

AGENDA
CITY COUNCIL MEETING
May 17, 2016

1. [Approval of Minutes – May 3, 2016](#)
2. [Approval of Claims](#)

The City Council will be hearing public comments on the following agenda items: _____

Anyone desiring to view the Open Meetings Act may do so. The document is available for public inspection and is located on the south wall of the City Council Chambers.

The City Council may go into closed session to discuss certain agenda items to protect the public interest or to prevent the needless injury to the reputation of an individual and if such individual has not requested a public hearing.

3. [Appointment of Phil Monahan as Fire Chief of the Wayne Volunteer Fire Department](#)

Background: The firefighters re-elected Phil for another year, and the City Council is required to act to re-appoint the Fire Chief.

4. [Resolution 2016-39: Accepting Proposal and approving Consulting Services Agreement with C. H. Guernsey & Company for a Feasibility Study of the Replacement of the Existing Power Plant.](#)

Background: We are working with Guernsey under a consulting agreement to evaluate the Southwest Power Pool market for selling our power plant capacity.

One of the options that is available in the market, for a window of time, is the option of installing a replacement power plant with remote start and rapid on-line response under contract with a wind turbine company that would pay for the new plant over twenty years to follow the non-wind periods. We did this in 1996 with NPPD when we bought two more diesel generators and contracted with NPPD to pay for them over 20 years.

Bernie Cevera and Randy Nason from Guernsey will be at the Council meeting to discuss the proposal, the feasibility study, and answer questions.

Recommendation: This is an option that we will need to rule in and pursue further, or rule out. We have no staff recommendation on the study, but we have a couple of observations:

- 1) Do the residents of Wayne expect to always have a power plant? Our existing eight engines and generators are aging, and the availability of parts and trained service people will slowly fade away over time.
- 2) To maintain and operate an eight engine plant requires at least 6 trained staff, because not everyone will be in town at all times. Six trained staff need to be available to run extended periods, as after the tornado, so we can have three on and three off resting.
- 3) One new 18.5 MW natural gas powered engine with remote, rapid start capacity can replace our existing power plant and dramatically reduce the amount of trained operators we need.

4) If the entire Midwest would have a 30-day or extended regional power outage caused by terrorism or more likely government incompetence, natural gas for the new engine may not be available. Our existing diesel powered plant can run with 300,000 gallons of locally stored diesel fuel for up to 30 days with some rationing in case of emergency. There is a cost to holding and maintaining the condition of 300,000 gallons, but that gives us more security and independence than a natural gas pipeline.

5. [Action on “Request for Proposal to Purchase Municipal Electric Generation Nameplate Capacity” — C. H. Guernsey & Company](#)

Background: A second option that we are reviewing with Guernsey is to solicit the Southwest Power Pool market for bids to buy or lease our existing power plant capacity. We would need to have the terms of this RFP professionally prepared to protect ourselves from surprise market requirements that we are not knowledgeable about and that are new developments with the influx of turbine farms.

Recommendation: The recommendation of Lowell Johnson, City Administrator, is to do an RFP into the whole market as a matter of due diligence to see if there are better deals than the Big Rivers’ offer we have in hand.

6. [Adjourn as Mayor and City Council and Reconvene as Board of Equalization](#)

7. [Public Hearing: Assessments for Sanitary Sewer Extension District No 2015-01 and Water Extension District No. 2015-01 \(Southview Addition/Grainland Road\) \(Advertised Time: 5:30 p.m.\)](#)

Background: When a utility extension district is created by the City Council, the property owners in the new district receive 30 days to object to the creation of the district through written notice to the City Clerk. A utility extension district is, by law, a separate legal entity from the City. If more than 50% of the owners of front footage of the properties in the district object, then the district is dissolved. No one objected to the Southview Districts, so the districts were created, and the water and sewer lines were installed under the oversight of City staff and the project engineer. The total construction and engineering costs are then divided by the total front footage of all the properties in the district to be served, and the cost per foot is assessed to the properties to be paid over a period of time.

This public hearing provides the opportunity for the property owners and the public to review and challenge the costs and the fairness of the assessment allocations before they are finalized.

8. [Resolution 2016-40: Approving Assessments in Sanitary Sewer Extension District No. 2015-01 and Water Extension District No. 2015-01 \(Southview Addition/Grainland Road\)](#)

Recommendation: The recommendation of the project engineer is to approve the assessments, as shown in the attachment.

9. [Resolution 2016-41: Approving Assessments in Water Extension District No. 2015-01 \(Southview Addition/Grainland Road\)](#)

Recommendation: The recommendation of the project engineer is to approve the assessments as shown in the attachment.

10. Adjourn as Board of Equalization and Reconvene as Mayor and City Council
11. [Ordinance 2016-7: Annexing Real Estate to the City of Wayne and extending the Corporate Limits in the Northeast Quadrant of the City of Wayne to include said Real Estate \(Second Reading\)](#)
12. [Ordinance 2016-8: Amending the Wayne Municipal Code, Chapter 14 Animals, Article II Dogs, Section 14-52 Barking and Offensive \(Second Reading\)](#)
13. [Ordinance 2016-9: Amending the Wayne Municipal Code, Chapter 14 Animals, Article II Dogs, Section 14-49 Running at Large](#)

Recommendation: The recommendation of Betty McGuire, City Clerk, and Marlen Chinn, Chief of Police, is to approve the changes marked in the attachment to this packet.

14. [Ordinance 2016-10: Amending the Wayne Municipal Code, Chapter 82, Article IV, Section 82-169 Hookup Fee](#)

Recommendation: The recommendation of Betty McGuire, City Clerk, and Lowell Johnson, City Administrator, is to approve the changes marked in the attachment to this packet.

15. [Ordinance 2016-11: Authorizing the Release and Abandonment of the East 7' of the Side Yard Utility Easement Located on Lot 12 and the West 7' of the Side Yard Utility Easement Located on Lot 11, Southview Addition](#)

Background: Nick and Kris Muir are requesting the Council to release and abandon the East 7' and West 7' side yard utility easements of Lots 12 and 11 they are purchasing in the Southview Addition. Their agenda request and map is included in the packet.

16. [Resolution 2016-42: Approving Interlocal Agreement to share law enforcement services between the City of Wayne and the Board of Trustees of the Nebraska State Colleges, d/b/a Wayne State College](#)

Background: This is an annual renewal of our interlocal agreement with the State of Nebraska to provide a certified police presence on campus for selected hours during the spring and fall semesters.

Recommendation: The recommendation of Marlen Chinn, Chief of Police, is to approve the changes marked in the attachment to this packet

17. [Resolution 2016-43: Approving Short Form of Agreement with McLaury Engineering for the Design of the Nebraska Street – 3rd Street to 7th Street Water Main Project – estimated fee of \\$23,500](#)

Background: This water main replacement project will replace 4 more blocks of some of the oldest 4” iron water main in town. This main has been breaking and will be replaced with 8” PVC water main. The estimated construction cost of this project is \$225,000 and will provide the local match for the \$125,000 in CIS grant funds for more demolition and owner-occupied housing rehabilitation program funds in the southeast quadrant of Wayne.

Recommendation: This firm was selected through a performance matrix, and the fee for services was negotiated after the selection.

18. [Resolution 2016-44: Amending the Personnel Manual regarding COBRA Benefit](#)

Background: Our current personnel policy provides for former city employees that elect to purchase COBRA health insurance coverage to receive the benefits of the city’s 80% self-insurance coverage up to \$6,350. This amendment would change our policy to provide the requirements of Federal Law, which only requires the employer to extend the basic COBRA plan coverage and not the additional city funded self-insurance coverage.

Recommendation: The recommendation of Lowell Johnson, City Administrator, is to approve the amendment.

19. [Action on Change Order No. 1 for the “Logan Valley Drive Sewer Extension Project” for a decrease in the amount of \\$1,190.68 to Penro Construction Co., Inc.](#)

Background: This change order adjusts the final construction quantities to be paid.

Recommendation: The recommendation of the Project Engineer is to approve the change order to true up the actual quantities of work completed.

20. [Action on Contractor’s Application for Payment No. 2 \(Final\) for the “Logan Valley Drive Water & Sewer Extension Project” in the amount of \\$8,752.45 to Penro Construction Co., Inc.](#)

Recommendation: This is for work done in accordance with the bid contract and approved for payment by the project engineer.

21. [Action to build an additional concrete wall at the Transfer Station for glass recycling – Wayne Green Team](#)

Background: No one in Nebraska or Iowa is now accepting recycled glass from the garbage companies. The Green Team has made arrangements for Ripple Glass, a Kansas City glass product manufacturer, to pick up recycled glass from the Wayne Transfer Station at no cost to us or to Gill.

Ripple will pick up full semi-trailer loads of glass from the transfer station if we agree to store that quantity of glass on site and to load the truck with a pay loader. The cost of large concrete bunker blocks to erect one wall concrete bunker is about \$1,500.

Recommendation: The recommendation of the Green Team is to try the glass recycling program with city staff and city pay loaders loading the trucks and Gill providing the wall.

22. [Action on “Amendment to Agreement” for additional engineering fees on the “Wayne Aquatic Center Project” — Dave Henke, Project Manager, JEO Consulting Group](#)

Background: Last Fall, I requested additional engineering construction oversight when the contractor said he would be working through the winter. I wanted to assure the temperatures of the rebar, the forms, and the concrete during winter concrete pouring, and I asked for a cap of \$7,500 on the engineering costs. These are part of the costs that will need to be covered by the liquidated damages.

Recommendation: Approve the “Amendment to Agreement.”

23. [Action to Approve Chapter VII - Traffic Code of the new Municipal Code Update](#)

Background: Attached in this packet is an another section of existing city code that city staff has reviewed with our city attorney. They are recommending the proposed changes to make it current and in compliance with changes in State law.

Recommendation: The recommended changes by staff, after attorney review, are shown in the attachment to this packet. This action will send this section to the printer for assembly into a new code book. However, the entire newly revised city code will need to be adopted by city ordinance upon compilation of the entire set of changes. Until that time, our existing code remains in effect.

24. [Action on offer from Jack and Bev Beeson to purchase 8 acres of City owned Railroad Right-of-Way property for \\$2,000 and without payment of \\$1,250 in past-due 2015 cash rent](#)

Background: This one hundred foot wide strip is one of the two last segments of the old Chicago Northwestern Rail Road right-of-way purchased as one parcel by the City of Wayne at the existing land price in the 1970’s. Since that time, other segments have been sold off or traded for value at land market pricing at the time of sale or trade. The property has public access to 858th Road, which is the Wayne/Dixon County line.

Recommendation: The recommendation of Lowell Johnson, City Administrator, is to reject the offer and use the land to provide local opportunities for scouting activities and rustic camping, habitat, pollinator plantings, and nature trail recreation.

25. [Adjourn](#)

APPROVED AS TO FORM AND CONTENT:

Mayor

City Administrator

**MINUTES
CITY COUNCIL MEETING
May 3, 2016**

The Wayne City Council met in regular session at City Hall on Tuesday, May 3, 2016, at 5:30 o'clock P.M. Mayor Ken Chamberlain called the meeting to order with the following in attendance: Councilmembers Cale Giese, Rod Greve, Jon Haase, Jennifer Sievers, Nick Muir, Jason Karsky, Matt Eischeid and Jill Brodersen; City Attorney Amy Miller; City Administrator Lowell Johnson; and City Clerk Betty McGuire.

Notice of the convening meeting was given in advance by advertising in the Wayne Herald on April 21, 2016, and a copy of the meeting notice and agenda were simultaneously given to the Mayor and all members of the City Council. All proceedings hereafter shown were taken while the Council convened in open session.

Councilmember Sievers made a motion, which was seconded by Councilmember Haase, whereas, the Clerk has prepared copies of the Minutes of the meeting of April 19, 2016, and that each Councilmember has had an opportunity to read and study the same, and that the reading of the Minutes be waived and declared approved. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried and the Minutes approved.

The following claims were presented to Council for their approval:

VARIOUS FUNDS: AMERICAN RED CROSS, RE, 20.00; AMERITAS, SE, 2452.32; APPEARA, SE, 228.63; AS CENTRAL SERVICES, SE, 448.00; BLACK HILLS, SE, 576.81; BLUE CROSS BLUE SHIELD, SE, 34676.53; BOMGAARS, SU, 18.76; CITY EMPLOYEE, RE, 286.90; BROOKDALE WAYNE, SU, 300.00; CARROLL DISTRIBUTING, SU, 684.75; CHEMQUEST, SE, 595.00; CITY OF PONCA, RE, 29715.14; CITY OF WAYNE, RE, 100.00; CITY OF WAYNE, RE, 500.00; CITY OF WAYNE, PY, 66511.79; CITY OF WAYNE, RE, 225.00; CITY OF WEST POINT, RE, 43132.94; CITY OF WISNER, RE, 4491.04; COLONIAL RESEARCH, SU, 108.28; COMMUNITY HEALTH, RE, 4.00; DE LAGE LANDEN FINANCIAL, SE, 77.00; DEARBORN NATIONAL LIFE, SE, 137.60; ECHO GROUP, SU, 2841.43; ED. M FELD EQUIPMENT, SU, 81.00; ELECTRONIC SYSTEMS, SE, 106.00; ELLIS HOME SERVICES, SE, 130.00; FASTENAL, SU, 268.18; FLOOR MAINTENANCE, SU, 575.47; FREDRICKSON OIL, SU, 1309.00; GERHOLD CONCRETE, SU, 1504.31; GROSSENBURG IMPLEMENT, SU, 545.51; HD SUPPLY WATERWORKS, SU, 1156.36; HYDRAULIC EQUIPMENT, SU, 101.66; ICMA, SE, 7013.74; IRS, TX, 24748.88; JEO CONSULTING GROUP, SE, 17936.25; JOHNSON HARDWARE, SU, 5697.60; CITY

EMPLOYEE, RE, 139.56; KNIFE RIVER MIDWEST, SU, 847.80; KRIZ-DAVIS, SU, 23495.06; MCLAURY ENGINEERING, SE, 65159.75; MCLAURY ENGINEERING, SE, 2653.50; MERCHANT JOB TRAINING, SU, 550.00; MIDWEST MUSIC CENTER, SU, 5899.75; NNEDD, SE, 2893.75; NE DEPT OF REVENUE, TX, 3522.59; NEBRASKA COMMUNITY FOUNDATION, SE, 600.00; NWOD, FE, 15.00; OLSSON ASSOCIATES, FE, 1400.00; CITY EMPLOYEE, RE, 359.48; PENRO CONSTRUCTION, SE, 95154.57; POLLARD PUMPING, SE, 360.00; PONCA RURAL FIRE BOARD, RE, 7110.82; RESCO, SU, 833.59; SCHMADER ELECTRIC CONST., SU, 425.00; SIOUXLAND TURF PRODUCTS, SU, 2293.00; STADIUM SPORTING GOODS, SE, 350.00; STAPLES CONTRACT & COMMERCIAL, SU, 40.79; STATE NEBRASKA BANK & TRUST, RE, 53750.00; STATE NEBRASKA BANK, RE, 113.02; SUPERCIRCUITS, SU, 747.45; TOM'S BODY & PAINT SHOP, SE, 187.65; UNITED RENTALS, SU, 206.25; UNITED WAY, RE, 5.00; VIAERO, SE, 246.89; VILLAGE OF WINSIDE, RE, 9505.44; WAYNE HERALD, SU, 48.00; WAYNE STATE COLLEGE, SE, 65.00; WESCO, SU, 12941.44; WEST-E-CON, SU, 23346.00; WIGMAN CO, SU, 423.04; WISNER WEST, SU, 110.45; AMERICAN BROADBAND, SE, 2602.14; AMY K. MILLER, SE, 5416.67; APPEARA, SE, 66.08; CITY EMPLOYEE, RE, 187.82; BOMGAARS, SU, 1104.26; CERTIFIED TESTING, SE, 3756.50; CITY OF WAYNE, RE, 150.00; CITY OF WAYNE, RE, 200.00; CITY OF WAYNE, SE, 240.00; CITY OF WAYNE, RE, 1115.83; DUTTON-LAINSON, SU, 631.30; ECHO GROUP, SU, 237.54; CITY OF WAYNE, RE, 339.76; FIRST CONCORD GROUP, SE, 4407.15; FLOOR MAINTENANCE, SU, 25.38; GERHOLD CONCRETE, SU, 1351.25; GILL HAULING, SE, 170.50; GRAINGER, INC., SU, 18.88; HAWKINS, INC, SU, 1797.53; HEIKES AUTOMOTIVE, SE, 542.67; HOMETOWN LEASING, SE, 412.86; JEBRO INC, SU, 42.00; CITY EMPLOYEE, RE, 176.29; CITY EMPLOYEE, RE, 113.90; KRIZ-DAVIS, SU, 9671.73; MAIN STREET AUTO, SE, 100.00; CITY EMPLOYEE, RE, 150.71; MIDWEST ENERGY SOLUTIONS, SU, 1071.16; NNEDD, SE, 7078.75; NATIONAL PATENT ANALYTICAL, SU, 29.06; NE EXPRESSWAYS, FE, 883.44; NNPPD, SE, 5485.00; ONE CALL CONCEPTS, SE, 93.60; CITY EMPLOYEE, RE, 292.15; PLUNKETT'S PEST CONTROL, SE, 1166.23; POWER MONITORS, SE, 391.23; QUALITY FOODS, SU, 27.16; RECREATION SUPPLY CO, SU, 2596.38; SKARSHAUG TESTING LAB, SE, 184.78; STADIUM SPORTING GOODS, SU, 261.00; TYLER TECHNOLOGIES, SE, 200.00; US BANK, SU, 10466.12; WAED, SE, 7216.66; WAYNE STATE FOUNDATION, FE, 260.00

Councilmember Sievers made a motion, which was seconded by Councilmember Haase, to approve the claims. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Mayor Chamberlain stated the City Council would hear public comments on the following agenda items: 3, 8, 10, 14, 15, 16, and 18.

Mayor Chamberlain advised the public that a copy of the Open Meetings Act was located on the south wall of the Council Chambers and was available for public inspection. In addition, he advised the public that the Council may go into closed session to discuss certain agenda items

to protect the public interest or to prevent the needless injury to the reputation of an individual and if such individual has not requested a public hearing.

A request to discuss the Dog Creek Dam proposal was made by Dennis Ekberg, a landowner in the proposed area. This request came as a result of some city officials sending letters/emails to the Lower Elkhorn Natural Resource District supporting the need for a study on a reservoir project. Those speaking against the proposed reservoir project being located in the Wayne County area or to express their concerns about the correspondence that was sent to the LENRD were County Commissioner Randy Larson, Shari Dunklau, Doug Nelson, Doug Spahr, Doug Temme, Dennis Ekberg, Tyler Poehlman, Scott Sievers.

Phil Lorenzen, representing D.A. Davidson & Co., was present to go over the issuance of Combined Utility Revenue Bond Anticipation Notes, Series 2016, for the City of Wayne. He noted that the first item of business was to approve an updated engagement letter with his firm for project financing in compliance with Security Exchange Commission (SEC) regulations.

