon such notification and after the expiration of eleven days from the date of such notice, the determination shall be final and binding upon the City and upon the owner unless within ten (10) days after the date of the notice, the owner files a written request with the City Clerk for a review of the determination by the Animal Control Authority and pays the Appeal Fee of \$100.00. At such review the owner may present any written statements or documentary evidence relevant to the determination and the Animal Control Authority may

also present any written statements or documentary evidence relevant to the determination. The City Clerk shall make a final and binding determination after such review within fifteen (15) days of the date of review.

The owner may appeal any final determination to the District Court as provided by law. (12/4/06)(November 5, 2012)

#### § 6-125 DOGS; RECKLESS OWNER.

The animal control authority shall initiate administrative proceedings to declare an owner, who has been convicted of one or more violations of Section 6-101 through 6-211 of the City Code of Tecumseh, Nebraska on three separate occasions in a 24-month period, or whose animal has been determined to be dangerous or potentially dangerous and who has not complied with the requirements of this chapter pertaining to dangerous or potentially dangerous animals, a reckless owner, and to revoke all pet licenses issued to such person. Such proceedings shall be instituted by service of a notice, in writing, upon such owner either by certified and regular mail to the owner's last known address or personally. The notice shall contain:

a) The name and address of the owner who is subject to such declaration and revocation;

b) The names, descriptions and license numbers of any pet animals licensed to the owner;

c) A description of the violations or requirements which form the basis of such declaration and revocation, including the case numbers, if any;

d) A summary of the effects of such declaration, including revocation of all pet licenses; surrender of all animals; and prohibition from licensing, residing with or owning any animal in the City for a period of 48 months from the date of the declaration and revocation order;

e) The date of the entry of the declaration and revocation order; and,

f) Notification of the availability of an appeal, if the owner objects to such declaration and revocation order, within ten (10) days of the date of the Notice of said declaration and revocation order.

Upon entry of such declaration and revocation order, the person designated as a "Reckless Owner" shall have ten (10) days from the date of the Notice of said declaration and revocation order or if appealed, ten (10) days from the City Clerk's final decision, to relinquish ownership and control to the City or another person NOT residing within the City. If the ownership and control is transferred to another person living outside the City, the "Reckless Owner" must provide the name, phone number and address for the new owner to the City Clerk within ten (10) days of Notice of said declaration and revocation order or if appealed, ten (10) days from the City Clerk's final decision. If the ownership and control of the animal is transferred to a person outside of the City, the animal shall not be brought back into the City at any time in the future.

Failure to surrender or transfer ownership and control of the animal as provided herein shall result in immediate impoundment by the City. Such surrendered or impounded animals shall immediately become the property of the City and may be disposed of by the

City as the City deems appropriate.

An owner who is declared a reckless owner shall be prohibited from licensing, residing with or owning any animal in the city for a period of 48 months from the date of entry of the declaration and revocation order.

An appeal of such declaration and revocation order shall be heard by the City Clerk and shall provide an opportunity for the owner to appear and offer any written statements or documentary evidence to dispute the declaration and revocation order. The filing fee for each appeal shall be \$100.00. A determination to affirm or reverse such order shall be entered by the hearing officer within fourteen (14) days of the date of the hearing. The Reckless Owner may appeal any determination to the District Court as provided by law. (November 5, 2012)(Amended November 4, 2013)

#### § 6-126 CATS; LICENSE.

Every owner or possessor of any cat over 6 months of age within the City of Tecumseh, Nebraska shall within 30 days of the acquisition of the cat, acquire a license for each cat from the City Clerk. The owner shall renew the license annually for each cat on January 1 of each year. For any license issued more than 30 days after it is due, the license fee shall be increased by \$10.00 per cat.

The license fee for every male or female cat shall be \$50.00 per cat. The license fee for every neutered/spayed cat shall be \$10.00. In the event that the license tag is lost and upon satisfactory evidence that the original plate or tag was issued in accordance with the provisions herein, the City Clerk shall issue a duplicate or new tag for the balance of the year for which the tag has been paid and shall charge and collect a fee of one-half of the cost of the original tag.

In addition to the above licensing fees, every owner or possessor of each and every cat shall pay to the City Clerk one dollar twenty-five cents (\$1.25) per year payable on the first (1<sup>st</sup>) day of January for the fees required by R.R.S. 54-603(3).

No license shall be issued until the fees as described herein are paid and proof of the compliance with R.R.S. 71-4401, et, seq., requiring the vaccination for rabies is provided to the City Clerk.

It shall be unlawful to own, maintain or possess any cat within the limits of the City, unless a license fee is paid and cat tags are constantly worn by the cats. (Ref. 7-7-4, Code 1966) (Amended by Ord. No. 92-852,11/2/92) (Amended March 2002) (Amended November 2009) (Amended September 2010) (Amended August 1, 2011)(Amended November 5, 2012) (Amended October 4, 2021)

#### §6-127 CATS RUNNING AT LARGE, UNCOLLARED.

It shall be unlawful for the owner of any cat to allow such cat to run at large at any time within the corporate limits of the Municipality without a collar and the current license tag issued by the City Clerk. It shall be the duty of the City Clerk to cause any cat found to be running at large within the Municipality without a current license tag to be taken up and impounded. "Running at large" shall mean any cat found off the premises of the owner, and

not under the control of the owner or a responsible person, either by leash, cord, chain, wire, rope, cage, or other suitable means of physical restraint. (Ord. No. 92-865, 11/2/92) (Amended August 1, 2011).

#### §6-128 CATS: IMPOUNDING.

It shall be the duty of the Municipal Police to capture, secure and remove in a humane manner to the Municipal Animal Shelter any cat violating any of the provisions of this Article. The cats so impounded shall be treated in a humane manner and shall be provided with a sufficient supply of food and fresh water each day. Each impounded cat shall be kept and maintained at the pound for a period of not less than three (3) days for licensed cats and five (5) days for unlicensed cats after public notice has been given unless reclaimed earlier by the owner. However, if a cat is impounded that is severely injured, or which has a contagious disease other than rabies, and in the judgment of the Municipal Police or its designee the cat is suffering and recovery is doubtful, he may destroy said cat. Notice of impoundment of all cats, including any significant marks or identifications, shall be posted at the office of the Municipal Clerk within twenty-four (24) hours after impoundment as public notification of such impoundment. Any cat may be reclaimed by its owner during the period of impoundment by a payment of a general impoundment fee of \$25.00 and an additional fee for feeding and care of \$10.00 per day of impoundment or fraction, thereof. The owner shall then be required to comply with the licensing and rabies vaccination requirements within seventy-two (72) hours after release. If the cat is not claimed at the end of required waiting period after public notice has been given, the Municipal Police or its designee may dispose of the cat in accordance with the applicable rules and regulations pertaining to the same; provided, that if, in the judgment of the Municipal Police or its designee, a suitable home can be found for any such cat within the Municipality, the said cat shall be turned over to that person and the new owner shall then be required to meet all licensing and vaccinating requirements provided in this Article. The Municipality shall acquire legal title to any unlicensed cat impounded in the Animal Shelter for a period longer than the required waiting period after giving notice. All cats shall be destroyed in humane manner unless a suitable home can be found for such cat. (Ref. 17-548, 71-4408 RS Neb.) (Amended 12/1/03).

### Article 2. Animals Generally

#### §6-201 ANIMALS; RUNNING AT LARGE.

It shall be unlawful for the owner, keeper, or harbinger of any animal or fowl, or any person having the charge, custody, or control thereof, to permit a horse, mule, cow, sheep, goat, swine, chicken, turkey, goose, or other animal or fowl to be driven or run at large on any of the public ways and property, or upon the property of another, or to be tethered, staked out or picketed upon any public street, alley, park or public grounds, or to be tethered, staked out or picketed in such a manner so as to allow such animal to reach or pass into any public way. (Ref. 17-547 RS Neb.)

§6-202 ANIMALS; CONTROLLED WITHIN MUNICIPALITY.

A. It shall be unlawful for any person to keep or maintain any horse, mule, sheep, cow, goat, swine, or other livestock or fowl within one hundred (100) feet of any dwelling unit within the corporate limits.

B. It shall be unlawful for any person to keep or maintain any horse, mule, sheep, cow, goat, swine or other livestock or fowl within the following zoning districts of the City as evidenced by the zoning map of Tecumseh, Nebraska:

- Medium Density Residential
- General Commercial Districts
- Downtown Commercial Districts.

In all other parts of the corporate limits except Medium Density Residential Districts, General Commercial Districts, and Downtown Commercial Districts, it shall be unlawful for any person to keep or maintain within the corporate limits any horse, mule, sheep, cow, goat, swine or other livestock or fowl within one hundred feet (100) of any dwelling unit within the corporate limits. (Ref. 17-547 RS Neb.)

C. Section B shall become operative on June 1, 2010 and section A shall be repealed on June 1, 2010.

§6-203 ANIMALS; CRUELTY.

No person shall cruelly or unnecessarily beat, overwork, or insufficiently shelter or feed any animal within the Municipality. (Ref. 28-1001, 28-1002 RS Neb.)

§ 6-204 ANIMALS; ENCLOSURES.

It shall be unlawful for any person owning, keeping, or harboring any animal or allowing such animal to be under his charge to permit unsanitary conditions to exist in the premises where the animal is kept which would cause foul or obnoxious odors, attract flies or vermin or otherwise threaten the public health or safety. (Amended August 1, 2022)

§6-205 ANIMALS; IMPOUNDING, SALE.

It shall be the duty of the Police Officers to impound any animal known by them to be running at large and the further duty of said officers to then notify the owner if known to them within twenty-four (24) hours after impounding of said animal or animals; if the owner is unknown, the officers shall cause a notice to be published in some newspaper of general circulation in the City for one (1) week, which notice shall set forth the description of said animal and state that unless the animal is claimed and the fees of said officers paid within ten (10) days from the date of the notice, said animal will be sold at some designated time not less than ten (10) nor more than fifteen (15) days from the date of notice, and at some public place in the City to pay for the expenses incurred by said animal.

If the owner fails to claim the animal and pay the fees, the officer shall at the time and place so designated offer for sale and sell the animal or animals at public auction to the

highest bidder and the proceeds, after paying the fees of said officers shall be turned over to the Treasurer and by him placed to the order of the General Fund. (Ref. 7-5-3, 7-5-4, Code 1966)

§6-206 ANIMALS; ABANDONMENT, NEGLECT, AND CRUELTY: DEFINITIONS.

A. ABANDON shall mean to leave any animal for any length of time without making effective provision for its food, water, or other care as is reasonably necessary for the animal's health;

B. ANIMAL shall mean any vertebrate member of the animal kingdom except man. The term shall not include an uncaptured wild creature;

C. CRUELLY MISTREAT shall mean to knowingly and intentionally kill, maim, disfigure, torture, beat, mutilate, burn, scald, or otherwise set upon any animal;

D. CRUELLY NEGLECT shall mean to fail to provide any animal in one's care, whether as owner or custodian, with food, water, or other care as is reasonably necessary for the animal's health;

E. HUMANE KILLING shall mean the destruction of an animal by a method which causes the animal a minimum of pain and suffering; and

F. LAW ENFORCEMENT OFFICER shall mean any member of the Nebraska State Patrol, any county or deputy sheriff, any member of the police force of any city or village, or any other public official authorized by a city or village to enforce state or local animal control laws, rules, regulations, or ordinances. (Ref. 28-1008 RS Neb.) (Ord. No. 92-853, 11/2/92)

§6-207 ANIMALS; ABANDONMENT, NEGLECT, AND CRUELTY; LAW ENFORCEMENT OFFICER; POWERS; IMMUNITY.

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

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

C. Any law enforcement officer acting under this section shall not be liable for damage to property if such damage is not the result of the officer's negligence. (Ref. 28-1012 RS Neb.) (Ord. No. 92-853, 11/2/92)

§6-208 ANIMALS; ABANDONMENT, NEGLECT, AND CRUELTY; PENALTY.

A person commits cruelty to animals if he or she abandons, cruelly mistreats, or cruelly neglects an animal. (Ref. 28-1009 RS Neb.) (Ord. No. 92-853, 11/2/92)

§6-209 ANIMALS; PITTING; DEFINITIONS.

Bearbaiting shall mean the pitting of any animal against a bear. Cock-fighting shall mean the pitting of a fowl against another fowl. Dogfighting shall mean the pitting of a dog against another dog. Pitting shall mean bringing animals together in combat. (Ref. 28-1004 RS Neb.) (Ord. No. 92-854, 11/2/93)

§6-210 ANIMALS: PITTING: PROHIBITED.

No person shall knowingly promote, engage in, or be employed at dogfighting, cockfighting, bearbaiting, or pitting an animal against another. Nor shall any person knowingly receive money for the admission of another person to a place kept for such purpose. Nor shall any person knowingly own, use, train, sell, or possess an animal for the purpose of animal pitting. Nor shall any person knowingly permit any act as described in this section to occur on any premises owned or controlled by him or her. (Ref. 28-1005 RS Neb.) (Ord. No. 92-854, 11/2/93)

§6-211 ANIMALS; PITTING: SPECTATORS PROHIBITED.

No person shall knowingly and willingly be present at and witness as a spectator dogfighting, cockfighting, bearbaiting, or the pitting of an animal against another as prohibited in section 6-210. (Ref. 28-1005 RS Neb.) (Ord. No. 92-854, 11/2/93)

Article 3. Miscellaneous Misdemeanors

§6-301 MISDEMEANORS: RESISTING OFFICER.

It shall be unlawful for any person to resist or abuse any Municipal Policeman when such officer is in the lawful performance of his duties. (Ref. 28-729 RS Neb.)

§6-302 MISDEMEANORS: TRESPASSING.

(A) It shall be unlawful for any person, knowing that he or she is not licensed or privileged to do so, to enter or secretly remain in any building or occupied structure, or any separately secured or occupied portion thereof. (Ref. 28-520 RS Neb.)

(B) It shall be unlawful for any person, knowing that he or she is not licensed or privileged to do so, to enter or remain in any place as to which notice against trespass is given by:

- (1) Actual communication to the actor; or
- (2) Posting in a manner prescribed by law or reasonably likely to come to the attention of intruders; or
- (3) Fencing or other enclosure manifestly designed to exclude intruders. (Ref. 28-521 RS Neb.)



§6-303 MISDEMEANORS: MALICIOUS DESTRUCTION OF PROPERTY.

It shall be unlawful for any person, wantonly or maliciously in any manner to molest, injure or destroy any property of another in this city. Any such offender shall be liable for all damages which arise from the commission of such unlawful act, in addition to a fine as permitted by law. (Ref 28-572, 28-573 RS Neb.)

§6-304 MISDEMEANORS; LARCENY.

It shall be unlawful for any person within the corporate limits to steal any money, goods, or chattels of any kind whatever. Any person who shall steal property of any kind, whether the same be entirely in money or entirely property shall be deemed to be guilty of a misdemeanor. (Ref. 28-512, 28-514 RS Neb.)

§6-305 MISDEMEANORS; CONCEALING STOLEN PROPERTY.

Any person who receives or conceals stolen property, goods, or chattels of any kind with the intent to defraud the owner, or whoever receives or conceals any money or other accountable receipts and evidences of ownership shall be deemed to be guilty of a misdemeanor. (Ref 28-513 RS Neb.)

§6-306 MISDEMEANORS; INJURY TO TREES.

It shall be unlawful for any person to purposely or carelessly, and without lawful authority, cut down, carry away, injure, break down, or destroy any fruit, ornamental, shade or other tree or trees standing or growing on any land belonging to another person or persons or on any public land in the corporate limits. Any public service company desiring to trim or cut down any tree, except on property owned and controlled by it, shall make an application to the Governing Body to do so, and the written permit of the Governing Body in accordance with its decision to allow such an action shall constitute the only lawful authority on the part of the company to do so. (Ref. 28-565 thru 28-567 RS Neb.)

§6-307 MISDEMEANORS: DRINKING IN PUBLIC. OPEN BEVERAGE CONTAINER.

A. It is unlawful for any person in the passenger area of a motor vehicle to possess an open alcoholic beverage container while the motor vehicle is located in a public parking area or on any highway in this city.

B. Except as authorized by the City, it is unlawful for any person to consume an alcoholic beverage:

1. In a public parking area or on any highway in this city; or
2. Inside a motor vehicle while in a public parking area or on any highway in this city.

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

ALCOHOLIC BEVERAGE. (a) Beer, ale, porter, stout, and other similar fermented beverages, including sake or similar products, of any name or description, containing 0.5% or more of alcohol by volume, brewed or produced from malt, wholly or in part, or from any substitute therefore; (b) Wine of not less than 0.5% alcohol by volume; or (c) Distilled spirits, which is that substance known as ethyl alcohol, ethanol, or spirits of wine in any form, including all dilutions and mixtures thereof from whatever source or by whatever process produced. (d) ALCOHOLIC BEVERAGE does not include trace amounts not readily consumable as a beverage.

HIGHWAY. A road or street including the entire area within the right-of-way.

OPEN ALCOHOLIC BEVERAGE CONTAINER. Except as provided in Neb. RS 53-123.04(3) and 53-123.11(1)(c), any bottle, can, or other receptacle:

- (a) That contains any amount of alcoholic beverage; and
- (b) (i) That is open or has a broken seal; or  
(ii) The contents of which are partially removed.

PASSENGER AREA. The area designed to seat the driver and passengers while the motor vehicle is in operation and any area that is readily accessible to the driver or a passenger while in their seating positions, including any compartments in the area. PASSENGER AREA does not include the area behind the last upright seat of the motor vehicle if the area is not normally occupied by the driver or a passenger and the motor vehicle is not equipped with a trunk. (Ref. 60-6,211.08 RS Neb.)

#### §6-308 MISDEMEANORS: DISCHARGE OF FIREARMS.

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

#### §6-309 SLINGSHOTS, AIR GUNS, BB GUNS.

It shall be unlawful for any person to discharge a slingshot, air gun, BB gun, or the like loaded with rock or other dangerous missiles at any time or under any circumstances within the city.

#### §6-310 REGULATION OF USE, SALE, POSSESSION OF FIREWORKS

The use, sale, offer for sale and possession of permissible fireworks in the City, as defined by Neb. Rev. Stat. §28-1241 (Reissue 1985), shall be governed and regulated by Neb. Rev. Stat. §28-1241 to 28-1252, including any and all amendments thereto, together with any rules and regulations adopted by the State Fire Marshal for the enforcement of

Neb. Rev. Stat. §28-1241 to 28-1252.

The provisions of this Section shall not apply to any fireworks to be used for purpose of public exhibitions or display under authorization of the Governing Body or to fireworks furnished for agricultural purposes pursuant to written authorization from the State Fire Marshal. No firecracker of any sort shall be exploded after twelve (12:00) o'clock midnight of any day, and no fireworks shall be exploded except from June twenty-fourth (24th) to July fifth (5th) and December twenty-eighth (28th) to January first (1st) of any year. (Ref. 17-556, 28-1241, 28-1244, 28-1245 RS Neb.) (Amended by Ord. No. 90-816, 4/16/90) (Amended September 2016)

#### §6-311 MISDEMEANORS: ASSAULTS.

It shall be unlawful for any person to assault or threaten any other person or persons. Any person who assaults another person or persons shall be deemed to be guilty of a misdemeanor. (Ref. 28-411 RS Neb.)

#### §6-312 MISDEMEANORS; DISTURBING THE PEACE.

It shall be unlawful for any person intentionally to disturb the peace and quiet of any person, family, or neighborhood. (Ref. 28-1322 RS Neb.)

#### §6-313 MISDEMEANORS: DISORDERLY CONDUCT.

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

#### §6-314 MISDEMEANORS: MALICIOUS MISCHIEF.

It shall be deemed a misdemeanor for any person to willfully destroy, mutilate, deface, injure, or remove any tomb, monument, gravestone, structure, or thing of value which is located upon any government property, cemetery, or property of historic value.

Any such offender shall also be liable, in an action for trespass in the name of the beneficial holder of said property, for all damages which arise from the commission of such unlawful act. (Ref. 12-519 RS Neb.)

#### §6-315 CRIMINAL MISCHIEF

A person commits criminal mischief if he/she: (A) damages property of another intentionally or recklessly; (B) intentionally tampers with property of another so as to endanger person or property; or (C) intentionally or maliciously causes another to suffer pecuniary loss by deception or threat.

§6-316 MISDEMEANORS: DISTURBING AN ASSEMBLY.

It shall be unlawful for any person or persons to disturb, interrupt, or interfere with any lawful assembly of people, whether religious or otherwise, by loud and unnecessary noise, threatening behavior, or indecent and shocking behavior. Any person or persons so disturbing an assembly shall be deemed to be guilty of a misdemeanor and fined in accord with State statute. (Ref. 28-801 through 28-803 RS Neb.)

§6-317 MISDEMEANORS; WINDOW PEEPING.

It shall be unlawful for any person to go upon the private premise of another to look or peep into any window, door, or other opening in a building occupied by any other person.

§6-318 MISDEMEANORS; LITTERING.

It shall be unlawful for any person to throw, cast, lay, or drop on any public way or property any paper, scrap material or other waste whatsoever.

§6-319 MISDEMEANORS: PROHIBITED FENCES.

It shall be unlawful for any person to erect, or cause to be erected, and maintain any barbed wire or electric fence within the corporate limits, where such fence abuts a public sidewalk, street or alley.

§6-320 MISDEMEANORS: WEEDS. LITTER. STAGNANT WATER.

A. Lots or pieces of ground within the city shall be drained or filled so as to prevent stagnant water or any other nuisance accumulating thereon.

B. The owner or occupant of any lot or piece of ground within the city shall keep the lot or piece 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.

C. The throwing, depositing, or accumulation of litter on any lot or piece of ground within the city is prohibited.

D. It is hereby declared to be a nuisance to permit or maintain any growth of 12 inches or more in height of weeds, grasses, or worthless vegetation on any lot or piece of ground within the city or on the adjoining streets or alleys or to litter or cause litter to be deposited or remain thereon except in proper receptacles.

E. It is also declared to be a nuisance to permit or maintain any growth of 8 inches or more in height of weeds, grasses or worthless vegetation on any lot or piece of ground within the City or on adjoining streets or alleys during any calendar year if, within the same calendar year, the City has, pursuant to subsection "D" of this section, acted to remove weeds, grasses or worthless vegetation exceeding twelve inches in height on the same lot or piece of ground and had to seek recovery of the costs and expenses of such work from the owner.

F. Any owner or occupant of a lot or piece of ground shall, upon conviction of violating parts A, B, or C above of this Section, be guilty of an offense.

G. 1. The City may request the Abatement of the nuisances set out in Parts D and E above of this Section. Should the City request the Abatement of the Nuisance, Notice to abate and remove such nuisance shall be given to each owner or owner's duly authorized agent by personal service or by certified mail addressed to the owner's address as reflected by the County Assessor's Office real estate records and by posting in a conspicuous location on the lot or ground upon which the Nuisance is to be abated or removed. If Notice is given by certified mail, such certified mail shall be conspicuously marked as to its importance. Within five (5) days after personal service of such notice or posting, whichever is applicable, the owner or occupant of the lot or piece of ground may request a hearing with the City to appeal the decision to abate or remove a nuisance by filing a written appeal with the office of the City Clerk. A hearing of the appeal shall be held within fourteen (14) days after the filing of the appeal and shall be conducted by the City Clerk or his or her deputy. The hearing officer shall render a decision on the appeal within five (5) business days after the conclusion of the hearing. If the appeal fails, the City may have the work done. If within five (5) days after receipt of such Notice or posting, the owner or occupant of the lot or piece of ground does not request a hearing with the City or fails to comply with the order to abate and remove the nuisance, the City may have such work done.

2. The costs and expenses of any such work shall be paid by the owner. If unpaid for 2 months after such work is done, the city may either:

(a) Levy and assess the costs and expenses of the work upon the lot or piece of ground so benefitted as a special assessment in the same manner as other special taxes for improvements are levied and assessed; or

(b) Recover in a civil action the costs and expenses of the work upon the lot or piece of ground and the adjoining streets and alleys.

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

LITTER. Includes but is not limited to:

(a) Trash (as defined by 4-202 of this Code), rubbish (as defined by 4-202 of this Code), refuse, garbage (as defined by 4-201 of this Code), waste (as defined by 4-203 of this Code), paper, rags, and ashes;

(b) Wood, plaster, cement, brick, or stone building rubble;

(c) Grass, leaves, and worthless vegetation except when used as ground mulch or in a compost pile;

(d) Offal and dead animals; and

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

WEEDS. Include, but are not limited to: bindweed (*Convolvulus arvensis*), puncture vine (*Tribulus terrestris*), leafy spurge (*Euphorbia esula*), Canada thistle (*Cirsium arvense*),

perennial peppergrass (*Lepidium draba*), Russian knapweed (*Centaurea picris*), Johnson grass (*Sorghum halepense*), nodding or musk thistle, quack grass (*Agropyron repens*), perennial sow thistle (*Sonchus arvensis*), horse nettle (*Solanum carolinense*), bull thistle (*Cirsium lanceolatum*), buckthorn (*Rhamnus sp.*) (toun), hemp plant (*Cannabis sativa*), and ragweed (*Ambrosiaceae*). (Ref. 17-563 RS Neb.) (Amended October 1, 2012)(Amended November 4, 2013) (Amended September 2016) (Amended November 2017) (Amended September 5, 2023)

§ 6-321 MISDEMEANORS: ABANDONED AUTOMOBILES.

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

ABANDONED VEHICLE.

(a) A motor vehicle is an ABANDONED VEHICLE.