Councilmember Eischeid made a motion, which was seconded by Councilmember Greve, approving the updated Engagement Letter with D.A. Davidson & Co., for project financing in compliance with SEC Regulations. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Mr. Lorenzen noted that the Combined Utility Revenue Bond Anticipation Notes are estimated to be \$800,000, after an analysis of the projects, and will be dated on or about June 7, 2016. He has included in the ordinance a number of not to exceed \$825,000. The combined revenues available for bond payments for the fiscal year ending September 30, 2015, by the last audit was \$663,368. That number is very important for this reason: In order to secure a loan for financing these projects, you need to demonstrate that you have adequate revenues to go ahead and make payments to those projects. The annual payments of the NDEQ Loans are approximately \$400,000. That provides \$1.66 for every dollar of debt you have to pay on an annual basis. There is debt service for \$1,400,000. A 15-year revenue bond issue would take

about another \$100,000. We have a new NDEQ loan that is underway, and that NDEQ loan is about \$2,000,000, but because of the low interest rates that the City has captured, the same loan requires about \$100,000. Right now, the City has the three NDEQ loans, which require about \$500,000 in annual debt service, and \$663,000 available to make that debt payment. That is a coverage of \$1.33 for every dollar of debt. NDEQ requires that you maintain earnings equal to \$1.25 available each year for the payment of each \$1.00 of debt. However, this does not afford an adequate revenue stream to go ahead and make payments on permanent financing for the City's current projects. The projects included in this financing are Grainland Road Sewer and Water (\$117,042.65), Main Street (\$280,983.53), Logan Valley Water (\$115,097.90), and Nebraska Street Water – 3rd Street to 7th Street (\$250,000.00). The total tally of those projects is \$763,124.08. In addition, there are additional fees associated with the issuing of these bonds, for a grand total of \$798,774.08. The recommendation is to make the amount a not to exceed sum of \$825,000.

Councilmember Sievers introduced Ordinance No. 2016-6, and moved for approval thereof; Councilmember Brodersen seconded.

ORDINANCE NO. 2015-37

AN ORDINANCE AUTHORIZING THE ISSUANCE OF COMBINED UTILITY REVENUE BOND ANTICIPATION NOTES, SERIES 2016, OF THE CITY OF WAYNE, NEBRASKA, IN THE PRINCIPAL AMOUNT OF EIGHT HUNDRED TWENTY-FIVE THOUSAND DOLLARS (\$825,000,000), FOR THE PURPOSE OF PROVIDING INTERIM FINANCING FOR A PORTION OF THE COSTS OF CONSTRUCTING IMPROVEMENTS TO THE COMBINED UTILITY SYSTEM OWNED AND OPERATED BY THE CITY; PENDING THE ISSUANCE OF PERMANENT COMBINED UTILITY REVENUE BONDS; AGREEING TO ISSUE SUCH BONDS TO PAY THE NOTES AT MATURITY OR TO PAY THE NOTES FROM OTHER AVAILABLE FUNDS; PRESCRIBING THE FORM OF SAID NOTES; PLEDGING AND HYPOTHECATING THE REVENUE AND EARNINGS OF THE COMBINED UTILITY SYSTEM OF SAID CITY FOR THE PAYMENT OF SAID NOTES AND INTEREST THEREON; PROVIDING FOR THE COLLECTION, SEGREGATION AND APPLICATION OF THE REVENUE OF SAID COMBINED UTILITY SYSTEM; ENTERING INTO A CONTRACT ON BEHALF OF THE CITY WITH THE HOLDERS OF SAID NOTES; AND

PROVIDING FOR PUBLICATION OF THE ORDINANCE IN PAMPHLET FORM.

Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Councilmember Brodersen left the meeting.

Councilmember Sievers made a motion, which was seconded by Councilmember Giese, to suspend the statutory rules requiring ordinances to be read by title on three different days. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, with the exception of Councilmember Brodersen who left the meeting, the Mayor declared the motion carried.

Councilmember Sievers made a motion, which was seconded by Councilmember Giese, to move for final approval of Ordinance No. 2016-6. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, with the exception of Councilmember Brodersen who left the meeting, the Mayor declared the motion carried.

The following Resolutions would authorize the reimbursements relating to Revenue Financed Utility Capital Projects of \$750,000, and Streets and other local Improvement District Capital Projects of \$750,000.

Councilmember Sievers introduced Resolution 2016-32, and moved for its approval for an amount of not-to-exceed \$750,000; Councilmember Greve seconded.

RESOLUTION NO. 2016-32

A RESOLUTION AUTHORIZING THE REIMBURSEMENT RELATING TO REVENUE FINANCED UTILITY CAPITAL PROJECTS.

Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, with the exception of Councilmember Brodersen who left the meeting, the Mayor declared the motion carried.

Councilmember Sievers introduced Resolution 2016-33, and moved for its approval for an amount of not-to-exceed \$750,000; Councilmember Greve seconded.

RESOLUTION NO. 2016-33

A RESOLUTION AUTHORIZING THE REIMBURSEMENT RELATING TO STREETS AND OTHER LOCAL IMPROVEMENT DISTRICT CAPITAL PROJECTS.

Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, with the exception of Councilmember Brodersen who left the meeting, the Mayor declared the motion carried.

Mayor Chamberlain declared the time was at hand for the public hearing on the annexation of certain real estate – Kardell East 14th Street Addition (Centennial Road to the Northstar property).

There was no one present to speak for or against the public hearing.

The Planning Commission held a public hearing on this annexation on May 2, 2016, and forwarded a recommendation of approval subject to the following finding of fact: Consistency with the Comprehensive Plan and the current and future land use maps.

City Clerk McGuire had not received any comments, either verbal or in writing, for or against this public hearing.

There being no further comments, Mayor Chamberlain closed the public hearing.

Councilmember Sievers introduced Ordinance No. 2016-7, and moved for approval thereof; Councilmember Haase seconded.

ORDINANCE NO. 2016-7

AN ORDINANCE ANNEXING CERTAIN REAL ESTATE TO THE CITY OF WAYNE AND EXTENDING THE CORPORATE LIMITS IN THE NORTHEAST QUADRANT OF THE CITY OF WAYNE TO INCLUDE SAID REAL ESTATE.

Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, with the exception of Councilmember Brodersen who left the meeting, the Mayor declared the motion carried.

Mayor Chamberlain declared the time was at hand for the public hearing to amend the One and Six Year Street Improvement Plan to add “South Windom Street.”

Joel Hansen, Certified Street Superintendent, was present to answer questions, and stated in order to do a project in the one-year plan or the current year, it must be on the One & Six Year Street Improvement Plan. The developer has expressed an interest in developing some lots on South Windom Street, and if we are going to pave that this year, it has to be on the one-year plan. This is just an amendment adding that project to the list that was approved last February.

City Clerk McGuire had not received any comments for or against this public hearing.

There being no further comments, Mayor Chamberlain closed the public hearing.

Councilmember Sievers introduced Resolution 2016-34, and moved for its approval; Councilmember Haase seconded.

RESOLUTION NO. 2016-34

A RESOLUTION APPROVING THE ONE AND SIX YEAR STREET IMPROVEMENT PROGRAM, AS AMENDED, TO ADD SOUTH WINDOM STREET.

Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, with the exception of Councilmember Brodersen who left the meeting, the Mayor declared the motion carried.

Administrator Johnson stated the following Resolution accept the bid and award the contract on the City Hall Roof Replacement Project to Guarantee Roofing for the sum of \$40,095. Three bids were received on this project; however, only one met the specifications. The roof is leaking at this time. \$45,000 has been set aside for the City Hall roof replacement project.

Councilmember Sievers introduced Resolution 2016-35, and moved for its approval; Councilmember Greve seconded.

RESOLUTION NO. 2016-35

A RESOLUTION ACCEPTING BID AND AWARDING CONTRACT ON THE "CITY HALL ROOF REPLACEMENT PROJECT."

Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, with the exception of Councilmember Brodersen who left the meeting, the Mayor declared the motion carried.

Steve Rames of McLaury Engineering stated two bids were received on the "Community Activity Center Parking Lot Project." The two bidders were Robert Woehler & Sons Construction and Progressive Property Inspections. At the time of the bid opening, the apparent low bidder was Progressive Property Inspections. Woehler has recognized the addendums on the face of the bid documents. Progressive did not recognize the addendums on the face of the bid documents. This falls under a technicality that the City can waive, if such conditions are met. It was apparent that the bidder had received or recognized those addendums. Addendum 1 was a mandatory pre-bid meeting, which he attended. Addendum 2 changed some items in the bid document. Addendum 3 reissued the bid document and answered some questions that were asked during the pre-bid meeting. Again, it was apparent that the low bidder was aware of the addendums.

Upon reviewing the bid documents, Progressive Property Inspections wrote the total price in the unit price as well. When Mr. Rames did the computation (multiplied the number of units by the quantity amount), it kicked Progressive Property Inspections out of being the apparent low bidder.

The City has two options. You can either reject these bids and rebid the project, or you can award it to the low responsive bidder. Their recommendation was to award the project to Robert Woehler & Sons Construction.

It was noted that there was not a sense of urgency on this project, and that this appeared to be a clerical error.

Attorney Miller stated in the bid specifications, it states that this can be considered an immaterial mistake unless it is listed in a price. If it is a price, then it is considered a material

reason to kick the bid out. Therefore, she concurred with Mr. Rames in that the Council's only options are to award the contract to Woehler's or rebid the project.

Councilmember Giese made a motion, which was seconded by Councilmember Eischeid, to rebid the project. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, with the exception of Councilmember Brodersen who left the meeting, the Mayor declared the motion carried.

Discussion took place in regard to amending the sewer and water rates for outside city limit users. These Resolutions were tabled from the last meeting. The proposed Resolutions would establish the outside rates at 2.5 times the inside rates. At this time on sewer, there are 10 commercial customers and 5 residential customers.

Councilmember Giese questioned the need to hire a consultant to review the rates. In addition, he stated that another thing to consider is that the City has not annexed a lot of the industrial park and the businesses. He posed the question if there was a company that used a lot of water, would we be discouraging them from developing in our industrial park.

Mayor Chamberlain stated the real savings to some of the businesses outside city limits is not so much with property taxes vs. outside water/sewer rates, but in the sale tax.

Bob Woehler spoke against raising the rates.

Wes Blecke, WAED Director, responded that he has never had a discussion come up on whether or not a business would or would not locate in the area because of inside/outside water and sewer rates.

Councilmember Eischeid did not like the idea of targeting such a small percentage of customers and making them pay more when the City of Wayne keeps their rates the same. If we are at a break-even point now, the next time we look at increasing rates, we need to increase everyone's a certain amount rather than hitting some with more of an increase than others.

Councilmember Giese said he was willing to let the issue die and have the discussion at the Council retreat.

Mayor Chamberlain suggested seeking “RFP’s” to see what a rate study would cost.

There being no further discussion, Resolution 2016-27 amending the Sewer Rates died for lack of a motion.

Alan Walton, a resident of Muhs’ Acres, read a letter prepared by Monte Boyer, who was against the increase in water rates. Mr. Walton also spoke against the increase, and noted he was not against paying his fair share, but wanted to be treated fairly. In closing, he stated that they appreciated what the City has done. They just want it to be fair, which is what they are trying to determine.

It was noted that there are 25 commercial and 35 residential users on water, with 2 commercial users having irrigation meters.

There being no further discussion, Resolution 2016-28 amending the Water Rates died for lack of a motion.

Administrator Johnson stated the following Resolution would increase the electric rates 6.5%. Our rate consultant, who had done a cost of service study three years ago, recommended a 6.5% increase for 5 years. We skipped a year. Staff is recommending that we increase the rates 6.5% at this time. The 6.5% increase per year is for operating expenses and capital projects. It does not cover the 3.9% penalty that NPPD is now charging us because we did not sign the contract.

Councilmember Eischeid stated he did not have an issue with 6.5% one time.

Councilmember Giese introduced Resolution No. 2016-37 and moved for its approval; Councilmember Greve seconded.

RESOLUTION NO. 2016-37

A RESOLUTION ESTABLISHING A SCHEDULE OF ELECTRICAL RATES TO BE CHARGED CUSTOMERS FOR ENERGY AND POWER FROM THE ELECTRIC DISTRIBUTION SYSTEM OF THE CITY; TO REPEAL CONFLICTING RATES AND SCHEDULES; AND TO PROVIDE FOR AN EFFECTIVE DATE.

Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, with the exception of Councilmember Brodersen who left the meeting, the Mayor declared the motion carried.

Administrator Johnson stated the following Resolution would approve an agreement between the City of Wayne and C. H. Guernsey & Company for professional consulting services for a "Generation Resource Feasibility Analysis" for \$28,500. He was asking that Council hold off on this. He would like representatives from C. H. Guernsey to be available at the next meeting to go over the options that were outlined in the packet. Those options were as follows:

1. Stay with the \$1.50/kWh per month with Big Rivers Electric Coop in Kentucky, which is \$342,000 per year. This contract has the safety of seldom, if ever, being required to run our power plant except for emergencies.
2. Consider a potential, but not definite offer of \$3/kWh per month from AEP which amounts to \$684,000 per year. This potential offer still being negotiated has no limit on the amount of time Wayne may be called upon to operate our power plant, which is in good shape, but getting some age on it. Our people do not feel our power plant would thrive under repeated hard use. We also can't run our generators more than 950 hours per generator per year because of EPA limitations on air pollutants from our plant
3. Prepare a request for bids and send it into the existing market for power plant demand contracts to see what our power plant might command for capacity leasing payments in the open market. We could then know if we are getting a good deal on either of the two options we have. We might find something better or find nothing better.
4. Consider offers currently in the market to pay us full price to replace this power plant with one natural gas burning engine about the same size as our plant that can be remotely started and up to speed on line in ten minutes and follow the wind turbine load as needed.

Resolution 2016-38 died for lack of a motion. The Guernsey representatives will be invited to attend the next meeting to talk about the study.

The following Ordinance would amend Chapter 14 Animals, Article II Dogs, Section 14-52 Barking and Offensive to reduce the time limit from 10 minutes to 3 minutes in which a dog can bark repeatedly, with one-minute or less lapse or time between each animal noise during that time period. The recommendation is to shorten the time the police officer has to document the barking so that the Courts will enforce the citation.

Donovan Conley was present and spoke in favor of Council coming up with some resolution to solve the problem that is reasonable and one that everybody in Wayne can live with.

Councilmember Karsky stated he had contacted or made contact with another neighbor, and they have reached out repeatedly to the dog owners who were not receptive.

Councilmember Giese introduced Ordinance 2016-8, and moved for its approval; Councilmember Greve seconded

ORDINANCE NO. 2016-8

AN ORDINANCE AMENDING CHAPTER 14 ANIMALS, ARTICLE II DOGS, SECTION 14-52 BARKING AND OFFENSIVE; TO PROVIDE FOR THE REPEAL OF CONFLICTING ORDINANCES OR SECTIONS; AND TO PROVIDE FOR AN EFFECTIVE DATE.

Police Chief Chinn recommended that when Council sets the fine, they set it similar to what the lawn-mowing fine is. City Attorney Miller stated at this time, she has discretion on what to recommend for a fine. If Council wants the same waiverable, it should be included in the ordinance. That can be brought forward at the second reading of the ordinance.

Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, with the exception of Councilmember Brodersen who left the meeting, the Mayor declared the motion carried. The second reading will take place at the next meeting.

JEO Consulting Group, Inc. presented Application for Payment No. 9 for the “2015 Wastewater Treatment Facility Improvement – Phases 3, 4, & 5 Project” for \$130,662.00 to Eriksen Construction, Co., Inc. They have found the work to date completed in accordance with the plans and specifications, and recommend approval of the same.

Councilmember Giese made a motion, which was seconded by Councilmember Sievers, approving Application for Payment No. 9 for \$130,662.00 to Eriksen Construction, Co., Inc., for the “2015 Wastewater Treatment Facility Improvement – Phases 3, 4, & 5 Project.” Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, with the exception of Councilmember Brodersen who left the meeting, the Mayor declared the motion carried.

JEO Consulting Group, Inc., presented Application for Payment No. 10 for the “2016 Wayne Aquatic Center Project” for \$200,553.15 to Christiansen Construction Co., LLC. They

have found the work to date completed in accordance with the plans and specifications and recommend approval of the same.

Councilmember Giese made a motion, which was seconded by Councilmember Sievers, approving Application for Payment No. 10 for \$200,553.15 to Christiansen Construction Co., LLC, for the “2016 Wayne Aquatic Center Project.” Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, with the exception of Councilmember Brodersen who left the meeting, the Mayor declared the motion carried.

Councilmember Giese made a motion, which was seconded by Councilmember Sievers, approving the revisions regarding the Municipal Code Update made to Chapter V – Public Works, and to amend Page 52 and change the word from then to than. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, with the exception of Councilmember Brodersen who left the meeting, the Mayor declared the motion carried.

Councilmember Giese made a motion, which was seconded by Councilmember Sievers, to adjourn the meeting. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, with the exception of Councilmember Brodersen who left the meeting, the Mayor declared the motion carried and the meeting adjourned at 8:24 p.m.

CLAIMS LISTING

May 17, 2016

Vendor Name

ADVANCED CONSULTING	MAIN STREET WATER IMPROVEMENTS	3975.00
ALMQUIST, MALTZAHN,	AUDIT OF FINANCIAL STATEMENTS	20200.00
AM CONSERVATION GROUP, INC.	LED NIGHTLIGHTS-ENERGYWISE	968.20
AMERICAN RED CROSS	PAYROLL DEDUCTIONS	10.00
APPEARA	LINEN & MAT SERVICE	118.41
BAKER & TAYLOR BOOKS	BOOKS	327.16
BARONE SECURITY SYSTEMS	ANNUAL FIRE INSPECTION	716.04
BELDEN LUMBER	IRON FENCE & GATE DOWNPAYMENT	2500.00
BIG T ENTERPRISES, INC	BATTERY	68.85
BROWN SUPPLY CO	BRASS GATE VALVE	89.70
C. H. GUERNSEY & COMPANY	POWER & TRANSMISSION SERVICES	7590.00
CARROLL DISTRIBUTING	CONCRETE SAW BLADE/BUSHINGS	274.80
CENTURYLINK	TELEPHONE CHARGES	414.15
CHARTWELLS	SENIOR CITIZEN MEALS	5251.50
CHRISTIANSEN CONSTRUCTION	AQUATIC CENTER	200553.15
CITY OF NORFOLK	SEWER LAB FEES	105.00
CITY OF WAYNE	BUILDING PERMIT DEPOSIT REFUND	100.00
CITY OF WAYNE	PAYROLL	67302.76
CITY OF WAYNE	SOFTBALL REFUND	25.00
CITY OF WAYNE	UTILITY REFUNDS	1676.99
COMMUNITY HEALTH	PAYROLL DEDUCTIONS	4.00
COPY WRITE PUBLISHING	OFFICE SUPPLIES/SHIPPING CHARGES	328.86
COUNTRY NURSERY INC	CITY HALL SPRING/FALL CLEAN UP	153.00
DEARBORN NATIONAL LIFE	DISABILITY/LIFE INSURANCE	2099.71
DISCOUNT FURNITURE	LIBRARY CHAIRS	1925.00
DUTTON-LAINSON COMPANY	3 PHASE BOX PAD	1155.60
EASYPERMIT POSTAGE	POSTAGE	2347.99
ECHO GROUP INC JESCO	LED TEMP LIGHT/OVERLOAD RELAY	245.03
ED. M FELD EQUIPMENT CO INC	HELMET CRESCENT/VEST	88.85
ELKHORN FENCE LLC	GATE REMOTE TRANSMITTER	300.00
ERIKSEN CONSTRUCTION CO, INC	WWTP-BIOSOLID HANDLING	130662.00
FAITH REGIONAL PHYSICAN SERV.	RANDOM TESTING	69.50
FASTENAL CO	BOLTS/NUTS/SCREWS	62.34
FLOOR MAINTENANCE	JANITORIAL SUPPLIES/BOWLS	146.42
FRANK SHEDA JR.	LIBRARY/SR CENTER CLEANING	270.00
CITY EMPLOYEE	HEALTH REIMBURSEMENT	534.96
GAMBLE LANDSCAPING	BUILD COLUMNS FOR FENCE	2580.00
GERHOLD CONCRETE	CONCRETE CURB REPLACEMENT	961.85
GROSSENBURG IMPLEMENT INC	AIR FILTER/SLUDGE VALVE SPRING	35.31
HYPERION INTEGRATOR	ALARM SYSTEM UPGRADE	7495.89
ICMA RETIREMENT	RETIREMENT	7030.28
INGRAM BOOK COMPANY	BOOKS	199.80
ISLAND SPRINKLER SUPPLY CO	IRRIGATION SUPPLIES	330.44
JASON SEARS FLOORING	CARPET/TILE STREET SHOP	3460.98
JB MART	ICE-FD APPRECIATION DINNER	45.00
CITY EMPLOYEE	HEALTH REIMBURSEMENT	3160.73
KOLN/KGIN TELEVISION	WSC EXPLORE NEBRASKA	1500.00
KTCH AM/FM RADIO	RADIO ADS	769.00

CITY EMPLOYEE	VISION REIMBURSEMENT	93.00
LEAGUE OF NEBRASKA	RUBBER GLOVE/TRAFFIC CONTROL WRKSH	800.00
LUTT OIL	GASOLINE	3488.57
MARCO INC	COPIER LEASE/PROPERTY TAX	213.06
MIDWEST LABORATORIES, INC	WASTE WATER ANALYSIS	149.00
MIDWEST TAPE LLC	AUDIO BOOKS	27.99
MUNICIPAL SUPPLY INC	VALES	158.57
NE SAFETY COUNCIL	SHIPPING CHARGES ON SAFETY VIDEOS	29.06
NORTHEAST NE PUBLIC POWER	RATE DISPUTE	220.74
OTTE CONSTRUCTION COMPANY	GRANDSTAND/BATHROOM REPAIRS H. OVERIN	11725.00
PAC N SAVE	AFTERSCHOOL SNACK PROGRAM	162.50
PENGUIN RANDOM HOUSE LLC	AUDIO BOOKS	127.50
CITY EMPLOYEE	HEALTH REIMBURSEMENT	88.14
CITY EMPLOYEE	CLOTHING REIMBURSEMENT	85.60
SPARKLING KLEAN	JANITORIAL SERVICE	3180.57
STADIUM SPORTING GOODS	SHIRTS/EMBROIDERY	163.50
STATE NEBRASKA BANK	PETTY CASH	468.15
DAVE'S DRY CLEANING	POLICE UNIFORM CLEANING	102.00
TANYA GAMBLE	FD APPRECIATION SUPPLIES	47.84
THE DIAMOND CENTER	FD APPRECIATION-PLAQUES	324.30
UNITED WAY	PAYROLL DEDUCTIONS	5.00
VAKOC CONSTRUCTION	ANNOUNCERS BOOTH-SCREWS,WOOD	69.75
VAN DIEST SUPPLY	AMINE	355.50
VEL'S BAKERY	FD APPRECIATION MEAL	786.45
VIAERO	CELL PHONES	132.53
WAYNE COUNTY CLERK	FILING FEES	10.00
WAYNE COUNTY COURT	BOND	400.00
WAYNE HERALD	ADS AND NOTICES	2760.76
WAYNE SOFTBALL ASSOCIATION	FINANCIAL ASSISTANCE	200.00
WAYNE STATER	HELP WANTED ADS/SURVEYS	108.00
WAYNE VETERINARY CLINIC	DOG IMPOUNDS	98.00
WESCO DISTRIBUTION INC	FCI/SAFETY PAINT/SPLICE CLEANER	7013.85
WESTERN AREA POWER ADMIN	ELECTRICITY	25631.23
WIGMAN COMPANY	BRESSLER BATHROOM SUPPLIES	137.78
WISNER WEST	FD GASOLINE	126.07
CORRECTIONS TO CLAIMS 5-3-16		
CITY OF WAYNE	UTILITY REFUNDS	417.10
WAYNE CO TREASURER	CIS DEMO-PERSONAL PROPERTY TAX	46.45

RESOLUTION NO. 2016-39

A RESOLUTION ACCEPTING PROPOSAL AND APPROVING CONSULTING SERVICES AGREEMENT WITH C. H. GUERNSEY & COMPANY FOR A GENERATION RESOURCE FEASIBILITY ANALYSIS.

WHEREAS, the Wayne City Council is desirous of entering into an agreement with C. H. Guernsey & Company for consulting services regarding a Generation Resource Feasibility Analysis, as directed by the City; and

WHEREAS, a proposal has been requested and received from C. H. Guernsey & Company for said consulting services; and

WHEREAS, the fees for said services are outlined on "Fee Schedule – 2016" attached to the agreement (not to exceed cost of \$28,500, without prior written approval by the City); and

WHEREAS, staff recommendation is to accept the proposal of C. H. Guernsey & Company.

NOW, THEREFORE BE IT RESOLVED, by the Mayor and City Council of the City of Wayne, Nebraska, that the Agreement between the City of Wayne and C. H. Guernsey & Company, for a Generation Resource Feasibility Analysis, which is attached hereto and incorporated herein by reference, be accepted as recommended, and the City Administrator and/or Mayor is authorized and directed to execute the Agreement for said professional services on behalf of the City.

PASSED AND APPROVED this 17th day of May, 2016.

THE CITY OF WAYNE, NEBRASKA,

By _____
Mayor

ATTEST:

City Clerk

Scope of Consulting Services
City of Wayne, Nebraska
Generation Resource Feasibility Analysis
Professional Consulting Services

Background

The City of Wayne, Nebraska has an existing diesel fired generation plants with approximately 22 MW of nameplate capacity. As a matter of due diligence and long-range planning, the city is interested in looking at the cost of and benefits of replacing the existing plant with a new one thus providing more reliable generation resources and access to the SPP market.

Scope of Services

In accordance with the terms of the Service Agreement dated May 30, 2014 between Guernsey and the City, Guernsey will provide the following services associated with the development of a feasibility analysis for replacing the existing generation resources with new resources.

1. Guernsey will conduct an analysis to determine if new generation resources are economically feasible for the City. The analysis will include but not necessarily be limited to:
 - a. Review of potential sites for the new generation plant taking into consideration access to high pressure (90 psi) natural gas as well as access to the 115 kV transmission system.
 - b. Review of existing resource costs, remaining useful life, contractual considerations, etc.
 - c. Analysis of varying sizes and types of generation resources
 - d. Analysis of potential joint ownership of new generation resources with NeNPPD versus sole ownership by the City.
 - e. Coordination of dispatch analysis and other feasibility analysis with Big Rivers Electric Corporation.
 - f. Estimation of the potential revenue to the City of placing the City's 69 kV network into the SPP as well as adding the new units as SPP network resources.
 - g. Provide a report summarizing the findings for a forecast period showing the costs, benefits and feasibility of the potential project.

Costs

The not to exceed cost, without prior written approval by the City of Wayne, for the feasibility analysis is \$28,500. The required labor necessary to complete this project shall be billed based on the attached Fee Schedule.

C. H. GUERNSEY & COMPANY

FEE SCHEDULE – 2016

<u>Labor Category</u>	<u>Hourly Rate</u>
Consulting Economist	\$275
Principal	\$275
Managing Consultant	\$220
Senior Generation Engineer / Consultant	\$235
Senior Consultant / Engineer / Architect	\$205
Economist	\$205
Consultant / Engineer / Architect	\$173
Associate	\$138
Senior Analyst / Engineering Tech	\$112
Analyst / Tech	\$87
Support Staff	\$62
<i>Non-Labor Expenses</i>	@ Cost

Rates Effective on January 1, 2016

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Cities of Wayne, Wakefield and Emerson Nebraska

Request for Proposal to Purchase Municipal Electric Generation Nameplate Capacity

April 27, 2016

**Request for Proposals (RFP) To Purchase
Municipal Electric Generation Nameplate Capacity**

1. General

The Cities of Wayne, Wakefield and Emerson, Nebraska (the Cities) each individually own electric generation assets and are soliciting offers to buy the capacity from these assets.

This RFP aggregates the information for all three Cities who collectively are offering for sale a total of 27,835 kW of nameplate, behind the meter capacity; however, each City will contract separately for the sale of their municipally-owned nameplate capacity. The term of the offered capacity purchase agreement shall commence no later than September 1, 2016 and extend for no less than five years.

The Cities have the right to reject any and all proposals for any reason and are under no obligation to enter into any capacity purchase agreement.

2. RFP Schedule

This RFP process shall be conducted according to the schedule provided below. In every case, the action or information must be completed by 5:00 PM of the date specified.

1. RFP issued	May 2, 2016
2. Notice of Intent to Propose	May 9, 2016
3. Deadline for site visit and questions	May 16, 2016
4. Proposal Due Date	May 23, 2016
5. Final Proposal Selection	May 31, 2016
6. Initiate Contract Negotiations	June 1, 2016
7. Contract Execution	No later than August 31, 2016

The Cities reserve the right to modify the above schedule and will notify all active proposers of any changes.

3. Notice of Intent to Propose

All entities intending to submit a response to this RFP shall complete the attached Notice of Intent to Propose Form and return as indicated by the date specified above. A proposal may be withdrawn upon written notification to the same address. E-mail is the preferred form of correspondence.

4. **Unit Capacities**

4.1 City of Wayne

The City of Wayne municipal generation assets are comprised of eight units as detailed in Table 1 below.

Table 1
City of Wayne Unit Capacities

Unit	Nameplate Capacity (kW)	Fuel Type
1	1,250	Diesel
2	1,000	Diesel
3	1,900	Diesel
4	2,000	Diesel
5	3,500	Diesel
6	5,125	Diesel
7	3,500	Diesel
8	3,500	Diesel
Total	21,775	

4.2 City of Wakefield

The City of Wakefield municipal generation assets are comprised of four units as detailed in Table 2 below.

Table 2
City of Wakefield Unit Capacities
Nameplate

Unit	Capacity (kW)	Fuel Type
1	NA	Gas/Diesel
2	675	Gas/Diesel
3	NA	Gas/Diesel
4	900	Gas/Diesel
5	1,360	Gas/Diesel
6	1,365	Gas/Diesel
Total	4,300	

4.3 City of Emerson

The City of Emerson municipal generation assets are comprised of three units as detailed in Table 3 below.

Table 3
City of Emerson Unit Capacities
Nameplate

Unit	Capacity (kW)	Fuel Type
2	1,150	Gas/Oil
3	160	Gas/Oil
4	450	Gas/Oil
Total	1,760	

5. Capacity Pricing

Offered capacity payments should be expressed in dollars per kW-month (\$/kW-mo) and total dollars for the calendar year. Capacity payments shall be made monthly.

6. Contract Term

As stated above, the term of the offered capacity purchase agreement shall commence no later than September 1, 2016 and extend for no less than five years.

7. Credit Requirements

Prior to the initiation of negotiations, the Cities may require additional information to demonstrate the offeror's financial strength over the term of the contract. This information may include but not be limited to a copy of the most recent annual report, the two most recent audited financial statements and a Form 10 K of the offeror or the offeror's parent company.

8. Minimum Requirements

All proposals must contain the following minimum information:

- a. Capacity Pricing Schedule. The offer must specify for which City the offer is being made (Wayne, Wakefield or Emerson). Offers can be submitted for any or all of the generation assets of the Cities; however, the generation assets of any City are considered a unit and cannot be subdivided.
- b. Contact Information
- c. Length of term of proposed contract.
- d. Copy of proposed purchase agreement.
- e. Any other information that the offeror considers to be essential to a fair and full evaluation of their offer.

9. Site Visits

Site visits may be scheduled in advance with Randy Nason, Managing Consultant, Guernsey, 5555 North Grand Blvd, Oklahoma City, OK 73112 (randy.nason@guernsey.us, 405-818-9655).

10. Proposal Submission

Proposals may be submitted by e-mail and must be received by 5:00 PM local time on the stated or revised proposal due date specified in Section 2 above. Proposal shall be e-mailed to:

Randy Nason, PE
Managing Consultant
Guernsey
5555 North Grand Blvd
Oklahoma City, OK 73112
Randy.nason@guernsey.us
405-416-8213 office
405-818-9655 cell

11. CONFIDENTIAL INFORMATION

The Cities acknowledge that the proposals may contain proprietary information. The Cities will receive all proposals in confidence and will protect proprietary information to the extent such information is identified as such, in accordance with local laws.

12. RFP STIPULATIONS

The Cities reserve the right to reject any and all proposals for any reason(s) whatsoever, or for no reason, to effect a combination of proposals, to waive any technical non-compliance in any proposal, and to conduct further negotiations with any bidder.

This document does not in any way obligate the Cities to enter into any agreement or to proceed with any relationship or transaction. The Cities may terminate discussions or negotiations regarding this potential transaction at any time. Any information, terms or conditions set forth in this document are subject to negotiation, completion and incorporation into a definitive purchase/sale agreement executed by both parties.

Notice of Intent to Propose
to
The Cities of Wayne, Wakefield and Emerson, Nebraska
For the Sale of Municipal Generation Nameplate Capacity

Proposer Contact Information

Name: _____

Title: _____

Organization _____

Address _____

City, State _____

Telephone Number: _____

E-mail Address: _____

Return to: Randy Nason, PE
Managing Consultant
Guernsey
5555 North Grand Blvd
Oklahoma City, OK 73112
Randy.nason@guernsey.us
405-416-8213 office
405-818-9655 cell

**Limits of District
for Water & Sewer Extensions to Service
Southview Subdivision, Wayne, Nebraska**



SCALE: 1" = 100'



Tax Lot 40 Owner: Steven F. Mooney §	Tax Lot 58 Owner: Patrick J. O'Reilly & Gordon I. O'Reilly §										Owner: County, City & Agricultural Association of the County of Wayne & State of Nebraska §	
99.20'	1,059.04'										68.85'	
575 Ave. Grainland Road												
101.59'	Lot 12	Lot 11	Lot 10	Lot 9	Lot 8	Lot 7	Lot 6	Lot 5	Lot 4	Lot 3	Lot 2	Lot 1
97.50'	97.50'	97.50'	97.50'	97.50'	97.50'	97.50'	97.50'	97.50'	97.50'	97.50'	150.00'	98.00'
Owner: Progressive Property Inspection, L.L.C.	Owner: Progressive Property Inspection, L.L.C.	Owner: Progressive Property Inspection, L.L.C.	Owner: Progressive Property Inspection, L.L.C.	Owner: Progressive Property Inspection, L.L.C.	Owner: Progressive Property Inspection, L.L.C.	Owner: Matthew Sharer & Elizabeth Sharer	Owner: Progressive Property Inspection, L.L.C.	Owner: Progressive Property Inspection, L.L.C.				
Southview						Subdivision						

**ADVANCED CONSULTING
ENGINEERING SERVICES**
 133 W. Washington St. • P.O. Box 218
 West Point, NE 68786
 Phone: (402) 372-1923



SANITARY SEWER EXTENSION	
TOTAL CONSTRUCTION COSTS	\$94,363.70
ENGINEERING	\$7,032.68
LEGAL FEES, ADVERTISING, INTERIM INTEREST, ETC.	\$9,436.47
TOTAL PROJECT COST	\$110,832.85
GENERAL OBLIGATION COSTS	\$30,218.52
ASSESSED COSTS	\$80,614.33
TOTAL FRONT FOOTAGE	2,454.18
COST PER FRONT FOOT	\$32.8478

DISTRICT # - SEWER						
DESCRIPTION	OWNER	OWNER'S ADDRESS	FRONT FOOTAGE (FT)	ASSESSABLE AMOUNT	TOTAL ASSESSMENT	
Grainland Road						
	LOT 1	Progressive Property Inspections, LLC		98	\$32.8478	\$3,219.08
	LOT 2	Progressive Property Inspections, LLC		150	\$32.8478	\$4,927.16
	LOT 3	Progressive Property Inspections, LLC		97.5	\$32.8478	\$3,202.66
	LOT 4	Progressive Property Inspections, LLC		97.5	\$32.8478	\$3,202.66
	LOT 5	Progressive Property Inspections, LLC		97.5	\$32.8478	\$3,202.66
	LOT 6	Matthew Sharer & Elizabeth Sharer		97.5	\$32.8478	\$3,202.66
	LOT 7	Progressive Property Inspections, LLC		97.5	\$32.8478	\$3,202.66
	LOT 8	Progressive Property Inspections, LLC		97.5	\$32.8478	\$3,202.66
	LOT 9	Progressive Property Inspections, LLC		97.5	\$32.8478	\$3,202.66
	LOT 10	Progressive Property Inspections, LLC		97.5	\$32.8478	\$3,202.66
	LOT 11	Progressive Property Inspections, LLC		97.5	\$32.8478	\$3,202.66
	LOT 12	Progressive Property Inspections, LLC		101.59	\$32.8478	\$3,337.00
	LOT 40	Steven F Mrsny		99.2	\$32.8478	\$3,258.50
	LOT 58	Patrick J O'Reilly & Gretchen T O'Reilly		1059.04	\$32.8478	\$34,787.10
		County of Wayne & State of NE		68.85	\$32.8478	\$2,261.57
TOTAL				2454.18		\$80,614.33
TOTAL ASSESSABLE COSTS - SEWER						

WATER EXTENSION	
TOTAL CONSTRUCTION COSTS	\$106,905.60
ENGINEERING	\$7,967.32
LEGAL FEES, ADVERTISING, INTERIM INTEREST, ETC.	\$10,690.56
TOTAL PROJECT COST	\$125,563.48
GENERAL OBLIGATION COSTS	\$5,209.03
ASSESSED COSTS	\$120,354.45
TOTAL FRONT FOOTAGE	2,454.18
COST PER FRONT FOOT	\$49.0406

DISTRICT #1 - WATER						
DESCRIPTION	OWNER	OWNER'S ADDRESS	FRONT FOOTAGE (FT)	ASSESSMENT PER FRONT FOOTAGE	TOTAL ASSESSMENT	
Grainland Road						
LOT 1	Progressive Property Inspections, LLC		98	\$49.0406	\$4,805.98	
LOT 2	Progressive Property Inspections, LLC		150	\$49.0406	\$7,356.09	
LOT 3	Progressive Property Inspections, LLC		97.5	\$49.0406	\$4,781.46	
LOT 4	Progressive Property Inspections, LLC		97.5	\$49.0406	\$4,781.46	
LOT 5	Progressive Property Inspections, LLC		97.5	\$49.0406	\$4,781.46	
LOT 6	Matthew Sharer & Elizabeth Sharer		97.5	\$49.0406	\$4,781.46	
LOT 7	Progressive Property Inspections, LLC		97.5	\$49.0406	\$4,781.46	
LOT 8	Progressive Property Inspections, LLC		97.5	\$49.0406	\$4,781.46	
LOT 9	Progressive Property Inspections, LLC		97.5	\$49.0406	\$4,781.46	
LOT 10	Progressive Property Inspections, LLC		97.5	\$49.0406	\$4,781.46	
LOT 11	Progressive Property Inspections, LLC		97.5	\$49.0406	\$4,781.46	
LOT 12	Progressive Property Inspections, LLC		101.59	\$49.0406	\$4,982.03	
LOT 40	Steven F Mrsny		99.2	\$49.0406	\$4,864.83	
LOT 58	Patrick J O'Reilly & Gretchen T O'Reilly		1059.04	\$49.0406	\$51,935.95	
	County of Wayne & State of NE		68.85	\$49.0406	\$3,376.45	
TOTALS			2454.18		\$120,354.45	
TOTAL ASSESSABLE COSTS - WATER						

RESOLUTION NO. 2016-40

RESOLUTION MAKING ASSESSMENTS IN SANITARY SEWER EXTENSION DISTRICT NO. 2015-01 (SOUTHVIEW ADDITION/GRAINLAND ROAD).