(i) If left unattended, with no license plates or valid In-Transit stickers issued pursuant to the Motor Vehicle Registration Act affixed thereto, for more than 6 hours on any public property;

(ii) If left unattended for more than 24 hours on any public property, except a portion thereof on which parking is legally permitted;

(iii) If left unattended for more than 48 hours, after the parking of such vehicle has become illegal, if left on a portion of any public property on which parking is legally permitted;

(iv) If left unattended for more than 7 days on private property if left initially without permission of the owner, or after permission of the owner is terminated; or

(v) If left for more than 30 days in the custody of a city law enforcement agency after the agency has sent a letter to the last-registered owner under division (D) of this section.

(vi) If removed from private property by a municipality pursuant to a municipal ordinance.

(b) An all-terrain vehicle or minibike is an ABANDONED VEHICLE:

(i) If left unattended for more than 24 hours on any public property, except a portion thereof on which parking is legally permitted;

(ii) If left unattended for more than 48 hours, after the parking of such vehicle has become illegal, if left on a portion of any public property on which parking is legally permitted;

(iii) If left unattended for more than 7 days on private property if left initially without permission of the owner, or after permission of the owner is terminated; or

(iv) If left for more than 30 days in the custody of a city law enforcement agency after the agency has sent a letter to the last-registered owner under division (D) of this section.

(v) If removed from private property by a municipality pursuant to a municipal ordinance.

(c) A mobile home is an abandoned vehicle if left in place on private property for more than thirty days after a local governmental unit, pursuant to an ordinance or

resolution, has sent a certified letter to each of the last-registered owners and posted a notice on the mobile home, stating that the mobile home is subject to sale or auction or vesting of title as set forth in section 60-1903.

(d) For purposes of this section:

(i) Mobile home means a movable or portable dwelling constructed to be towed on its own chassis, connected to utilities, and designed with or without a permanent foundation for year-round living. It may consist of one or more units that can be telescoped when towed and expanded later for additional capacity, or of two or more units, separately towable but designed to be joined into one integral unit, and shall include a manufactured home as defined in section 71-4603. Mobile home does not include a mobile home or manufactured home for which an affidavit of affixture has been recorded pursuant to section 60-169;

(e) No motor vehicle subject to forfeiture under Neb. RS 28-431 shall be an ABANDONED VEHICLE under this division (A).

PRIVATE PROPERTY. Any privately owned property which is not included within the definition of public property.

PUBLIC PROPERTY. Any public right-of-way, street, highway, alley, or park or other state, county, or city-owned property. (Ref. 60-1901 RS Neb.)

B. If an abandoned vehicle, at the time of abandonment, has no license plates of the current year or valid In-Transit stickers issued pursuant to Neb. RS 60-376 affixed and is of a wholesale value, taking into consideration the condition of the vehicle, of \$250 or less, title shall immediately vest in the city. Any certificate of title issued under this division to the city shall be issued at no cost to the city. (Ref. 60-1902 RS Neb.)

C. 1. Except for vehicles governed by division (B) of this section, the city shall make an inquiry concerning the last-registered owner of such vehicle as follows:

(a) Abandoned vehicle with license plates affixed, to the jurisdiction which issued such license plates; or

(b) Abandoned vehicle with no license plates affixed, to the Department of Motor Vehicles.

2. The city shall notify the last-registered owner, if any, that the vehicle in question has been determined to be an abandoned vehicle and that, if unclaimed, either:

(a) It will be sold or will be offered at public auction after 5 days from the date such notice was mailed; or

(b) Title will vest in the City 30 days after the date such notice was mailed.

3. If the agency described in division (C)(1)(a) or (b) of this section also notifies the City that a lien or mortgage exists, such notice shall also be sent to the lienholder or mortgagee. Any person claiming such vehicle shall be required to pay the cost of removal and storage of such vehicle.

4. Title to an abandoned vehicle, if unclaimed, shall vest in the City:

(a) Five days after the date the notice is mailed if the vehicle will be sold or offered at public auction under division (C)(2)(a) of this section;

(b) Thirty days after the date the notice is mailed if the City will retain the vehicle; or

(c) If the last-registered owner cannot be ascertained, when notice of such fact

is received.

5. After title to the abandoned vehicle vests pursuant to division (C)(4) of this section, the City may retain for use, sell, or auction the abandoned vehicle. If the City has determined that the vehicle should be retained for use, the City shall, at the same time that the notice, if any, is mailed, publish in a newspaper of general circulation in the jurisdiction an announcement that the City intends to retain the abandoned vehicle for its use and that title will vest in the city 30 days after the publication. (Ref. 60-1903 RS Neb.)

D. 1. If a city law enforcement agency has custody of a motor vehicle for investigatory purposes and has no further need to keep it in custody, it shall send a certified letter to each of the last-registered owners stating that the vehicle is in the custody of the law enforcement agency, that the vehicle is no longer needed for law enforcement purposes, and that after 30 days the agency will dispose of the vehicle.

2. This division shall not apply to motor vehicles subject to forfeiture under Neb. RS 28-431.

3. No storage fees shall be assessed against the registered owner of a motor vehicle held in custody for investigatory purposes under this division (D) unless the registered owner or the person in possession of the vehicle when it is taken into custody is charged with a felony or misdemeanor related to the offense for which the law enforcement agency took the vehicle into custody. If a registered owner or the person in possession of the vehicle when it is taken into custody is charged with a felony or misdemeanor but is not convicted, the registered owner shall be entitled to a refund of the storage fees. (Ref. 60-1903.01 RS Neb.)

E. If a state agency caused an abandoned vehicle described in division (A)(a)(5) or (A)(b)(4) of this section to be removed from public property in this city, the state agency shall be entitled to custody of the vehicle. If a state agency caused an abandoned vehicle described in division (A)(a)(1), (2), (3), or (4) or (A)(b)(1), (2), or (3) of this section to be removed from public property in this city, the state agency shall deliver the vehicle to the City which shall have custody. (Neb. RS 60-1904)

F. Any proceeds from the sale of an abandoned vehicle in the city's custody less any expenses incurred by the City shall be held by the City without interest, for the benefit of the owner or lienholders of such vehicle for a period of 2 years. If not claimed within such 2-year period, the proceeds shall be paid into the general fund of the City. (Ref. 60-1905 RS Neb.)

G. Neither the owner, lessee, nor occupant of the premises from which any abandoned vehicle is 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. (Ref. 60-1906 RS Neb.)

H. No person shall cause any vehicle to be an abandoned vehicle as described in division (A)(a)(1),(2),(3), or (4) or (A)(b)(1),(2), or (3) of this section. (Ref. 60-1907 RS Neb.)

I. No person other than one authorized by the city or appropriate state agency shall destroy, deface, or remove any part of a vehicle which is left unattended on a highway or other public place without license plates affixed or which is abandoned. Anyone violating this division shall be guilty of an offense. (Ref. 60-1908 RS Neb.)

J. The last-registered owner of an abandoned vehicle shall be liable to the city for the costs of removal and storage of such vehicle. (Neb. RS 60-1909)



K. Any person violating the provisions of this section shall be guilty of an offense. (Ref. 60-1911 RS Neb.) (Amended September 8, 2014)

§6-322 MISDEMEANORS; KEEPING OF WRECKED OR JUNKED VEHICLES AND MACHINERY: EXCEPTIONS.

No person in charge or control of any property within the City, other than City property, whether as owner, tenant, occupant, lessee, or otherwise, shall allow any partially dismantled, inoperable, wrecked, junked, or discarded vehicle or machinery to remain on that property longer than 30 days. No unlicensed vehicle shall be permitted to remain on any private or public property for any length of time, provided that this section shall not apply to a vehicle in an enclosed building, to a vehicle on the premises of a business enterprise operated in a lawful place and manner when the vehicle is necessary to the lawful operation of the business, or to a vehicle in an appropriate storage place or depository maintained in a lawful place and manner by the city. Any vehicle or machinery allowed to remain on property in violation of this section shall constitute a nuisance and shall be abated, and any person violating this section shall be guilty of an offense. (Amended Oct. 1, 2012)

§6-323 MISDEMEANORS; REMOVAL OF VEHICLES AND MACHINERY.

In addition to all other remedies and penalties, any vehicle or machinery described in section 6-322 may be removed by the City or by someone designated by the City. If a vehicle is removed, the provisions of 6-321 shall apply to said removal. If the property removed is machinery, the City shall mail a notice to the address of the property where the machinery was located attempting to notify the owner of the machinery's removal and that failure to notify the City within five (5) days after the date the notice was mailed will cause the title to the property to vest in the City and the machinery may be sold. Any person claiming such machinery shall be required to pay the cost of removal and storage of such machinery. If no response to the notice is received by the City within the prescribed time, then the title to the machinery shall immediately vest in the City and the same may be sold. Any proceeds from the sale of the machinery less any expenses incurred by the City in such removal, storage and sale shall be held without interest in a separate account for the benefit of the owner of the property for two (2) years. If not claimed within such period of time, the proceeds shall then be paid into the General Fund. The City or someone designated by the City may enter onto private or public property to inspect or remove said vehicles or machinery. (Ord. No. 90-831, 8/6/90)

§6-324 MISDEMEANORS: CONCEALED HANDGUNS.

1. It shall be unlawful to carry a concealed handgun into the following premises owned by the City of Tecumseh, Nebraska: City Hall, City Library, all Utility Buildings, all Street Department Buildings, Community Building, and all Swimming Pool Buildings.

2. It shall also be unlawful to carry a concealed handgun onto the following property owned by the City of Tecumseh, Nebraska: The City Parks in the City of Tecumseh, Nebraska,

including the swimming pool area; the property leased by the City of Tecumseh from the Johnson County Agricultural and Mechanical Society which includes the Ball Fields, observation area and parking areas; and the Legion Baseball Field, including the observation area and parking areas.

3. However, the above sections do not apply to officers of the law when they are discharging their official duties.

4. The City shall post a conspicuous Notice that carrying a concealed handgun is prohibited in or on the premises above described.

#### §6-325 MISDEMEANOR; EXCESSIVE NOISE.

A. It shall be unlawful for any person within the city to operate any television, loud speaker/public address system, radio, tape player, compact disc player, stereophonic sound system or similar device which reproduces or amplifies radio broadcasts or musical recordings, in or upon any street, alley or other public place or upon private property in a manner as to be audible to any person at any point or place more than 100 feet from the source.

B. The prohibition set forth herein shall not apply to the activity:

1. When conducted in connection with an activity or event sponsored by a school, church or governmental entity;
2. When conducted in connection with an activity open to the public, such as a carnival, circus or athletic event; and
3. If a permit for same has been issued by the City Council, or its designee, which permit may include such conditions as the City Council, or its designee, shall deem necessary and appropriate; provided however, the conditions shall be reasonably related to preserving the public peace and shall not infringe upon the applicant's right to free speech. (September 13, 2010) (Amended May 3, 2021)

#### Article 4. Penal Provision

#### §6-401 VIOLATION; PENALTY.

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

In addition to the penalties set out above, the Court may order that any person who violates or refuses to comply with the enforcement of Sections 6-101 through 6-211 of this Chapter and upon conviction thereof, that their animal be put to death and that the owner reimburse the City for all expenses incurred in the care, medical treatment, impounding and disposal of any animal involved or connected with the conviction. (Amended Nov. 5, 2012)

Chapter 7  
FIRE REGULATIONS

Article 1. Fires

§7-101 FIRES; PRESERVATION OF PROPERTY.

The Fire Chief, or any officer in charge of the Fire Department, shall have the authority and power to cause the removal of property whenever it shall become necessary for the preservation of more valuable property, the protection of human life, or to prevent the spreading of fire to adjoining property. The Fire Chief may direct the Municipal Firemen to remove any building, structure, or fence for the purpose of checking the progress of any fire. The Fire Chief shall have the authority to blow up, or cause to be blown up, with explosives any building or structure during the progress of a fire for the purpose of checking the progress of the same.

§7-102 FIRES; DISORDERLY SPECTATOR.

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

§7-103 FIRES; EQUIPMENT.

It shall be unlawful for any person except the Fire Chief and the members of the Municipal Fire Department to molest, destroy, handle or in any other way to interfere with the use and storage of any of the fire trucks and other apparatus belonging to the Municipality.

§7-104 FIRES; INTERFERENCE.

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

§7-105 FIRES; OBSTRUCTION.

It shall be unlawful for any person to obstruct the use of a fire hydrant, or have or place any material within fifteen (15) feet of the said hydrant. Any vehicle or material found as an obstruction may be immediately removed by the Fire Chief or any member of the Fire Department, at the risk, cost, and expense of the owner or claimant. (Ref. 39-672 RS Neb.)

§7-106 FIRES; DRIVING OVER HOSE.

It shall be unlawful for any person, without the consent of the Fire Chief or Assistant Fire Chief, to drive any vehicle over unprotected hose of the Fire Department. (Ref. 39-682 RS Neb.)

§7-107 FIRES; TRAFFIC.

Every vehicle already stationary when the fire alarm shall have been sounded must remain so for a period of five (5) minutes after the sounding of the fire alarm. No vehicle, except by the specific direction of the Fire Chief or Assistant Fire Chief, shall follow, approach or park closer than five hundred (500) feet to any fire vehicle, or to any fire hydrant to which a hose is connected. Nothing herein shall be construed to apply to vehicles carrying doctors, members of the Fire Department, or emergency vehicles. (Ref. 39-681 RS Neb.)

§7-108 FIRES; FALSE ALARM.

It shall be unlawful for any person to intentionally and without good and reasonable cause raise any false alarm of fire.

§7-109 FIRES; PEDESTRIANS.

It shall be unlawful for any pedestrian to enter or remain in any street after a fire alarm shall have sounded until the fire trucks shall have completely passed.

Article 2. Fire Prevention

§7-201 FIRE PREVENTION: FIRE PREVENTION CODE.

Incorporated by reference into this Code are the standards recommended by the American Insurance Association, known as the Fire Prevention Code, 1976 Edition, and all subsequent amendments. This Code shall have the same force and effect as if set out verbatim herein. One (1) copy of the Fire Prevention Code are on file with the Municipal Clerk and shall be available for public inspection at any reasonable time. (Ref. 18-132, 19-902, 19-922, 81-502 RS Neb.)

§7-202 FIRE PREVENTION: FIRE PROHIBITED.

It shall be unlawful for any person to set out a fire on the streets, or near any curb, now built or hereafter to be built, within the Municipality.

§7-203 FIRE PREVENTION: FIRES REGULATED.

It shall be unlawful in the Municipality for any person outdoors to set fire to, burn,

or cause to be burned any garbage, animal matter, yard waste (including trees and tree limbs), or garden waste; Provided, that a person may request in writing permission and receive a burning permit signed by the local Fire Chief or his designee on a form provided by the local Fire Chief or his designee.

The Fire Chief in his/her discretion may grant a burning permit for the following reasons:

1. For clean-up of a natural disaster;
2. When the fire will be used in conjunction with a social event if the Fire Chief determines the fire's location and size to be safe and that the smoke or odor will not unduly bother the surrounding properties.
3. That in no case shall a burning permit be issued when the Fire Chief or his designee believes the primary purpose of the burning permit will be to dispose of trash, leaves, branches or similar material except in cases provided for in #1 above.

#### § 7-204 FIRE PREVENTION: FIRE PITS.

Portable Fire Pits may be used in the City of Tecumseh under the following conditions:

1. A Portable Fire Pit shall be defined as a Commercially sold Fire Pit, Chiminea, Patio Hearth, Fire Table or similar device, where the fire box is elevated from the ground and is made of fabricated steel, concrete, brick or masonry. Fire Pits do not include Fire Rings, where the fire box is below ground or at ground level.

2. Only seasoned firewood or commercial logs may be burned in the fire pits. Fire pits that are commercially designed to burn natural gas or propane are also permitted. No burning of trash, garbage, leaves, rubbish, rotten wood, or other materials is permitted.

3. The fire pit shall have a total fuel area of three feet in diameter and 3 feet in fuel height for a circular fire pit or total fuel area, 3 feet long, 3 feet wide and 3 feet in height for other fire pits. The fire pits must have solid non-combustible sides or a spark arrester screen sides and must have a spark arrester screen top to prevent sparks and ash to escape the fire pit. Fire pits must not be burned without the spark arrester screen lid properly attached.

4. The fire pit must not be used on any deck composed of wood, composite materials or any other combustible materials.

5. The fire pit shall not be used within 10 feet of any property line or within 10 feet of any house, garage, shed, accessory building, wood fence, wood piles, trees or overhang.

6. Fire pits shall not be burned when wind speeds are in excess of 10 miles per hour.

7. The fire pit shall be constantly attended and supervised by a person 19 years of age or older until the fire is completely extinguished.

8. A fire extinguisher or garden hose must be readily available at all times.

9. The use of flammable or combustible liquid accelerant may not be used.

10. If the fire pit is not in compliance with the above rules, the smoke is offensive to the nearby neighbors, or the burning is determined to constitute a hazardous condition, Law Enforcement Officials, City Code Officials or the Fire Department Officials are authorized to require the fire be immediately extinguished and discontinued until the deficiencies are corrected. The fire pit shall not be used again until the deficiencies cited have been corrected and the Department originally requiring the fire to be extinguished has authorized the reuse

of the fire pit. (Amended September 2016)

### Article 3. Explosives

#### §7-301 EXPLOSIVES: BLASTING PERMITS.

Any person wishing to discharge high explosives within the Municipality must secure a permit from the Governing Body and shall discharge such explosives in conformance with their direction and under their supervision, and in no case shall any person perform blasting operations unless operating under the direct supervision of a person in possession of a valid user's permit issued by the Nebraska State Patrol. (Ref. 17-556, 28-1229 RS Neb.) (Ord. No. 90-817, 4/16/90)

### Article 4. Penal Provision

#### §7-401 VIOLATION: PENALTY.

Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this Chapter, set forth at full length herein or incorporated by reference shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be fined not more than five hundred (\$500.00) dollars for each offense. A new violation shall be deemed to have been committed every twenty-four (24) hours of such failure to comply. (Ord. No. 90-818. 4/16/90)

Chapter 8  
PUBLIC WAYS AND PROPERTY

Article 1. Municipal Property

§8-101 DEFINITIONS.

The following definitions shall be applied throughout this Chapter. When no definition is specified, the normal dictionary usage of the word shall apply.

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

§8-102 MUNICIPAL PROPERTY: MAINTENANCE AND CONTROL.

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

§8-103 MUNICIPAL PROPERTY: SALE AND CONVEYANCE.

A. Except as provided in division G of this section, the power of the city to convey any real property owned by it, including land used for park purposes and public squares, except real property used in the operation of public utilities, shall be exercised by resolution, directing the sale of such property.

B. After the passage of the resolution directing the sale, notice of all proposed sales of property described in division (A) of this section and the terms of such sales shall be published once each week for 3 consecutive weeks in a legal newspaper in or of general circulation in the city.

C. 1. If within 30 days after the third publication of the notice a Petition against the sale is signed by registered voters of the city equal in number to 30% of the registered voters of the city voting at the last regular city election held therein and is filed with the City Council, that property shall not then, nor within one (1) year thereafter, be sold. If the date for filing the Petition falls upon a Saturday, Sunday, or legal holiday, the signatures shall be collected within the 30-day period, but the filing shall be considered timely if filed or postmarked on or before the next business day.

2. Upon the receipt of the Petition, the City Council, with the aid and assistance of the Election Commissioner or County Clerk, shall determine the validity and sufficiency of signatures on the Petition. The City Council shall deliver the Petition to the Election Commissioner or County Clerk by hand carrier, by use of law enforcement officials, or by certified mail, return receipt requested.

3. Upon receipt of the Petition, the Election Commissioner or County Clerk shall issue to the City Council a written receipt that the Petition is in the custody of the Election Commissioner or County Clerk. The Election Commissioner or County Clerk shall compare

the signature of each person signing the Petition with the voter registration records to determine if each signer was a registered voter on or before the date on which the Petition was filed with the City Council. The Election Commissioner or County Clerk shall also compare the signer's printed name, street and number or voting precinct, and city or post office address with the voter registration records to determine whether the signer was a registered voter. The signature and address shall be presumed to be valid only if the Election Commissioner or County Clerk determines that the printed name, street and number or voting precinct, and city or post office address match the registration records and that the registration was received on or before the date on which the Petition was filed with the City Council. The determinations of the Election Commissioner or County Clerk may be rebutted by any credible evidence which the City Council finds sufficient. The express purpose of the comparison of names and addresses with the voter registration records, in addition to helping to determine the validity of the Petition, the sufficiency of the Petition, and the qualifications of the signer, shall be to prevent fraud, deception, and misrepresentation in the Petition process.

4. Upon completion of the comparison of names and addresses with the voter registration records, the Election Commissioner or County Clerk shall prepare in writing a certification under seal setting forth the name and address of each signer found not to be a registered voter and the signature page number and line number where the name is found, and if the reason for the invalidity of the signature or address is other than the nonregistration of the signer, the Election Commissioner or County Clerk shall set forth the reason for the invalidity of the signature. If the Election Commissioner or County Clerk determines that a signer has affixed his or her signature more than once to the Petition and that only one (1) person is registered by that name, the Election Commissioner or County Clerk shall prepare in writing a certification under seal setting forth the name of the duplicate signature and shall count only the earliest dated signature.

5. The Election Commissioner or County Clerk shall certify to the City Council the number of valid signatures necessary to constitute a valid Petition. The Election Commissioner or County Clerk shall deliver the Petition and the certifications to the City Council within 40 days after the receipt of the Petition from the City Council. The delivery shall be by hand carrier, by use of law enforcement officials, or by certified mail, return receipt requested. Not more than 20 signatures on one (1) signature page shall be counted.

6. The City Council shall, within 30 days after the receipt of the Petition and certifications from the Election Commissioner or County Clerk, hold a public hearing to review the Petition and certifications and receive testimony regarding them. The City Council shall, following the hearing, vote on whether or not the Petition is valid and shall uphold the Petition if sufficient valid signatures have been received.

D. Real estate now owned or hereafter owned by the City may be conveyed without consideration to the State for state armory sites or, if acquired for state armory sites, shall be conveyed strictly in accordance with the conditions of Neb. RS 18-1001 through 18-1006.

E. Following passage of the resolution directing a sale, publishing of the notice of the proposed sale, and passing of the 30-day right-of-remonstrance period, the property shall then be sold. The sale shall be confirmed by passage of an ordinance stating the name of the purchaser and terms of the sale. (Neb. RS 17-503)



F. Divisions (A) through (F) of this section shall not apply to the sale of real property if the authorizing resolution directs the sale of real property, the total fair market value of which is less than \$5,000. Following passage of the resolution directing the sale of the property, notice of the sale shall be posted in 3 prominent places within the city for a period of not less than 7 days prior to the sale of the property. The notice shall give a general description of the property offered for sale and state the terms and conditions of sale. Confirmation of the sale by passage of an ordinance may be required. (Neb. RS 17-503.01)

G. Notwithstanding the procedures in Sections A through F of this Section, real property owned by the City may be conveyed when such property:

1. Is sold in compliance with the requirements of federal or state grants or programs;
2. Is conveyed to another public agency; or
3. Consists of streets and alleys.

(Amended November 2017)

#### §8-104 SALE AND CONVEYANCE; PERSONAL PROPERTY.

The power of the City to convey any personal property owned by it shall be exercised by resolution directing the sale and the manner and terms thereof. Following passage of the resolution directing the sale of the property, notice of the sale shall be posted in 3 prominent places within the City for a period of not less than 7 days prior to the sale of the property. If the fair market value of the property is greater than \$5,000, notice of the sale shall also be published once in a legal newspaper published in or of general circulation in the City at least 7 days prior to the sale of the property. The notice shall give a general description of the property offered for sale and state the terms and conditions of sale. (Neb. RS 17-503.02)

#### §8-105 ACQUISITION OF REAL PROPERTY; APPRAISAL.

Notwithstanding any other provision of law, the city shall not purchase, lease-purchase, or acquire for consideration real property having an estimated value of \$100,000 or more unless an appraisal of such property has been performed by a certified real property appraiser. (Neb. RS 13-403)

#### §8-106 ACQUISITION OF REAL PROPERTY; PUBLIC MEETING; ACCESS FOR RECREATIONAL USE.

A. The City shall acquire an interest in real property by purchase or eminent domain only after the City Council has authorized the acquisition by action taken in a public meeting after notice and public hearing.

B. The City shall provide to the public a right of access for recreational use to real property acquired for public recreational purposes. Such access shall be at designated access points and shall be equal to the right of access for recreational use held by adjacent landowners. The right of access granted to the public for recreational use shall meet or exceed such right held by a private landowner adjacent to the real property. (Neb. RS

18-1755)

§8-107 PUBLIC WORKS INVOLVING ARCHITECTURE OR ENGINEERING;  
REQUIREMENTS.

A. 1. Except as otherwise provided in this section and Neb. RS 81-3449 to 81-3453, the city shall not engage in the construction of any public works involving architecture or engineering unless the plans, specifications, and estimates have been prepared and the construction has been observed by an architect, a professional engineer, or a person under the direct supervision of an architect, professional engineer, or those under the direct supervision of an architect or professional engineer.