WHEREAS, Notice has been published as provided by law concerning the levy of special assessments in Sanitary Sewer Extension District No. 2015-01 in the Wayne Herald Newspaper on April 28, and May 5, 2016, and a copy of said Notice has been mailed to all resident and non-resident owners of property in each of said Districts as provided by law, and

WHEREAS, a hearing has been conducted as provided by law relative to the levy of special assessments in said Districts proposed to be levied against said lots and parcels of ground on account of the construction of the improvements hereinbefore described; and

BE IT FURTHER RESOLVED, that the special assessments are adjusted as follows: None

BE IT FURTHER RESOLVED, that the said assessments against said lots, parts of lots and parcels of land are hereby declared to be in proportion to the special benefits conferred upon said property by said improvements and not in excess of such benefits or of the cost of the improvements;

BE IT FURTHER RESOLVED, that all special assessments above provided for shall become due in fifty (50) days after the date of the passage of this resolution and may be paid within that time without interest, but if not so paid, to bear interest thereafter at the rate of three and one half percent (3.5%) per annum from the date of this Resolution until delinquent; such assessments shall become delinquent as follows:

One-fifteenth of the total amount shall become delinquent fifty days after such levy; one-fifteenth in one year; one-fifteenth in two years; one-fifteenth in three years; one-fifteenth in four years; one-fifteenth in five years; one-fifteenth in six years; one-fifteenth in seven years; one-fifteenth in eight years; one-fifteenth in nine years; one-fifteenth in ten years; one-fifteenth in eleven years; one-fifteenth in twelve years; one-fifteenth in thirteen years; and one-fifteenth in fourteen years.

Delinquent installments shall bear interest at the rate provided by law until paid and shall be collected in the usual manner for the collection of taxes. Installments may be prepaid at anytime at the option of the property owner as provided by law.

AND BE IT FURTHER RESOLVED, that a certified copy of said assessment schedules be filed by the City Clerk with the City Treasurer and with the County Treasurer and the County Clerk of Wayne County, as provided by law.

PASSED AND APPROVED this 17th day of May, 2016.

THE CITY OF WAYNE, NEBRASKA,

By _____
Mayor

ATTEST:

City Clerk

RESOLUTION NO. 2016-41

RESOLUTION MAKING ASSESSMENTS IN WATER EXTENSION DISTRICT NO. 2015-01 (SOUTHVIEW ADDITION/GRAINLAND ROAD).

WHEREAS, Notice has been published as provided by law concerning the levy of special assessments in Water Extension District No. 2015-01 in the Wayne Herald Newspaper on April 28, and May 5, 2016, and a copy of said Notice has been mailed to all resident and non-resident owners of property in each of said Districts as provided by law, and

WHEREAS, a hearing has been conducted as provided by law relative to the levy of special assessments in said Districts proposed to be levied against said lots and parcels of ground on account of the construction of the improvements hereinbefore described; and

BE IT FURTHER RESOLVED, that the special assessments are adjusted as follows: None

BE IT FURTHER RESOLVED, that the said assessments against said lots, parts of lots and parcels of land are hereby declared to be in proportion to the special benefits conferred upon said property by said improvements and not in excess of such benefits or of the cost of the improvements;

BE IT FURTHER RESOLVED, that all special assessments above provided for shall become due in fifty (50) days after the date of the passage of this resolution and may be paid within that time without interest, but if not so paid, to bear interest thereafter at the rate of three and one half percent (3.5%) per annum from the date of this Resolution until delinquent; such assessments shall become delinquent as follows:

One-fifteenth of the total amount shall become delinquent fifty days after such levy; one-fifteenth in one year; one-fifteenth in two years; one-fifteenth in three years; one-fifteenth in four years; one-fifteenth in five years; one-fifteenth in six years; one-fifteenth in seven years; one-fifteenth in eight years; one-fifteenth in nine years; one-fifteenth in ten years; one-fifteenth in eleven years; one-fifteenth in twelve years; one-fifteenth in thirteen years; and one-fifteenth in fourteen years.

Delinquent installments shall bear interest at the rate provided by law until paid and shall be collected in the usual manner for the collection of taxes. Installments may be prepaid at anytime at the option of the property owner as provided by law.

AND BE IT FURTHER RESOLVED, that a certified copy of said assessment schedules be filed by the City Clerk with the City Treasurer and with the County Treasurer and the County Clerk of Wayne County, as provided by law.

PASSED AND APPROVED this 17th day of May, 2016.

THE CITY OF WAYNE, NEBRASKA,

By _____
Mayor

ATTEST:

City Clerk

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ORDINANCE NO. 2016-7

AN ORDINANCE ANNEXING CERTAIN REAL ESTATE TO THE CITY OF WAYNE AND EXTENDING THE CORPORATE LIMITS IN THE NORTHEAST QUADRANT OF THE CITY OF WAYNE TO INCLUDE SAID REAL ESTATE.

BE IT ORDAINED by the Mayor and Council of the City of Wayne, Nebraska:

Section 1. The City of Wayne does hereby find and declare that the following described real estate:

A tract of land located in the South 1/2 of the Southeast 1/4 of the Northeast 1/4 of Section 7, T26N, R4E and the West 1/2 of the Southwest 1/4 of the Northwest 1/4 of Section 8, T26N, R4E, all of the 6th P.M., Wayne County, Nebraska, more particularly described as follows:

Commencing at the Southeast corner of the Northeast 1/4 of Section 7, T26N, R4E of the 6th P.M., Wayne County, Nebraska; thence N 02°25'38" W on an assumed bearing on the East line of said Northeast 1/4, 33.00 feet to the Point of Beginning; thence N 87°45'15" E and parallel to the South line of the Southwest 1/4 of the Northwest 1/4 of Section 8, T26N, R4E of the 6th P.M., Wayne County, Nebraska, 33.00 feet to a point on the East Right-of-Way line of Centennial Road, thence N 02°25'38" W on said East Right-of-Way line, 280.10 feet; thence S 87°34'37" W, 1068.02 feet to the Northeast corner of a tract of land surveyed by Terry L. Schulz, R.L.S. #550, dated November 9, 2001; thence S 02°13'10" E on the East line of said surveyed tract, 280.00 feet to the Southeast corner of said surveyed tract, said point being on the North Right-of-Way line of East 14 Street; thence N 87°34'37" E on said North Right-of-Way line, 1036.04 feet to the Point of Beginning, containing 6.87 acres, more or less,

is immediately adjoining and contiguous to the corporate limits of the City of Wayne, Nebraska.

Section 2. The above described real estate is annexed to the City of Wayne, Nebraska, and is declared to be within the corporate limits of the City of Wayne, Nebraska, pursuant to Section 19-916 (R.R.S. 1943).

Section 3. The corporate limits of the City of Wayne, Nebraska, are hereby extended to include said real estate.

Section 4. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 5. This ordinance shall take effect and be in full force from and after its passage, approval, and publication or posting as required by law.

PASSED AND APPROVED this _____ day of _____, 2016.

THE CITY OF WAYNE, NEBRASKA

By _____
Mayor

ATTEST:

City Clerk

ORDINANCE NO. 2016-8

AN ORDINANCE AMENDING CHAPTER 14 ANIMALS, ARTICLE II DOGS, SECTION 14-52 BARKING AND OFFENSIVE; TO PROVIDE FOR THE REPEAL OF CONFLICTING ORDINANCES OR SECTIONS; AND TO PROVIDE FOR AN EFFECTIVE DATE.

BE IT ORDAINED by the Mayor and Council of the City of Wayne, Nebraska:

Section 1. That Chapter 14, Article II, Section 14-52 of the Wayne Municipal Code is hereby amended to read as follows:

14-52 BARKING AND OFFENSIVE.

- (a) 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 habitually barks at or chases pedestrians, drivers or owners of horses or vehicles while they are on any public sidewalks, streets or alleys in the city. The provisions of this section shall not be construed to apply to the designated animal shelter.
- (b) The phrase "annoy or disturb the neighborhood" shall include, but not be limited to, the creation of any noise constituting a nuisance by any animal which can be heard by any person, including a law enforcement officer, from a location outside of the building or premises where the animal is being kept and which animal noise occurs repeatedly over at least a ~~ten~~ **three**-minute period of time with one minute or less lapse or time between each animal noise during the ~~ten~~ **three**-minute period.
- (c) **The penalty for violating Subsections (a) and (b) above shall be \$25.00 for the first offense, \$100 for the second offense, and \$200 for the third or subsequent offense, and may be paid by waiver.**

Section 2. All ordinances or parts of ordinances in conflict herewith are hereby amended and repealed.

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

PASSED AND APPROVED this ____ day of _____, 2016.

THE CITY OF WAYNE, NEBRASKA

By _____
Mayor

ATTEST:

City Clerk

ORDINANCE NO. 2016-9

AN ORDINANCE AMENDING CHAPTER 14 ANIMALS, ARTICLE II DOGS, SECTION 14-49 RUNNING AT LARGE; TO PROVIDE FOR THE REPEAL OF CONFLICTING ORDINANCES OR SECTIONS; AND TO PROVIDE FOR AN EFFECTIVE DATE.

BE IT ORDAINED by the Mayor and Council of the City of Wayne, Nebraska:

Section 1. That Chapter 14, Article II, Section 14-49 of the Wayne Municipal Code is hereby amended to read as follows:

14-49 RUNNING AT LARGE.

- (a) An animal shall be deemed to be at large when it is off the property of his/her owner and not under the control or restraint of a competent person. For purposes of this section, restraint shall mean controlled by lease, "at heel" beside a competent person and obedient to that person's commands, on or within a vehicle being driven or parked on the streets, or within the property limits of its owner or keeper.
- (b) The penalty for violating Subsection (a) above shall be \$25.00 for the first offense, \$100 for the second offense, and \$200 for the third or subsequent offense, and may be paid by waiver.**

Section 2. All ordinances or parts of ordinances in conflict herewith are hereby amended and repealed.

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

PASSED AND APPROVED this ____ day of _____, 2016.

THE CITY OF WAYNE, NEBRASKA

By _____
Mayor

ATTEST:

City Clerk

ORDINANCE NO. 2016-10

AN ORDINANCE AMENDING CHAPTER 82 UTILITIES, ARTICLE IV WATER SYSTEM, SECTION 82-169 HOOKUP FEE; TO PROVIDE FOR THE REPEAL OF CONFLICTING ORDINANCES OR SECTIONS; AND TO PROVIDE FOR AN EFFECTIVE DATE.

BE IT ORDAINED by the Mayor and Council of the City of Wayne, Nebraska:

Section 1. That Chapter 82, Article IV, Section 82-169 of the Wayne Municipal Code is hereby amended to read as follows:

82-169 HOOKUP FEE.

- (a) The hookup fee for a residential user with the city water system and sewer system when service is not within a duly constituted water extension district, **or water system dedicated to the City of Wayne** shall be set by the council from time to time for each system, and each fee shall be paid in full before such connection is permitted.
- (b) The hookup fee for nonresidential users when the user to be served is not within a duly constituted water extension district, **or water system dedicated to the City of Wayne** shall be a fee set from time to time by the council for each system, and each fee shall be paid in full before such connection is permitted.

Section 2. All ordinances or parts of ordinances in conflict herewith are hereby amended and repealed.

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

PASSED AND APPROVED this ____ day of _____, 2016.

THE CITY OF WAYNE, NEBRASKA

By _____
Mayor

ATTEST:

City Clerk

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REQUEST FOR FUTURE AGENDA ITEM

If you have a specific topic that you would like the City Council to discuss at a future meeting, please list your name, address, telephone number, and the specific topic. If you have additional documentation which would be beneficial to the topic, please attach to this form. The item will be reviewed and possibly scheduled for a future meeting, or forwarded to City staff for appropriate action. Please return this form and any additional information to the City Clerk's office at 306 Pearl Street.

Event insurance is required for anyone wishing to use city right-of-way (e.g. block off streets for block parties, block off sidewalks and/or alleys).

Name: Nick and Kristine Muir

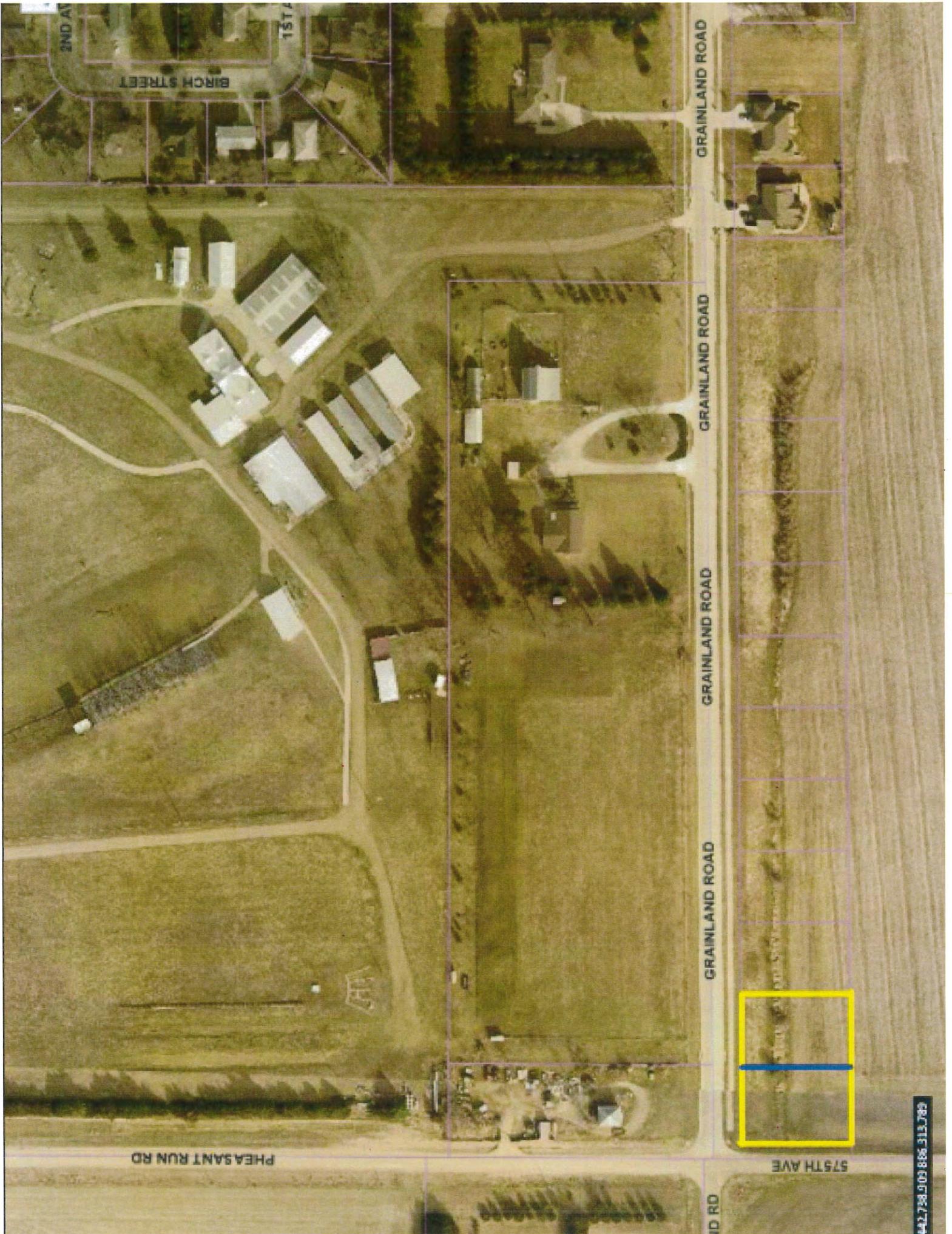
Address: 729 Walnut Drive

Telephone No.: 402-369-0795

Date of Request: 5/11/16

Description of Requested Topic: Please consider the release and abandonment of the side yard utility easements and set back requirements for the abutting boundaries of Lots 11 and 12 of the Southview Addition to Wayne.

Precedence can be found in Ordinance 2011-3 from the Jan. 18, 2011 council mtg. 2011-3 corrected an error from 2010-29. In both mtgs the three readings were waived for both ordinances and the motion for final approval was made, ~~the~~ The motions carried.



ORDINANCE NO. 2016-11

AN ORDINANCE AUTHORIZING THE RELEASE AND ABANDONMENT OF THE SIDE YARD UTILITY EASEMENTS CONSISTING OF THE EAST 7 FEET OF THE SIDE-YARD UTILITY EASEMENT IN LOT 12 AND THE WEST 7 FEET OF THE SIDE-YARD UTILITY EASEMENT IN LOT 11, SOUTHVIEW ADDITION TO THE CITY OF WAYNE, WAYNE COUNTY, NEBRASKA.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF WAYNE, NEBRASKA:

Section 1. The City of Wayne, Nebraska has received a request to release the 7 feet side-yard utility easements located between Lots 11 and 12, Southview Addition, to the City of Wayne, Wayne County, Nebraska.

Section 2. The City hereby releases and abandons all of the East 7 feet of side-yard utility easement in Lot 12 and the West 7 feet of side-yard utility easement in Lot 11, Southview Addition to the City of Wayne, Wayne County, Nebraska, and the Mayor is hereby authorized to execute the quitclaim deed to the current property owner to carry out said release and abandonment.

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

PASSED AND APPROVED this 17th day of May, 2016.

THE CITY OF WAYNE, NEBRASKA

By _____
Mayor

ATTEST:

City Clerk

RESOLUTION NO. 2016-42

A RESOLUTION APPROVING INTERLOCAL AGREEMENT TO SHARE LAW ENFORCEMENT RESOURCES BETWEEN THE CITY OF WAYNE AND THE BOARD OF TRUSTEES OF THE NEBRASKA STATE COLLEGES, D/B/A WAYNE STATE COLLEGE.

WHEREAS, the City of Wayne is desirous to enter into an Interlocal Agreement with the Board of Trustees of the Nebraska State Colleges, d/b/a Wayne State College, to share law enforcement resources; and

WHEREAS, a copy of the proposed Interlocal Agreement is attached hereto and incorporated herein by reference.

NOW, THEREFORE BE IT RESOLVED, by the Mayor and City Council of the City of Wayne, Nebraska, that the Interlocal Agreement to Share Law Enforcement Resources between the City of Wayne and the Board of Trustees of the Nebraska State Colleges, d/b/a Wayne State College, is hereby approved and the Mayor and City Clerk are hereby authorized to execute the same.

PASSED AND APPROVED this 17th day of May, 2016.

THE CITY OF WAYNE, NEBRASKA,

By _____
Mayor

ATTEST:

City Clerk

**AN INTERLOCAL AGREEMENT
TO SHARE LAW ENFORCEMENT RESOURCES
BETWEEN THE CITY OF WAYNE AND
THE BOARD OF TRUSTEES OF THE NEBRASKA STATE COLLEGES
dba WAYNE STATE COLLEGE**

THIS AGREEMENT (“Agreement”) is made and entered into by and between the governmental entities which are The City of Wayne, hereinafter called the “City” and the Board of Trustees of the Nebraska State Colleges dba Wayne State College, hereinafter called the “College” which on its effective date are, or become signatories hereto:

WITNESSETH THAT:

WHEREAS, it is the recognized responsibility of general purpose political subdivisions to provide and maintain a certain basic level of public services for their residents, including the areas of health and public safety; and

WHEREAS, it is the recognized responsibility of the College to provide and maintain a certain basic level of public services for its student population, including the areas of health and public safety, and

WHEREAS, it is recognized that the provisions of said basic services are sometimes best accomplished jointly because of certain hardships which might be experienced if undertaken singularly, and

WHEREAS, it is recognized that certified, sworn law enforcement officers can enhance the level of protection provided to the students by civilian security officers, and

WHEREAS, it is the desire of the parties hereto signed to participate in the joint use of the city’s law enforcement personnel and resources.