2. This division (A) shall not apply to any public work in which the contemplated expenditure for the complete project does not exceed \$100,000 or the adjusted dollar amount set by the Board of Engineers and Architects. (Neb. RS 81-3445)

B. The provisions of division (A) of this section regulating the practice of architecture do not apply to the following activities or the other activities specified in Neb. RS 81-3449:

1. Any alteration, renovation, or remodeling of a building if the alteration, renovation, or remodeling does not affect architectural or engineering safety features of the building;

2. A public service provider who employs a design professional performing professional services for itself;

3. The practice of any other certified trade or legally recognized profession;

4. Earthmoving and related work associated with soil and water conservation practices performed any land owned by the City that is not subject to a permit from the Department of Natural Resources; and

5. The work of employees and agents of the City performing, in accordance with other requirements of law, their customary duties in the administration and enforcement of codes, permit programs, and land-use regulations and their customary duties in utility and public works construction, operation, and maintenance. (Neb. RS 81-3449)

C. The provisions of division (A) of this section regulating the practice of engineering do not apply to the following activities, the activities specified in division (B) of this section, or the other activities specified in Neb. RS 81-3453:

1. Those services ordinarily performed by subordinates under direct supervision of a professional engineer or those commonly designated as locomotive, stationary, marine operating engineers, power plant operating engineers, or manufacturers who supervise the operation of or operate machinery or equipment or who supervise construction within their own plant; and

2. The construction of water wells as defined in Neb. RS 46-1212, the installation of pumps and pumping equipment into water wells, and the decommissioning of water wells, unless such construction, installation, or decommissioning is required by the city to be designed or supervised by an engineer or unless legal requirements are imposed upon the city as a part of a public water supply; (Neb. RS 81-3453)

D. For the purpose of this section, the City is considered a public service provider if it appoints a City Engineer or employs a full-time person licensed under the Engineers and

Architects Regulation Act who is in responsible charge of architectural or engineering work. (Neb. RS 81-3423)

#### §8-108 MUNICIPAL PROPERTY: OBSTRUCTIONS.

A. The City shall have the power to remove all obstructions from the sidewalks, curbstones, gutters, and crosswalks, including trees and shrubs growing upon or near the lot line, at the expense of the person placing them there or of the City, and to require and regulate the planting and protection of shade trees in and along the streets and the trimming and removing of such trees.

B. If the abutting property owner (or property owner if encroachment is on his/her property) refuses or neglects after 5 days notice by publication or in place thereof, personal service of such notice, to remove all encroachments as provided above, the City through its proper officers may cause such encroachments to be removed and the cost of removal shall be paid by the City. The City Council shall assess the cost of the notice and removal of such encroachment against the abutting property (or the owner of the property if the encroachment is on the owner's property) as a special assessment. It shall be unlawful for any person, persons, firm or corporation to obstruct or encumber by fence, gates, buildings, structures, or otherwise, any of the streets, alleys or sidewalks. (Amended September 2016)

#### §8-109 MUNICIPAL PROPERTY: PERMITTED OBSTRUCTIONS.

Persons engaged in the erection, construction, reconstruction, wrecking, or repairing of any building, or the construction, or repair, of a sidewalk along any street, may occupy the public street space with such building material and equipment as long as is necessary if such persons shall make application to and receive a permit in writing from the Municipal official in charge of Municipal streets 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, reconstructed, wrecked, or repaired shall be granted; and provided further, a suitable passageway for pedestrians shall be maintained within the public space included in the permit which shall be protected and lighted in the manner required by the official issuing the permit.

#### §8-110 MUNICIPAL PROPERTY: SIGNS, CANOPIES, DRIVEWAYS AND PARKING.

A. No person, firm, or corporation shall erect, or maintain, any sign, signboard, poster, or rigid canopy over any street, sidewalk, alley, or on other public property without having first obtained approval therefor from the Mayor and Council. All signs and canopies extending over any public sidewalk, street, alley, or other public place must be securely fastened and constructed so that there will be no danger of the same being dislodged by ordinary winds, or falling from other causes. No sign or canopy shall be erected or maintained which extends over any public sidewalk, street, alley, or other public place in such a location as to obstruct the view of any traffic light, sign, or signal. Upon the written order of the Governing Body, any person owning or occupying the premise where such a

sign, canopy, poster, or signboard is located, shall cause the same to be removed within the time limit specified on such notice.

B. No person, firm, or corporation shall construct or maintain any paved, asphalted or bricked driveway or parking space on any sidewalk space as defined by TMC § 8-101 without having first obtained approval of the City Street Department. (Amended November 4, 2013) (Amended July 2017)

#### §8-111 MUNICIPAL PROPERTY: SPECIAL IMPROVEMENT DISTRICT, ASSESSMENT AND CREATION PROCEDURE.

The Municipality's Governing Body may, by ordinance, create a special improvement district for the purpose of replacing, reconstructing, or repairing an existing street, alley, water line, sewer line, or any other such improvement.

Except as provided in Sections 19-2428 to 19-2431 RS Neb., the Governing Body shall have power to assess, to the extent of such benefits, the costs of such improvements upon the properties found especially benefitted thereby, whether or not such properties were previously assessed for the same general purpose. In creating such special improvement district, the Governing Body shall follow procedures applicable to the creation and assessment of the same type of improvement district as otherwise provided by law. (Ref. 18-1751 RS Neb.) (Ord. No. 90-819, 4/16/90)

#### §8-112 MUNICIPAL PROPERTY: IMPROVEMENT DISTRICT: LAND ADJACENT.

Supplemental to any existing law on the subject, a Municipality may include land adjacent to such Municipality when creating and improvement district, such as a sewer, paving, water, water extension, or sanitary sewer extension district. The Governing Body shall have power to assess, to the extent of special benefits, the costs of such improvements upon the properties found especially benefitted thereby, except as provided in Section 19-2428 to 19-2431 RS Neb. (Ref. 19-2427 RS Neb.) (Ord. No. 90-820, 4/16/90)

#### §8-113 SALE OF GOODS ON STREETS, PARKING LOTS.

It shall be unlawful for any person to sell or offer for sale or peddle goods, wares or merchandise upon the public streets or public parking lots in the City without first having obtained permission to do so from the Mayor and City Council.

### Article 2. Sidewalks

#### §8-201 SIDEWALKS: PLACEMENT. APPROVAL.

A. Any person desiring to construct, or cause to be constructed, any sidewalk, shall

do so only as provided in this section. It shall be unlawful for any person to construct any sidewalk without first having obtained a permit. However, it shall not be necessary to obtain a permit when the owner is replacing an existing sidewalk that is located not more than fourteen (14) inches from the lot line.

B. The owner shall make an application in writing for the construction of a sidewalk to the City Clerk. The Application shall give the legal description of the real estate along which the sidewalk is to be constructed and a sketch of the sidewalk to be constructed. Said sketch shall contain the dimensions of the sidewalk to be constructed and the distance of the sidewalk from the property line. The sketch shall also show any sidewalk to which the newly constructed sidewalk will join or abut and the width of the adjoining or abutting sidewalk.

C. Hereafter all sidewalks constructed in the City shall be constructed not more than fourteen (14) inches from the lot line unless special permission shall be obtained from the Council to construct such walk at a further distance from the lot line in order to make, correspond or be even with other permanent walks on the same side of the block. No walk shall be constructed until the line and grade of such walk shall be established by the City and the Utilities Department has been notified of the intended location of construction. (Ref. 8-5-1, Code 1966)

#### §8-202 SIDEWALKS: SPECIAL PERMISSION.

Before any sidewalk shall be constructed more than fourteen (14) inches from the lot line, the owner or agent of the lot along which the proposed walk is to be constructed, shall make application in writing to the Council, stating fully the reasons why such different location is required, and no action shall be taken on such request until the same has been laid over one (1) regular meeting of the Council, and such application fully investigated. No such application shall be granted unless a majority of the Council shall on roll call approve the same. (Ref. 8-5-2, Code 1966)

#### §8-203 SIDEWALKS: MATERIALS.

All sidewalks hereafter constructed shall be built of concrete composed of the following materials thoroughly mixed:

One (1) part good Portland cement, three (3) parts sharp sand and five (5) parts gravel, and such walks shall not be less than four (4) feet wide, excepting on the South and East sides of Block thirty-seven (37), West side of Block thirty-six (36), North side of Block forty (40), and forty-one (41), and South side of Block sixteen (16), all of which shall not be less than sixteen (16) feet wide. (Ref. 8-5-3, Code 1966)

#### §8-204 SIDEWALKS: CONSTRUCTION AND REPAIR.

A. 1. The Mayor and City Council may construct and repair sidewalks or cause the construction and repair of sidewalks in such manner as the Mayor and City Council deem necessary and assess the expense thereof on the property in front of which such construction

or repairs are made, after having given notice: (a) By publication in one issue of a legal newspaper of general circulation in the city; and (b) By either causing a written notice to be served upon the occupant in possession of the property involved or to be posted upon such premises at least 10 days prior to the commencement of such construction or repair.

2. The powers conferred under this section are in addition to those provided in Neb. RS 17-509 to 17-521 and may be exercised without creating an improvement district.

3. If the owner of any property abutting any street or avenue or part thereof fails to construct or repair any sidewalk in front of the owner's property within the time and in the manner as directed by the Mayor and City Council, after having received due notice to do so, the Mayor and City Council may cause the sidewalk to be constructed or repaired and may assess the cost thereof against the property. (Neb. RS 17-522)

B. All sidewalks shall be constructed and repaired in conformity with such plans and specifications as may be approved by the City Council.

C. Assessments made under the provisions of this section shall be made and assessed in the following manner:

1. Such assessment shall be made by the City Council at a special meeting, by a resolution, taking into account the benefits derived or injuries sustained in consequence of such improvements, and the amount charged against the same, which, with the vote thereon by yeas and nays, shall be spread at length upon the minutes; and notice of the time of holding such meeting and the purpose for which it is to be held, shall be published in some newspaper published or of general circulation in the city at least four (4) weeks before the same shall be held or, in lieu thereof, personal service may be had upon persons owning or occupying property to be assessed; and

2. All such assessments shall be known as special assessments for improvements and shall be levied and collected as a separate tax, in addition to the taxes for general revenue purposes, and shall be placed on the tax roll for collection, subject to the same penalties and collected in like manner as other city taxes. (Neb. RS 17-524)

#### §8-205 SIDEWALKS: KEPT CLEAN.

It shall be unlawful for the occupant of any lot or lots or the owner of any vacant lot or lots within the corporate limits to allow snow, sleet, mud, ice, or other substance to accumulate on the sidewalks or to permit any snow, sleet, ice, mud, or other substance to remain upon said sidewalk. All sidewalks within the business district shall be cleaned within five (5) hours after the cessation of a storm, unless the storm or fall of snow shall have taken place during the night, in which case the sidewalk shall be cleaned before ten (10:00) o'clock A.M. the following day; provided, sidewalks within the residential areas of the Municipality shall be cleaned within twenty-four (24) hours after the cessation of the storm. (Ref. 17-557 RS Neb.)

### Article 3. Curb and Gutter

#### §8-301 CURB AND GUTTER: CURB LINES.

A. The curb line of all streets of the City shall be not less than twelve (12) feet on each side from the center of the street.

B. The curb shall be constructed of stone, brick or concrete and shall be put in on grade established by the City Engineer and under his direction. No curb shall be constructed until the line and grade of such curb have been established by the City Engineer. (Ref. 8-5-4, Code 1966)

#### §8-302 CURB AND GUTTER: CUTTING CURB.

It shall be unlawful for any person to cut into any paving, curb, or sidewalk for the purpose of constructing a driveway or any other purpose whatsoever without first having obtained the approval of the Street Department. When cutting into any paving, it shall be the duty of the party to cut the paving under such rules and regulations as may be prescribed by the Governing Body, the Municipal Engineer or the Street Department. (Amended November 4, 2013)

### Article 4. Streets

#### §8-401 STREETS: BUILDING NUMBERS DESIGNATED.

All houses, business blocks, other buildings or places in the City shall be designated and known by street and number as hereinafter provided. (Ref. 8-6-1, Code 1966)

#### §8-402 STREETS: NUMBERING METHOD.

First (1st) Street and Broadway Street, are hereby designated as primary streets from which the numbering shall start; the first (1st) tier of blocks East of First (1st) Street on all streets extending East and West shall receive numbers with one hundred (100) and continuing as necessary up to but not including two hundred (200); the second (2nd) tier to begin with two hundred (200) and continue as necessary up to but not including three hundred (300); and that the numbering shall so continue that all tiers of blocks from First (1st) Street east to the east boundary of the City respectively shall receive numbers in the one hundred (100) points variation consecutively as indicated, those fronting on the north side to receive even numbers and those on the south side odd numbers; and the first (1st) tier of blocks north and the first (1st) tier of blocks south of Broadway Street, but not fronting thereon, on all streets extending north and south in said City, including both sides of First (1st) Street, shall receive numbers beginning with one hundred (100) and continuing as necessary up to but not including two hundred (200); the second (2nd) tier to begin with two hundred (200) and continue as necessary up to but not including three hundred (300); and the numbering shall so continue that all tiers of blocks north and south from Broadway

Street, including both sides of First (1st) Street, shall receive numbers in the one hundred (100) points variation consecutively as indicated, those fronting on the east side to receive even numbers and those on the west side odd numbers.

Examples:

120 Jackson (north side of Jackson St. in 1st block east of 1st St.)

131 Jackson (south side of Jackson St. in 1st block east of 1st St.)

120 N. First St. (east side 1st St. in 1st block North of Broadway St.)

131 S. Second St. (west side 2nd St. in 1st block South of Broadway St.)

Numbers shall be so assigned that all houses, business blocks, buildings or other places in the City which should be numbered shall receive a number and that at least every ten (10) foot space of frontage shall have a number available. (Ref. 8-6-2, Code 1966)

#### §8-403 STREETS: NUMBERING. DUTY OF CITY.

It is hereby declared to be the duty of the City Clerk to assign the numbering described in the previous section.

#### §8-404 STREETS: GRADES ESTABLISHED.

The plat book prepared by T. C. Daugherty and filed with the City shall be designated as the official grades of the City and such grades given and platted shall be the fixed and established grades of all streets and intersections as shown. (Ref. 8-7-1, Code 1966)

#### §8-405 STREETS: EXCAVATION.

It shall be unlawful for any person to make an excavation in any street or streets for any purpose whatsoever unless the Municipal Utilities Department and Street Department are first notified and gives its approval.

#### §8-406 STREETS: MIXING CONCRETE.

It shall be unlawful for any person to mix any concrete or plastering material directly on the street pavement for any reason whatsoever.

#### §8-407 STREETS: HARMFUL LIQUIDS.

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

#### §8-408 STREETS: HEAVY EQUIPMENT.

It shall hereafter be unlawful for any person or person to move or operate heavy



equipment across any curb, gutter, bridge, culvert, sidewalk, crosswalk, or crossing on any unpaved street without first having protected such curb, gutter, bridge, culvert, sidewalks, crosswalk, or crossing with heavy plank sufficient in strength to warrant against the breaking or damaging of such curb, gutter, bridge, culvert, sidewalk, crosswalk, or crossing. Hereafter, it shall be unlawful to run, drive, move, operate, or convey over or across any paved street a vehicle, machine, or implement with sharp discs or sharp wheels that bear upon said pavement; with wheels having cutting edges; with wheels having lugs, any protruding parts, or bolts thereon that extend beyond a plain tire so as to cut, mark, mar, indent, or otherwise injure or damage any pavement, gutter, or curb; Provided, where heavy vehicles, structures, and machines move along paved or unpaved streets the Municipal Police are hereby authorized and empowered to choose the route over which the moving of such vehicles, structures, or machines will be permitted and allowed. Nothing in this Section shall be construed to apply to pneumatic tires with metal or metal-type studs not exceeding five-sixteenths of an inch in diameter inclusive of the stud-casting with an average protrusion beyond the tread surface of not more than seven sixty-fourths of an inch between October 1, and April 15; Provided, that school buses and emergency vehicles shall be permitted to use metal or metal type studs all year; it shall be permissible to use farm machinery with tires having protuberances which will not injure the streets; and it shall be permissible to use tire chains of reasonable proportions upon any vehicle when required for safety because of snow, ice, or other condition tending to cause a vehicle to slide or skid. (Ref. 39-771 RS Neb.)

#### §8-409 STREETS: PIPE LINES AND WIRES.

Poles, wires, gas mains, pipe lines, and other appurtenances of public service companies shall be located, or erected over, upon, or under the streets, alleys, and common grounds of the Municipality. Application for location of the above shall be made to the Governing Body in writing. Approval by that body shall be issued in writing. Any public service company granted a right-of-way for the erection and maintenance of poles, conduits, gas mains, pipe lines, and wires shall at all times erect and locate their poles, wires, gas mains, pipe lines, and other appurtenances at such places and in such manner as shall be designated by the Governing Body. Such poles, wires, gas mains, pipe lines, and other appurtenances, shall be removed or relocated by said companies at their own expense when requested to do so by the Governing Body. Any such relocation shall be ordered by resolution of the Governing Body and the Municipal Clerk shall notify any and all companies affected. Said companies shall, within five working days after receiving notice, at their own expense, cause the poles, wires, gas mains, pipe lines, or other appurtenances to be removed. The Governing Body shall designate another location as closely as possible where said poles, wires, gas mains, pipe lines, or other appurtenances, may be reset or placed. All poles, wires, gas mains, pipe lines, or other appurtenances, shall be reset, placed, or erected in such a manner that they will not interfere with the water system; sewerage system; poles, wires, and mains of any public utility; adjacent buildings; or with travel on the public ways and property. Whenever possible, all pole lines, wires, gas mains, pipe lines, or appurtenances shall be confined to the alleys of the Municipality. Streets, sidewalks, parkways, and other public property disturbed in the course of work shall be restored in a manner satisfactory to

the Municipality and to a condition at least equal to that before the work commenced.

#### §8-410 STREETS: CONSTRUCTION ASSESSMENT.

No street or alley which shall hereafter be dedicated to public use, by the proprietor of ground in the city, shall be deemed a public street or alley, or be under the use or control of the City Council, unless the dedication shall be accepted and confirmed by an ordinance especially passed for such purpose. (Neb. RS 17-567)

#### §8-411 GRADING, PAVING, AND OTHER IMPROVEMENTS.

The City has the power to provide for the grading and repair of any street, avenue, or alley and the construction of bridges, culverts, and sewers. (Neb. RS 17-508)

#### §8-412 IMPROVEMENTS WITHOUT PETITION OR CREATION OF DISTRICT.

A. The city may, without petition or creating a street improvement district, grade, curb, gutter, and pave:

1. Any portion of a street otherwise paved so as to make one (1) continuous paved street, but the portion to be so improved shall not exceed two (2) blocks, including intersections, or 1,325 feet, whichever is the lesser;

2. Any unpaved street or alley which intersects a paved street for a distance of not to exceed one (1) block on either side of that paved street; and

3. Any side street or alley within its corporate limits connecting with a major traffic street for a distance not to exceed one (1) block from that major traffic street.

B. Those improvements may be performed upon any portion of a street or alley or any unpaved street or alley not previously improved to meet or exceed the minimum standards for pavement set by the city for its paved streets.

C. In order to defray the costs and expenses of these improvements, the Mayor and City Council may levy and collect special taxes and assessments or issue paving bonds as provided in Neb. RS 18-2003. (Neb. RS 18-2001 through 18-2004)

#### §8-413 OPENING, WIDENING, IMPROVING, OR VACATING.

A. 1. The city shall have power to open, widen, or otherwise improve or vacate any street, avenue, alley, or lane within the limits of the city and also to create, open, and improve any new street, avenue, alley, or lane. All damages sustained by the citizens of the city, or by the owners of the property therein, shall be ascertained in that manner as shall be provided by ordinance.

2. Whenever any street, avenue, alley, or lane is vacated, the same shall revert to the owners of the abutting real estate, 1/2 on each side thereof, and become a part of that property, unless the city reserves title in the ordinance vacating such street or alley. If title is retained by the City, such property may be sold, conveyed, exchanged, or leased upon such terms and conditions as shall be deemed in the best interests of the City.

3. When a portion of a street, avenue, alley, or lane is vacated only on one (1) side of the center thereof, the title to the land shall vest in the owner of the abutting property and become a part of that property, unless the City reserves title in the ordinance vacating a portion of such street or alley. If title is retained by the City, such property may be sold, conveyed, exchanged, or leased upon such terms and conditions as shall be deemed in the best interests of the City.

4. When the City vacates all or any portion of a street, avenue, alley, or lane, the City shall, within 30 days after the effective date of the vacation, file a certified copy of the vacating ordinance with the Register of Deeds for the county in which the vacated property is located to be indexed against all affected lots.

5. The title to property vacated pursuant to this section shall be subject to the following: (a) There is reserved to the City the right to maintain, operate, repair, and renew public utilities existing at the time title to the property is vacated there; and (b) There is reserved to the City, any public utilities, and any cable television systems the right to maintain, repair, renew, and operate water mains, gas mains, pole lines, conduits, electrical transmission lines, sound and signal transmission lines, and other similar services and equipment and appurtenances, including lateral connections or branch lines, above, on, or below the surface of the ground that are existing as valid easements at the time title to the property is vacated for the purposes of serving the general public or the abutting properties and to enter upon the premises to accomplish such purposes at any and all reasonable times. (Neb. RS 17-558)

B. The City shall have power to create, open, widen, or extend any street, avenue, alley, off-street parking area, or other public way, or annul, vacate, or discontinue the same. (Neb. RS 17-559)

#### §8-414 VACATING PUBLIC WAYS; PROCEDURE.

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

**SPECIAL DAMAGES.** Only those losses or damages or injuries which a property owner suffers that are peculiar or special or unique to his or her property and which result from the City Council vacating a street, avenue, alley, lane, or similar public way. **SPECIAL DAMAGES** shall not mean those losses or damages or injuries that a property owner suffers that are in common with the rest of the city or public at large, even though those losses or damages or injuries suffered by the property owner are greater in degree than the rest of the city or public at large.

B. Whenever the City Council decides that it would be in the best interests of the City to vacate a street, avenue, alley, lane, or similar public way, the City Council shall comply with the following procedure.

1. Notice. Notice shall be given to all abutting property owners either by first class mail to their last known address or if there is no known address then by publishing the notice in a newspaper that is of general circulation in the City. The content of the notice shall advise the abutting property owners that the City Council will consider vacating that street, avenue, alley, lane, or similar public way at its next regular meeting, or, if a special

meeting is scheduled for the discussion, then the date, time, and place of that meeting.

2. Consent; waiver. The City Council may have all the abutting property owners sign a form stating that they consent to the action being taken by the City Council and waive their right of access. The signing of this form shall have no effect on claims for special damages by the abutting property owners but shall create the presumption that the City Council's action was proper. The City Council may also have all abutting property owners sign a form waiving their right to claims for damages as a result of the City vacating said street, avenue, alley, lane, or similar public way. If the abutting property owners do not sign the waiver of damages form, the City may still proceed with vacating the street, avenue, alley, lane or similar public way. (Ref. 17-558 and 17-559 RS Neb.)

3. Ordinance. The City Council shall pass an ordinance that includes essentially the following provisions: (a) A declaration that the action is expedient for the public good or in the best interests of the city; (b) A statement that the City will have an easement for maintaining all utilities; and (c) A method or procedure for ascertaining special damages to abutting property owners.

C. The Mayor shall appoint 3 or 5 or 7 disinterested residents of the City to a special commission to ascertain the amount of special damages that the abutting property owners are entitled to receive and which resulted from the City Council vacating the street, avenue, alley, lane, or similar public way. The appointees of the special commission shall be approved by the City Council. Only special damages shall be awarded to the abutting property owners.

D. In determining the amount of compensation to award the abutting property owners as special damages, the commission shall use the following rule:

An abutting property owner is entitled to recover as compensation the difference between the value of the property immediately before and immediately after the vacating of the street, avenue, alley, lane, or similar public way. If no difference in value exists, the abutting property owner is entitled to no compensation.

#### §8-415 STREETS: PETITION FOR IMPROVEMENTS.

If a petition is signed by the owners of record title representing more than sixty (60) per cent of the front footage of the property directly abutting upon the streets, alleys, public ways, or the public grounds proposed to be improved and presented and filed with the Municipal Clerk, petitioning therefore, the Governing Body shall by ordinance create an improvement district and cause such work to be done or such improvement to be made, contract therefore, levy special assessments on the lots and parcels of land abutting on or adjacent to such streets or alleys especially benefitted thereby in such district in proportion to such benefits, to pay the cost of such improvement. The Governing Body may deny the formation of the proposed improvement district when the area has not previously been improved with a water system, sewer system, and grading of streets. If the Governing Body should deny a requested improvement district formation, it shall state the grounds for such denial in a written letter to interested parties. (Ref. 17-510 RS Neb.) (Amended by Ord. No. 740, 10/3/83) (Amended September 2016) (Amended November 2017)

#### §8-416 STREETS: IMPROVEMENT DISTRICTS. OBJECTIONS.

Whenever the Governing Body shall deem it necessary to make any of the improvements in Neb. Rev. Stat. § 17-509, which are to be funded by a levy of special assessments on the property especially benefitted, the Governing Body may by ordinance create a paving, graveling, or other improvement district or districts, and after the passage, approval, and publication or posting of such ordinance, shall publish notice of the creation of any such district or districts for six (6) days in a legal newspaper of the Municipality, if a daily newspaper, or for two consecutive weeks, if the same be a weekly newspaper. If the owners of the record title representing more than fifty (50) per cent of the front footage of the property directly abutting on the streets or alleys to be improved, file with the Municipal Clerk within twenty (20) days after the first publication of said notice, written objections to the creation of such district or districts, said improvements shall not be made as provided in said ordinance; but said ordinance shall be repealed. If said objections are not filed against the district in the time and manner prescribed in this Section, the Governing Body shall immediately cause such work to be done or such improvement to be made, and shall contract therefore, and shall levy special assessments on the lots and parcels of land abutting on or adjacent to such street or alley especially benefitted thereby in such district in proportion to such benefits, to pay the cost of such improvement. (Ref. 17-511 RS Neb.) (Amended September 2016)

#### §8-417 STREETS: IMPROVEMENT OF STREETS ON CORPORATE LIMITS.

The Mayor and Council shall have the power to improve any street or part thereof which divides the Municipal corporate limits and the area adjoining the Municipality. When creating an improvement district including land adjacent to the Municipality, the Council shall have power to assess, to the extent of special benefits, the costs of such improvements upon the properties found especially benefitted thereby. (Ref. 17-509 RS Neb.) (Amended November 2017)

#### §8-418 STREETS: DEFERRAL FROM SPECIAL ASSESSMENTS.

Whenever the Governing Body of a Municipality creates an improvement district as specified in Sections 8-107 and 8-411 which includes land adjacent to the Municipality which is within an agricultural use zone and is used exclusively for agricultural use, the owners of record title of such adjacent land may apply for a deferral from special assessments. For purposes of this Section, the terms agricultural use and agricultural use zone shall have the meaning specified in Neb. Rev. Stat. § 77-1343.