NOW, THEREFORE, BE IT RESOLVED, that the City of Wayne and the College do hereby agree to the following:

1. Authority and Purpose

- a. Article XV, Section 18 of the Constitution of the State of Nebraska and the Interlocal Cooperation Act of the State of Nebraska, Neb. Rev. Stat. 13-801 *et et seq.*, (the “Act”), authorize any two or more public agencies to enter into agreements for joint or cooperative exercise of any power, privilege or authority exercised or capable of exercise individually by such public agencies. College and the City are public agencies within the meaning of the Act.

- b. The City has the authority to provide law enforcement services and the College has the authority to ensure safety services on the Wayne State College campus (the "Campus"), and to enter into any contracts to effectuate this authority and responsibility.
- c. It is the purpose of this Agreement for the College and the City to make the most efficient use of their powers by cooperating with each other on the basis of mutual advantage and timely providing services as identified in this Agreement and in any addendum to this Agreement.

2. Administration of Agreement

- a. The City and the College will jointly administer and monitor all aspects, terms, and conditions of this Agreement. The Dean of Students of the College, or his identified designee, will be the College's contact person for the purpose of this Agreement.
- b. Any personal property shall be acquired, held, and disposed as set forth in this Agreement; or any amendment hereto.
- c. No separate legal or administrative entity is created under this Agreement.

3. Law Enforcement Services To Be Provided By The City

The City will provide on the Campus the following law enforcement services:

- a. City will assign a certified police officer, hereafter called the "School Resource Officer," to the Campus for twenty-two (22) hours per week when regular classes are in session and beginning two (2) weeks prior to the start of the fall semester and ending the day before graduation of the spring semester. The City will be allowed to schedule the School Resource Officer to two (2) non-consecutive weeks per school year for Police Department specific training without backfilling the position. Training specific to or on behalf of the College will not be counted against the above described two training weeks. The College will be notified as soon as possible prior to any training to allow them to adjust their normal staffing schedules. The Police Department will respond to calls for service on Campus with their regularly scheduled officers during these periods;
- b. The City will be allowed to provide the School Resource Officer with two (2) sick days per semester without backfilling the position. The Police Department will respond to calls for service on Campus with their regularly scheduled officers during these periods;

- c. The School Resource Officer will patrol the Campus, in a Police vehicle, on foot, or on a patrol bicycle; enforce traffic and criminal laws of the State of Nebraska and/or the City of Wayne; conduct criminal investigations; respond to calls for service, perform community policing duties, and be a positive presence on Campus. The School Resource Officer will respond to Police calls off-campus for emergencies, backup assistance for other City Police officers and to handle calls for service if an on-duty City Police officer has two (2) or more calls for service backed up or is unable to respond to a crime in progress report, or a traffic accident. The College recognizes that the City's ability to respond to police calls off-campus, as needed, will maximize the Police Department's ability to respond to citizen calls for service received while maintaining the spirit of this inter-local agreement. The Wayne Police Department will make efforts to make up missed hours if the School Resource Officer is called off-campus. When the School Resource Officer responds to Police calls for service off-campus the Police dispatcher will notify Campus Security of this change in status in a timely manner;
- d. The Wayne Police Department will run requests for vehicle registration information as long as that information is requested through and in conjunction with a Wayne Police Officer's involvement on campus.

4. Criminal Investigation

- a. The City will investigate all property crimes reported on the Campus where the loss value is \$100 or greater or involves the theft of any identification or financial transaction device. All property crime reports will be communicated to the School Resource Officer. If the loss value of any reported property crime is less than \$100 the School Resource Officer may refer the case to Campus Security for follow up.
- b. The City will investigate all crimes against persons reported on the Campus, except for reports of sexual violence or sex harassment which may be investigated by the College or by the College and the City.
 - i. Individuals who report an incident of sexual violence or sex harassment to the College will be advised to report the incident to law enforcement, however, students are not required to notify law enforcement authorities regarding a report of sexual violence or sex harassment.
- c. Investigations by the City will be conducted independent of Campus Security unless their assistance is required or requested by the City. If the Police Department does not have an officer immediately available to respond to a crime reported on Campus, Campus Security will gather preliminary information, e.g. victim's name, witnesses' names, date, time and location of offense, for the School Resource Officer. For the purpose

of this agreement preliminary information does not include obtaining written statements, conducting any type of crime scene investigation, taking photographs, etc.

- d. The Police Department will provide Campus Security with reports of all crimes investigated on Campus containing sufficient information for the completion of legally mandated reporting requirements. To prevent duplication of work the School Resource Officer will complete only the Police Department's investigative report. A copy of these investigative reports will be provided to Campus Security for data entry purposes. Except that the Police Department will use its discretion, on a case by case basis, as to when to provide full or partial investigative reports to Campus Security, depending on the case.
- e. When any criminal investigation conducted by the Police Department involves a College residence hall or includes an apparent conflict between students, the Director of Residence Life and/or the Dean of Students will also be provided investigatory reports. The Police Department will use its discretion, on a case by case basis, as to when to provide full or partial investigative reports to Campus Security, depending on the case.
- f. The Police Department will refer all property crimes reported on the Campus, and which they investigate, to the College judicial process, however;
 - (1) Any crime victim, including the College, may request criminal charges;
 - (2) Crimes may be referred for prosecution before the College judicial process begins;
 - (3) Both the College disciplinary process and criminal prosecution may happen concurrently;
 - (4) Police Officers will appear for College disciplinary hearings as needed.
- g. The Police Department will refer all crimes against persons to the Wayne County Attorney's Office for prosecution.
- h. To facilitate investigative follow up the School Resource Officer will be provided access to any Campus surveillance camera recordings and/or allowable student information currently maintained in hard copy or electronically in the Campus Security Office.

5. Community Policing & Crime Prevention

- a. The College and the City recognize that positive interaction between the School Resource Officer, students, faculty and staff is beneficial to both

parties. It is further recognized that crime prevention efforts on Campus should reflect those of the community as well.

- b. The School Resource Officer will be given an opportunity to co-present at crime prevention and/or education programs given by Campus Security, or upon the request of other Campus entities. To ensure adequate planning for any presentation, the School Resource Officer will be provided a minimum of five (5) days written notice. Said notice shall include the topic, date, time, and location of the presentation. The decision to participate in any on-campus crime prevention and/or education presentation will be left to the discretion of the School Resource Officer and/or the Dean of Students. If an officer participates he or she will be given a minimum of 15 minutes participation per hour of scheduled presentation.
- c. To provide a community policing presence, the School Resource Officer will attend College meetings and activities as part of his/her assigned duties, as requested by the College and as he/she is available.
- d. The City will not provide overtime pay for the School Resource Officer to attend these meetings. Any extra shift time spent at these or similar meetings will be taken off before or after the officer's regularly assigned Campus shift.
- e. The School Resource Officer will meet regularly with the Residence Life Staff in each housing unit.
- f. The School Resource Officer will respond to fire alarms on Campus and, in the absence of Campus Security personnel, will reset the fire alarm panels.
- g. The Campus Security Director will provide training specific to the fire alarm systems to the School Resource Officer before the start of the school year. A laminated flip chart of alarm procedures for each building will be placed in each alarm box as a ready reference.

6. Security Responsibilities

- a. The following duties will be performed solely by College Campus Security personnel and not by the City:
 - (1) Fueling vehicles for the College motor pool
- b. Campus Security will be the first to respond to calls for service on the Wayne State College campus. If the Campus Security Officer is occupied with Security Department business and a call for service is received, the

School Resource Officer may be asked to help with the following types of calls:

- (1) Helping to lock and unlock Campus facilities;
- (2) Respond to calls for service and fire alarm panels.

7. Use of Equipment

- a. The Police Department will provide the School Resource Officer with all uniforms, equipment, leather, firearms, and continuing education at all times relevant to this agreement.
- b. The Police Department will provide a multi-channel portable radio programmed with the Campus Security frequency. The priority frequency will be that of the Wayne Police Department but the Campus Security frequency will be monitored.
- c. The City will provide a vehicle for the School Resource Officer to use.

8. Training Provided by College

- a. Fire Alarm Panels – School Resource Officers will receive training specific to the fire alarm panels of each College building. Quick reference laminated charts will be provided to the School Resource Officer and/or Police Department and placed at each alarm panel.
- b. School Resource Officers will attend Residence Life staff training.
- c. Written training defining the College student disciplinary procedures.
- d. Training on procedures for notification of campus staff for after-hours assistance, including when, who, and how to request assistance.
- e. When possible all training will be done beginning two (2) weeks prior to the start of each fall semester.
- f. It is recognized that the School Resource Officer's schedule will be modified during the training period to facilitate attendance at some orientations.
- g. A current roster of Residence Life staff and contact information will be provided to the School Resource Officer each semester.
- h. Monthly Campus Security work schedules, and updates, will be provided to the School Resource Officer and Wayne Police dispatch, including a contact person(s) in the event no one answers the Campus Security number.

9. Direct Oversight of the Agreement to Provide Police Coverage on Campus

Certified Police Officers are employees of the City of Wayne Police Department and as such must be under the direct supervision of the Chief of Police or his designate. Campus Security employees shall remain under the direct supervision of the College.

The City of Wayne Police Department shall control the manner in which law enforcement services are performed; however, the Agreement shall specify the nature of the services to be performed. The School Resource Officer is not to be deemed an employee of the College and has no authority to make any binding commitments or obligations on behalf of the College except as expressly provided herein. Liability and all other insurance coverage as well as Workers Compensation coverage for the School Resource Officer is the responsibility of the City of Wayne.

The Chief of Police will meet monthly with the Dean of Students and the Campus Security Director to review and evaluate the provisions of this Agreement.

Three (3) Wayne State College student representatives selected by Student Senate will meet jointly with the Police Chief, the School Resource Officer and any Campus Security official at least two (2) times per year to review the student perspective of this Agreement, one during the fall semester, and one during the spring semester. These meetings may be scheduled by either party with not less than thirty (30) days' notice. Only those representatives designated in this paragraph, or a designee thereof, shall attend the meeting.

10. Dispatch Services

The City agrees to provide the following dispatch services to the Campus:

- a. Answer Campus Security telephone after hours and refer calls to Campus Security Staff and assign police officers to crimes reported;
- b. Monitor Campus fire alarm system and dispatch fire trucks as needed. Police Dispatch staff will also coordinate with the Director of Facility Services and his staff to prevent unwarranted fire alarm responses.

11. Fees for Service

The total charge to the College by the City for the above defined law enforcement services shall be a total of \$30,000.00 per year to be paid in 12 monthly installments.

12. Agreement Duration

The term of this agreement will be effective beginning July 1, 2016 and shall be in effect until June 30, 2017 except that either the City or the College may execute a written sixty (60) day notice to quit or withdraw from the Agreement.

13. Agreement Amendments

This Agreement may be amended at any time by the written agreement of both parties.

14. Indemnification

To the maximum extent permitted by law, each party agrees to indemnify and defend the other party against, and to hold it harmless from, all claims, suits, liability, expense or damage (including reasonable attorneys' fees and court costs) for damage to property, injury to persons (including death) and any other claims, suits, or liability resulting from the negligence or willful misconduct of such party or any of its employees or agents; provided however, the indemnification under this Section 14 shall not apply if such claims, suits, liability, expense or damage is the direct result of the negligence of the party entitled to indemnification hereunder. In no event shall either party be liable for any punitive, consequential, or special damages or lost profits incurred or alleged to have been incurred.

15. New Employee Work Eligibility Status. - *One box below must be selected and marked.*

Employee Work Eligibility Status. The Contractor is required and hereby agrees to use a federal immigration verification system to determine the work eligibility status of new employees physically performing services within the State of Nebraska. A federal immigration verification system means the electronic verification of the work authorization program authorized by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S.C. 1324a, known as the E-Verify Program, or an equivalent federal program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of a newly hired employee.

The Contractor is an individual or sole proprietorship. The Contractor must complete the "United States Citizenship Attestation Form," available on the Department of Administrative Services website at http://das.nebraska.gov/lb403/attestation_form.pdf. If the Contractor indicates on such attestation form that he or she is a qualified alien, the Contractor agrees to provide US Citizenship and Immigration Services (USCIS) documentation required to verify the Contractor's lawful presence in the United States using the

Systematic Alien Verification for Entitlements (SAVE) Program. *The attestation form and USCIS documents (if applicable) must be attached to the contract.*

The Contractor understands and agrees that lawful presence in the United States is required and the Contractor may be disqualified or the contract terminated if such lawful presence cannot be verified as required by Neb. Rev. Stat. §4-108.

16. Liability Insurance Requirements

The City is required to carry liability insurance in the amount of one (1) million dollars per occurrence with a six (6) million dollar umbrella. The City's insurance policy shall be primary and non-contributory. The College shall be named as an additional insured party on the policy and the certificate of insurance shall reflect that the policy waives its right of subrogation against the College. A copy of the certificate shall be provided to the College.

17. Designated College Representative

The designated College representative for purposes of monitoring and oversight of this contract is:

Jeff Carstens (402) 375-7213 jecarst1@wsc.edu

This Agreement is hereby executed by the City of Wayne and the Board of Trustees of the Nebraska State Colleges dba Wayne State College upon the respective dates set forth following the executory signature attached to this agreement.

AND BE IT FURTHER RESOLVED that the Board of Trustees of the Nebraska State Colleges dba Wayne State College and the City of Wayne each declares itself to be a participant in the joint efforts to provide law enforcement services on the Wayne State College Campus.

Passed and approved this ___ day of _____, 2016.

CITY OF WAYNE

**THE BOARD OF TRUSTEES OF
THE NEBRASKA STATE
COLLEGES**

By: _____

By: _____

Name: Ken Chamberlain

Name: Michelle Suarez

Title: Mayor

Title: Chair, Board of Trustees

Attested By: _____

City Clerk

Date: _____

Date: _____

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RESOLUTION NO. 2016-43

A RESOLUTION ACCEPTING PROPOSAL AND APPROVING A SHORT FORM OF AGREEMENT BETWEEN THE CITY OF WAYNE AND MCLAURY ENGINEERING, INC., FOR DESIGN ENGINEERING SERVICES – NEBRASKA STREET – 3RD STREET TO 7TH STREET WATER MAIN PROJECT.

WHEREAS, a proposal has been received regarding design engineering services for the “Nebraska Street – 3rd Street to 7th Street Water Main Project:” and

WHEREAS, said proposal has been reviewed by city staff; and

WHEREAS, city staff is recommending that the proposal of McLaury Engineering, Inc., for an estimated fee of \$23,500, be accepted.

NOW THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of Wayne, Nebraska, that the Short Form of Agreement for design engineering services for the “Nebraska Street – 3rd Street to 7th Street Water Main Project” be accepted as recommended, and the Mayor be, and he hereby is instructed and authorized to execute the agreement for said services on behalf of the City.

PASSED AND APPROVED this 17th day of May, 2016.

THE CITY OF WAYNE, NEBRASKA,

By _____
Mayor

ATTEST:

City Clerk

This document has important legal consequences; consultation with an attorney is encouraged with respect to its use or modification. This document should be adapted to the particular circumstances of the contemplated Project and the controlling Laws and Regulations.

**SHORT FORM OF AGREEMENT
BETWEEN OWNER AND ENGINEER
FOR
PROFESSIONAL SERVICES**

Prepared by

EJCDC 
ENGINEERS JOINT CONTRACT
DOCUMENTS COMMITTEE

and

Issued and Published Jointly by



AMERICAN COUNCIL OF ENGINEERING COMPANIES

ASSOCIATED GENERAL CONTRACTORS OF AMERICA

AMERICAN SOCIETY OF CIVIL ENGINEERS

PROFESSIONAL ENGINEERS IN PRIVATE PRACTICE
A Practice Division of the
NATIONAL SOCIETY OF PROFESSIONAL ENGINEERS

This Agreement has been prepared for use with the Standard General Conditions of the Construction Contract (EJCDC C-700, 2007 Edition) of the Engineers Joint Contract Documents Committee. Their provisions are interrelated, and a change in one may necessitate a change in the other.

SPECIAL NOTE ON USE OF THIS FORM

This abbreviated Agreement form is intended for use only for professional services of limited scope and complexity. It does not address the full range of issues of importance on most projects. In most cases, Owner and Engineer will be better served by the Standard Form of Agreement Between Owner and Engineer for Professional Services (EJCDC E-500, 2008 Edition), or one of the several special purpose EJCDC professional services agreement forms.

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1420 King Street, Alexandria, VA 22314-2794
(703) 684-2882
www.nspe.org

American Council of Engineering Companies
1015 15th Street N.W., Washington, DC 20005
(202) 347-7474
www.acec.org

American Society of Civil Engineers
1801 Alexander Bell Drive, Reston, VA 20191-4400
(800) 548-2723
www.asce.org

Associated General Contractors of America
2300 Wilson Boulevard, Suite 400, Arlington, VA 22201-3308
(703) 548-3118
www.agc.org

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SHORT FORM OF AGREEMENT
BETWEEN OWNER AND ENGINEER
FOR
PROFESSIONAL SERVICES

THIS IS AN AGREEMENT effective as of April 8, 2016 ("Effective Date") between

CITY OF WAYNE, NEBRASKA ("Owner")

and

MCLAURY ENGINEERING, INC. ("Engineer").

Owner's Project, of which Engineer's services under this Agreement are a part, is generally identified as follows:

NEBRASKA STREET WATERMAIN PROJECT ("Project").

Engineer's Services under this Agreement are generally identified as follows:

SEE APPENDIX 2

Owner and Engineer further agree as follows:

1.01 *Basic Agreement and Period of Service*

- A. Engineer shall provide, or cause to be provided, the services set forth in this Agreement. If authorized by Owner, or if required because of changes in the Project, Engineer shall furnish services in addition to those set forth above. Owner shall pay Engineer for its services as set forth in Paragraphs 7.01 and 7.02.
- B. Engineer shall complete its services within a reasonable time, or within the following specific time period: **COMPLETION DATE WILL BE DECEMBER 31, 2016.**
- C. If the Project includes construction-related professional services, then Engineer's time for completion of services is conditioned on the time for Owner and its contractors to complete construction not exceeding **THREE (3)** months. If the actual time to complete construction exceeds the number of months indicated, then Engineer's period of service and its total compensation shall be appropriately adjusted.

2.01 *Payment Procedures*

- A. *Invoices*: Engineer shall prepare invoices in accordance with its standard invoicing practices and submit the invoices to Owner on a monthly basis. Invoices are due and payable within 30 days of receipt. If Owner fails to make any payment due Engineer for services and expenses within 30 days after receipt of Engineer's invoice, then the amounts due Engineer will be increased at the rate of 1.0% per month (or the maximum rate of interest permitted by law, if less) from said thirtieth day. In addition, Engineer may, after giving seven days written notice to Owner, suspend services under this Agreement until Engineer has been paid in full all amounts due for services, expenses, and other related charges. Owner waives any and all claims against Engineer for any such suspension. Payments will be credited first to interest and then to principal.

3.01 *Termination*

- A. The obligation to continue performance under this Agreement may be terminated:

1. For cause,

- a. By either party upon 30 days written notice in the event of substantial failure by the other party to perform in accordance with the Agreement's terms through no fault of the terminating party. Failure to pay Engineer for its services is a substantial failure to perform and a basis for termination.
- b. By Engineer:
- 1) upon seven days written notice if Owner demands that Engineer furnish or perform services contrary to Engineer's responsibilities as a licensed professional; or
 - 2) upon seven days written notice if the Engineer's services for the Project are delayed for more than 90 days for reasons beyond Engineer's control.

Engineer shall have no liability to Owner on account of a termination by Engineer under Paragraph 3.01.A.1.b.