Any owner of record title eligible for the deferral granted by this Section shall, to secure such assessment, make application to the Governing Body of the Municipality within ninety (90) days after creation of an improvement district. Any owner of record title who makes application for the deferral provided by this Section shall notify the County Register of Deeds of such application in writing prior to approval by the Governing Body. The Governing Body shall approve the application of any owner of record title upon

determination that the property (a) is within an agricultural use zone and is used exclusively for agricultural use, and (b) the owner has met the requirements of this Section.

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

1. Notification by the owner of record title to the Governing Body to remove such deferral;
2. Sale or transfer to a new owner who does not make a new application within sixty (60) days of the sale or transfer, except as provided In subdivision 3 of this Section;
3. Transfer by reason of death of a former owner to a new owner who does not make application within one hundred twenty-five (125) days of the transfer;
4. The land is no longer being used as agricultural land; or
5. Change of zoning to other than an agricultural zone.

Whenever property which has received a deferral pursuant to this Section becomes disqualified for such deferral, the owner of record title of such property shall pay to the Municipality an amount equal to:

- A. The total amount of special assessments which would have been assessed against such property, to the extent of special benefits, had such deferral not been granted; and
- B. Interest upon the special assessments not paid each year at the rate of six (6) per cent from the dates at which such assessments would have been payable if no deferral had been granted.

In cases where the deferral provided by this Section is terminated as a result of a sale or transfer described in subdivision 2 or 3 of this Section the lien for assessments and interest shall attach as of the day preceding such sale or transfer. (Ref. 19-2428 thru 19-2431 RS Neb.)(Ord. No. 733, 10/3/83)(Amended by Ord. No. 90-821, 4/16/90)

#### §8-419 STREETS: DRIVEWAY APPROACHES.

The Governing Body may require the owner of property served by a driveway approach constructed or maintained upon the street right-of-way to repair or replace any such driveway approach which is cracked, broken, or otherwise deteriorated to the extent that it is causing or is likely to cause damage to or interfere with any street structure including pavement or sidewalks.

The Municipal Clerk shall give the property owner notice by personal service, registered letter or certified mail, directed to the last-known address of such owner or the agent of such owner, directing the repair or replacement of such driveway approach. If within thirty (30) days of mailing such notice the property owner fails or neglects to cause such repairs or replacements to be made, the Governing Body may cause such work to be done and assess the cost upon the property served by such approach. (Ref. 18-1748 RS Neb.) (Ord. No. 781, 12/1/86)

Article 5. Trees

§8-501 TREES: DEFINITIONS.

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

PARK TREES: "Park trees" are herein defined as trees, shrubs, bushes and all other woody vegetation in public parks and all areas owned by the City, except street trees.

SMALL TREES: "Small trees" are herein defined as trees which by their nature do not normally attain heights greater than twenty-five (25) feet at maturity.

MEDIUM TREES: "Medium trees" are herein defined as trees which by their nature normally attain heights of from twenty-five to forty-five (25 to 45) feet at maturity.

LARGE TREES: "Large trees" are herein defined as trees which by their nature attain heights greater than forty-five (45) feet at maturity. (Amended December 2019)

§8-502 TREES: SPECIES TO BE PLANTED.

The following species of trees, listed by common name, constitute the official street tree species for the City of Tecumseh, County of Johnson, State of Nebraska. No species other than those included in this list may be planted as street trees without written permission of the Municipal Tree Board.

Small Trees	Medium Trees	Large Tree
Japanese Tree Lilac	Sweetgum	Honey Locust
Hawthorn	Ginkgo	Kentucky Coffee tree
Golden Rain Tree	Littleloaf Linden	Hackberry
Amur Cork Tree	Redmond Linden	Sugar Maple
Amur Maple	Hophornbean	Norway Maple
Bradford Pear		Bur Oak
Purple leaf Plum		Northern Red Oak
Eastern Redbud		American Sycamore
Flowering Crabapple		Japanese Pagoda tree
		American Linden

The Municipal Tree Board shall review and approve all tree planting plans for "park trees" as defined in Section 8-501 of this Chapter. (Ref. 8-9-3, Code 1966)

#### §8-503 TREES: SPACING.

The spacing of street trees and park trees will be in accordance with the three (3) species size classes listed in Sections 8-501 and 8-502 of this Chapter, and no trees may be planted closer together than the following: small trees, thirty (30) feet; medium trees, forty (40) feet; large trees fifty (50) feet; except in special plantings approved by the Municipal Tree Board. (Ref. 8-9-4, Code 1966)

#### §8-504 TREES: DISTANCE FROM CURB AND SIDEWALK.

The distance trees may be planted from curbs or curb lines and sidewalks will be in accordance with the tree species size classes listed in Sections 8-501 and 8-502 of this Chapter, and no trees may be planted closer to any curb or sidewalk than the following: small trees, two (2) feet; medium trees, three (3) feet; large trees, four (4) feet.

Street trees shall be centered between the curb and sidewalk or aligned with existing street trees; except in special situations approved by the Municipal Tree Board. In areas with (a) no curbs or sidewalks, or (b) less than four (4) feet between the curb and sidewalk, no street trees shall be planted without written permission from the Municipal Tree Board. (Ref. 8-9-5, Code 1966)

#### §8-505 TREES: DISTANCE FROM STREET INTERSECTIONS. DRIVEWAYS AND ALLEYS.

No street tree or park tree shall be planted within thirty-five (35) feet of any street intersection measured from the point of nearest intersecting curbs or curb lines or within fifteen (15) feet of any driveway or alley. (Ref. 8-9-6, Code 1966)

#### §8-506 TREES: DISTANCE FROM UTILITY LINES.

No street trees or park trees other than those species listed as small trees in Section 8-502 of this Chapter, or species specifically approved by the Municipal Tree Board, may be planted under or within ten (10) lateral feet of any overhead utility wire, or over or within five (5) lateral feet of any underground water line, sewer line, transmission line or other utility line, wire or main. No street tree shall be planted within ten (10) feet of any fireplug. (Ref. 8-9-7, Code 1966)

#### §8-507 TREES: CARE AND REMOVAL.

The Municipality shall have the right to plant, prune, maintain and remove street trees or park trees within the lines of all streets, alleys, avenues, lanes, squares and on public grounds, as may be necessary to insure public safety or to preserve or enhance the symmetry and beauty of said grounds.

The Municipal Tree Board may remove or cause or order to be removed any street tree or park tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines or other public



improvements, or is affected with any injurious fungus, insect or other pest.

No person or property owner shall remove any live street tree or park tree for any reason without written permission of the Municipal Tree Board. Utility companies may remove trees or parts thereof which are injurious to their utility lines at their expense upon obtaining permission for such removal or trimming from the Municipal Tree Board.

This Section does not prohibit the planting of street trees by abutting property owners providing that the selection and location of said trees is in accordance with Sections 8-502 through 8-506. (Ref. 8-9-8, Code 1966)(Amended December 2019)

#### §8-508 TREES: TOPPING.

It shall be unlawful as a normal practice for any person, firm or Municipal department to top any street tree, park tree or other tree on public property. Topping is defined as the severe cutting back of limbs to stubs larger than three (3) inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempted from this Chapter at the determination of the Municipal Tree Board. (Ref. 8-9-9 Code 1966)

#### §8-509 TREES: OBSTRUCTION: PRUNING. REMOVAL.

All trees and shrubs within the Municipality shall be pruned or removed by the property owner or abutting property owner when such trees or shrubs are dead or dying, are damaged by storm, obstruct the light from any street lamp, obstruct the visibility of any traffic control device or sign, obstruct the passage of pedestrians on sidewalks, or obstruct the view of any street or alley intersection. The minimum clearance of any overhanging portion thereof shall be twelve (12) feet over all streets and eight (8) feet over sidewalks.

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

The Municipal Tree Board shall have the power and authority to prune or remove, or order to be pruned or removed, any such street trees or shrubs or trees or shrubs on private property. Notice to abate and remove such nuisance and notice of the right to a hearing and the manner in which it may be requested shall be given to each owner or owner's duly authorized agent and to the occupant. In the case of street trees or shrubs, the notice shall be given to the abutting owner. Said notice shall be served by personal service, by first class mail, or by one publication, one time, in a newspaper or general circulation in the City. If served by first class mail, such mail shall be conspicuously marked as to its importance, and in case of an owner, shall be mailed to the address shown for the owner on the County's tax rolls and in the case of a non-owner occupant, shall be mailed to the property address. Within five (5) days after receipt of such notice, the owner or occupant of the lot or piece of

ground may request a hearing with the City to appeal the decision to abate or remove the nuisance by filing a written appeal with the office and the City Clerk. A hearing on the appeal shall be held within fourteen (14) days after the filing of the appeal and shall be conducted by the City Clerk. The hearing shall be conducted in an informal manner with the Clerk allowing both sides to present their side. The hearing officer shall render a decision on the appeal within five (5) business days after the conclusion of the hearings. If the appeal fails, the City may have the work done to abate the nuisance. If the owner or occupant of the lot or piece of ground does not request a hearing with the City within five (5) days after receipt of such notice or fails to comply with the order to abate and remove the nuisance, the City may have such work done.

The City may levy and assess all or any portion of the costs and expenses of work upon the lot or piece of ground so benefitted as a special assessment. (Ref. 8-9-10, Code 1966)(Amended September 2016)(Amended December 2019)

#### §8-510 TREES: DEAD OR DISEASED TREES: PRUNING. REMOVAL.

All trees and shrubs within the Municipality shall be pruned or removed when such trees or shrubs are dead, in a dying condition, constitute a hazard to life and property, or harbor insects or disease which constitute a threat to other trees or shrubs within the City.

The Municipal Tree Board shall have the power and authority to prune or remove, or order to be pruned or removed, any such trees or shrubs on private property. Notice to abate and remove such nuisance and notice of the right to a hearing and the manner in which it may be requested shall be given to each owner or owner's duly authorized agent and to the occupant. Said notice shall be served by personal service, by first class mail, or by one publication, one time, in a newspaper or general circulation in the City. If served by first class mail, such mail shall be conspicuously marked as to its importance, and in case of an owner, shall be mailed to the address shown for the owner on the County's tax rolls and in the case of a non-owner occupant, shall be mailed to the property address. Within five (5) days after receipt of such notice, the owner or occupant of the lot or piece of ground may request a hearing with the City to appeal the decision to abate or remove the nuisance by filing a written appeal with the office and the City Clerk. A hearing on the appeal shall be held within fourteen (14) days after the filing of the appeal and shall be conducted by the City Clerk. The hearing shall be conducted in an informal manner with the Clerk allowing both sides to present their side. The hearing officer shall render a decision on the appeal within five (5) business days after the conclusion of the hearings. If the appeal fails, the City may have the work done to abate the nuisance. If the owner or occupant of the lot or piece of ground does not request a hearing with the City within five (5) days after receipt of such notice or fails to comply with the order to abate and remove the nuisance, the City may have such work done.

The City may levy and assess all or any portion of the costs and expenses of work upon the lot or piece of ground so benefitted as a special assessment. (Ref. 8-9-11, Code 1966)(Amended September 2016)

§8-511 TREES: WORK ORDERED OR DONE BY THE CITY.

Written permission shall not be required for any tree, shrub or hedge planting, pruning, spraying or removing ordered or done by the City; however, all such work shall be done in conformance with the requirements of Sections 8-502 through 8-510 of this Chapter. (Ref. 8-9-12, Code 1966)

§8-512 TREES: ABUSE OR MUTILATION.

Unless specifically authorized by the Municipal Tree Board, no person shall intentionally damage, cut, carve, transplant or remove any street tree or park tree; attach any rope, wire, nails, advertising posters or other contrivance to such trees; allow any gaseous, liquid or solid substance which is harmful to such trees to come in contact with them; or set fire or permit any fire to burn when such fire or the heat thereof will injure any portion of such trees. The preceding restrictions do not apply to proper planting, staking and guying practices. (Ref. 8-9-13, Code 1966)

§8-513 TREES: PROTECTION.

All street trees or park trees near any excavation or construction of any building, structure or street work, shall be guarded with a substantial fence, frame or box not less than four (4) feet high and eight (8) feet square (8' x 8' x 4'), and all construction materials, soil or other debris shall be kept outside the barrier.

No person shall excavate any ditches, tunnels, trenches or lay any drive within ten (10) feet of any street or park tree without first obtaining written permission from the Municipal Tree Board.

No person shall deposit, place, store or maintain upon any public property of the Municipality, any stone, brick, sand, soil, concrete or other material which may impede the free passage of water, air and fertilizer to the roots of any street tree or park tree, except by written permission of the Municipal Tree Board. (Ref. 8-9-14, Code 1966)

§8-514 TREES: STUMP REMOVAL.

All stumps of street trees shall be removed by the abutting property owner below the surface of the ground so that the top of the stump shall not project above the surface of the ground. (Ref. 8-9-15, Code 1966)(Amended December 2019)

§8-515 TREES: INTERFERENCE WITH CITY TREE BOARD.

It shall be unlawful for any person to prevent, delay or interfere with the Municipal Tree Board, or any of its agents, while engaging in and about the planting, cultivating, mulching, pruning, spraying or removing of any street trees, park trees or trees on private grounds, as authorized in this Chapter. (Ref. 8-9-16, Code 1966)

§8-516 TREES: TREE BOARD. REVIEW BY GOVERNING BODY.

The Council of the City of Tecumseh, shall have the right to review the conduct, acts and decisions of the Municipal Tree Board. Any person may appeal any ruling or order of the Municipal Tree Board to the Council who may hear the matter and make final decision. Any appeal must be filed with the City Clerk within 10 days of the decision of the Tree Board. (Ref. 8-9-18, Code 1966)

§8-517 TREES: DUTCH ELM DISEASE: NUISANCE.

Trees of all species and varieties of elm, zelkova and planera infected with the fungus *Ceratostomella Ulmi*, as determined by laboratory analysis, are hereby declared to be a public nuisance, and shall be removed and burned.

Trees, or parts thereof, of elm, zelkova or planera in a dead or dying condition that may serve as breeding places for the European Elm Bark Beetle, *Scolytus Multistriatus*, are hereby declared to be a public nuisance, and shall be removed and burned. (Ref. 18-1720 RS Neb.; 8-4-2, Code 1966)

§8-518 TREES: ENFORCEMENT OFFICIAL: RIGHTS: DUTIES.

The City Tree Board is charged with enforcement of Sections 8-501 through 8-519 and to that end any member or members may enter upon private property at all reasonable hours for purposes of inspecting 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 City Tree Board from entering on private property for purposes of carrying out their duty hereunder, or to interfere with such City Tree Board in the lawful performance of his duties under the provisions of this Article. (Ref. 8-4-3, Code 1966)(Amended December 2019)

§8-519 TREES: ON PUBLIC LANDS.

Infected park trees, or park trees or parts thereof in a dead or dying condition, shall be removed by the City within a reasonable amount of time after discovery that such condition exists, and the cost thereof shall be borne by the City. The City Tree Board shall notice recommendations to the City of park trees that need to be removed. (Ref. 8-4-7, Code 1966) (Amended September 2016)(Amended September 2019)(Amended December 2019)

Article 6. Sidewalk Cafés

§8-601 Sidewalk Café Definition.

Sidewalk café shall mean that portion of the public right-of-way kept, used,

maintained, and held out to the public as a place where food and/or drink are served for consumption on the premises, or which is used directly in conjunction with a pedestrian pick-up window. (April 2010).

#### §8-602 Purpose.

It is found and declared that sidewalk cafés promote the public interest by:

- (a) Making Historic-zoned districts an active and attractive pedestrian environment;
- (b) Providing the opportunity for creative, colorful, pedestrian-focused commercial activities on a day/night and seasonal basis;
- (c) Encouraging commercial activities which add excitement, charm, vitality, diversity, and good design to Historic-zoned districts;
- (d) Encouraging the up-grading of store fronts and the development of compatible and well-designed elements within such districts; and
- (e) Promoting land conservation, redevelopment, energy savings, and indirect tax revenue. (April 2010).

#### §8-603 Licensees.

The record owners of business property abutting public space in Historic-zoned Districts pursuant to the Tecumseh Zoning Code may, subject to the provisions of this chapter and despite any provisions in the Tecumseh Municipal Code to the contrary, obtain a permit to utilize so much of the surface space on which their properties abut as the City determines is not needed for the use of the general public during specified times on specified days for sidewalk cafés. Any record owner who desires to authorize another to occupy the public space abutting the record owner's property shall file with the City Clerk a notarized copy of the agreement covering the space to be occupied prior to the issuance of the permit. A sidewalk café permit may not be issued for a business which proposes to sell alcoholic drinks. (April 2010).

#### §8-604 Application for Permit; Context.

Application for such permit shall be made to the City Clerk upon a form to be furnished by the city, which application shall set forth the following:

- (a) Owner and manager of applicant business;
- (b) Hours and days of operation;
- (c) How the extended premises will be supervised and maintained;
- (d) Description of any permitted advertising and a description or photo of street furniture to be used, if any;
- (e) Maximum number of patrons to be accommodated and description of the seating to accommodate the maximum number of patrons;
- (f) Description of any requested modification or waiver of the requirements of

subsections (b)(2), (c), or (p) of Section 8-606;

(g) Two copies of a plat or drawing indicating, to scale, the amount of surface the applicant is seeking permission to use and the location of the furniture, equipment, and any other article occupying public space, if any;

(h) Description of the food and drink to be offered for sale.

(i) Such application shall also contain a statement by applicant that said applicant will, in consideration of being issued a permit for the use of surface space, agree to hold harmless the City of Tecumseh and the officers and employees of the city for any loss or damage arising out of the use, or the discontinuance of any use; that said applicant understands that the use of the surface space is to be temporary, on a day-to-day basis; that said applicant shall not acquire any right, title, or interest in such space; that said applicant may be required by the city at any time to vacate all or any part of the surface space said applicant has been given permission to use; that upon demand to vacate such space, said applicant will promptly remove any personal property placed thereon by such applicant and return the surface space to the same condition that it was prior to the commencement of use by said applicant, or reimburse the City for the cost of moving such personal property and restoring the surface space to its prior condition; and that said applicant shall have no recourse against either the city or its officers or agents, either for any loss or damage occasioned by his or her being required to vacate all or any part of the surface space which said applicant has been granted permission to use. (April 2010).

#### §8-605 Review and Recommendations.

The City Clerk shall forward the application to the Planning Commission for their recommendation and report regarding approval, conditional approval, or disapproval of the application. Such application shall be reviewed by the Planning Commission in regard to the urban design relationship of the application to the street scape, the amount of pedestrian movement to be accommodated, the accuracy and appropriateness of the area to be licensed, and the appropriateness of the design and materials.

The report from the Planning Commission shall be returned to the City Clerk within forty-five (45) days from receipt of the complete application. If the report recommends approval of the application, the City Clerk shall grant the permit subject to the provisions of Section 8-606. If the report recommends conditional approval or a combination of approval and conditional approval of the application and the applicant in writing consents to the conditions of approval, the City Clerk may grant the permit subject to the provisions of Section 8-606. If the applicant does not consent to any of the conditions of approval or the report recommends disapproval of the application, the City Clerk shall place such sidewalk café permit request on the Council agenda. (April 2010).

#### §8-606 Permit Conditions.

(a) The use to be made of such space shall be in conformance with Chapter 8, Article 6 of the Tecumseh Municipal Code and any additional applicable standards adopted by

resolution of the City Council.

(b) A clear, unobstructed passageway not less than six feet in width at all points, entirely across the frontage of the property occupied by the occupant parallel to the line of the street and generally in the line of pedestrian traffic shall be maintained at all times; except as follows:

(1) If the City shall find special circumstances involving site characteristics or the flow of pedestrian traffic at such location, the conditions of approval may require a passageway greater than six feet or may prohibit operation of the sidewalk café for certain specified periods.

(2) If the City shall find that usually or at certain periods during the day or evening the flow of pedestrian traffic is sufficiently light to permit a passageway narrower than six feet, the conditions of approval may authorize a passageway as narrow as four feet, either at all times when such surface space is permitted or for certain specified periods during the time when such use is permitted.

(c) Except for sidewalk cafés which (i) serve solely by takeout and (ii) do not desire exclusive use of the permit area, the permit area shall be separated from the pedestrian passageway with a fence or other rigid barrier having a minimum height of thirty-six inches but not greater than sixty inches except for necessary pedestrian ingress and egress. Sidewalk cafés approved for a maximum occupancy of 50 or more shall provide two exits. Clearance from ground level to the bottom of the barrier shall be no more than twenty-seven inches. In specific, locations that have light pedestrian traffic and relatively wide areas between the curb and the private property line the conditions of approval may waive the requirement that the permit area be separated from the pedestrian passageway by a fence or other rigid barrier; provided that if such barrier is waived the permittee may not claim exclusive use of the permit area for his or her customers.

(d) That such space shall only be used for the activity or activities specified on the permit in accordance with the requirements of these or any other applicable regulations;

(e) That such use is temporary, and that the user acquires no right, title, or interest in the space permitted to be used;

(f) That the City may require such space to be vacated, restored to its prior condition upon demand, and its use discontinued, with no recourse against the city for any loss or damage occasioned by any such requirement.

(g) That if any such space be not vacated and restored to its prior condition and such use be not discontinued by the time specified, the City may remove from such space any property left thereon at the risk and expense of the permittee and restore such space to its prior condition at the expense of the permittee.

(h) That the permittee shall promptly remove any litter deposited on or in the vicinity of the surface space used by the permittee resulting from the activity or activities conducted by the permittee on or adjoining such space.

(i) That the permittee shall at all times conduct such activity or activities in an orderly fashion and in such a manner as to protect the public health and safety.

(j) That such space shall be used for business purposes only during the hours specified on the permit authorizing such use, and neither before nor after such hours.

(k) That the permittee shall comply with all health and sanitation regulations.

(l) That the permit issued pursuant to this section is a personal privilege and may not be transferred or alienated voluntarily or involuntarily.

(m) Where exigent circumstances exist and a police officer or other authorized officer or employee of the city gives notice to a permittee to temporarily move from a location, such permittee shall comply with the notice.

For the purpose of this subdivision, exigent circumstances shall include, but not be limited to, unusually heavy pedestrian or vehicular traffic, existence of any obstructions in the public space at or near such location, an accident, fire, or other emergency situation at or near such locations, or a parade, demonstration, or other such event or occurrence at or near such location.

(n) No permittee shall sound or permit the sounding of any signal from any stationary bell, chime, siren, whistle, or device for non-emergency purposes or use or operate any loudspeaker, public address system, radio, sound amplifier, or similar device which may be heard beyond fifty feet from its source.

(o) No advertising shall be permitted on or in any sidewalk café or any extension thereof except to identify the product and/or the name of the vendor.

(p) No umbrella, canopy, or similar device in any sidewalk café shall be more than six and one-half feet above ground level without approval of the City.

(q) All sidewalk cafés shall be located only in the exact location described in the approved application. Approved furnishings, including the number of tables and chairs to be provided, may not be modified or substituted.

(r) Service of food and/or drinks in all sidewalk cafés shall be limited to persons seated at tables in the sidewalk café. (April 2010).

#### §8-607 Suspension or Revocation of Permit.

Any permit issued pursuant to this chapter may be suspended or revoked by the Council after notice for any of the following causes:

(a) Fraud, misrepresentation, false statement contained in the application for the license;

(b) Violation of this chapter or any of the provisions of the Tecumseh Municipal Code;

(c) Conduct of the business licensed under this chapter in an unlawful manner or in such a way as to constitute a menace to the health or safety of the public;

(d) Upon demand of the City Council. (April 2010).

#### 8-608 Insurance.

The applicant shall be required to:

(a) At all times maintain public liability insurance in the form of a commercial or comprehensive general liability policy, or an acceptable substitute policy form as permitted by the City Attorney, with a minimum combined single limit of \$100,000.00 aggregate for any one occurrence. The coverage required herein shall be subject to review and approval



by the City Attorney for conformance with the provisions of this section;

(b) At all times keep on file with the City Clerk a current certificate of insurance signed by a qualified agent of an insurance company licensed to do business in the State of Nebraska and approved by the City Attorney for conformance with the provisions of this section evidencing the existence of valid and effective policies of insurance naming the City as an additional insured for the coverage required by subsection (a) of this section, the limits of each policy, the policy number, the name of the insurer, the effective date and expiration date of each policy, the deductibles or self-insurance retainers of each policy, and a copy of an endorsement placed on each policy requiring thirty day's notice by mail to the City Clerk before the insurer may cancel the policy for any reason, and upon request of the City Clerk or the City Attorney, a copy of any endorsements placed on such policies or the declarations page of such policies. Any termination or lapse of such insurance shall automatically revoke any permit issued pursuant to this chapter. (April 2010).

#### §8-609 Bond.

If the City determines that the sidewalk café use requested is different from the regular and normal use of the surface space, the City may require as a condition of granting such permit the providing of a surety bond to guarantee the removal of the applicant's personal property and restoration of the surface space to its prior condition. The amount of said bond shall be in an amount determined by the City to be sufficient to return the sidewalk café space back to its prior condition. (April 2010).

#### §8-610 Renewal and Termination of Permits.

All permits shall be due and payable on the first day of May of each year and all permits shall expire on the thirtieth day of April following issuance. After the initial approval of a permit by the City Clerk of City Council for a specific location, annual renewals of such permits may be made for one year by application to the City Clerk. (April 2010).

#### §8-611 Permit Fee and Fee for Space.

Any person issued a permit under this Article shall pay to the city an annual permit fee of \$25.00 for each permit. (April 2010).

### Article 7. Penal Provision

#### §8-701 VIOLATION: PENALTY.

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

Chapter 9  
BUILDING REGULATIONS

Article 1. Building Permits

§9-101 BUILDING PERMITS, PENALTY FEES AND INSPECTION FEES.

No person, firm, or corporation shall erect, construct, enlarge, alter, repair, move, improve, remove, convert, or demolish any building, structure, swimming pool, or parking lot in the City, or within one (1) mile of the corporate limits of the City, or cause the same to be done, without first obtaining a Building Permit from the Municipal Clerk. A separate Building Permit is required for each building or structure. A Building Permit for a building or structure may also permit work on a swimming pool and parking lot if the plans for the swimming pool or parking lot were approved by the City in conjunction with the issuance of the Building Permit. The Application for such Building Permit shall be in writing on a form to be furnished by the Municipal Clerk for that purpose. Every such Application shall set forth the legal description of the land upon which the construction or relocation is to take place, the nature of the use or occupancy, the principal dimensions, the estimated cost, the names of the owner, architect and contractor, and such other information as may be required thereon. The Application, plans and specifications so filed with the Municipal Clerk shall be checked and examined by a designee of the governing body, and if they are found to be in conformity with the requirements of this Chapter and all other Ordinances applicable thereto, said designee shall authorize the Municipal Clerk to issue the said applicant a Permit upon the payment of the permit fee and inspection fees as determined by the following schedules.

New building valuation will be based on the following valuations for purposes of determining the building permit fee:

Valuation per square foot	Rate
Floor	\$57.00
Basement-finished	\$16.50
Unfinished Basement	\$13.00
Garage or Shed	\$16.50
Carport	\$13.00
Deck	\$13.00
Ag. Building (must be outside City Limits)	\$10.50

Building permit fees will be based on the new building valuation or costs of remodeling or renovation of existing structures according to the following schedule:

Total Valuation	Fee
\$0 to and including \$9,000.00	\$25.00
Each additional \$1,000.00 or fraction thereof in excess of \$9,000.00 to and including \$50,000.00	\$ 1.00
Each additional \$1,000.00 or fraction thereof in excess of \$50,000.00	\$ .75

Building permit fees for moving permits and demolition permits are as follows:

Building Moving Permits (if required by UBC)	\$100.00
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Also requires bond as provided in §9-201

Demolition Permits:

Residential Accessory Buildings	\$25.00
Single Family Residences	\$50.00
All other Buildings	\$100.00

Fence Permits are as follows:

Fence Permit required for Construction or Replacement of a fence over two feet tall (no inspection fees)	\$10.00
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Sign Permits are as follows:

Sign Permit is required for all Billboards, Pole signs, and Ground signs (no inspection fees)	\$25.00
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City Right-of-Way permits - Buried Cable, attached to City poles, etc. (Approval by Dept. of Utilities)	\$100.00
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A Building Permit will not be required for certain work as provided by the adopted Uniform Building Code. In addition no Building Permit will be required for the following:

1. Fences which do not exceed 6 feet 4 inches high. However, fences do require a Fence Permit.
2. Roof shingling
3. Residing
4. Installation of cabinets
5. An above-ground swimming pool, if said swimming pool does not have an

- attached or surrounding deck, enclosure or other attachment.
- 6. Windows & Doors
- 7. Work on the interior of an existing structure.

Irregardless of 1-7 above, any structure that is damaged by fire or structurally damaged by a natural disaster, must obtain an inspection of the structure and also a building or demolition permit if required by § 9-104 Tecumseh Municipal Code.

Penalty Fees: When construction begins before the Building Permit or Fence Permit has been issued or when the moving of a structure has begun before the issuance of a Moving Permit, or when demolition of a structure has begun before the issuance of a Demolition Permit, the applicant shall pay three (3) times the normal cost for the required permit. In determining “three times the normal cost for the permit”, the inspection fees will not be multiplied by 3. The applicant will, in addition to the “three times the normal cost for the permit”, pay the necessary inspection fees at regular price. The Penalty Fee will only be based on the Permit Fees and not on the Inspection Fees. The original Inspection Fees will still apply.

No triple fee as set forth in this chapter shall be imposed if the work is of an emergency nature where a delay in performing the work may cause a risk of life or health or will significantly increase the risk of property damage, provided a permit is applied for within 72 hours of the start of the work, in which case no penalty shall be imposed.

In addition to the permit fees as stated above, the following inspection fees will be charged for each inspection (note multiple inspections may be required):

Inspection	Fee
Application Review	\$25
Foundation	\$20
Framing Rough-in	\$20
Insulation	\$20
Final Building	\$20
Moving Inspection	\$20 (plus mileage at IRS allowed rate)
Demolition (Minimum 2)	\$20
Any additional Inspections required by Inspector	\$20

As provided for by Nebraska Revised Statutes, the City of Tecumseh will not be conducting plumbing inspections. The City of Tecumseh will also not be conducting electrical

inspections, fire inspections, nor inspections to insure compliance with the Federal Fair Housing Act of 1968 as adopted by the State of Nebraska, but will defer these inspections to the State Electrical Inspector and the State Fire Marshall respectively.

Whenever there is a discrepancy between the Permit Application procedures contained herein and those contained in any building code adopted by reference, the provisions contained herein shall govern. (Amended August 1999) (Amended November 7, 2011) (Amended May 4, 2015) (Amended September 2016) (Amended July 5, 2022)

#### §9-102 BUILDING CODE BOARD OF APPEALS; PROCEDURE FOR APPEALS.

There is hereby created a Building Code Board of Appeals consisting of three (3) members and one (1) alternate. Members shall be appointed by the Mayor. The members shall be appointed for a three (3) year term. At the time this Board is created, the Mayor shall designate one member and the alternate to serve for one year, one member to serve for two years and one member to serve for three years. Thereafter, all appointed members shall serve a full three (3) year term. The Building Code Inspector shall be an ex-officio member of this Board, but shall have no vote on any matter before said Board. The Board shall appoint a secretary who does not have to be a member of the Board.

Authority and Duties. The Building Code Board of Appeals shall hear and decide appeals of orders, decisions or determinations made by the Building Code Inspector relative to the application and interpretation of this Code or the suitability of alternate materials and methods of installation. The Board of Appeals shall have no authority relative to the interpretation of the administrative provisions of this Code. The Board of Appeals may grant variances for alterations or repairs of an existing building or structure after finding that: (1) There are practical difficulties involved in carrying out the provisions of this Code; (2) The requested variance is in conformance with the intent and purpose of this Code; and (3) The variance does not substantially lessen any fire-protection requirements or any degree of structural integrity. The Board shall render all decisions and recommendations in writing to the Building Code Inspector.

Meetings. The Building Code Board of Appeals shall meet at the call of the Building Code Inspector or upon a written request signed by two or more of its regular members and filed with the Building Code Inspector.

Appeals to Board. Any person who is aggrieved by any decision of the Building Code Inspector relating to suitability of alternate materials, methods of construction, or interpretations of any provisions of this Code, and any person who seeks a variance from the strict application of this Code for the alteration or repair of existing buildings whenever there are practical difficulties involved in carrying out the provisions of this Code, may appeal such decision by filing an appeal on forms furnished by the Building Code Inspector within twenty (20) days from the date of such decision. The filing of a completed appeals form, along with the payment of the appeal fee of \$100.00, shall be sufficient for the purpose of commencing an appeal proceeding hereunder.

Hearing Date. The Building Code Inspector shall refer all properly and timely filed appeals to the Building Code Board of Appeals for hearing. The Building Code Inspector shall in each appeal notify the appellant in writing of the date, time and place of hearing before

the Board, which date shall be no later than thirty (30) days from the filing of the appeal. Such notice shall be served upon the applicant by personal service or registered mail.

Hearing Procedure. Hearings on appeal need not be conducted according to technical rules relating to evidence and witnesses. Oral evidence shall be taken only on oath or affirmation. Any relevant evidence shall be admitted if it is the type of evidence upon which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which may make improper the admission of such evidence over objection in civil actions in courts of competent jurisdiction in this state. The appellant, the Building Code Inspector, and any other party to an appeal hereunder shall have these rights, among others:

- (1) To call and examine witnesses on any matter relevant to the issues of the hearing;
- (2) To introduce documentary and physical evidence;
- (3) To cross-examine opposing witnesses on any matter relevant to the issues of the hearing; and
- (4) To rebut the evidence against him or her.

The concurring vote of two members of the Board shall be necessary to modify or reverse any decision of the Building Code Inspector. The Building Code Inspector shall first present his testimony and evidence to the Board, next the appellant shall present his testimony and evidence to the Board, next any other party to the appeal will present his testimony and evidence to the Board, and finally the Building Code Inspector may present any rebuttal testimony or evidence.

Decision of Board. The Building Code Board of Appeals shall then, within a reasonable time after the hearing, render a written decision which shall state its findings and conclusions. Decisions of the Board may be appealed as provided by law. (August 1999)

#### §9-103 MAINTENANCE CODE BOARD OF APPEALS; PROCEDURE FOR APPEALS.

There is hereby created a Maintenance Code Board of Appeals consisting of three (3) members and one (1) alternate. Members shall be appointed by the Mayor. The members shall be appointed for a three (3) year term. At the time this Board is created, the Mayor shall designate one member and the alternate to serve for one year, one member to serve for two years and one member to serve for three years. Thereafter, all appointed members shall serve a full three (3) year term. The Maintenance Code official shall be an ex-officio member of this Board, but shall have no vote on any matter before said Board. The Board shall appoint a secretary who does not have to be a member of the Board.

Authority and Duties. The Maintenance Code Board of Appeals shall hear and decide appeals of orders, decisions or determinations made by the Maintenance Code official relative to the application and interpretation of the Property Maintenance Code. The Maintenance Board of Appeals shall hear appeals based on a claim that the time intent of the Property Maintenance Code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of the Property Maintenance Code do not fully apply, or the requirements of the Property Maintenance Code are adequately satisfied by other means. The Board shall

render all decisions in writing.

**Meetings.** The Maintenance Code Board of Appeals shall meet at the call of the Chairman or upon a written request signed by two or more of its regular members.

**Appeals to Board.** Any person who is aggrieved by any decision of the Maintenance Code official relating to a claim that the true intent of the Property Maintenance Code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of the Property Maintenance Code do not fully apply, or the requirements of the Property Maintenance Code are adequately satisfied by other means, may appeal such decision by filing an appeal on forms furnished by the Maintenance Code official within twenty (20) days from the date of such decision. The filing of a completed appeals form, along with the payment of the appeal fee of \$100.00, shall be sufficient for the purpose of commencing an appeal proceeding hereunder.

**Hearing Date.** The Maintenance Code official shall refer all properly and timely filed appeals to the Maintenance Code Board of Appeals for hearing. The Chairman of the Maintenance Code Board of Appeals shall in each appeal notify the appellant in writing of the date, time and place of hearing before the Board, which date shall be no later than thirty (30) days from the filing of the appeal. Such notice shall be served upon the applicant by personal service or registered mail.

**Hearing Procedure.** Hearings on appeal need not be conducted according to technical rules relating to evidence and witnesses. Oral evidence shall be taken only on oath or affirmation. Any relevant evidence shall be admitted if it is the type of evidence upon which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which may make improper the admission of such evidence over objection in civil actions in courts of competent jurisdiction in this state.

Irrelevant and unduly repetitious evidence shall be excluded. The appellant, the Maintenance Code official, and any other party to an appeal hereunder shall have these rights, among others:

- (1) To call and examine witnesses on any matter relevant to the issues of the hearing;
- (2) To introduce documentary and physical evidence;
- (3) To cross-examine opposing witnesses on any matter relevant to the issues of the hearing; and
- (4) To rebut the evidence against him or her.

The concurring vote of two members of the Board shall be necessary to modify or reverse any decision of the Maintenance Code official. The Maintenance Code official shall first present his testimony and evidence to the Board, next the appellant shall present his testimony and evidence to the Board, next any other party to the appeal will present his testimony and evidence to the Board, and finally the Maintenance Code official may present any rebuttal testimony or evidence.

**Decision of Board.** The Maintenance Code Board of Appeals shall then, within a reasonable time after the hearing, render a written decision which shall state its findings and conclusions. Decisions of the Board may be appealed as provided by law.

#### §9-104 BUILDING PERMITS; FIRE DAMAGE.

All owners of structures that receive any damage from fire or any structural damage from other natural disasters, shall within 120 days after said fire or natural disaster, request a structural inspection by the City Building Inspector. No work shall commence on the damaged structure, except for emergency repairs necessary to secure the structure or to ameliorate immediate safety concerns, until after the City has completed its inspection. After the completion of the inspection, if the City Building Inspector determines that there are structural deficiencies or electrical deficiencies caused by the fire, the owner of the structure shall immediately apply for a Building Permit or Demolition Permit prior to commencing work on the structure. Any structure that has been damaged by fire or structurally damaged by a natural disaster and has not been completely renovated or demolished at the time of the passage of this section, must obtain a building permit or demolition permit within 120 days of the passage of this section. (Amended May 4, 2015)

#### §9-105 BUILDING INSPECTOR; DUTIES.

The City's Building Inspector shall have the power to enforce all building and zoning regulations for the City. He/she shall inspect buildings for the City that require inspections under Municipal Ordinances. He shall have the power to order all work to stop on any construction, alteration, or relocation which violates provisions of the Municipal Ordinances or Building Codes.

The Building Inspector shall also have the authority to order the owner to correct any building or zoning deficiencies which violate Municipal Ordinances or Building Codes. Said corrections shall be completed within the time provided by the Building Inspector.

The Building Inspector may also cancel any Building Permit when the Building Permit Applicant, the property owner or their contractor, fails to comply with a lawful order of the Building Inspector. (Amended May 4, 2015)

#### §9-106 BUILDING INSPECTOR: REFUSAL TO OBEY.

It shall be unlawful for any person to refuse, or fail to comply with any lawful order of the City's Building Inspector. (Amended May 4, 2015)

### Article 2. Building Moving

#### §9-201 BUILDING MOVING; REGULATIONS.

It shall be unlawful for any person, firm, or corporation to move any building or structure within the Municipality or within one (1) mile of the Corporate limits of the City without a written permit to do so. Application may be made to the Municipal Clerk, and shall include the present and future location of the building to be moved, the proposed route, the equipment to be used, and such other information as the Governing Body may require. The Application shall be accompanied by a Certificate issued by the County Treasurer to the



effect that all the provisions regulating the moving of buildings have been complied with on the part of the owner of the real estate upon which the said building is presently located. The City shall approve the proposed route over which the said building is to be moved. Upon approval by the City, the Municipal Clerk shall then issue the said Permit; Provided, that a good and sufficient Corporate Surety Bond of \$5,000.00 conditioned upon moving said building without doing damage to any private or Municipal property is filed with the Municipal Clerk prior to the granting of any Permit. Cash may be substituted for the before mentioned Bond. In the event it will be necessary for any licensed building mover to interfere with the telephone or telegraph poles and wires, or a gas line, the company or companies owning, using or operating the said poles, wires or line shall upon proper notice of at least 24 hours, be present and assist by disconnecting the said poles, wires or line relative to the building moving operation. All expense of the said disconnection, removal or related work shall be paid in advance by the licensee unless such disconnection or work is furnished on different terms as provided in the said company's franchise. Whenever the moving of any building necessitates interference with a water main, sewer main, pipes or wire belonging to the Municipality, notice in writing of the time and route of the said building moving operation shall be given to the various Municipal officials in charge of the Municipal utility departments who shall proceed in behalf of the Municipality and at the expense of the mover to make such disconnections and do such work as is necessary. (Amended 8-99)

#### §9-202 BUILDING MOVING; DEPOSIT.

At such time as the building moving has been completed, the Building Inspector shall inspect the premises and report to the Municipal Clerk as to the extent of damages, if any, resulting from the said relocation and whether any Municipal laws have been violated during the said operation. Upon a satisfactory report from the Building Inspector, the Municipal Clerk shall return the Corporate Surety Bond, cash deposited by the Applicant. In the event the basement, foundation or portion thereof is not properly filled, covered, or in a clean and sanitary condition, the Governing Body may apply the money deposited for the purpose of defraying the expense of correcting the said conditions. If the expense of correcting the hazardous condition is greater than the amount of the deposit set by resolution of the Governing Body, as required herein, the Governing Body may recover such excess expense by civil suit or otherwise as prescribed by law. (Amended 8-99)

### Article 3. Adopted Codes

#### §9-301 BUILDING CODE: ADOPTED BY REFERENCE.

To provide certain minimum standards, provisions, and requirements for safe and stable design, methods of construction, and uses of materials in buildings hereafter erected, constructed, enlarged, altered, repaired, relocated, and converted, the following Uniform Building Code and related publications are hereby adopted and incorporated herein by reference:

(a) The International Building Code (IBC), 2018 edition, except Section 101.4.3 and Chapter 29, published by the International Code Council, except that (i) section 305.2.3 applies to a facility having twelve or fewer children and (ii) section 310.4.1 applies to a care facility for twelve or fewer persons;

(b) The International Residential Code (IRC), Chapter 11 of the 2009 edition, and all but such chapter of the 2018 edition except section R313, published by the International Code Council; and

(c) The International Existing Building Code, 2018 edition, published by the International Code Council.

(d) Elevated Residential Structures HUD-FLA-184, dated September 1984, published by U.S. Government Printing Office: 1976 0-222-193.

(e) Flood-proofing Non-residential Structures, F.E.M.A., Publication No. 102, dated May 1986.

The documents described in subsections (d) and (e) above are adopted for reference to design standards and techniques only, as they relate to "flood-proofing" of approved buildings located in the flood hazard areas of the City of Tecumseh, Nebraska. One (1) copy of the Building Code and related publications are kept at the office of the Municipal Clerk and are available for public inspection at any reasonable time. The provisions of the Building Code and related publications shall be controlling throughout the Municipality and throughout its one (1) mile zoning jurisdiction. (Ref. 17-1001, 18-132, 19-902, 19-922 RS Neb.; Amended August 1999) (Amended November 7, 2011) (Amended September 2016) (Amended December 2019)(Amended October 4, 2021)

#### §9-302 MECHANICAL CODE: ADOPTED BY REFERENCE.

To provide certain minimum standards, provisions, and requirements for buildings hereafter erected, constructed, enlarged, altered, repaired, relocated, and converted, the International Mechanical Code, 2018 Edition, published by International Code Council, is hereby adopted and incorporated herein by reference. This Code shall be in effect for the City of Tecumseh and within one (1) mile of the Corporate limits of the City. One copy of the Uniform Mechanical Code is kept at the office of the City Clerk and is available for public inspection. (August 1999) (Amended September 2016)(Amended December 2019)

#### §9-303 PLUMBING CODE: ADOPTED BY REFERENCE.

To provide certain minimum standards, provisions, and requirements for safe and stable installation, methods of connection and uses of materials in the installation of plumbing facilities, the Uniform Plumbing Code, 2018 Edition, designated by the American National Standards Institute as an American National Standard, is hereby adopted and incorporated herein by reference. This Code shall be in effect for the City of Tecumseh and within one (1) mile of the Corporate limits of the City. One copy of the Uniform Plumbing Code is kept at the office of the City Clerk and is available for public inspection. (Amended August 1999) (Amended September 2016)(Amended December 2019)(Amended October 4, 2021)

§9-304 PLUMBING CODE: PROHIBITION OF LEAD PIPES. SOLDER. AND FLUX.

Any pipe, solders or flux used in the installation or repair of any residential or non-residential facility which is connected to the public water supply system shall be lead free.

For purposes of this Section, lead free shall mean:

- 1) Solders and flux - not more than two-tenths percent (.2%) lead, and
- 2) Pipe and pipe fittings - not more than a weighted average of twenty-five hundredths percent lead when used with respect to wetted surfaces of pipes, pipe fittings, plumbing fittings and fixtures. (Ref. 71-5301 RS Neb.) (Ord. No. 90-822, 4/16/90) (Amended September 2016)

§9-305 ELECTRICAL CODE: ADOPTED BY REFERENCE.

To provide certain minimum standards, provisions, and requirements for safe and fire proof installation, methods of connection, and uses of materials in the installation of electrical wiring and appliances, the 2018 Edition National Electrical Code, as published by the National Fire Protection Association is hereby adopted and incorporated herein by reference. All wiring and installation shall be done in conformance to this Code and to the standards set by the State Electrical Inspector. This Code shall be in effect for the City of Tecumseh and within one (1) mile of the Corporate limits of the City. One copy of the Uniform Electrical Code is kept at the office of the City Clerk and is available for public inspection. (Amended August 1999) (Amended September 2016) (Amended December 2019)

§9-306 FIRE CODE; ADOPTED BY REFERENCE.

To provide certain minimum standards, provisions, and requirements for fire safety in design, methods of construction, and uses of materials in buildings hereafter erected, constructed, enlarged, altered, repaired, relocated, and converted, the International Fire Code, 2018 Edition, published by International Code Council is hereby adopted and incorporated herein by reference. This Code shall be in effect for the City of Tecumseh and within one (1) mile of the Corporate limits of the City. One copy of the Uniform Fire Code is kept at the office of the City Clerk and is available for public inspection. (August 1999) (Amended September 2016) (Amended December 2019)

§9-307 ADOPTION OF INTERNATIONAL PROPERTY MAINTENANCE CODE. 2021 EDITION.

A. Except as hereinafter provided by specific amendment, the following publication is hereby adopted, incorporated and made a part of this Code the same as though spread at large herein:

(a) International Property Maintenance Code, 2021 Edition, published by the International Code Council, Inc. One printed copy of said publication described above has been filed in the office of the City Clerk for the use and examination of the public.

B. That the following Sections of the adopted International Property Maintenance

Code, 2021 Edition, shall be amended to read as follows:

Section 101.1 Title. These regulations shall be known as the Property Maintenance Code of the City of Tecumseh, Nebraska, hereinafter referred to as "this code".

Section 102.3 Application of other codes. Repairs, additions or alterations to a structure or changes in occupancy, shall be done in accordance with the procedure and provisions of the most recently adopted applicable codes.

Section 103.1 Maintenance Code Department. The Maintenance Code Department is hereby created and the official in charge thereof shall be known as the Code Official. The function of the agency shall be the implementation, administration and enforcement of the provisions of this code.

Section 103.2 Appointment. The code official shall be appointed by the Mayor in the same manner as the other appointed officials of the City and shall be referred to as the "code official" or "maintenance code official".

Section 108.2 Alternate Members. The chief appointing authority shall appoint one or more alternate members who shall be called by the board chairman to hear appeals during the absence or disqualification of a member. Alternative members shall possess the qualifications required for board membership.

Section 110.4 Failure to Comply. Any person who shall continue any work 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 condition, shall be liable to a fine of not less than \$100 or more than \$500 per day work continues after having been served with a stop work order.

Section 113.3 Failure to Comply. If the owner of a premises fails to comply with a demolition order within the time prescribed, the code official or City of Tecumseh shall cause the structure to be demolished and removed, either through an available public agency, including the City of Tecumseh, or by contract or arrangement with private persons, and the cost of such demolition and removal shall be billed to the property owner or occupant, or shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.

Section 304.14 Insect screens. During the period from April 1st to October 31st, every door, window and other outside opening required for ventilation of habitable rooms, food preparation areas, food service areas or any areas where products to be included or utilized in food for human consumption are processed, manufactured, packaged or stored, shall be supplied with approved tightly fitting screens of not less than 16 mesh per inch (16 mesh per 25 mm) and every swinging door shall have a self-closing device in good working condition.

Exception. Screens shall not be required where other approved means, such as air curtains or insect repellent fans, are employed.

Section 602.3 Heat Supply. Every owner and operator of any building who rents, leases or lets one or more dwelling units, rooming units, dormitories or guestrooms on terms, either expressed or implied, to furnish heat to the occupants thereof, shall supply an approved heating source during the period from September 1st to May 31st to maintain a temperature of not less than 68°F (20°C) in all habitable rooms, bathrooms and toilet rooms. Exceptions:

1. When the outdoor temperature is below the winter outdoor design temperature for the locality, maintenance of the minimum room temperature shall not be required provided that the heating system is operating at its full design capacity. The winter outdoor design temperature for the locality shall be as indicated in Appendix D of the International Plumbing Code.

2. In areas where the average monthly temperature is above 30°F (-10°C) a minimum temperature of 65°F (18°C) shall be maintained.

Section 602.4 Occupiable work spaces. Indoor occupiable work spaces shall be supplied with heat during the period from September 1st to May 31st to maintain a temperature of not less than 65°F (18°C) during the period the spaces are occupied. Exceptions.

1. Processing, storage and operation areas that require cooling or special temperature conditions.

2. Areas in which persons are primarily engaged in vigorous physical activities. (Amended November 7, 2011) (Amended July 3, 2023)

#### §9-308 RADON RESISTANT NEW CONSTRUCTION MINIMUM STANDARDS; ADOPTED BY REFERENCE.

To provide certain minimum standards, provisions, and requirements for the mitigation of radon in new construction that is intended to be regularly occupied by people, the minimum standards for radon resistant new construction that meet the minimum standards adopted under 76-3504 of the Nebraska Revised Statutes is hereby adopted and incorporated by reference. (Amended December 2019)

#### Article 4. Unsafe Buildings

#### §9-401 UNSAFE BUILDINGS; SPECIAL ASSESSMENTS.

If any owner of any building or structure fails, neglects, or refuses to comply with notice by or on behalf of the Municipality to repair, rehabilitate, or demolish and remove a building or structure which is unsafe and a public nuisance, the Municipality may proceed with the work specified in the notice to the property owner. A statement of the cost of such work shall be transmitted to the Governing Body. The Governing Body may (1) levy the cost as a special assessment against the lot or real estate upon which the building or structure is located. Such special assessment shall be a lien on the real estate and shall be collected in the manner provided for special assessments; or (2) collect the cost from the owner of the building or structure and enforce the collection by civil action in any court of competent jurisdiction. (Ref. 18-1720, 18-1722, 18-1722.01, 77-1725 RS Neb.) (Ord. No. 92-856, 11/2/92)

#### Article 5. Penal Provision

#### §9-501 VIOLATION; PENALTY.

Any person who shall violate or refuse to comply with the enforcement of any of the

provisions of this Chapter, set forth at full length herein or incorporated by reference shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be fined not more than five hundred dollars (\$500.00) for each offense. A new violation shall be deemed to have been committed every twenty-four (24) hours of such failure to comply. (Ord. No. 92-857, 1112/92)

Chapter 10  
BUSINESS REGULATIONS

Article 1. Alcoholic Beverages

§10-101 ALCOHOLIC BEVERAGES; DEFINITIONS.