- c. Notwithstanding the foregoing, this Agreement will not terminate as a result of a substantial failure under Paragraph 3.01.A.1.a if the party receiving such notice begins, within seven days of receipt of such notice, to correct its substantial failure to perform and proceeds diligently to cure such failure within no more than 30 days of receipt of notice; provided, however, that if and to the extent such substantial failure cannot be reasonably cured within such 30 day period, and if such party has diligently attempted to cure the same and thereafter continues diligently to cure the same, then the cure period provided for herein shall extend up to, but in no case more than, 60 days after the date of receipt of the notice.
2. For convenience, by Owner effective upon Engineer's receipt of written notice from Owner.

- B. The terminating party under Paragraph 3.01.A may set the effective date of termination at a time up to 30 days later than otherwise provided to allow Engineer to complete tasks whose value would otherwise be lost, to prepare notes as to the status of completed and uncompleted tasks, and to assemble Project materials in orderly files.
- C. In the event of any termination under Paragraph 3.01, Engineer will be entitled to invoice Owner and to receive full payment for all services performed or furnished in accordance with this Agreement and all reimbursable expenses incurred through the effective date of termination.

4.01 *Successors, Assigns, and Beneficiaries*

- A. Owner and Engineer are hereby bound and the successors, executors, administrators, and legal representatives of Owner and Engineer (and to the extent permitted by Paragraph 4.01.B the assigns of Owner and Engineer) are hereby bound to the other party to this Agreement and to the successors, executors, administrators, and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements, and obligations of this Agreement.
- B. Neither Owner nor Engineer may assign, sublet, or transfer any rights under or interest (including, but without limitation, moneys that are due or may become due) in this Agreement without the written consent of the other, except to the extent that any assignment, subletting, or transfer is mandated or restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement.
- C. Unless expressly provided otherwise, nothing in this Agreement shall be construed to create, impose, or give rise to any duty owed by Owner or Engineer to any contractor, subcontractor, supplier, other individual or entity, or to any surety for or employee of any of them. All duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of Owner and Engineer and not for the benefit of any other party.

5.01 *General Considerations*

- A. The standard of care for all professional engineering and related services performed or furnished by Engineer under this Agreement will be the care and skill ordinarily used by members of the subject profession practicing under similar circumstances at the same time and in the same locality. Engineer makes no warranties, express or implied, under this Agreement or otherwise, in connection with Engineer's services. Subject to the foregoing standard of care, Engineer and its consultants may use or rely upon design elements and information ordinarily or customarily furnished by others, including, but not limited to, specialty contractors, manufacturers, suppliers, and the publishers of technical standards.
- B. Engineer shall not at any time supervise, direct, control, or have authority over any contractor's work, nor shall Engineer have authority over or be responsible for the means, methods, techniques, sequences, or procedures of construction selected or used by any contractor, or the safety precautions and programs incident thereto, for security or safety at the Project site, nor for any failure of a contractor to comply with laws and regulations applicable to such contractor's furnishing and performing of its work.

- C. This Agreement is to be governed by the law of the state or jurisdiction in which the Project is located.
- D. Engineer neither guarantees the performance of any contractor nor assumes responsibility for any contractor's failure to furnish and perform its work in accordance with the contract between Owner and such contractor. Engineer is not responsible for variations between actual construction bids or costs and Engineer's opinions or estimates regarding construction costs.
- E. Engineer shall not be responsible for the acts or omissions of any contractor, subcontractor, or supplier, or of any of their agents or employees or of any other persons (except Engineer's own employees) at the Project site or otherwise furnishing or performing any construction work; or for any decision made regarding the construction contract requirements, or any application, interpretation, or clarification of the construction contract other than those made by Engineer.
- F. The general conditions for any construction contract documents prepared hereunder are to be the "Standard General Conditions of the Construction Contract" as prepared by the Engineers Joint Contract Documents Committee (EJCDC C-700, 2007 Edition) unless the parties agree otherwise.
- G. All documents prepared or furnished by Engineer are instruments of service, and Engineer retains an ownership and property interest (including the copyright and the right of reuse) in such documents, whether or not the Project is completed. Owner shall have a limited license to use the documents on the Project, extensions of the Project, and for related uses of the Owner, subject to receipt by Engineer of full payment for all services relating to preparation of the documents and subject to the following limitations: (1) Owner acknowledges that such documents are not intended or represented to be suitable for use on the Project unless completed by Engineer, or for use or reuse by Owner or others on extensions of the Project, on any other project, or for any other use or purpose, without written verification or adaptation by Engineer; (2) any such use or reuse, or any modification of the documents, without written verification, completion, or adaptation by Engineer, as appropriate for the specific purpose intended, will be at Owner's sole risk and without liability or legal exposure to Engineer or to its officers, directors, members, partners, agents, employees, and consultants; (3) Owner shall indemnify and hold harmless Engineer and its officers, directors, members, partners, agents, employees, and consultants from all claims, damages, losses, and expenses, including attorneys' fees, arising out of or resulting from any use, reuse, or modification of the documents without written verification, completion, or adaptation by Engineer; and (4) such limited license to Owner shall not create any rights in third parties.
- H. To the fullest extent permitted by law, Owner and Engineer (1) waive against each other, and the other's employees, officers, directors, agents, insurers, partners, and consultants, any and all claims for or entitlement to special, incidental, indirect, or consequential damages arising out of, resulting from, or in any way related to the Project, and (2) agree that Engineer's total liability to Owner under this Agreement shall be limited to \$50,000 or the total amount of compensation received by Engineer, whichever is greater.
- I. The parties acknowledge that Engineer's scope of services does not include any services related to a Hazardous Environmental Condition (the presence of asbestos, PCBs, petroleum, hazardous substances or waste as defined by the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§9601 et seq., or radioactive materials). If Engineer or any other party encounters a Hazardous Environmental Condition, Engineer may, at its option and without liability

for consequential or any other damages, suspend performance of services on the portion of the Project affected thereby until Owner: (1) retains appropriate specialist consultants or contractors to identify and, as appropriate, abate, remediate, or remove the Hazardous Environmental Condition; and (2) warrants that the Site is in full compliance with applicable Laws and Regulations.

- J. Owner and Engineer agree to negotiate each dispute between them in good faith during the 30 days after notice of dispute. If negotiations are unsuccessful in resolving the dispute, then the dispute shall be mediated. If mediation is unsuccessful, then the parties may exercise their rights at law.

6.01 *Total Agreement*

- A. This Agreement (including any expressly incorporated attachments), constitutes the entire agreement between Owner and Engineer and supersedes all prior written or oral understandings. This Agreement may only be amended, supplemented, modified, or canceled by a duly executed written instrument.

7.01 *Basis of Payment—Hourly Rates Plus Reimbursable Expenses*

- A. Using the procedures set forth in Paragraph 2.01, Owner shall pay Engineer as follows:
 - 1. An amount equal to the cumulative hours charged to the Project by each class of Engineer's employees times standard hourly rates for each applicable billing class for all services performed on the Project, plus reimbursable expenses and Engineer's consultants' charges, if any.
 - 2. Engineer's Standard Hourly Rates are attached as Appendix 1.
 - 3. The total compensation for services and reimbursable expenses are estimated to be **\$23,500.**

- 7.02 *Additional Services:* For additional services of Engineer's employees engaged directly on the Project, Owner shall pay Engineer an amount equal to the cumulative hours charged to the Project by each class of Engineer's employees' time's standard hourly rates for each applicable billing class; plus reimbursable expenses and Engineer's consultants' charges, if any. Engineer's standard hourly rates are attached as Appendix 1.

Attachments: Appendix 1, Engineer's Standard Hourly Rates

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, the Effective Date of which is indicated on page 1.

OWNER:

By: _____

Title: _____

Date Signed: _____

Address for giving notices:

City of Wayne, NE

Attn: Lowell Johnson, City Administrator

306 Pearl Street

Wayne, NE 68797

ENGINEER: McLaury Engineering, Inc.

By: Tim J. McLaury

Title: President

Date Signed: April 8, 2016

Engineer License or Firm's Certificate
Number: SD-5801

State of: South Dakota

Address for giving notices:

P.O. Box 1130

118 West Main Street

Elk Point, SD 57025-1130

(605) 356-2308



ENGINEERS JOINT CONTRACT
DOCUMENTS COMMITTEE

This is **Appendix 2, Scope of Services**, referred to in and part of the Short Form of Agreement between Owner and Engineer for Professional Services dated April 8, 2016.

Nebraska Street Watermain Scope of Services

A. *Survey – Design of 8” Watermain on Nebraska Street from 3rd Street to 7th Street:*

1. SURVEYING SERVICES

- a. Provide topographic and utility survey of Nebraska Street approximately 1,500 lf long.

2. ENGINEERING DESIGN SERVICES

- a. A Design Memorandum developed between the City and the McLaury Engineering, which specifies the design criteria for the project and made part of this contract by reference.
- b. Provide a design and construction documents for the replacement of an existing 4 inch water main on the west side of Nebraska Street from 3rd Street to 7th Street.
- c. Interconnect crossing water mains at 4th Street, and 6th Street and provide isolation valves per City review.
- d. New water services will include new curb stops and connection to existing copper services at the curb stop.
- e. Following a site review with the City Water Department and the City Street Superintendent, the desired method of construction is Boring in lieu of trenching.

Design Memorandum

Nebraska Street Water Main Replacement Project

April 8th, 2016



This Design Memorandum defines in detail the Consultant's and City's mutually agreed understanding of the project scope, objectives, schedule and budgetary information.

Understanding of the Project:

- Funding for the project is a combination of CDBG/CIS grant funding and City matching funds. As a condition of the grant funding the funds/project must be expended and closed by November 1, 2016.
- Consultant shall provide normal and customary services to include Survey, Utility Plans, Environmental Review, and Construction Phasing in conformance with City, State, Federal and CDBG requirements.
- Plans will be submitted for City Review at the 30% Preliminary, 60% Functional , & 90% PS&E phases.
- MEI will meet with the City to review each of the above submittals.
- MEI will complete and submit Plans and Specifications to Nebraska HHS and DEQ as required. No other City, State or Federal Permits are required, the one exception possibly being NDOR if the project is inside there Right-of-Way.
- Assist City in obtaining bids for construction, answering technical questions from prospective bidders, preparing bid addenda, and coordinating and attending a pre bid meeting.

Technical Requirements of the Project:

- Replacement Water main - 8" PVC DR 18
- Polyethylene Services - 1" Residential
- Polyethylene Services (Match Existing) - Multi Family, Business
- Interconnect at crossings and disconnect and cap old crossings and connections.
- Abandon existing water main in place.
- Reset the Fire Hydrant at 3rd Street and Nebraska Street (Move to Inside of Radius)

- Services for 308, 309, 314 and 315 East 4th Street should be relocated to water main in 4th Street (City to Coordinate with Owners)
- City will relocate the street light at SE Corner of 5th Street and Nebraska Street. This Street light conflicts with the location of the new water main
- New water main should be approximately 10 feet east of the back of curb.
- 504 and 508 Nebraska Street Share a service. Install two services. (City will decide if the residences continue to share or are tied over to the individual services)
- Service to 220 Nebraska Street is new. (Discuss with City tying existing service to the new Corporation Stop at the new main.
- Fired Hydrant in the NE corner of 6th and Main does not need to be replaced.
- Discussion Isolation valve placement with the City at 30% plans.
- Curb Ramp upgrades are planned by the city at a future date and are not part of this project.
- Sidewalk removal is expected at each Curb Stop. Remove existing to the nearest joint and at least one sidewalk panel each side of the Curb Stop.
- The termination tie in at 7th and Nebraska Street will require a permit with the Nebraska Department of Roads if the tie in occurs within the NDOR right of way. MEI to confirm the location and submit for any required permits.
- City is recommending the project be designed as a Bored installation in lieu of open trench. MEI agrees that Boring is in the best interest of the City along this route.

Project Schedule:

- | | |
|--|-------------------|
| • Notice to Proceed from City of Wayne | April 5, 2016 |
| • Complete Site Survey | April 15, 2016 |
| • Process Survey, Start Design Layout | April 18, 2016 |
| • Design 30% Submittal | April 25, 2016 |
| • Design 60% Submittal | May 2, 2016 |
| • Design 90% Submittal | May 9, 2016 |
| • Submittal to Nebraska DEQ | May 16, 2016 |
| • Bid Project | June 20, 2016 |
| • Award Project | June 20, 2016 |
| • Begin Construction | July 18, 2016 |
| • Complete Construction | September 1, 2016 |

This is **Appendix 1, Engineer's Standard Hourly Rates**, referred to in and part of the Short Form of Agreement between Owner and Engineer for Professional Services dated April 8, 2016.

Engineer's Standard Hourly Rates

A. *Standard Hourly Rates:*

1. Standard Hourly Rates are set forth in this Appendix 1 and include salaries and wages paid to personnel in each billing class plus the cost of customary and statutory benefits, general and administrative overhead, non-project operating costs, and operating margin or profit.
2. The Standard Hourly Rates apply only as specified in Paragraphs 7.01 and 7.02, and are subject to annual review and adjustment.

B. *Schedule of Hourly Rates for 2016:*

Hourly rates for services performed on or after the Effective Date are:

Project Manager, Principal Engineer	155.00
Engineering Manager, PE	160.00
Surveying Manager, PLS	140.00
Sr. Project Engineer, PE	107.00
Jr. Engineer, PLS	107.00
Jr. Project Engineer, EI	90.00
Field Surveyor, Drafter	85.00
Sr. Administration	85.00
Support Staff Administration	58.00

*State & local taxes are NOT included in the rates above

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RESOLUTION NO. 2016-44

A RESOLUTION AMENDING SECTION 14.100 EMPLOYEE BENEFITS OF THE CITY OF WAYNE PERSONNEL MANUAL.

WHEREAS, the City of Wayne Personnel Manual was adopted by Resolution No. 88-31 on September 13, 1988; and

WHEREAS, under Section 14.100 of the Manual, there is a need to revise the Employee Benefits relating to COBRA.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the City of Wayne, Nebraska as follows:

1. Amendments to the Personnel Manual relating to employee benefits, as set out in the attached Exhibit "A," are hereby approved.
2. The effective date of the amendments set out in Exhibit "A" shall be May 17, 2016.

PASSED AND APPROVED this 17th day of May, 2016.

THE CITY OF WAYNE, NEBRASKA,

By _____
Mayor

ATTEST:

City Clerk

Exhibit "A"
Amendments to Personnel Policy Manual

Sec. 14.100. Employee Benefits. (Amended by Res. 2015-25, 3/3/15).

In order to remain a competitive and equitable employer and to comply with applicable laws, the City offers a total compensation plan consisting not only of pay but also of substantial employee benefits. The Personnel Officer shall make information available concerning current benefits, some of which may be provided at an employee's option, in whole or in part at his or her expense, and /or only to certain categories of employees. It is the responsibility of the employee to notify the personnel office and the plan administrators of changes in the employee status, change in beneficiaries, marriage, additions to households, etc.

The following are the principal employee benefits which are offered prorata on the basis of a 40 hour week to all regular, full-time employees after completing necessary waiting periods:

(a) Health and Major Medical Insurance:

PPO program with no limit for maximum major medical expenses.

2016: Deductibles will be \$2,000 for single and \$4,000 for family coverage in the PPO. The employer is self-insuring (80/20) a \$6,350 deductible for single and a \$12,700 deductible for family after meeting either one or two deductibles. An eligible employee qualifies on the first day of the month following 30 days of continuous employment. The City pays 80% of the premium for single employee and 70% for family coverage. The employee pays 20% of the premium for single coverage and 30% for family coverage.

As an incentive for the employee and family to reduce the deductible to \$1,500 for single and \$3,000 for family coverage in the PPO, the following must be met:

- Employee and spouse must be a non-tobacco user. The City reserves the right to verify this by nicotine blood test; and
- Employee and spouse must have annual physicals as provided in the plan.

The Employer will self-insure vision benefits as follows:

Vision: \$10 co-pay per exam
 50% discount for eyeglasses at member facilities
 25% discount for contacts

 \$100 for Safety Glasses

(b) **COBRA:**

If an employee or family member elects to go on COBRA under the City's group health insurance plan, the plan benefits will be the same as those of the original policy, not those benefits which the City provides by self-funding the policy.

(c) Life Insurance:

The City pays for group life insurance. The amount of insurance generally equals one times

(1x) annual salary to the next highest \$1,000.

(d) Disability Insurance:

A tailored program of coverage paid by the City for short term disability for up to 52 weeks of weekly benefit starting after a 30 day period, and long term disability with a monthly benefit starting after twelve months of short term disability. The plan generally pays employees 60% of their gross pay subject to certain maximums for qualifying conditions.

(e) Retirement:

The City of Wayne provides a deferred compensation retirement savings plan to eligible employees and a 401(a) Money Purchase Plan. An eligible full-time employee may participate in the retirement plan from their date of hire. However, the City will start contributions after one (1) year of employment and upon finishing probationary period for eligible employees. At that time, the employee must contribute 1% of their annual wage but not more than 19%. The City will contribute 6% of their annual base salary to the 401(a) Money Purchase Plan.

An eligible regular part-time employee working 30 or more hours per week may participate with unmatched contributions in the retirement plan from their date of hire.

According to State Statute and Civil Service requirements, sworn police officers receive pension contributions from the City immediately at a rate of 6.5% employee, 6.5% employer. The deferred compensation retirement savings plan may be used by sworn police officers, as well; however, the City will not match any employee contributions. The sworn police officers shall be fully vested in the retirement plan upon completion of seven years of employment with the City.

(f) Flexible Employee Benefit Plan:

The Flex Plus Plan was developed to allow eligible employees to use before-tax earnings to purchase benefits under the Plan; examples of flexible spending account benefits include child care, unreimbursed medical expenses, health and accident insurance premium, etc.; Federal, State and Social Security taxes do not apply to these benefits.

An employee may participate in the Plan as of the first day of the month after completing the first day of employment. Prior to the date of being eligible to participate in the Plan, an employee is required to fill out an election form.

(g) Paid holidays, personal days, and leave for vacation, illness or other designated purposes.

(h) Educational Scholarships for Full-Time Employees

Providing that scholarship funds for this program are budgeted and available, any employee regularly scheduled to work 40 hours per week or more is eligible to apply for up to \$150 in scholarship funds per calendar year for tuition and/or books for an approved trade or educational course related to his or her job description at an approved two or four-year degree institution. The course, the educational institution, and the application must be pre-approved by the department head.