For purposes of this chapter, the definitions found in Neb. RS 53-103 shall be used.

§10-102 SALE OR GIFT TO MINOR OR MENTALLY INCOMPETENT PERSON PROHIBITED.

No person shall sell, give away, dispose of, exchange, or deliver, or permit the sale, gift, or procuring of any alcoholic liquors, to or for any minor or to any person who is mentally incompetent. (Neb. RS 53-180)

§10-103 CONSUMPTION IN PUBLIC PLACES OR PLACES OPEN TO THE PUBLIC; RESTRICTIONS.

A. Except when the Nebraska Liquor Control Commission has issued a license as provided in Neb. RS 53-186(2), it is unlawful for any person to consume alcoholic liquor upon property owned or controlled by the state or any governmental subdivision thereof unless authorized by the governing bodies having jurisdiction over such property. (Neb. RS 53-186)

B. It is unlawful for any person owning, operating, managing, or conducting any dance hall, restaurant, café, or club to permit or allow any person to consume alcoholic liquor upon the premises except as permitted by a license issued for such premises pursuant to the Nebraska Liquor Control Act. It is unlawful for any person to consume alcoholic liquor in any dance hall, restaurant, café, or club except as permitted by a license issued for such premises pursuant to the Act. This division does not apply to a retail licensee while lawfully engaged in the catering of alcoholic beverages. (Neb. RS 53-186.01)

§10-104 REMOVAL OF INTOXICATED PERSONS FROM PUBLIC OR QUASI-PUBLIC PROPERTY.

A. Any law enforcement officer with the power to arrest for traffic violations may take a person who is intoxicated and in the judgment of the officer dangerous to himself, herself, or others, or who is otherwise incapacitated, from any public or quasi-public property. An officer removing an intoxicated person from public or quasi-public property shall make a reasonable effort to take the intoxicated person to his or her home or to place the person in any hospital, clinic, alcoholism center, or with a medical doctor as may be necessary to preserve life or to prevent injury. The effort at placement shall be deemed reasonable if the officer contacts such facilities or doctor which have previously represented a willingness to accept and treat such individuals and which regularly do accept such individuals. If these efforts are unsuccessful or are not feasible, the officer may then place

the intoxicated person in civil protective custody, except that civil protective custody shall be used only as long as is necessary to preserve life or to prevent injury, and under no circumstances longer than 24 hours.

B. The placement of the person in civil protective custody shall be recorded at the facility or jail at which he or she is delivered and communicated to his or her family or next of kin, if they can be located, or to the person designated by the person taken into civil protective custody.

C. The law enforcement officer who acts in compliance with this section shall be deemed to be acting in the course of his or her official duty and shall not be criminally or civilly liable for these actions.

D. The taking of an individual into civil protective custody under this section shall not be considered an arrest. No entry or other record shall be made to indicate that the person has been arrested or charged with a crime.

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

**PUBLIC PROPERTY.** Any public right-of-way, street, highway, alley, park, or other state, county, or city-owned property.

**QUASI-PUBLIC PROPERTY.** Private or publicly owned property utilized for proprietary or business uses which invites patronage by the public or which invites public ingress and egress. (Neb. RS 53-1,121)

#### §10-105 MANUFACTURE, SALE, DELIVERY, AND POSSESSION; GENERAL PROHIBITIONS; EXCEPTIONS.

A. No person shall manufacture, bottle, blend, sell, barter, transport, deliver, furnish, or possess any alcoholic liquor for beverage purposes except as specifically provided in this chapter and the Nebraska Liquor Control Act.

B. Nothing in this chapter shall prevent:

1. The possession of alcoholic liquor legally obtained as provided in this chapter or the Act for the personal use of the possessor and his or her family or guests;

2. The making of wine, cider, or other alcoholic liquor by a person from fruits, vegetables, or grains, or the product thereof, by simple fermentation and without distillation, if made solely for the use of the maker and his or her family and guests;

3. Any duly licensed practicing physician or dentist from possessing or using alcoholic liquor in the strict practice of his or her profession, any hospital or other institution caring for the sick and diseased persons from possessing and using alcoholic liquor for the treatment of bona fide patients of that hospital or other institution, or any drug store employing a licensed pharmacist from possessing or using alcoholic liquor in the compounding of prescriptions of licensed physicians;

4. The possession and dispensation of alcoholic liquor by an authorized representative of any religion on the premises of a place of worship, for the purpose of conducting any bona fide religious rite, ritual, or ceremony;

5. Persons who are 16 years old or older from carrying alcoholic liquor from licensed establishments when they are accompanied by a person not a minor;

6. Persons who are 16 years old or older from handling alcoholic liquor



containers and alcoholic liquor in the course of their employment;

7. Persons who are 16 years old or older from removing and disposing of alcoholic liquor containers for the convenience of the employer and customers in the course of their employment; or

8. Persons who are 19 years old or older from serving or selling alcoholic liquor in the course of their employment. (Neb. RS 53-168.06)

#### §10-106 ACQUISITION AND POSSESSION; RESTRICTIONS.

A. It shall be unlawful for any person to purchase, receive, acquire, accept, or possess any alcoholic liquor acquired from any other person other than one duly licensed to handle alcoholic liquor under this chapter and the Nebraska Liquor Control Act unless within specific exemptions or exceptions provided in this chapter or the Act. (Neb. RS 53-175)

B. It shall be unlawful for any person to transport, import, bring, ship, or cause to be transported, imported, brought, or shipped into this state for the personal use of the possessor, his or her family, or guests a quantity of alcoholic liquor in excess of 9 liters in any 1 calendar month. (Neb. RS 53-194.03)

#### §10-107 LICENSES; CITY POWERS AND DUTIES.

A. The City Council is authorized to regulate by ordinance, not inconsistent with the Nebraska Liquor Control Act, the business of all retail or craft brewery licensees carried on within the corporate limits of the city. (Neb. RS 53-134.03)

B. During the period of 45 days after the date of receiving from the Nebraska Liquor Control Commission notice and a copy of an application for a new license to sell alcoholic liquor at retail or a craft brewery license, the City Council may make and submit to the Commission recommendations relative to the granting or refusal to grant the license to the applicant. (Neb. RS 53-131)

C. The City Council, with respect to licenses within the corporate limits of the city, has the following powers, functions, and duties with respect to retail and craft brewery licenses:

1. To cancel or revoke for cause retail or craft brewery licenses to sell or dispense alcoholic liquor issued to persons for premises within its jurisdiction, subject to the right of appeal to the Nebraska Liquor Control Commission;

2. To enter or to authorize any law enforcement officer to enter at any time upon any premises licensed under the Nebraska Liquor Control Act to determine whether any provision of the Act, any rule or regulation adopted and promulgated pursuant to the Act, or any ordinance, resolution, rule, or regulation adopted by the City Council has been or is being violated, and at that time examine the premises of the licensee in connection with such determination;

3. To receive a signed complaint from any citizen within its jurisdiction that any provision of the Act, any rule or regulation adopted and promulgated pursuant to the Act, or any ordinance, resolution, rule, or regulation relating to alcoholic liquor has been or is being violated and to act upon these complaints in the manner provided in the Act;

4. To receive retail license fees and craft brewery license fees as provided in

Neb. RS 53-124 and pay the same, after the license has been delivered to the applicant, to the City Treasurer;

5. To examine or cause to be examined any applicant or any retail licensee or craft brewery licensee upon whom notice of cancellation or revocation has been served as provided in the Act, to examine or cause to be examined the books and records of any applicant or licensee, and to hear testimony and to take proof for its information in the performance of its duties. For purposes of obtaining any of the information desired, the City Council may authorize its agent or attorney to act on its behalf;

6. To cancel or revoke on its own motion any license if, upon the same notice and hearing as provided in §10-116, it determines that the licensee has violated any of the provisions of the Nebraska Liquor Control Act or any valid and subsisting ordinance, resolution, rule, or regulation duly enacted, adopted, and promulgated relating to alcoholic liquor. The order of cancellation or revocation may be appealed to the Commission within 30 days after the date of the order by filing a notice of appeal with the Commission. The Commission shall handle the appeal in the manner provided for hearing on an application in Neb. RS 53-133; and

7. Upon receipt from the Commission of the notice and copy of application as provided in Neb. RS 53-131, to fix a time and place for a hearing at which the City Council shall receive evidence, either orally or by affidavit from the applicant and any other person, bearing upon the propriety of the issuance of a license. Notice of the time and place of the hearing shall be published in a legal newspaper in or of general circulation in the City, one time not less than 7 and not more than 14 days before the time of the hearing. The notice shall include, but not be limited to, a statement that all persons desiring to give evidence before the City Council in support of or in protest against the issuance of the license may do so at the time of the hearing. The hearing shall be held not more than 45 days after the date of receipt of the notice from the Commission, and after the hearing the City Council shall cause to be recorded in the minute record of its proceedings a resolution recommending either issuance or refusal of the license. The City Clerk shall mail to the Commission by first class mail, postage prepaid, a copy of the resolution which shall state the cost of the published notice, except that failure to comply with this provision shall not void any license issued by the Commission. If the Commission refuses to issue such a license, the cost of publication of notice shall be paid by the Commission from the security for costs. (Neb. RS 53-134)

D. 1. When the Nebraska Liquor Control Commission mails or delivers to the City Clerk a retail or craft brewery license issued or renewed by the Commission, the Clerk shall deliver the license to the licensee upon receipt from the licensee of proof of payment of:

- (a) The license fee if by the terms of Neb. RS 53-124(5) the fee is payable to the City Treasurer;
- (b) Any fee for publication of notice of hearing before the City Council upon the application for the license;
- (c) The fee for publication of notice of renewal, if applicable, as provided in Neb. RS 53-135.01; and
- (d) Occupation taxes, if any, imposed by the City.

2. Notwithstanding any ordinance or charter power to the contrary, the City shall not impose an occupation tax on the business of any person, firm, or corporation

licensed under the Nebraska Liquor Control Act and doing business within the corporate limits of the city in any sum which exceeds 2 times the amount of the license fee required to be paid under the Act to obtain that license. (Neb. RS 53-132)

#### §10-108 LIQUOR APPLICATIONS: RETAIL LICENSING STANDARDS: BINDING RECOMMENDATIONS.

Local governing bodies shall only have authority to approve applications and deny licenses pursuant to the Nebraska Liquor Control Act. The Governing Body shall only consider the following licensing standards and criteria at the hearing and an evaluation of any applicant for a retail alcoholic liquor, for the upgrading of a license to sell alcoholic liquor, or for the expansion of change in location of the premises, and for the purpose of formulating a recommendation from the Governing Body to the Nebraska Liquor Control Commission in accordance with the Nebraska Liquor Control Act:

- a. The adequacy of existing law enforcement resources and services in the area;
- b. The recommendation of the Police Department or any other law enforcement agency;
- c. Existing motor vehicle pedestrian traffic flow in the vicinity of the proposed licensed premises, potential traffic and parking problems, and the proximity and availability of on-street parking;
- d. Zoning restrictions and the local governing body's zoning and land-use policies;
- f. The existence of a citizen's protest and similar evidence in support of or in opposition to the application;
- g. The existing population and projected growth within the jurisdiction of the local governing body and within the area to be served;
- h. The existing liquor licenses, the class of each such licenses, and the distance and times of travel between establishments that issued such licenses;
- i. Whether the proposed license would be compatible with the neighborhood or community where the proposed premises are located;
- j. Whether the type of business or activity proposed to be operated or presently operated in conjunction with the proposed license is and will be consistent with the public interest as declared in section 53-101.01.
- k. Whether the applicant can ensure that all alcoholic beverages, including beer and wine, will be handled by persons in accordance with section 53-102;
- l. Whether the applicant has taken every precaution to protect against the possibility of shoplifting of alcoholic liquor, which alcoholic liquor shall be displayed and kept in and sold from an area which is reasonably secured;
- m. Whether the applicant is fit, willing and able to properly provide the service proposed in conformance with all provisions and requirements of and rules and regulations adopted and promulgated pursuant to the act;
- n. Whether the applicant has demonstrated that the type of management and control exercised over the licensed premises will be sufficient to ensure that the licensee can conform to all the provisions and requirements of and rules and regulations adopted and promulgated pursuant to the act;
- o. The background information of the applicant established by information contained

in the public records of the Commission and investigations conducted by law enforcement agencies;

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

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

r. Proximity of the impact on schools, hospitals, libraries, parks and public institutions;

s. Whether activities proposed to be conducted on the licensed premises or in adjacent related outdoor areas will create unreasonable noise or disturbance; and

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

It shall be the applicant's duty to produce evidence pertaining to the designated criteria prescribed in this subsection. The burden of proof and persuasion shall be on the party filing the application. When applicable for purposes of this section, "applicant" shall be synonymous with "licensee." (Ref, 53-154 RS Neb.) (Ord. No. 760, 10/06/86) (Amended by Ord. No. 90-824, 4/16/90)

#### §10-109 LICENSED PREMISES; INSPECTIONS.

The City Council may cause inspection to be made on the premises of all retail licensees. If it is found that any such licensee is violating any provision of this chapter, the Nebraska Liquor Control Act, or the rules and regulations of the Nebraska Liquor Control Commission, or is failing to observe in good faith the purposes of this chapter or the Act, the license may be suspended, canceled, or revoked after the licensee is given an opportunity to be heard in his or her defense. (Neb. RS 53-116.01)

#### §10-110 LICENSE RENEWAL; CITY POWERS AND DUTIES.

A. A retail license issued by the Nebraska Liquor Control Commission and outstanding may be automatically renewed by the Commission in the absence of a written request by the City Council to require the licensee to submit an application for renewal. Any licensed retail premises located in an area which is annexed to the city shall file a formal application for a

license, and while the application is pending, the licensee may continue all license privileges until the original license expires or is canceled or revoked. If that license expires within 60 days following the annexation date of the area, the license may be renewed by order of the Commission for not more than one year. (Neb. RS 53-135)

B. The City Clerk shall cause to be published in a legal newspaper in or of general circulation in the city, one time between January 10 and January 30 of each year, individual notice in the form prescribed by law of the right of automatic renewal of each retail liquor and beer license within the city, except that notice of the right of automatic renewal of Class C licenses shall be published between the dates of July 10 and July 30 of each year. If written protests to the issuance of automatic renewal of a license are filed in the office of the City Clerk by three or more residents of the City on or before February 10, or August 10 for Class C licenses, the City Council shall hold a hearing to determine whether continuation of the license should be allowed. Upon the conclusion of any hearing required by this section, the City Council may request a licensee to submit an application as provided in Neb. RS 53-135. (Neb. RS 53-135.01)

#### §10-111 CATERING LICENSES.

A. The holder of a license to sell alcoholic liquor at retail issued under Neb. RS 53-124(5) or a craft brewery license may obtain an annual catering license by filing an application and license fee with the Nebraska Liquor Control Commission.

B. Upon receipt from the Commission of the notice and a copy of the application as provided in Neb. RS 53-124.12, the City Council shall process the application in the same manner as provided in §10-107.

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

D. The City Council may impose an occupation tax on the business of a catering licensee doing business within the liquor license jurisdiction of the City Council. The tax may not exceed double the license fee for a catering license. (Neb. RS 53-124.12)

#### §10-112 DISPLAY OF LICENSE.

Every licensee under the Nebraska Liquor Control Act shall cause his or her license to be framed and hung in plain view in a conspicuous place on the licensed premises. (Neb. RS 53-148)

#### §10-113 OWNER OF PREMISES OR AGENT; LIABILITY.

If the owner of the licensed premises or any person from whom the licensee derives the right to possession of the premises, or the agent of that owner or person, knowingly permits the licensee to use the licensed premises in violation of the terms of the Nebraska Liquor Control Act or any city ordinance, that owner, agent, or other person shall be deemed guilty of a violation of the Act or ordinance to the same extent as the licensee and be subject

to the same punishment. (Neb. RS 53-1,101)

#### §10-114 LICENSEE; LIABILITY FOR ACTS OF OFFICER, AGENT, OR EMPLOYEE.

Every act or omission of whatsoever nature constituting a violation of any of the provisions of the Nebraska Liquor Control Act or any city ordinance by any officer, director, manager, or other agent or employee of any licensee, if the 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 the employer or licensee, and the employer or licensee shall be punishable in the same manner as if the act or omission had been done or omitted by the licensee personally. (Neb. RS 53-1,102)

#### §10-115 CITIZEN COMPLAINTS.

Any five residents of the city shall have the right to file a complaint with the City Council stating that any retail licensee subject to the jurisdiction of the City Council has been or is violating any provision of the Nebraska Liquor Control Act or the rules or regulations issued pursuant to the Act. The complaint shall be in writing in the form prescribed by the City Council and shall be signed and sworn to by the parties complaining. The complaint shall state the particular provision, rule, or regulation believed to have been violated and the facts in detail upon which belief is based. If the City Council is satisfied that the complaint substantially charges a violation and that from the facts alleged there is reasonable cause for that belief, it shall set the matter for hearing within 10 days from the date of the filing of the complaint and shall serve notice upon the licensee of the time and place of the hearing and of the particular charge in the complaint. The complaint shall in all cases be disposed of by the City Council within 30 days from the date the complaint was filed by resolution thereof, which resolution shall be deemed the final order for purposes of appeal to the Nebraska Liquor Control Commission as provided in Neb. RS 53-1,115. (Neb. RS 53-134.04)

#### §10-116 LOCATION.

It shall be unlawful for any person to own, maintain, manage, or hold open to the public any establishment for the purpose of selling at retail any alcoholic liquor within 150 feet of any church, school, hospital, or home for aged or indigent persons or for veterans, their wives or children. This prohibition shall not apply to any location within that distance when the establishment has been licensed by the Nebraska Liquor Control Commission at least two continuous years and to hotels offering restaurant service, regularly organized clubs, or to restaurants, food shops, or other places where the selling of alcoholic liquors is not the principal business carried on, if the place of business was established for those purposes prior to May 24, 1935. No alcoholic liquor, other than beer, shall be sold for consumption on the premises within 300 feet from the campus of any college or university within the City. (Neb. RS 53-177)

#### §10-117 ACCESS TO DWELLINGS.

Except in the case of hotels and clubs, no alcoholic liquor shall be sold at retail upon any premises which have any access which leads from the premises to any other portion of the same building or structure used for dwelling or lodging purposes, and which is permitted to be used or kept accessible for use by the public. This provision shall not prevent any connection between the premises and such other portion of the building or structure which is used only by the licensee, his or her family, or personal guests. (Neb. RS 53-178)

§10-118 SANITARY CONDITIONS.

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

§10-119 HOURS OF SALE.

A. For the purposes of this section, "on sale" shall be defined as alcoholic beverages sold at retail by the drink for consumption on the premises of the licensed establishment. "Off sale" shall be defined as alcoholic beverages sold at retail in the original container for consumption off the premises of the licensed establishment.

HOURS OF SALE  
ALCOHOLIC BEVERAGES (EXCEPT BEER & WINE)

Secular days	Off sale	6:00 a.m. to 2:00 a.m.
Secular days	On sale	6:00 a.m. to 2:00 a.m.
Sundays	Off sale	12:00 noon to 2:00 a.m.
Sundays	On sale	12:00 noon to 2:00 a.m.

BEER & WINE

Secular days	Off sale	6:00 a.m. to 2:00 a.m.
Secular days	On sale	6:00 a.m. to 2:00 a.m.
Sundays	Off sale	6:00 a.m. to 2:00 a.m.
Sundays	On sale	6:00 a.m. to 2:00 a.m.

B. No person or persons shall consume any alcoholic beverages on licensed premises for a period of time longer than fifteen (15) minutes after the time fixed herein for stopping

the sale of alcoholic beverages on the said premises.

C. 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 2:15 a.m. and 6:00 a.m. on any day. If the City Council provides by ordinance for an earlier closing hour, the provisions of this division (C) shall become effective 15 minutes after such closing hour instead of 2:15 a.m.

D. Nothing in this section shall prohibit licensed premises from being open for other business on days and hours during which the sale or dispensing of alcoholic liquor is prohibited by this section. (Neb. RS 53-179) (Amended September 2018)

#### §10-120 MINOR; PROHIBITED ACTS; EXCEPTION.

Except as provided in Section 53-168.06, no minor may sell, dispense, consume, or have in his or her possession of physical control any alcoholic liquor in any tavern or in any other place, including public streets, alleys, roads, or highways, upon property owned by the State of Nebraska or any subdivision thereof, or inside any vehicle while in or on any other place including, but not limited to, the public streets, alleys, roads, or highways, or upon property owned by the State of Nebraska or any subdivision thereof, except that a minor may consume, possess, or have physical control of alcoholic liquor in his or her permanent place of residence or on the premises of a place of religious worship on which premises alcoholic liquor is consumed as a part of a religious rite, ritual or ceremony.

#### §10-121 CREDIT SALES PROHIBITED.

No person shall sell or furnish alcoholic liquor at retail to any person on credit of any kind, barter, or services rendered, provided that nothing herein contained shall be construed to prevent any club holding a Class C license from permitting checks or statements for alcoholic liquor to be signed by members, or guests of members, and charged to the accounts of those members or guests in accordance with the bylaws of the club, and provided further that nothing in this section shall prevent any hotel or restaurant holding a retail license from permitting checks or statements for liquor to be signed by regular guests residing in the hotel or eating at the restaurant and charged to the accounts of those guests. (Neb. RS 53-183)

#### §10-122 SPIKING BEER PROHIBITED.

It shall be unlawful for any person or for any licensee to sell or offer for sale in this City any beer to which there has been added any alcohol or to permit any person to add alcohol to any beer on the licensed premises of that person or licensee. (Neb. RS 53-174)

#### §10-123 ORIGINAL PACKAGE REQUIRED.

No person, except a manufacturer or wholesaler, shall fill or refill, in whole or in part, any original package of alcoholic liquor with the same or any other kind or quality of alcoholic liquor. It shall be unlawful for any person to have in his or her possession for sale at retail any bottles, casks, or other containers containing alcoholic liquor except in original



packages. Nothing in this section shall prohibit the refilling of original packages of alcoholic liquor for strictly private use and not for resale. (Neb. RS 53-184)

#### §10-124 KEG SALES; REQUIREMENTS; PROHIBITED ACTS.

A. When any person licensed to sell alcoholic liquor at retail sells beer for consumption off the premises in a container with a liquid capacity of five or more gallons or 18.92 or more liters, the seller shall record the date of the sale, the keg identification number, the purchaser's name and address, and the number of the purchaser's motor vehicle operator's license, state identification card, or military identification, if the military identification contains a picture of the purchaser, together with the purchaser's signature. This record shall be on a form prescribed by the Nebraska Liquor Control Commission and shall be kept by the licensee at the retail establishment where the purchase was made for not less than six months. The records kept pursuant to this section shall be available for inspection by any law enforcement officer during normal business hours or at any other reasonable time. Any person violating this section shall be guilty of an offense. (Neb. RS 53-167.02)

B. Any person who unlawfully tampers with, alters, or removes the keg identification number from a beer container after the container has been taken from the licensed premises pursuant to a retail sale and before its return to the licensed premises or other place where returned kegs are accepted shall be guilty of an offense. (Neb. RS 53-167.03)

### Article 2. Peddlers, Hawkers and Solicitors

#### § 10-201 PEDDLERS; PERMIT REQUIRED.

It shall be unlawful for any person to engage in business as a peddler as hereinafter defined within the corporate limits of the City of Tecumseh without first having obtained a permit therefor from the City of Tecumseh as herein provided. (November 4, 2013)

#### § 10-202 DEFINITIONS.

Peddler, for purposes of 10-201, shall be any person who engages in requesting orders for the immediate or future delivery of goods, merchandise or services when such request is from house to house, dwelling to dwelling, residence to residence, or store to store. Peddler shall also include a person who had been given permission by the Mayor and City Council pursuant to § 8-113 to peddle on public streets and public parking lots in the City. In addition, a Peddler shall be any person requesting orders for immediate or future delivery of goods, merchandise or services from any building, structure or private property in the City when such person does not have a permanent place of business within the City.

A peddler, for purposes of 10-201, shall not include any person calling on any retail merchants in the City for the purpose of taking orders or selling of merchandise for resale by

said merchants. A peddler, for the purpose of 10-201, also shall not include a residential route salesperson who calls on individuals that have requested the sales person to call on the individual.

#### § 10-203 APPLICATION.

Applications for permits under this chapter shall be filed with the City Clerk on a form to be furnished by the City Clerk which shall give the following information:

- a) Name, age and description of the applicant;
- b) Address of the Applicant;
- c) Brief description of the nature of the business and the goods to be sold or services to be provided;
- d) If employed, the name and address of the employer, together with documents verifying such employment;
- e) If a vehicle is to be used, description of the same, together with the license number;
- f) Two photographs of the applicant, taken within sixty days immediately prior to the date of the filing of the application, such pictures shall be no smaller than two inches by two inches nor larger than four inches by four inches showing the head and shoulders of the applicant in a clear and distinguishing manner;
- g) A statement as to whether or not the applicant has been convicted in the last 10 years of felony or a crime of moral turpitude;
- h) A criminal background check from the Nebraska State Patrol dated within 6 months of the date of this Application. An online check from the State Patrol is acceptable. [www.statepatrol.nebraska.gov](http://www.statepatrol.nebraska.gov)
- i) At the time of filing the application, a non-refundable permit fee of twenty-five dollars (\$25) shall be paid to the City Clerk.

At the time of application, the Applicant shall also present a valid driver's license, government ID, or other acceptable form of identification. (Amended September 8, 2014)

#### § 10-204 INVESTIGATION AND ISSUANCE.

Upon receipt of an application as described in Section 10-203, the City Clerk shall cause an investigation of the statements contained within the application to be made to determine if the same be true and correct.

If, as a result of such investigation, the City Clerk finds that the statements within the application are materially untrue or incorrect, or if it is found that the applicant has been convicted within the past ten years of a felony or a crime involving moral turpitude, the City Clerk shall disapprove such application in writing and provide the reasons for the same. The City Clerk shall notify the applicant that the application is disapproved and that no permit will be issued.

If, as a result of such investigation, the statements contained in the application are

found to be true and correct, and the applicant has not been convicted within the past ten years of any felony or any crime involving moral turpitude, the City Clerk shall approve the application in writing, and shall issue the permit.

The permit shall contain the signature and seal of the City Clerk and shall show the name and address of the permittee and the kind of goods to be sold thereunder, or services to be furnished or performed, the date of issuance, and the length of time the same shall be operative. The City Clerk shall keep a permanent record of all permits issued. (Amended September 8, 2014)

#### § 10-205 QUALIFICATIONS OF APPLICANT.

No permit shall be issued to any person:

- a) who has been convicted of a felony or a crime involving moral turpitude within the ten years immediately preceding the date of the filing of such application with the City Clerk;
- b) who is under the age of sixteen years unless the applicant first obtains an employment certificate as required by state law; or
- c) whose permit has been revoked pursuant to Section § 10-211.

#### § 10-206 TRANSFER.

Permits issued under this chapter shall be nontransferable and no such permit shall be used at any time by any person other than the one to whom it was issued.

#### § 10-207 DUTY OF LAW ENFORCEMENT TO ENFORCE; RECORDS.

It shall be the duty of law enforcement officers to enforce the provisions of this chapter against any person found to be violating the same.

#### § 10-208 PEDDLING; HOURS RESTRICTED.

It shall be unlawful to make in-person calls as a peddler to prospective customers before 8:00 a.m. or after 8:00 p.m. on any day of the week, unless requested to do so by the prospective customer.

#### § 10-209 EXHIBITION OF PERMIT.

Peddlers shall exhibit their permit at the request of any law enforcement officer or at the request of the occupant of any house, residence or dwelling which such peddler has approached in search of a prospective customer.

#### § 10-210 EXPIRATION OF PERMIT.

All permits issued under the provisions of this chapter shall expire on the date

specified in the permit, but in no event later than one year after the issuance of the same.

#### § 10-211 REVOCATION OF PERMIT.

Permits issued under the provisions of this chapter may be revoked by the City Clerk of the City of Tecumseh after notice and hearing for any of the following causes:

- a) Fraud, misrepresentation, or false statement contained in the application for the permit;
- b) Fraud, misrepresentation, or false statement made in the course of carrying on the permittee's business as a peddler;
- c) Any violation of this chapter;
- d) Conviction of any felony or crime involving moral turpitude.

Notice of the hearing for revocation of the permit shall be given in writing, setting forth specifically the grounds of complaint and the time and place of hearing before the City Clerk. Such notice shall be mailed, postage repaid, to the permittee at the address listed on his/her application at least eight (8) days prior to the date set for hearing. (Amended September 8, 2014)

#### § 10-212 APPEAL.

Any person aggrieved by the action of the City Clerk in denial of an application for a permit or the City Clerk in the revocation of a permit, shall have the right to appeal to the City Council.

Such appeal shall be taken by filing with the City Clerk, within fourteen days of the denial, a written statement setting forth the grounds for the appeal. The City Clerk shall set a time and place for hearing thereon not less than eight days after the filing of the appeal. Notice of such hearing shall be given to the appellant in the same manner as provided in Section 10-211 of this chapter for notice of hearing of revocation.

The appellant shall be given the opportunity to present any mitigating or extenuating circumstances relating to the disqualifying factor. If the City Council shall find, by clear and convincing evidence, that the disqualifying factor does not constitute a risk to the public and that the appellant is at least sixteen years of age or has obtained an employment certificate, the City Council shall direct the City Clerk to issue a permit. The decision and order of the City Council on such appeal shall be final and conclusive. (Amended September 8, 2014)

#### § 10-213 EXCEPTIONS.

The provisions of this chapter shall not apply to:

- a) Any established society, labor union, church, association, or corporation that is organized and operated exclusively for religious, philanthropic, benevolent, fraternal, or charitable purposes, not operated for pecuniary profit, when no part of the net earnings of which inures to the profit of any person, private

shareholder or individual.

- b) Any school or governmental subdivision or agency.
- c) Any person having an established place of business in the City of Tecumseh or residing within Johnson County, Nebraska, and who is selling their own fruit, vegetables, produce or personal property.

### Article 3. Regulated Businesses

#### §10-301 JUNK YARDS; REGULATION, PERMIT.

It shall be unlawful and deemed a misdemeanor for any person to deposit old iron or junk of any kind or nature, to maintain or operate a junk yard on any lot or property within the corporate limits of the City; provided, the City Council is hereby empowered to issue a permit or license for the operation, owning and maintenance of a junk yard within the City limits of Tecumseh, Nebraska; provided that, the City Council shall before the issuance of any said permit or license determine that the operator or owner of said junk yard shall so operate, own and maintain said junk yard for profit and as a business and not solely for the storage of any old iron or junk of any kind or nature, unless the same is for profit.

The City Council shall also be empowered to revoke said permit or license for good cause shown, after due notice and a hearing before said Council. (Ref. 7-3-1, 7-3-3, Code 1966) (Ord. 662, 1/3/77)

#### §10-302 SLAUGHTERHOUSES; REGULATION, PERMIT.

It shall be unlawful for any person to kill or slaughter any cattle, sheep, hogs or any other animals within the City without first obtaining a permit from the Mayor and City Council duly signed and sealed by the Clerk, provided, all slaughtering, processing and curing shall be located and carried on in a clean and sanitary condition so that no deleterious or offensive odor is emitted therefrom which taints the air or renders it unwholesome or offensive to the smell, and all requirements of the Council and Board of Health shall be complied with. (Ref. 4-9-1, 4-9-3, Code 1966) (Ord. 408, 9/1/48)

### Article 4. Plumbers and Electricians

#### §10-401 PLUMBERS: LICENSE REQUIRED.

No person shall hereafter engage in or work at the business of a plumber in the Municipality until he shall have registered as a plumber. Application for registration shall be made in writing to the Municipal Clerk, showing the name and residence of the applicant, the business location of the applicant, and such other information as may be required.

#### §10-402 PLUMBERS: INSURANCE REQUIRED.

Before any plumbers's license shall be issued by the Municipal Clerk, the applicant shall present to and deposit evidence with the city clerk that he/she has an insurance policy providing public liability and property damage insurance for the general public in the amount of \$1,000,000.00 public liability and \$1,000,000.00 property damage, such coverage shall name the City of Tecumseh as an additional insured, which shall provide liability insurance coverage for all claims arising out of all work done by him or under his supervision in the City of Tecumseh, and shall be executed by an insurance company authorized to do business in the state and acceptable to the city, and providing thirty (30) days' written notice to be given to the city clerk in the event of expiration or of proposed cancellation of the insurance policy. Expiration or cancellation of any insurance coverage required by this section shall constitute an automatic and immediate termination of the permit holder's license 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. (Amended October 1, 2007)

#### §10-403 PLUMBERS: EXPIRATION AND RENEWAL OF REGISTRATION.

Registration Certificates shall expire on the thirtieth (30) day of April each year and shall not be assignable. Certificates of Registration, at the time of their expiration, may be renewed upon payment of the required registration fee. (Ref. 18-1908 RS Neb.)(Amended September 14, 2020)

#### §10-404 PLUMBERS: REVOCATION OF CERTIFICATE OF REGISTRATION.

The Governing Body by a majority vote shall have power to revoke any master plumber's or journeyman plumber's Certificate of Registration, if the same was obtained through error or fraud, or if the recipient thereof is shown to be grossly incompetent, or has a second (2nd) time willfully violated any of the provisions of the Municipal Plumbing Code. If a Certificate of Registration is revoked, the holder of the same shall not apply for registration for one (1) year after such revocation. (Ref. 18-1909 RS Neb.)

#### §10-405 PLUMBERS: UNLAWFUL TRANSFER OF CERTIFICATE.

No registered plumber shall allow his 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 Governing Body shall forthwith revoke the Certificate of Registration issued to such plumber. In addition to having his Certificate of Registration revoked, such plumber may be prosecuted under the violation section of the Municipal Plumbing Code.

#### §10-406 PLUMBERS: FEES.

The Municipal Clerk shall collect all registration and renewal fees as occupation taxes and shall credit the same to the General Fund. The Governing Body shall have the right to

classify plumbers for the purpose of setting registration and renewal fees in such categories as they may in their discretion set. Such categories are hereby declared to be reasonable and non-discriminatory. The actual amounts of the registration and renewal fees shall be found in this Chapter and shall also be on file at the office of the Municipal Clerk. (Ref. 18-1911 RS Neb.)

#### §10-407 PLUMBERS: EXCEPTIONS.

The provisions of this Chapter relating to plumbers shall not apply to any public utility company or companies serving the Municipality and its inhabitants under a franchise agreement with the Municipality, or its agents and employees, and shall not be construed as a limitation or restriction upon any franchises heretofore granted by the Municipality.

#### §10-408 ELECTRICIANS: LICENSE REQUIRED.

No person shall install any electric apparatus within the corporate limits without first having obtained a license to do so as hereinafter provided. In addition, no licensed electrical contractor, master electrician, or journeyman electrician may lend his or her license to any person or knowingly permit the use thereof by another. The Electrical Inspector shall recommend and the Examining Board shall issue licenses to those persons who have been issued a valid and unexpired Electrician's License by the State of Nebraska; Provided, said persons shall have complied with the other terms and conditions precedent to the issuance of licenses as required in this Article. In the event that the applicant holds a license issued by the State of Nebraska, the license required herein shall be in the form of an occupation tax certificate. Application for a license shall be made to the Utilities Superintendent in writing showing the name and residence of the applicant, the business location of the applicant, and such other information as may be required. (Ref. 81-566, 81-579 RS Neb.) (Amended by Ord. No. 742, 10/3/83)

#### §10-409 ELECTRICIANS: INSURANCE REQUIRED.

Before any electrician's license shall be issued by the Municipal Clerk, the applicant shall present to and deposit evidence with the city clerk that he/she has an insurance policy providing public liability and property damage insurance for the general public in the amount of \$1,000,000.00 public liability and \$1,000,000.00 property damage, such coverage shall name the City of Tecumseh as an additional insured, which shall provide liability insurance coverage for all claims arising out of all work done by him or under his supervision in the City of Tecumseh, and shall be executed by an insurance company authorized to do business in the state and acceptable to the city, and providing thirty (30) days' written notice to be given to the city clerk in the event of expiration or of proposed cancellation of the insurance policy. Expiration or cancellation of any insurance coverage required by this section shall constitute an automatic and immediate termination of the permit holder's license 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. (Amended October 1, 2007)

§10-410 ELECTRICIANS: EXPIRATION AND RENEWAL OF CERTIFICATE OF REGISTRATION.

Registration Certificates shall expire on the thirtieth (30) day of April each year and shall not be assignable. Certificates of Registration, at the time of their expiration, may be renewed upon the payment of the required registration fee. (Amended September 14, 2020)

§10-411 ELECTRICIANS: REVOCATION OF CERTIFICATE OF REGISTRATION.

The Governing Body by a majority vote shall have power to revoke any electrician's Certificate of Registration, if the same was obtained through error or fraud, or if the recipient thereof is shown to be grossly incompetent, or has a second (2nd) time willfully violated any of the provisions of the Electrical Code. If a Certificate of Registration is revoked, the holder of the same shall not apply for registration for one (1) year after such revocation.

§10-412 ELECTRICIANS: UNLAWFUL TRANSFER OF CERTIFICATE.

No registered electrician shall allow his 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 Governing Body shall forthwith revoke the Certificate of Registration issued to such electrician. In addition to having his Certificate of Registration revoked, such electrician may be prosecuted under the penalty Section of this Chapter.

§10-413 ELECTRICIAN: FEES.

The Municipal Clerk shall collect all registration and renewal fees as occupation taxes and shall credit the same to the General Fund. The Governing Body shall have the right to classify electricians for the purpose of setting registration and renewal fees in such categories as they may in their discretion set. Such categories are hereby declared to be reasonable and non-discriminatory. The actual amounts of the registration and renewal fees shall be found in this Chapter and shall also be on file at the office of the Municipal Clerk.

§10-414 ELECTRICIANS: EXCEPTIONS.

The provisions of this Chapter relating to electricians shall not apply to any public utility company or companies serving the Municipality and its inhabitants under a franchise agreement with the Municipality, or its agents and employees, and shall not be construed as a limitation or restriction upon any franchises heretofore granted by the Municipality.

Article 5. Railroads

§10-501 RAILROADS; DRAINAGE.

It shall be the duty of any railroad company owning, maintaining or operating a



railroad to construct and keep in repair ditches, drains and culverts along and under its railroad tracks at all places within the corporate limits 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. (Ref. 7-3-1, Code 1966)

#### §10-502 RAILROADS; OBSTRUCTING STREETS.

It shall be unlawful for any said railroad company or its agents or servants to obstruct any street, crossing the tracks of any railroad company, with cars, train or engine for more than ten (10) minutes at any one (1) time. (Ref. 7-3-2, Code 1966)

#### §10-503 RAILROADS: CROSSINGS SAFE.

It shall be the duty of any and all railroads to keep all crossings of the railroad tracks with any public street or alley in a suitable and safe condition for public travel over and across the same. (Ord. 232, 3/13/28) (Ref. 7-3-3, Code 1966)

#### §10-504 RAILROADS: SPEED OF TRAINS.

It shall be unlawful for any railroad to operate any train, engine or motor car at a greater speed than forty (40) miles per hour, within the City limits of the City of Tecumseh, Nebraska. (Ord. 675, 6/6/77; Ref. 7-3-4, Code 1966; Amended February 6, 2006)

### Article 6. Mobile Home Courts and RV Parks

#### §10-601 MOBILE HOME COURTS; RV PARK, DEFINITIONS.

For the purpose of this Article, the following words and phrases shall have the meaning ascribed to them in this Section.

**PERMIT.** The term "permit" shall mean a written permit issued by the City Council permitting a Mobile Home Court or RV Park to operate under this Article and regulations promulgated thereunder.

**MOBILE HOME COURT.** The term "Mobile Home Court" shall mean a contiguous parcel of land under single ownership containing two (2) acres or more, which has been developed for the placement of mobile homes and approved by special permit of the City Council and is owned by an individual, firm, partnership or corporation that has received a permit from the City of Tecumseh, Nebraska.

**RV PARK.** The term "RV Park" means a continuous parcel of land under single ownership containing one (1) acre or more, which has been developed for the placement of Recreational Vehicles, or has less than one (1) acre and has been approved by a conditional use permit issued by the City Council and is owned by an individual, firm, partnership, or corporation that has received a permit from the City of Tecumseh, Nebraska.

**MOBILE HOME.** The term "mobile home" means a movable or portable dwelling constructed to be towed on its own chassis, connected to utilities, and designed with or without a permanent foundation for year-round living. It may consist of one or more units

that can be telescoped when towed and expanded later for additional capacity, or of two or more units, separately towable but designed to be joined into one integral unit.

RECREATIONAL VEHICLE. The term “Recreational Vehicle” (RV) means a vehicular type unit designed as temporary living quarters for recreational, camping, or travel use, which unit either has its own motive power or is mounted on or towed by another vehicle.

TRAVEL TRAILER. The term “Travel Trailer” means a vehicular unit mounted on wheels, designed to provide temporary living quarters for recreational, camping, or travel use of such size or weight as not to require special highway movement permits when towed by a motorized vehicle and of gross trailer area less than four hundred thirty square feet.

TRUCK CAMPER. The term “Truck Camper” means a portable unit constructed to provide temporary living quarters for recreational, travel or camping, use, consisting of a roof, floor, and sides and designed to be loaded onto and unloaded from the bed of a pickup truck.

MOTOR HOME. The term “Motor Home” means a vehicular unit primarily designed to provide temporary living quarters which are built into an integral part of, or permanently attached to, a self-propelled motor vehicle chassis or van, containing permanently installed independent life-support systems that meet that state standard for recreational vehicles and providing at least four of the following facilities: cooking; refrigeration or ice box; self-contained toilet; heating, air conditioning, or both; a potable water supply system including a faucet and sink; separate one-hundred-twenty-nominal-volt electrical power supply; or LP gas supply.

FIFTH-WHEEL TRAILER. The term “Fifth-wheel Trailer” means a unit mounted on wheels, designed to provide temporary living quarters for recreational, camping, or travel use, of such size or weight as not to require a special highway movement permit, of gross trailer area not to exceed four hundred thirty square feet in the setup mode, and designed to be towed by a motorized vehicle that contains a towing mechanism that is mounted above or forward of the tow vehicle’s rear axle. (Amended December 2019)

#### §10-602 RV PARKS AND MOBILE HOME COURTS; PERMIT REQUIRED.

It shall be unlawful for any person to construct, maintain, or operate any RV Park or Mobile Home Court within the limits of the City unless he holds a valid permit issued by the City Clerk in the name of such person for the specific RV Park or Mobile Home Court. Applications for permits shall be made to the City Clerk who shall issue a permit upon compliance by the applicant with provisions of this Article, as evidenced by a certificate of compliance, which certificate shall show compliance with applicable legal requirements. No permit shall be transferable. Every person holding a RV Park or Mobile Home Court permit shall give notice in writing to the City Clerk within seventy-two (72) hours after having sold, transferred, given away, or otherwise disposed of any interest in or control of any RV Park or Mobile Home Court. Such notice shall include the name and address of the person succeeding to the ownership or control of the RV Park or Mobile Home Court.

Presently licensed RV Parks and Mobile Home Courts as of the effective date of this Article may continue their operation. Any additions or alterations to the Mobile Home Courts or RV Parks must fully comply with the requirements of this Article. (Amended December 2019)

§10-603 MOBILE HOME COURTS; REQUIREMENTS, APPLICATIONS, PERMITS AND RENEWALS.

A. Requirements:

1. Mobile Home Courts shall not be less than two acres in area and shall be located in a zoning district that permits a Mobile Home Court.
2. The minimum lot area for a single mobile home shall not be less than 7,500 square feet, excluding road ROW and a width of not less than 70 feet. A mobile home shall be no closer than 8 feet from its own side yard lot line.
3. Set back distances for the Court as a whole shall be the set back distances of the district they are located in.
4. Each Mobile Home lot shall have its own access to potable water, sewer and electricity. In addition, the Mobile Home Court shall provide for garbage service.
5. There shall be at least two off street interior parking spaces surfaced with gravel, asphalt, concrete or brick, for each mobile home lot. The parking spaces shall not be on City right-of-way.
6. Screening of at least 6 feet in height shall be provided between Mobile Home Court and any adjoining residential area.
7. Mobile Home Courts shall have internal access drives which shall be at least 20 feet wide and surfaced with gravel, asphalt, concrete or brick. Entry and exit drives into or out of the Mobile Home Court shall be minimized in number for public safety and shall be paved or asphalted for that portion of the drive that goes over the City street right-of-way.
8. Each Mobile Home shall have a minimum livable floor area of at least 500 square feet.

B. Original Application for Mobile Home Court Permit:

Application for the original Mobile Home Court permit shall be in writing and contain at a minimum, the following:

1. The name, address and phone number of the applicant.
2. The owner's name, address, and phone number of the land where the Mobile Home Court is located.
3. The manager's name, address, and phone number. This person will be the contact person for the City for operational issues with the Mobile Home Court.
4. The street address and legal description of the location where the Mobile Home Court is to be located.
5. The number of acres of the proposed Mobile Home Court.
6. A complete plan and specifications (in triplicate) of the Mobile Home Court showing the following, either existing or proposed:
  - a) Roadways and driveways including the type of surface for each
  - b) Location of each lot, including dimensions
  - c) Location and type of proposed screening, if necessary
  - d) Plan for removal of garbage and location of receptacles

- e) Location of each lot's water, sewer, and electric hookups
- f) Compliance with Zoning District's set back requirements

C. Permits:

Upon receipt of a complete Application, the receipt of the Application fee in the amount of \$100.00 and proof that the Mobile Home Court has complied with the Requirements for a Mobile Home Court, the Mobile Home Court permit shall be issued by the City Clerk. All Mobile Home Court permits shall expire on December 31st of the year in which the permit was issued.

D. Renewals:

All Mobile Home Court permits must be renewed on or before January 31st of the year immediately following the issuance of the permit. Upon payment of the renewal fee of \$50.00, the City Clerk shall issue a receipt to the applicant acknowledging payment of the annual renewal fee.

E. Alterations or Changes:

Should a Mobile Home Court owner wish to make any alterations or changes to the Mobile Home Court that have not previously been approved by the City, the applicant shall submit a new Application to the City reflecting all of the information required in the original Application with the alterations or changes being noted in the Application. The Application with the alterations or changes shall be filed with the City Clerk with the fee for reviewing the alterations or changes of \$50.00. Upon proof that the alterations or changes have been completed, the City Clerk shall issue an updated permit. (Amended December 2019)

§10-604 MOBILE HOMES; WHERE LOCATED.

All mobile homes in the City of Tecumseh, Nebraska, shall be located in a City approved Mobile Home Court. Any mobile homes in the City of Tecumseh, Nebraska not located in a Mobile Home Court on the date of passage of this Code Section are grandfathered and may remain at their location outside of a Mobile Home Court. Upon the removal of a mobile home on a lot located outside of a Mobile Home Court, a mobile home may not be replaced at any location except in a Mobile Home Court. (Amended December 2019)

§10-605 RV PARKS; REQUIREMENTS; APPLICATIONS; PERMITS; AND RENEWALS.

A. Requirements

1. RV Parks shall not be less than one (1) acre in area, unless a conditional use permit is granted by the City allowing a smaller area, and shall be located in a Zoning District that permits an RV Park.
2. The maximum number of RV's shall be 15 per acre. Each RV, Travel Trailer, Truck Camper or Fifth-wheel Trailer, shall be separated from all other RV's, Travel Trailer, Truck Camper or Fifth-wheel Trailer by at least 15 feet on all sides.
3. All RV's, Travel Trailer, Truck Camper or Fifth-wheel Trailer shall set entirely on a concrete pad.
4. Set back distances for the Park as a whole shall be the set back

- distances of the District they are located in.
5. Each pad location shall have its own access to potable water, sewer and electricity and all RV's, Travel Trailers, Truck Campers or Fifth-wheel Trailers must be connected to said utilities. In addition the RV Park shall provide for garbage service. The RV Park owner shall be responsible for the payment of all utilities and garbage services for the Park.
  6. There shall be at least one (1) off-street parking space surfaced with gravel, asphalt, concrete, or brick, for each RV Park lot. These parking spaces shall not be on City right-of-way.
  7. Screening of at least 6 feet in height shall be provided between an RV Park and an adjoining residential area, unless the screening is waived by the adjoining residential owner(s).
  8. RV Park shall have internal access drives which shall be at least 20 feet wide and surfaced with gravel, asphalt, concrete, or brick. Entry and exit drives into or out of the RV Park shall be minimized in number for public safety and shall be paved or asphalted for that portion of the drive that goes over the City right-of-way.
  9. No more than one RV, Travel Trailer, Truck Camper or Fifth-wheel Trailer shall be allowed per site pad. No lean-tos, tents, or other structures shall be erected by the RV, Travel Trailer, Truck Camper or Fifth-wheel Trailer owner. The RV, Travel Trailer, Truck Camper or Fifth-wheel Trailer may use devices such as awnings, which are accessories built into the RV, Travel Trailer, Truck Camper or Fifth-wheel Trailer by the manufacturer or dealer.
  10. Wheels shall remain on all RV's, Travel Trailers, Truck Campers or Fifth-wheel Trailers to allow for quick removal in case of inclement weather. No permanent skirting around an RV, Travel Trailer, Truck Camper or Fifth-wheel Trailer is permitted.

**B. Original Application for RV Park Permit**

Application for the original RV Park permit shall be in writing and contain at a minimum, the following:

1. The name, address and phone number of the applicant.
2. The owner's name, address, and phone number of the land where the RV Park is located.
3. The manager's name, address, and phone number. This person will be the contact person for the City for operational issues with the RV Park.
4. The street address and legal description of the location where the RV Park is to be located.
5. The number of acres of the proposed RV Park.
6. A complete plan and specifications (in triplicate) of the RV Park showing the following, either existing or proposed:
  - a) Roadways and driveways including the type of surface for each
  - b) Location of each lot, including dimensions
  - c) Location and type of proposed screening, if necessary

- d) Plan for removal of garbage and location of receptacles
- e) Location of each lot's water, sewer, and electric hookups
- f) Compliance with Zoning District's set back requirements

C. Permits:

Upon receipt of a complete Application, the receipt of the Application fee in the amount of \$100.00 and proof that the RV Park has complied with the Requirements for a RV Park, the RV Park permit shall be issued by the City Clerk. All RV Park permits shall expire on December 31st of the year in which the permit was issued.

D. Renewals:

All RV Park permits must be renewed on or before the January 31st of the year immediately following the issuance of the permit. Upon payment of the renewal fee of \$50.00, the City Clerk shall issue a receipt to the applicant acknowledging payment of the annual renewal fee.