Date of Issuance: April 19, 2016 Effective Date: April 19, 2016
Owner: City of Wayne Owner's Contract No.:
Contractor: Penro Construction Contractor's Project No.:
Engineer: Advanced Consulting Engineering Services Engineer's Project No.: 617-018
Project: Logan Valley Drive Sewer Extension Contract Name:

The Contract is modified as follows upon execution of this Change Order:

Description: Description: Additions or subtractions to bring final quantities in alignment with estimated quantities

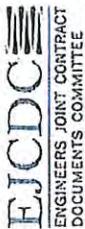
Attachments: *[List documents supporting change]*

CHANGE IN CONTRACT PRICE	CHANGE IN CONTRACT TIMES <i>[note changes in Milestones if applicable]</i>
Original Contract Price: \$ <u>105,097.70</u>	Original Contract Times: Substantial Completion: _____ Ready for Final Payment: _____ days or dates
[Increase] [Decrease] from previously approved Change Orders No. ___ to No. ___: \$ _____	[Increase] [Decrease] from previously approved Change Orders No. ___ to No. ___: Substantial Completion: _____ Ready for Final Payment: _____ days
Contract Price prior to this Change Order: \$ <u>105,097.70</u>	Contract Times prior to this Change Order: Substantial Completion: _____ Ready for Final Payment: _____ days or dates
Decrease of this Change Order: \$ <u>1,190.68</u>	[Increase] [Decrease] of this Change Order: Substantial Completion: _____ Ready for Final Payment: _____ days or dates
Contract Price incorporating this Change Order: \$ <u>103,907.02</u>	Contract Times with all approved Change Orders: Substantial Completion: _____ Ready for Final Payment: _____ days or dates

RECOMMENDED: By: <u><i>Heather Ritter</i></u> Engineer (if required) Title: <u><i>owner</i></u> Date: <u><i>4-19-16</i></u>	ACCEPTED: By: _____ Owner (Authorized Signature) Title: _____ Date: _____	ACCEPTED: By: <u><i>M. King</i></u> Contractor (Authorized Signature) Title: <u><i>President</i></u> Date: <u><i>4-19-16</i></u>
---	---	--

Approved by Funding Agency (if applicable)

By: _____ Date: _____
Title: _____



ENGINEERS JOINT CONTRACT DOCUMENTS COMMITTEE

Contractor's Application for Payment No. 2 (FINAL)

Application Period: 4/19/2016	Application Date: 4/19/2016
From (Contractor): Petro Construction Co., Inc.	Via (Engineer): Advanced Consulting Engineering Services
Contract: Logan Valley Drive Water & Sewer Extension	Engineer's Project No.: 617-018
Owner's Contract No.: City of Wayne	

Application for Payment Change Order Summary

Approved Change Orders Number	Additions	Deductions
1		\$1,190.68
TOTALS		\$1,190.68
NET CHANGE BY CHANGE ORDERS		-\$1,190.68

1. ORIGINAL CONTRACT PRICE..... \$ 105,097.70
2. Net change by Change Orders..... \$ -1,190.68
3. Current Contract Price (Line 1 ± 2)..... \$ 103,907.02
4. TOTAL COMPLETED AND STORED TO DATE (Column F on Progress Estimate)..... \$ 103,907.02
5. RETAINAGE:
 - a. Work Completed..... \$
 - b. Stored Material..... \$
 - c. Total Retainage (Line 5a + Line 5b)..... \$
6. AMOUNT ELIGIBLE TO DATE (Line 4 - Line 5c)..... \$ 103,907.02
7. LESS PREVIOUS PAYMENTS (Line 6 from prior Application)..... \$ 95,154.57
8. AMOUNT DUE THIS APPLICATION..... \$ **8,752.45**
9. BALANCE TO FINISH, PLUS RETAINAGE (Column G on Progress Estimate + Line 5 above)..... \$

Contractor's Certification

The undersigned Contractor certifies that to the best of its knowledge: (1) all previous progress payments received from Owner on account of Work done under the Contract have been applied on account to discharge Contractor's legitimate obligations incurred in connection with Work covered by prior Applications for Payment; (2) title of all Work, materials and equipment incorporated in said Work or otherwise listed in or covered by this Application for Payment will pass to Owner at time of payment free and clear of all Liens, security interests and encumbrances (except such as are covered by a Bond acceptable to Owner indemnifying Owner against any such Liens, security interest or encumbrances); and (3) all Work covered by this Application for Payment is in accordance with the Contract Documents and is not defective.

By: *M. J. [Signature]* Date: **4-19-16**

Payment of: \$ **8,752.45**

is recommended by: *[Signature]* (Date) **4-19-16**

Payment of: \$ **8,752.45** (Line 8 or other - attach explanation of the other amount)

is approved by: _____ (Owner) _____ (Date)



LETTER OF TRANSMITTAL

Date: May 3, 2016

Attention: Lowell Johnson

To: City of Wayne

306 Pearl Street

Wayne, NE 68787

From: Dave Henke

Re: Wayne, Nebraska

Wayne Aquatic Center

Agreement Amendment

Project #: 141213



- Your Information
- Per Conversation
- As Requested

- Approval
- Review & Comment
- Necessary Action

- Investigation
- Signature
- For Your Files

Remarks:

Lowell:

Enclosed for your review and approval are two copies of an 'amendment to our agreement' for additional hours involved in observing the winter working conditions of Christiansen Construction and additional observation hours for water and sewer utilities re-design issues. Please return one to me after approval and signature.

If you have any questions, please contact myself or Roger Protzman.

Thank you for your consideration.

Handwritten signature of Dave Henke in blue ink.

Dave Henke

Project Manager

EC: Roger Protzman

**AMENDMENT TO AGREEMENT
WAYNE AQUATIC CENTER
WAYNE, NEBRASKA
JEO PROJECT NO. R141213.00**

May 3, 2016

REFERENCE: Consultant agreement for additional resident project representative services for the Wayne Aquatic Center original contract dated January 21, 2015. Except as noted below, all other terms and conditions remain unchanged.

AMENDMENT: To include fees for the additional time relating to the project construction observation due to winter working conditions and also utility location verification including re-alignments with changes to the original plans per the request of Lowell Johnson.

FEE: Resident Project Representative (Lump Sum) \$7,500.00

December through March equated into 34 additional hours for winter conditions including checking form and rebar temperature and monitoring cold weather pours.
August through October equated into 18 additional hours for utility relocations and changes to the plans.

OWNER: **City of Wayne, Nebraska
Ken Chamberlain - Mayor**

ENGINEER: **JEO Consulting Group, Inc.
David Henke**



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**POLICE DEPARTMENT IS REQUESTING THAT THESE NUMBERS BE THE SAME AS
WHAT WAS IN THE OLD CODE BOOK (e.g. 78.01, etc.)**

TITLE VII: TRAFFIC CODE

Chapter

70. GENERAL PROVISIONS

71. VEHICLE OPERATION

72. PARKING RULES

73. SNOW PLOW ALERT

74. ALL-TERRAIN AND UTILITY VEHICLES

75. TRUCK TRAFFIC

76. TRAFFIC SCHEDULES

77. PARKING SCHEDULES

CHAPTER ~~70~~ 78: GENERAL PROVISIONS

Section

General Provisions

- ~~70.01~~ **8.01** Definitions
- 70.02 Truck routes
- 70.03 One-way traffic
- 70.04 Traffic lanes; designation
- 70.05 Arterial streets; designation
- 70.06 Driving in sidewalk space
- 70.07 Crosswalks

Operator and Vehicle Qualifications

- 70.20 Registration of operator and vehicle license
- 70.21 Unlicensed operator
- 70.22 Operator's license; possession
- 70.23 Non-resident operators
- 70.24 Registration of trailer
- 70.25 License plates
- 70.26 Lights
- 70.27 Brake requirements
- 70.28 Horn requirements
- 70.29 Mufflers
- 70.30 Projecting loads
- 70.31 Spilling loads

GENERAL PROVISIONS

§ 70.01 DEFINITIONS.

The definitions in Neb. RS Ch. 60 shall be applied throughout this chapter. Where no definition is specified, the normal dictionary usage of the word shall apply.
(2002 Code, § 78-1)

§ 70.02 TRUCK ROUTES.

The Council may, by resolution, designate certain streets in the city 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 city. The Council shall cause notices to be posted, or shall erect signs indicating the streets so designated as truck routes.

(2002 Code, § 78-2) Penalty, see § 10.99

Cross-reference:

Truck routes, see Ch. 76, Schd. VI

Truck Traffic, see Ch. 75

Statutory reference:

Authority to prohibit the operation of trucks or other commercial vehicles on designated highways, see Neb. RS 60-681

Authority to regulate the use of highways by incompatible class or kind of traffic, see Neb. RS 60-680(1)(m)

§ 70.03 ONE-WAY TRAFFIC.

The Council may, by resolution, provide for one-way travel in any street, or alley located in the city and shall provide for appropriate signs and markings when such streets have been so designated by resolution.

(2002 Code, § 78-3)

Statutory reference:

Authority to designate one-way streets, see Neb. RS 60-680(1)(d)

§ 70.04 TRAFFIC LANES; DESIGNATION.

The Council may, by resolution, make lanes for traffic on street pavements at such places as it may deem advisable.

(2002 Code, § 78-4)

§ 70.05 ARTERIAL STREETS; DESIGNATION.

The Council shall have the authority to designate arterial streets within the city. ~~Such designation shall be by resolution, and signs or standards indicating such designation shall be erected at intervals along the route of the arterial. Unless otherwise directed by an automatic signal or traffic officer, it shall be unlawful for the driver of any vehicle before entering any intersections of an arterial street to fail to come to a complete stop.~~

(2002 Code, § 78-5) Penalty, see § 10.99

§ 70.06 DRIVING IN SIDEWALK SPACE.

No vehicle shall be driven within any sidewalk space, except a permanent or temporary driveway.
(2002 Code, § 78-6) Penalty, see § 10.99

§ 70.07 CROSSWALKS.

The Council may, by resolution, establish and maintain, by appropriate devices, markers or lines upon the street, crosswalks, at intersections where there is particular danger to pedestrians crossing the street, and at such other places as it may deem necessary.

(2002 Code, § 78-7)

Statutory reference:

Authority to restrict pedestrians crossing at unmarked crosswalks, see Neb. RS 60-68i(i)(r)

OPERATOR AND VEHICLE QUALIFICATIONS

§ ~~70.20~~ 8-51 REGISTRATION OF OPERATOR AND VEHICLE LICENSE.

No person shall operate a motor vehicle upon any street or public highway without having first registered the vehicle and without first having obtained a motor vehicle operator’s license as provided by the laws of the state; and such vehicle shall have the registration number plates, furnished by the state or county, displayed upon the vehicle in the manner and place provided by the laws of the state. It shall be unlawful for any person to operate a motor vehicle upon any street or alley during the period that his or her operator’s license has been revoked or canceled.

(2002 Code, § 78-51) Penalty, see § ~~10.99~~

§ 70.21 UNLICENSED OPERATOR.

No owner or person in control of any motor vehicle shall permit any person to operate such motor vehicle unless such person shall have obtained and have in effect a license to operate a motor vehicle under the laws of the state. No owner or person in control of any motor vehicle shall permit any person issued a learner’s permit or other limited permit under the laws of the state to operate such motor vehicle contrary to the terms or purposes of such limited permit.

(2002 Code, § 78-52) Penalty, see § **10.99**

§ 70.22 OPERATOR'S LICENSE; POSSESSION.

An operator's license shall be carried by the licensee when operating a motor vehicle within the city. It shall be presented by the licensee for examination upon demand by any member of the Police Department. Proper evidence of lawful authority shall first be displayed by any police officer making such demand.

(2002 Code, § 78-53) Penalty, see § 10.99

§ 70.23 NON-RESIDENT OPERATORS.

Non-residents duly licensed by the state in which they reside shall be immune for a period of 30 days of continuous residence in the state from the provisions of this subchapter.

(2002 Code, § 78-54)

§ 70.24 REGISTRATION OF TRAILER.

When any trailer shall be attached to any motor vehicle in use upon the city streets, such trailer shall carry a registration number and rear lights as required of any other motor vehicle.

(2002 Code, § 78-55)

§ 70.25 LICENSE PLATES.

The license plates required on every motor vehicle by laws of the state or by laws of any other state while such vehicle is operated within the corporate limits shall be kept clear and free from grease, dust or other blurring matter so they will be plainly visible at all times, and shall be attached in such a manner as to be clearly readable at a distance of 100 feet; and under no circumstances shall they be obstructed by any portion of the vehicle.

(2002 Code, § 78-56) Penalty, see § 10.99

§ 70.26 LIGHTS.

Every motor vehicle upon a street within the city during the period from one-half hour after sunset until one-half hour before sunrise, and at any other time when there is not sufficient light to render clearly discernible persons or vehicles upon the highway at a distance of 500 feet ahead, shall be equipped with lighted front and rear lamps, as in this section respectively required for different classes of vehicles. Every motor vehicle other than a motorcycle, road machinery or farm tractor shall be equipped with two or more headlamps at the front of and on opposite sides of the motor vehicle. The headlamps shall be constructed, arranged and adjusted that under normal atmospheric conditions and on a level road, they will produce driving light sufficient to render truly discernible a person 200 feet ahead. Every motor vehicle other than a motorcycle, road machinery or farm tractor shall be equipped with a lamp on the rear exhibiting a red light visible under normal atmospheric conditions from a distance of at least 500 feet to the rear of such vehicle. It shall be unlawful for any person during the period from one-half hour after sunset to one-half hour before sunrise to operate any vehicle on the streets of the city if such vehicle does not meet the specifications set forth in this section.

(2002 Code, § 78-57) Penalty, see § 10.99

§ 70.27 BRAKE REQUIREMENTS.

(A) Every motor vehicle when operated upon a street in the city shall be equipped with brakes adequate to control the movement of and to stop and hold such vehicle, including two separate means of applying the brakes, each of which means shall be effective to apply the brakes to at least two wheels and so constructed that no part which is liable to failure shall be common to the two; except that, a motorcycle may be equipped with only one brake. All such brakes shall be maintained in good working order. It shall be unlawful for any owner or operator of any motor vehicle to operate such motor vehicle upon the streets of the city unless the brake equipment qualifies in the following respects with regard to maximum stopping distances from a speed of 20 mph on dry asphalt or concrete pavement free from loose materials as set forth:

(1) Two-wheel brakes: maximum stopping distance 40 feet;

(2) Four- or more wheel brakes, vehicles up to 7,000 pounds' gross weight: maximum stopping distance 30 feet;

(3) Four- or more wheel brakes, vehicles over 7,000 pounds' gross weight: maximum stopping distance 35 feet;

(4) All hand parking or emergency brakes, vehicles up to 7,000 pounds' gross weight: maximum stopping distance 55 feet; and

(5) All hand parking or emergency brakes, vehicles over 7,000 pounds' gross weight: maximum stopping distance 65 feet.

(B) All braking distances specified in this section shall apply to all vehicles, whether unloaded or loaded, to the maximum capacity permitted by law. The retarding force of one side of the vehicle shall not exceed the retarding force on the opposite side so as to prevent the vehicle stopping in a straight line.

(2002 Code, § 78-58) Penalty, see § 10.99

§ 70.28 HORN REQUIREMENTS.

Every motor vehicle when operated upon the streets of the city shall be equipped with a horn in good working order capable of emitting sound audible under normal conditions from a distance of not less than 200 feet. It shall be unlawful, except as otherwise provided in this section, for any vehicle to be equipped with or for any person to use upon a vehicle any siren, exhaust, compression or sparkplug whistle or for any person at any time to use a horn otherwise than as a reasonable warning or to make any unnecessary or unreasonably loud or harsh sound by means of a horn or other device. Police and Fire Department vehicles and ambulances used for emergency calls shall be equipped with a bell, siren or exhaust whistle.

(2002 Code, § 78-59) Penalty, see § 10.99

§ 70.29 MUFFLERS.

Every motor vehicle operated within the city 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 cutout on any motor vehicle upon any street. The provisions of this section shall not apply to authorized emergency vehicles.

(2002 Code, § 78-60) Penalty, see § 10.99

§ 70.30 PROJECTING LOADS.

When any vehicle shall be loaded in such a manner that any portion of the load extends more than four feet beyond the rear of the bed or the body of such vehicle, a red flag shall be carried by day and a red light after sunset at the extreme rear end of such load.

(2002 Code, § 78-61) Penalty, see § 10.99

§ 70.31 SPILLING LOADS.

All vehicles used for carrying coal, earth, cinders, sand, gravel, rock, asphalt, tar or any substance shall be so constructed as to prevent the sifting or spilling of any of the contents. It shall further be unlawful to allow any such material to spill on the pavement of any street in the city.

(2002 Code, § 78-62) Penalty, see § 10.99

CHAPTER 71: VEHICLE OPERATION

Section

General Provisions

- ~~71.01~~ **78.211** Semi-tractors; prohibited noises
- 71.02 Reckless driving
- 71.03 Negligent driving
- 71.04 Careless driving
- 71.05 Passing; intersections, hindrance
- 71.06 Driving abreast
- 71.07 Following; distance, fire apparatus
- 71.08 Funeral processions
- 71.09 Crowding; front seat
- 71.10 Dragging a rope or chain
- 71.11 Riding outside vehicle
- 71.12 Accidents
- 71.13 Police enforcement; refusal to obey traffic officers
- 71.14 Impeding traffic
- 71.15 Newly laid pavement
- 71.16 Garage keepers; reports
- 71.17 Spilling loads
- 71.18 Streets to be kept clean
- 71.19 Summons and violations

Driving Under the Influence of Alcohol or Drugs

- 71.30 Penalties generally
- 71.31 Implied consent to submit to chemical tests
- 71.32 Serious bodily injury; violations; penalty
- 71.33 Tests; refusal to permit; effect; result; available upon request
- 71.34 Chemical tests
- 71.35 Blood test; withdrawing requirements; damages and the like
- 71.36 Violation of city ordinance; fee for test; court costs
- 71.37 Test without preliminary breath test; when; qualified personnel
- 71.38 Blood sample; result of chemical test; admission in criminal prosecution; disclosure required
- 71.39 Impounded operator's license; operation relating to employment
- 71.40 Applicability of other laws
- 71.41 Ignition interlock device; order authorized; issuance of restricted Class O license;

prohibited acts; violation; penalty

71.99 Penalty

Statutory reference:

Driving under the influence of alcoholic liquor or drugs, see Neb. RS 60-6,196 et seq.

GENERAL PROVISIONS

§ 71.01 SEMI-TRACTORS; PROHIBITED NOISES.

It shall be unlawful for any person in any part of the city to make or cause to be made loud or disturbing noises with any mechanical devices operated by compressed air and used for purposes of assisting braking on any semi-tractor, commonly referred to as “**Jake engine** braking”. The Council shall cause notices to be posted, or erect signs indicating such prohibition.

(2002 Code, § 78-211) Penalty, see § 71.99

~~§ 71.02 RECKLESS DRIVING.~~

~~— (A) 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 § 10.99 of this code.~~

~~(2002 Code, § 78-214)~~

~~— (B) Any person who drives a motor vehicle in such a manner as to indicate a willful disregard for the safety of persons or property shall be deemed to be guilty of willful, reckless driving and shall be punished as provided by § 10.99 of this code.~~

~~(2002 Code, § 78-217)~~

~~Penalty, see § 71.99~~

~~Statutory reference:~~

~~— Related provisions, see Neb. RS 60-6,213, 60-6,214~~

~~§ 71.03 NEGLIGENT DRIVING.~~

~~— Any person who operates a motor vehicle in such a manner as to endanger a person or property shall be deemed guilty of negligent driving and, upon conviction, shall be punished as provided by § 10.99 of this code.~~

~~(2002 Code, § 78-215) Penalty, see § 71.99~~

~~§ 71.04 CARELESS DRIVING.~~

~~— Any person who drives any motor vehicle in the city carelessly or without due caution so as to endanger a person or property shall be guilty of careless driving and, upon conviction, shall be~~

~~punished as provided by § 10.99 of this code.
 (2002 Code, § 78-216) Penalty, see § 71.99
 State law reference:
~~Related provisions, see Neb. RS 60-6,212~~~~

§ 71.05 PASSING; INTERSECTIONS, HINDRANCE.

(A) 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.
 (2002 Code, § 78-218)

(B) The driver of a vehicle about to be overtaken and passed by another vehicle shall not increase the speed of his or her vehicle until completely passed by the overtaking vehicle.
 (2002 Code, § 78-219)
 Penalty, see § 71.99

§ 71.06 DRIVING ABREAST.

Two or more vehicles shall not be driven abreast, except when passing, or when traversing a multi-lane or one-way street; however, motorcycles may be driven no more than two abreast in a single lane.
 (2002 Code, § 78-220) Penalty, see § 71.99

§ 71.07 FOLLOWING; DISTANCE, FIRE APPARATUS.

(A) The operator of a vehicle shall not follow another vehicle more closely than is reasonable and prudent having due regard for the speed of the vehicles and the traffic and condition of the street.
 (2002 Code, § 78-221)

(B) The driver of any vehicle shall not follow **within 500'** any fire apparatus traveling in response to a fire alarm. ~~closer than 500 feet or drive into or park~~ **The driver of any vehicle shall not park such vehicle within 400'** ~~the block~~ where **the** fire apparatus has stopped in answer to a fire alarm.
 (2002 Code, § 78-222)
 Penalty, see § 71.99

§ 71.08 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.