E. Alterations or Changes:

Should a RV Park owner wish to make any alterations or changes to the RV Park that have not previously been approved by the City, the applicant shall submit a new Application to the City reflecting all of the information required in the original Application with the alterations or changes being noted in the Application. The Application with the alterations or changes shall be filed with the City Clerk with the fee for reviewing the alterations or changes of \$50.00. Upon proof that the alterations or changes have been completed, the City Clerk shall issue an updated permit. (December 2019)

§10-606 RV's; WHERE LOCATED.

All RV's, Travel Trailers, Truck Campers, and Fifth-wheel Trailers being occupied must be located in an RV Park. However, a non-paying guest or owner of the RV, Travel Trailer, Truck Camper or Fifth-wheel Trailer may occupy an RV, Travel Trailer, Truck Camper or Fifth-wheel Trailer located outside of an RV Park for a maximum of four (4) consecutive days one time per calendar year as long as the RV, Travel Trailer, Truck Camper or Fifth-wheel Trailer is legally parked on private property. (December 2019)

Article 7. Franchises

§10-701 FRANCHISE; NATURAL GAS.

The Governing Body has granted to the Black Hills Energy, Inc. the authority to construct, maintain, and operate a gas transmission, and distribution system within the Municipality. Actual details of the agreement, and the present gas rates, charges, and fees are available at the Municipal Clerk's office. (Ref. 17-528.02 RS Neb.)

§10-702 FRANCHISE; TELEVISION.

The Governing Body has granted to the Time Warner Cable, Inc. the authority to maintain and operate community antenna television service in the Municipality. Actual details of the agreement and the charges, rates, and fees are available at the Municipal

Clerk's office.

§10-703 COMMUNITY ANTENNA SERVICE; RATE INCREASES.

Approval of a rate increase for a person or entity furnishing community antenna television service shall be required and shall be made by the City Council which granted the franchise to such person or entity. Such approval shall be made by ordinance or resolution. Prior to voting on a rate increase the City Council shall hold at least two (2) public meetings at which the ratepayers and the franchisee may comment on the programming content and rates of such franchise. At least thirty (30) days prior to the first (1st) meeting held to examine programming content and rates, each ratepayer or subscriber shall be notified by a billing statement or other written notice when and where such public meeting shall be held. Such notice shall also provide information as to what rates are proposed by the franchisee for consideration by the City Council. (Ref. 18-2202, 18-2202 RS Neb.)

Article 8. Occupation Taxes

§10-801 OCCUPATION TAX; AMOUNTS.

For the purpose of raising revenue an occupation tax is hereby levied on the following businesses:

1. Alcoholic Beverages:
    - a. Each retailer of alcoholic liquors for consumption on the premises (sales in original packages only), the sum of . . . . . \$150.00
    - b. Each retailer of alcoholic liquors for consumption off the premise (sales in original packages only), the sum of . . . . . \$ 150.00
    - c. Bottle Clubs, the sum of . . . . . \$300.00
    - d. Consumption of alcoholic liquors on the premises by non-profit corporations, the sum of . . . . . \$ 50.00
    - e. Each retailer of Beer for consumption off premises (sales in original packages only), the sum of. . . . . \$75.00
    - f. Each retailer of Beer for consumption on the premises (sales in original packages only), the sum of . . . . . \$75.00
    - g. Each catering licensee, the sum of . . . . . \$75.00
- (Ref. 4-2-1, Code 1966) (Amended October 3, 2011)

2. Amusements: Amusement concessions of any land conducted by carnival organizations, or similar organizations, the sum of five (\$5.00) dollars per day; Provided, however, that this Section shall in no event be applicable to nonprofit civic organizations which have for their primary purpose the betterment of the City of Tecumseh and its residents.

3. Amusements: Circus, menagerie, or shows staged in the City, the sum of twenty-five (\$25.00) dollars per day, but the provisions of this Sub-section shall not apply to scientific and literary lectures and entertainments, or to concerts and other musical entertainments given exclusively by the Citizens of this City.

4. Amusements: Music, Machines, Pinball Machines or other games operated by the

insertion of a coin in such machines and located in the City in public places, ten (\$10.00) dollars per year for each machine located in each public place.

5. Bowling Alleys: All bowling alleys in the City of Tecumseh, Nebraska the sum of fifty (\$50.00) dollars per year.

6. Cable Service Companies: All Cable Service companies doing business in the City of Tecumseh, Nebraska, a Franchise Fee in an amount equal to 3% of the gross income from monthly service charges to customers. (Amended by Ord. No. 724, 9/3/83)(Amended August 1, 2011)

7. Electricians: All electricians doing business in the City shall pay a fifty (\$50.00) dollar registration/renewal fee yearly.

8. Gas Companies: All persons, firms or corporations distributing gas (either natural or manufactured) and selling the same to the inhabitants of the City of Tecumseh, Nebraska, an amount equal to 3% of the gross revenues derived from Firm General Service customers of the Seller. (Ord. No. 289, 9/6/33) (Amended by Ord. No. 724, 9/3/83)

A. Payment shall be made to the Clerk semiannually before February 28 of each year for the preceding six (6) month period ending December 31 and on or before August 31 of each year for the preceding six (6) month period ending June 30. Any persons subject to the tax imposed by the Ordinance shall file with the Clerk a verified statement covering such tax period. The statement shall show the gross receipts derived from the Firm General Service Customers. The duly authorized representative of the City may, upon request and during business hours, inspect the books and records of any persons subject to the tax imposed by this article for the purpose of verifying such statement or statements filed with the Clerk. Nothing herein shall prohibit said payments from being made on a quarterly or more frequent basis by agreement of the parties. (Amended August 1, 2011)

9. Plumbers: All plumbers doing business in the City shall pay a fifty (\$50.00) dollar registration/renewal fee yearly.

10. Telephone and Telecommunication Companies: Commencing October 1, 2011, there is hereby levied upon every person, firm, partnership, corporation limited liability company or association engaged in the business of offering or providing telecommunication services to the public for hire in the City of Tecumseh, an occupation tax as follows:

A. 3% of the gross receipts resulting from any toll services and charges on basic local exchange services; inter-exchange services; mobile services, and other telecommunication services as follows:

1. Basic local exchange services shall include the access and transmission of two-way switched communications within the city, including local telephone and telecommunication services;

2. Inter-exchange services shall mean the access and transmission of communications between two or more local exchange areas, provided that such inter-exchange service either (a) originates from an end user within the city (b) terminates with an end user within the city and is charged to a service address within the city regardless of where the charges are actually paid;

3. Mobile services shall include any radio or similar communications services provided pursuant to license or authority granted by the Federal Communications Commission, charged to a service address within the city regardless of where the charges are actually paid, including cellular, radio



paging, and mobile radio services; and

4. Any other similar telecommunication services involving any electronic or electromagnetic transmission of messages originating and terminating in the State of Nebraska and charged to a service address in the City of Tecumseh, regardless of where the charges are actually paid.

B. Gross receipts shall not include any toll services and charges as follows:

1. For interstate telecommunications between persons in this city and persons outside of this state.

2. For local carrier access charges, transmission facilities and switching services provided to telecommunications companies.

3. From accounts charged to the United States Government or any of its departments, of the State of Nebraska, or any of its agencies, subdivisions or departments.

C. Taxation for Internet usage shall be excepted as contained in the Internet Tax Freedom Act 47 U.S.C. § 151.

D. Payment shall be made to the Clerk semiannually before February 28 of each year for the preceding six (6) month period ending December 31 and on or before August 31 of each year for the preceding six (6) month period ending June 30. Any persons subject to the tax imposed by the Ordinance shall file with the Clerk a verified statement covering such tax period. The statement shall show the gross receipts derived from the telecommunications services as defined herein. The duly authorized representative of the City may, upon request and during business hours, inspect the books and records of any persons subject to the tax imposed by this article for the purpose of verifying such statement or statements filed with the Clerk. Nothing herein shall prohibit said payments from being made on a quarterly or more frequent basis by agreement of the parties. (Amended August 1, 2011) (Amended November 4, 2013)

#### § 10-802 OCCUPATION TAX: COLLECTION DATE.

Except as otherwise provided in § 10-801 Tecumseh Municipal Code, all occupation taxes shall be due, and payable on the first (1st) day of May of each year, except in the event that the said tax is levied daily, and upon the payment thereof by any person or persons to the Municipal Clerk, the said Clerk shall give a receipt, properly dated, and specifying the person paying the said tax, and the amount paid; Provided, occupation taxes collected from Class C liquor licensees shall be due and payable on the first (1st) day of November. The revenue collected shall then be immediately deposited into the General Fund by the Municipal Treasurer. The Municipal Treasurer shall keep an accurate account of all revenue turned over to him. All forms, and receipts herein mentioned shall be issued in duplicate. One (1) copy shall then be kept by each party in the transaction. (Amended August 1, 2011)

#### §10-803 OCCUPATION TAX: CERTIFICATES.

The receipt issued after the payment of any occupation tax shall be the Occupation Tax Certificate. The said certificate shall specify the amount of the tax and the name of the person, and business that paid the said tax. The Occupation Tax Certificate shall then be

displayed in a prominent place, or carried in such a way as to be easily accessible, while business is being conducted.

#### §10-804 OCCUPATION TAX: FAILURE TO PAY.

If any person, company, or corporation fails, or neglects to pay the occupation taxes as provided herein on the day it becomes due and payable, the Municipality shall then proceed by civil suit to collect the amount due. All delinquent taxes shall bear interest at the rate of one per cent (1%) per month until paid.

### Article 9. Lottery

#### §10-901 LOTTERY; PARTICIPATION; RESTRICTIONS.

No person under nineteen (19) years of age shall play or participate in any way in the lottery established and conducted by the Governing Body.

Nothing shall prohibit (a) any member of the Governing Body, a municipal official, or the immediate family of such member or official; (b) the lottery operator whom the Governing Body contracts to conduct its lottery or his or her immediate family, employees, or agents; or (c) any person having an ownership interest in a sales outlet location or any employee thereof, from playing in the lottery established and conducted by the Governing Body; provided that such person is nineteen (19) years of age or older.

For purposes of this section, immediate family shall mean a person who is related to the member, official, or operator by blood, marriage, or adoption and resides in the same household of the member, official, or operator; or a person who is claimed by the member, official, operator, or spouse of a member, official, or operator as a dependent for federal income tax purposes. (Ref. 9-646 RS Neb.) (Ord. No. 92-839, 8/3/92)

### Article 10. Penal Provision

#### §10-1001 VIOLATION: PENALTY.

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

Chapter 11  
MUNICIPAL PLANNING

Article 1. Zoning & Subdivisions

§11-101 ZONING & SUBDIVISION REGULATIONS; ADOPTED BY REFERENCE.

The City of Tecumseh, Nebraska previously has adopted a Comprehensive Plan for the City of Tecumseh, Nebraska, and hereby incorporates the separate Zoning and Subdivision Ordinance of the City of Tecumseh, Nebraska, Ordinance No. 01-946, as amended from time to time by the City, as the official Zoning and Subdivision regulations for the City.

A copy of said Ordinance shall be on file in the office of the City Clerk.

Article 2. Floodway and Floodway Fringe Districts

[Editor's Note: Article 2 was amended in its entirety by Ordinance No. 89-798 passed on June 15, 1989]

§11-201 FLOODWAY AND FLOODWAY FRINGE DISTRICTS

SECTION 1.0 STATUTORY AUTHORIZATION, FINDINGS OF FACT AND PURPOSES

1.1 STATUTORY AUTHORIZATION

The Legislature of the State of Nebraska 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 Sections 31-1001 to 31-1022, R.R.S. 1943 (as amended), has further assigned the responsibility to adopt, administer, and enforce floodplain management regulations to the county, city or village with zoning jurisdiction over the flood-prone area. Therefore, the City Council of Tecumseh, Nebraska, ordains as follows:

1.2 FINDINGS OF FACT

1.21 Flood Losses Resulting from Periodic Inundation

The flood hazard areas of Tecumseh, Nebraska, are subject to inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base all of which adversely affect the public health, safety and general welfare.

1.22 General Causes of the Flood Losses

These flood losses are caused by: (1) The cumulative effect of obstructions in floodplains causing increases in flood heights and velocities, (2) 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.

### 1.23 Methods Used to Analyze Flood Hazards

This ordinance uses a reasonable method of analyzing flood hazards which consists of a series of interrelated steps.

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 ordinance. It is representative of large floods which are reasonably characteristic of what can be expected to occur on the particular streams subject to this ordinance. It is in the general order of a flood which could be expected to have a one percent (1%) chance of occurrence in any one year, as delineated on the Federal Insurance Administration's Flood Insurance Study, and illustrative materials dated April 17, 2006, as amended.

B. Calculation of water surface profiles based on a hydraulic engineering analysis of the capacity of the stream channel and over bank areas to convey the base flood.

C. Computation of the floodway required to convey this flood without increasing flood heights more than 1 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.

### 1.3 STATEMENT OF PURPOSE

It is the purpose of this ordinance to promote the public health, safety, and general welfare and to minimize those losses described in Section 1.21 by applying the provisions of this ordinance to:

1.31 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.

1.32 Require that uses vulnerable to floods, including public facilities which serve such uses, be provided with flood protection at the time of initial construction.

1.33 Protect individuals from buying lands which are unsuited for intended purposes because of flood hazard.

1.34 Assure that eligibility is maintained for property owners in the community to purchase flood insurance in the National Flood Insurance Program.

## SECTION 2.0 GENERAL PROVISIONS

## 2.1 LANDS TO WHICH ORDINANCE APPLIES

This ordinance shall apply to all lands within the jurisdiction of the City of Tecumseh, Nebraska, identified on the Flood Insurance Rate Map (FIRM) dated April 17, 2006, as numbered and unnumbered A Zones (including AE, AO and AH Zones) and within the Zoning Districts FW and FF established in Section 4.0 of this ordinance. In all areas covered by this ordinance, no development shall be permitted except upon the issuance of a floodplain permit to develop granted by the City Council or its duly designated representative under such safeguards and restrictions as the City Council or the designated representative 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 5.0, 6.0, and 7.0.

## 2.2 THE ENFORCEMENT OFFICER

The City Clerk of the community is hereby designated as the community's duly designated Enforcement Officer under this Ordinance.

## 2.3 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 his case to the Board of Adjustment and to submit his own technical evidence, if he so desires.

## 2.4 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 ordinance and other applicable regulations.

## 2.5 ABROGATION AND GREATER RESTRICTIONS

It is not intended by this ordinance to repeal, abrogate or impair any existent easements, covenants, or deed restrictions. However, where this ordinance imposes greater restrictions, the provision of this ordinance shall prevail. All other ordinances inconsistent with this ordinance are hereby repealed to the extent of the inconsistency only.

## 2.6 INTERPRETATION

In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the governing body and shall not be deemed a limitation or repeal of any other powers granted by state statutes.

## 2.7 WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. Larger floods may occur on rare occasions, or the flood height may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This ordinance 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 ordinance shall not create liability on the part of Tecumseh, Nebraska, or any officer or employee thereof for any flood damages that may result from reliance on this ordinance or any administrative decision lawfully made thereunder.

## 2.8 SEVERABILITY

If any section, clause, provision or portion of this ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby.

## 2.9 APPEAL

Where a request for a permit to develop or a variance is denied by the City Clerk the applicant may apply for such permit or variance directly to the Board of Adjustment.

## SECTION 3.0 DEVELOPMENT PERMIT

### 3.1 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 12.0.

### 3.2 ADMINISTRATION

A. The City Clerk is hereby appointed to administer and implement the provisions of this ordinance.

B. Duties of the City Clerk shall include, but not be limited to:

1. Review all development permit applications to assure that sites are reasonably safe from flooding and that the permit requirements of this ordinance have been satisfied.

2. Review applications for proposed development to assure that all necessary permits have been obtained from those Federal, State or Local governmental agencies from which prior approval is required.

3. Review all subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, to determine whether such proposals will be reasonably safe from flooding.

4. Notify adjacent communities and the Nebraska Department of Natural Resources prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.

5. Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

6. 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.

7. 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.

8. When floodproofing is utilized for a particular structure, the City Clerk shall be presented certification from a registered professional engineer or architect.

### 3.3 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:

3.31 Identify and describe the development to be covered by the floodplain development permit.

3.32 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.

3.33 Indicate the use or occupancy for which the proposed development is intended.

3.34 Be accompanied by plans and specifications for proposed construction.

3.35 Be signed by the permitted, or his authorized agent who may be required to submit evidence to indicate such authority.

3.36 Give such other information as reasonably may be required by the City Clerk.

## SECTION 4.0 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(s)]. Within these districts all uses not meeting the standards of this ordinance and those standards of the underlying zoning district, shall be prohibited.

## SECTION 5.0 STANDARDS FOR FLOODPLAIN DEVELOPMENT

5.1 No permit for development shall be granted for new construction, substantial improvements and other development(s) including the placement of manufactured homes within all numbered and unnumbered A zones (including AE, AO, and AH zones) unless the conditions of this Section are satisfied.

5.2 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 6.0. 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.

5.3 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 (1) foot at any location as shown on the Flood Insurance Study.

5.4 New construction, subdivision proposals, substantial improvements, prefabricated buildings, placement of manufactured homes and other developments shall require:

5.41 Design or anchorage to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

5.42 New or replacement water supply systems and/or sanitary sewage systems be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, and on-site waste disposal systems be located so as to avoid impairment or contamination.

5.43 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.

5.44 All utility and sanitary facilities be elevated or floodproofed up to the regulatory flood protection elevation.

## 5.5 STORAGE OF MATERIAL AND EQUIPMENT

5.51 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.

5.52 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.

5.6 Subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, be required to assure that (a) all such proposals are consistent



with the need to minimize flood damage, (b) all public utilities and facilities, such as sewer, gas, electrical, and water systems are located, elevated and constructed to minimize or eliminate flood damage, (c) adequate drainage is provided so as to reduce exposure to flood hazards, and (d) proposals for development (including proposals for manufactured home parks and subdivision) of five (5) acres or fifty (50) lots, whichever is lesser, include within such proposals the base flood elevation.

## SECTION 6.0 FLOOD FRINGE OVERLAY DISTRICT - (Including AO and AH Zones)

### 6.1 PERMITTED USES

Any use permitted in Section 7.0 shall be permitted in the Flood Fringe Overlay District. No use shall be permitted in the district unless the standards of Section 5.0 are met.

### 6.2 STANDARDS FOR THE FLOOD FRINGE OVERLAY DISTRICT

6.21 Require new construction or substantial improvements of residential structures to have the lowest floor, including basement, elevated to or above one (1) foot above the base flood elevation.

6.22 Require new construction or substantial improvements of non-residential structures to have the lowest floor, including basement, elevated to or above one (1) 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 City Clerk as set forth in Section 3.2, B(7).

6.23 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.

6.24 Within AH zones adequate drainage paths around structures on slopes shall be required in order to guide floodwaters around and away from proposed structures.

#### 6.25 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 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 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 (1) foot above the base flood elevation; and be securely anchored to an adequately anchored foundation system in accordance with the provisions of Section 6.25A.

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 Section 6.25B be elevated so that either:

1. The lowest floor of the manufactured home is at or above one (1) 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 Section 6.25A.

6.26 Recreational vehicles placed on sites within the special flood hazard areas on the community's official map shall either (i) be on the site for fewer than 180 consecutive days, (ii) be fully licensed and ready for highway use, or (iii) meet the permit requirements and the elevation and anchoring requirements for "manufactured homes" of this ordinance. 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.

6.27 Located within the areas of special flood hazard established in Section 2.1 are areas designated as AO Zones. These areas have special flood hazards associated with base flood depths of 1 to 3 feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate; therefore, the following provisions apply within AO Zones:

A. All new construction and substantial improvements of residential structures shall have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as one (1) foot above the depth number specified in feet on the community's

FIRM (at least two feet if no depth number is specified).

B. All new construction and substantial improvements of non-residential structures shall: (1) Have the lowest floor elevated above the highest adjacent grade at least as high as one (1) foot above the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified), or (2) Together with attendant utility and sanitary facilities be completely floodproofed to or above that level so that any space below that level 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. Such certification shall be provided to the official as set forth in Section 3.2B(7).

C. Adequate drainage paths around structures on slopes shall be required in order to guide floodwaters around and away from proposed structures.

## SECTION 7.0 FLOODWAY OVERLAY DISTRICT

### 7.1 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:

7.11 Agricultural uses such as general farming, pasture, nurseries, forestry.

7.12 Residential uses such as lawns, gardens, parking and play areas.

7.13 Non-residential areas such as loading areas, parking and airport landing strips.

7.14 Public and private recreational uses such as golf courses, archery ranges, picnic grounds, parks, wildlife and nature preserves.

### 7.2 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 5.0 and 6.0. In Zone A unnumbered, obtain, review and reasonably utilize any flood elevation and floodway data available through Federal, State or other sources or Section 5.6(d) of this ordinance, in meeting the standards of this section.

## SECTION 8.0 VARIANCE PROCEDURES

8.1 The Board of Adjustment as established by the City Council shall hear and decide appeals and requests for variances from the requirements of this ordinance.

8.2 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 City Clerk in the enforcement or administration of this ordinance.

8.3 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 Section 19-912, R.R.S. 1943.

8.4 In passing upon such applications, the Board of Adjustment shall consider all technical evaluation, all relevant factors, standards specified in other sections of this ordinance, and:

8.41 The danger that materials may be swept onto other lands to the injury of others;

8.42 The danger to life and property due to flooding or erosion damage;

8.43 The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

8.44 The importance of the services provided by the proposed facility to the community;

8.45 The necessity to the facility of a waterfront location, where applicable;

8.46 The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

8.47 The compatibility of the proposed use with existing and anticipated development;

8.48 The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

8.49 The safety of access to the property in times of flood for ordinary and emergency vehicles;

8.491 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

8.492 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.

## 8.5 CONDITIONS FOR VARIANCES

8.51 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 items (8.52-8.56 below) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.

8.52 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.

8.53 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.

8.54 Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

8.55 Variances shall only be issued upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

8.56 The applicant shall be given a written notice over the signature of a community official that (1) the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25.00 for \$100.00 of insurance coverage and (2) 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 ordinance.

#### SECTION 9.0 NONCONFORMING USE

9.1 A structure or the use of a structure or premises which was lawful before the passage or amendment of the ordinance, but which is not in conformity with the provisions of this ordinance may be continued subject to the following conditions:

9.11 If such use is discontinued for 6 consecutive months, any future use of the, building premises shall conform to this ordinance. The Utility Department shall notify the City Clerk in writing of instances of nonconforming uses where utility services have been discontinued for a period of 6 months.

9.12 Uses or adjuncts thereof that are or become nuisances shall not be entitled to continue as nonconforming uses.

9.2 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 ordinance. 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.

#### SECTION 10.0 PENALTIES FOR VIOLATION

Violation of the provisions of this ordinance 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 ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$500.00, and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense.

Nothing herein contained shall prevent the City Council or other appropriate authority from taking such other lawful action as is necessary to prevent or remedy any violation.

## SECTION 11.0 AMENDMENTS

The regulations, restrictions, and boundaries set forth in this ordinance may from time to time be amended, supplemented, changed, or appealed 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 of Tecumseh, Nebraska. At least 10 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 ordinance are in compliance with the National Flood Insurance Program Regulations as published in Title 44 of the Code of Federal Regulations and the 1983 Nebraska Flood Plain Management Act.

## SECTION 12.0 DEFINITIONS

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application:

"Appeal" means a request for a review of the City Clerk's interpretation of any provision of this ordinance or a request for a variance.

"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 sub grade (below ground level) on all sides.

"Development" means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

"Existing Construction" means (for the purposes of determining rates) structures for which the "start of construction" commenced before the effective date of the FIRM or before January 1, 1975, for FIRM's 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.

"Expansion to an Existing Manufactured Home Park or Subdivision" means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the

construction of streets, and either final site grading or the pouring of concrete pads).

"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" is 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" is 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 definition of "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: (a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; (b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; (c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or (d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either: (1) By an approved state program as determined by the Secretary of the Interior or (2) 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 ordinance.

"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" For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of the floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

"New 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 completed on or after the effective date of floodplain management regulations adopted by a community.

"Overlay District" is a district in which additional requirements act in conjunction with the underlying zoning district(s). 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.

"Recreational Vehicle" means a vehicle which is (i) built on a single chassis; (ii) 400 square feet or less when measured at the largest horizontal projections; (iii) designed to be self-propelled or permanently towable by a light duty truck; and (iv) 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 " is 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 Banier 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 means the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a 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 accession buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not the alteration affects the external dimensions of the building.

"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. This includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term 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 assure 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."

"Variances" is a grant of relief to a person from the requirements of this ordinance which permits constrictions in a manner otherwise prohibited by this ordinance where specific enforcement would result in unnecessary hardship.

"Violation" means a failure of a structure or other development to be fully compliant with the community's floodplain management regulations.

### Article 3. Penal Provisions

#### §11-301 VIOLATION: PENALTY.

Any person, whether as owner, proprietor, or as the agent, attorney, or representative of any owner or proprietor of land who shall plat, or subdivide any tract of land within the corporate limits of the Municipality, or adjoining, and contiguous to the same, except as herein authorized, or who shall sell, transfer, deed or convey, contract, or agree to sell, transfer, or offer for sale any lot, or piece of ground in any addition, or subdivision of three (3) or more parts within said corporate limits, or adjoining, and contiguous thereto, without having first obtained the acceptance, and approval of the plat, or map thereof by the Governing Body, and any person who shall violate, or who shall fail, neglect, or refuse to comply with any of the provisions hereinbefore, as now existing, or as hereafter amended, shall, upon conviction, be fined in any sum not exceeding five hundred (\$500.00) dollars. A new violation shall be deemed to have been committed every twenty-four (24) hours of such failure to comply.

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