(2002 Code, § 78-223) Penalty, see § 71.99

§ 71.09 CROWDING; FRONT SEAT.

(A) No person shall drive a motor vehicle when it is so loaded, or when there is in the front seat such a number of persons, exceeding three, as to obstruct the view of the driver to the front or sides of the vehicle or to interfere with the driver's control over the driving mechanism of such vehicle.

(B) No passenger in a vehicle shall ride in such a position as to interfere with the driver's view ahead or to the sides or to interfere with the driver's control over the driving mechanism of such vehicle.

(2002 Code, § 78-224) Penalty, see § 71.99

§ 71.10 DRAGGING A ROPE OR 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.

(2002 Code, § 78-225) Penalty, see § 71.99

§ 71.11 RIDING OUTSIDE VEHICLE.

(A) No person shall permit any other person to ride on the running board, hood, top or fenders or in any other way cling to the outside of any motor vehicle. Nor shall any person ride on the running board, hood, top or fenders or in any other way cling to the outside of any motor vehicle. No person shall allow any other person to ride in the cargo carrying area of any truck unless the rider is seated on the floor of the truck **and is 18 years of age or older.** ~~or the sides and ends of the truck are equipped with side racks greater than the waist height of the person riding in the cargo carrying area of the truck.~~

(B) It shall be unlawful for any person to jump off any moving vehicle in the city.

(C) This section shall not apply to garbage haulers or emergency vehicles.

(2002 Code, § 78-226) Penalty, see § 71.99

~~§ 71.12 ACCIDENTS.~~

~~(A) The driver of any vehicle involved in an accident upon a public highway, private road or private drive resulting in injury or death to any person shall:~~

~~(1) Immediately stop such vehicle at the scene of the accident;~~

~~(2) Give his or her name, address and the registration number of his or her vehicle, and exhibit his or her operator's or chauffeur's license to the person struck, or the driver, or occupants of any vehicle collided with; and~~

~~(3) Render to any person injured in such accident reasonable assistance, including the carrying of such person to a physician or surgeon for medical or surgical treatment if it is apparent that such treatment is necessary, or is required by the injured person.~~

~~(B) The driver of any vehicle involved in an accident, whether upon the public highway, private road or private drive, resulting in damage to property shall:~~

~~(1) Immediately stop such vehicle at the scene of the accident; and~~

~~(2) Give his or her name, address and the registration number of his or her vehicle, and exhibit his or her operator's or chauffeur's license to the owner of the property struck, or the driver, or occupants of any other vehicle involved in the collision.~~

~~(2002 Code, § 78-227) Penalty, see § 71.99~~

§ 71.13 POLICE ENFORCEMENT; REFUSAL TO OBEY TRAFFIC OFFICERS.

(A) (1) The police are 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 and parks and on bridges.

(2) The driver of any vehicle shall stop upon the signal of any police officer.
(2002 Code, § 78-229)

(B) It shall be unlawful for any person to refuse or fail to comply with any lawful order, signal or direction of a police officer.
(2002 Code, § 78-230)

Wayne - Traffic Code

(C) (1) The Council or the police may, at any time, detail officers, to be known as traffic ~~officers~~ **controllers**, at street intersections. All traffic ~~officers~~ **controllers** shall be vested with the authority to regulate and control traffic at the intersections to which they are assigned. It shall be their duty to direct the movement of traffic and prevent congestion and accidents.

(2) It shall be unlawful for any person to violate any order or signal of any such traffic ~~officer~~ **controller** notwithstanding the directive of a stop sign or signal device which may have been placed at any such intersection.

(2002 Code, § 78-231)

Penalty, see § 71.99

Statutory reference:

Related provisions, see Neb. RS 60-6,110

§ 71.14 IMPEDING TRAFFIC.

No motor vehicle shall be unnecessarily driven at such slow speed as to impede or block the normal and reasonable movement of traffic.

(2002 Code, § 78-232) Penalty, see § 71.99

§ 71.15 NEWLY LAID PAVEMENT.

No person shall drive any vehicle over or across any pavement newly laid or repaired, across or around which there has been placed a barrier, or at or near which there is an officer, person or sign warning persons against riding or driving over such pavement.

(2002 Code, § 78-233) Penalty, see § 71.99

§ 71.16 GARAGE KEEPERS; REPORTS.

(A) The person in charge of any garage or repair shop in the city to which is brought any vehicle which shows evidence of having been struck by a bullet or having been recently involved in an accident shall report to the Chief of Police of the city as soon as such vehicle is received, giving the engine number, manufacturer's serial number, registration plate number and the name and address of the owner or operator of such vehicle.

(2002 Code, § 78-234)

(B) The person in charge of any garage or repair shop at which has been left a motor vehicle of unknown ownership for a period of three consecutive days without being removed by its owner or any other person duly authorized to remove the vehicle shall report to the Chief of Police of the city, giving the name, engine number, manufacturer's serial number and registration plate number.

(2002 Code, § 78-235)

Penalty, see § 71.99

§ 71.17 SPILLING LOADS.

It shall be unlawful for any person transporting manure, garbage, rock, sand, gravel, paper or any other thing or substance by a vehicle over the streets to drop or scatter any part or permit any part of the load to drop or scatter upon any street within the city.

(2002 Code, § 78-236) Penalty, see § 71.99

§ 71.18 STREETS TO BE KEPT CLEAN.

It shall be unlawful for any person to place, throw or put upon any street, alley, sidewalk or any public place any snow, ice, dirt, rubbish, refuse or material of any kind or nature unless otherwise permitted by the ordinances of the city.

(2002 Code, § 78-237) Penalty, see § 71.99

§ 71.19 SUMMONS AND VIOLATIONS.

(A) It shall be unlawful for any person to tear up or destroy a parking tag placed upon any vehicle by the police, or to disregard the summons contained on such tag, and fail to appear in Court as directed by such tag.

(2002 Code, § 78-238)

(B) (1) Whenever any person is arrested for a violation of any provision of this chapter, the arresting officer shall, except as otherwise provided in this section, take the name and address of such person and the license number of his or her vehicle if such vehicle is required to be licensed.

(2) The arresting officer shall notify the person arrested in writing to appear at the time and place to be specified in such notice. The time for a hearing on the matter shall be in accordance with state statute and the policies of County Court.

(3) Such officer shall thereupon and upon the giving by such person of his or her written promise to appear at such time and place forthwith release him or her from custody.

(4) Any person refusing to give such written promise to appear shall be taken into custody by the arresting officer **and shall be guilty of a Class III Misdemeanor.**

(2002 Code, § 78-239)

Penalty, see § 71.99

Statutory reference:

Jurisdiction of traffic citations, see Neb. RS 60-685

Related provisions, see Neb. RS 29-424

DRIVING UNDER THE INFLUENCE OF ALCOHOL OR DRUGS~~§ 71.30 PENALTIES GENERALLY.~~

~~— (A) It shall be unlawful for any person to operate or be in the actual physical control of any motor vehicle:~~

~~— (1) While under the influence of alcoholic liquor or of any drug;~~

~~— (2) When such person has a concentration of eight hundredths of one gram or more by weight of alcohol per 100 milliliters of his or her blood; or~~

~~— (3) When such person has a concentration of eight hundredths of one gram or more by weight of alcohol per 210 liters of his or her breath.~~

~~— (B) Any person who operates or is in the actual physical control of any motor vehicle while in a condition described in division (A) above shall be guilty of a crime and, upon conviction, punished as provided in § 71.31 of this chapter.~~

~~(2002 Code, § 78-251) (Ord. 98-9, passed 3-31-1998; Ord. 2005-19, passed 6-14-2005)~~

~~§ 71.31 IMPLIED CONSENT TO SUBMIT TO CHEMICAL TESTS.~~

~~— (A) (1) Any person who operates or has in his or her actual physical control a motor vehicle in the state shall be deemed to have given his or her consent to submit to a chemical test or tests of his or her blood, breath or urine for the purpose of determining the concentration of alcohol or the presence of drugs in such blood, breath or urine.~~

~~— (2) Any peace officer who has been duly authorized to make arrests for violations of traffic laws of the state or of ordinances of the city may require any person arrested for any offense arising out of acts alleged to have been committed while the person was driving or was in actual physical control of a motor vehicle while under the influence of alcoholic liquor or drugs to submit to a chemical test or tests of his or her blood, breath or urine for the purpose of determining the concentration of alcohol or the presence of drugs in such blood, breath or urine when the officer has reasonable grounds to believe that such person was driving or was in the actual physical control of a motor vehicle in this state while under the influence of alcoholic liquor or drugs in violation of § 71.30 of this chapter.~~

~~(3) Any person arrested as described in division (A)(2) above may, upon the direction of a peace officer, be required to submit to a chemical test or tests of his or her blood, breath or urine for a determination of the concentration of alcohol or the presence of drugs. If the chemical test discloses the presence of a concentration of alcohol in violation of § 71.30(A) of this chapter, the person shall be subject to the administration revocation procedures provided in Neb. RS 60-498.01 to 60-498.04 and, upon conviction, shall be punished as provided herein. Any person who refuses to submit to such test or tests required pursuant to this section shall be subject to the administrative revocation procedures provided in Neb. RS 60-498.01 to 60-498.04 and shall be guilty of a crime and, upon conviction, punished as provided herein.~~

~~(4) Any person involved in a motor vehicle accident in the state may be required to submit to a chemical test of his or her blood, breath or urine by any peace officer if the officer has reasonable grounds to believe that the person was driving or was in actual physical control of a motor vehicle on a public highway in the state while under the influence of alcoholic liquor or drugs at the time of the accident. A person involved in a motor vehicle accident subject to the implied consent law of the state shall not be deemed to have withdrawn consent to submit to a chemical test of his or her blood, breath or urine by reason of leaving the state. If the person refuses a test under this section and leaves the state for any reason following an accident, he or she shall remain subject to division (A)(3) above and Neb. RS 60-498.02 upon return.~~

~~(5) Any person who is required to submit to a chemical blood, breath or urine test or tests pursuant to this section shall be advised that refusal to submit to such test or tests is a separate crime for which the person may be charged.~~

~~(6) Refusal to submit to a chemical blood, breath or urine test or tests pursuant to this section shall be admissible evidence in any action for a violation of § 71.30 of this chapter, a violation of state law or any city ordinance enacted in conformance with such section. (2002 Code, § 78-252)~~

~~(B) Upon conviction for a second or subsequent violation of § 71.30 of this chapter or division (A) above, the court shall impose either of the following restrictions on all motor vehicles owned by the person so convicted:~~

~~(1) (a) The court shall order the motor vehicle or motor vehicles immobilized at the owner's expense for a period of time not less than five days and not more than eight months and shall notify the Department of Motor Vehicles of the period of immobilization. Any immobilized motor vehicle shall be released to the holder of a bona fide lien on the motor vehicle executed prior to such immobilization when possession of the motor vehicle is requested as provided by law by such lien holder for purposes of foreclosing and satisfying such lien. If a person tows and stores a motor vehicle pursuant to this division (B)(1)(a) at the direction of a peace officer or the court and has a lien upon such motor vehicle while it is in his or her possession for reasonable towing and storage charges, the person towing the vehicle has the right to retain such motor vehicle until such lien is paid. For purposes of this division (B)(1)(a), *IMMOBILIZED* or *IMMOBILIZATION* means revocation or suspension, at the discretion of the court, of the registration of such motor vehicle or motor vehicles, including the license plates.~~

~~(b) 1. Any immobilized motor vehicle shall be released by the court without any legal or physical restraints to any registered owner who is not the registered owner convicted of a second or subsequent violation of § 71.30 of this chapter and division (A) above if an affidavit is submitted to the court by such registered owner stating that the affiant is employed, that the motor vehicle subject to immobilization is necessary to continue that employment, that such employment is necessary for the well-being of the affiant's dependant children or parents, that the affiant will not authorize the use of the motor vehicle by any person known by the affiant to have been convicted of a second or subsequent violation of § 71.30 of this chapter and division (A) above, and that failure to release the motor vehicle would cause undue hardship to the affiant.~~

~~2. A registered owner who executes an affidavit pursuant to division (B)(1)(b)1. above which is acted upon by the court and who fails to immediately report an unauthorized use of the motor vehicle which is the subject of the affidavit is guilty of a crime and upon conviction will be fined up to \$500, with a mandatory minimum fine of \$100, and may not file any additional affidavits pursuant to division (B)(1)(b)1. above.~~

~~3. The Department of Motor Vehicles shall adopt and promulgate rules and regulations to implement the provisions of this division (B)(1).~~

~~(2) As an alternative to division (B)(1) above, the court shall order the installation of an ignition interlock device on each of the owner's motor vehicles if the owner was sentenced to an operator's license revocation of at least one year and has completed at least one year of such revocation. No license reinstatement may occur until sufficient evidence is presented to the Department of Motor Vehicles that an ignition interlock device is installed on each vehicle and that the applicant is eligible for use of an ignition interlock device. The installation of an ignition interlock device shall be for a period of not less than six months commencing upon the end of such year of the operator's license revocation. Notwithstanding any other provision of law, if the owner was convicted of a second or subsequent violation of § 71.30 of this chapter and division (A) above, no ignition interlock device shall be ordered by any court or state agency under any circumstances until at least one year of the operator's license revocation shall have elapsed. (2002 Code, § 78-252.01)~~

~~(C) (1) A violation of § 71.30 of this chapter or division (A) above shall be punished as provided in division (D) below. For purposes of sentencing under division (D) below:~~

~~(a) *PRIOR CONVICTION* means a conviction for a violation committed within the 12-year period prior to the offense for which the sentence is being imposed as follows:~~

~~1. For a violation of § 71.30 of this chapter:~~

~~a. Any conviction for a violation of § 71.30 of this chapter;~~

~~b. Any conviction for a violation of a city ordinance enacted in conformance with § 71.30 of this chapter;~~

~~c. Any conviction under a law of another state if, at the time of the~~

~~conviction under the law of such other state, the offense for which the person was convicted would have been a violation of § 71.30 of this chapter; or~~

~~d. Any conviction for a violation of Neb. RS 60-6,198.~~

~~2. For a violation of division (A) above;~~

~~a. Any conviction for a violation of division (A) above;~~

~~b. Any conviction for a violation of a city ordinance enacted in conformance with Neb. RS 60-6,197; or~~

~~c. Any conviction under a law of another state if, at the time of the conviction under the law of such other state, the offense for which the person was convicted would have been a violation of division (A) above.~~

~~(b) Prior conviction includes any conviction under Neb. RS 60-6,196, 60-6,197 or 60-6,198 or any city ordinance enacted in conformance with any of such sections, as such sections or city ordinances existed at the time of such conviction regardless of subsequent amendments to any of such sections or city ordinances; and~~

~~(c) TWELVE-YEAR PERIOD means the period computed from the date of the prior offense to the date of the offense which resulted in the conviction for which the sentence is being imposed.~~

~~(2) In any case charging a violation of § 71.30 of this chapter or division (A) above, the prosecutor or investigating agency shall use diligence to obtain the person's driving record from the Department of Motor Vehicles and the person's driving record from other states where he or she is known to have resided within the last 12 years. The prosecutor shall certify to the court, prior to sentencing, that such action has been taken. The prosecutor shall present as evidence for purposes of sentence enhancement an authenticated copy of a prior conviction in another state. The authenticated copy shall be prima facie evidence of such prior conviction.~~

~~(3) For each conviction for a violation of § 71.30 of this chapter or division (A) above, the court shall, as a part of the judgment of conviction, make a finding on the record as to the number of the convicted person's prior convictions. The convicted person shall be given the opportunity to review the record of his or her prior convictions, bring mitigating facts to the attention of the court prior to sentencing and make objections on the record regarding the validity of such prior convictions.~~

~~(2002 Code, § 78-252.02)~~

~~(D) Any person convicted of a violation of § 71.30 of this chapter or division (A) above shall be punished as follows.~~

~~————— (1) (a) If such person has not had a prior conviction, such person shall be imprisoned for a maximum of 60 days and fined \$500, with a mandatory minimum sentence of seven days imprisonment and a \$400 fine; and the court shall, as part of the judgment of conviction, order such person not to drive any motor vehicle for any purpose for a period of six months from the date ordered by the court and shall order that the operator's license of such person be revoked for a like period. Such revocation shall be administered upon sentencing, upon final judgment of any appeal or review, or upon the date that any probation is revoked.~~

~~————— (b) If the court places such person on probation or suspends the sentence for any reason, the court shall, as one of the conditions of probation or sentence suspension, order such person not to drive any motor vehicle for any purpose for a period of 60 days from the date ordered by the court unless otherwise authorized by an order issued pursuant to § 71.41 of this chapter, and such order of probation shall also include, as one of its conditions, the payment of a \$400 fine.~~

~~————— (2) (a) If such person has had one prior conviction, such person shall be imprisoned for a maximum of 90 days and fined \$500, with a mandatory minimum sentence of 30 days imprisonment and a \$500 fine; and the court shall, as part of the judgment of conviction, order such person not to drive any motor vehicle for any purpose for a period of one year from the date ordered by the court, shall order that the operator's license of such person be revoked for a like period, and shall issue an order pursuant to division (B) above with respect to all motor vehicles owned by such person. Such orders shall be administered upon sentencing, upon final judgment of any appeal or review, or upon the date that any probation is revoked.~~

~~————— (b) If the court places such person on probation or suspends the sentence for any reason, the court shall, as one of the conditions of probation or sentence suspension, order such person not to drive any motor vehicle for any purpose for a period of one year from the date ordered by the court unless otherwise authorized by an order issued pursuant to § 71.41 of this chapter and shall issue an order pursuant to division (B) above with respect to all motor vehicles owned by such person, and such order of probation shall also include, as conditions, the payment of a \$500 and either confinement in the city or county jail for five days or the imposition of not less than 240 hours of community service.~~

~~————— (3) (a) If such person has had two prior convictions, such person shall be imprisoned for a maximum of one year and fined \$600, with a mandatory minimum sentence of 90 days imprisonment and a \$600 fine; and the court shall, as part of the judgment of conviction, order such person not to drive any motor vehicle for any purpose for a period of 15 years from the date ordered by the court, shall order that the operator's license of such person be revoked for a like period, and shall issue an order pursuant to division (B) above with respect to all motor vehicles owned by such person. Such orders shall be administered upon sentencing, upon final judgment of any appeal or review, or upon the date that any probation is revoked.~~

~~————— (b) If the court places such person on probation or suspends the sentence for any reason, the court shall, as one of the conditions of probation or sentence suspension, order such person not to drive any motor vehicle for any purpose for a period of one year from the date ordered by the court and shall order that the operator's license of such person be suspended for a like period unless otherwise authorized by an order issued pursuant to § 71.41 of this chapter~~

~~and shall issue an order pursuant to division (B) above with respect to all motor vehicles owned by such person, and such order of probation shall also include, as conditions, the payment of a \$600 fine and either confinement in the city or county jail for ten days or the imposition of not less than 480 hours of community service.~~

~~==== (4) (a) If such person has had three or more prior convictions, such person shall be imprisoned for a maximum of five years and fined \$10,000, or both, with no mandatory minimum sentence, and the court shall, as part of the judgment of conviction, order such person not to drive any motor vehicle for any purpose for a period of 15 years from the date ordered by the court, shall order that the operator's license of such person be revoked for a like period, and shall issue an order pursuant to division (B) above with respect to all motor vehicles owned by such person. Such orders shall be administered upon sentencing, upon final judgment of any appeal or review, or upon the date that any probation is revoked. The court shall also sentence such person to serve at least ten days' imprisonment in the city or county jail or an adult correctional facility.~~

~~==== (b) If the court places such person on probation or suspends the sentence for any reason, the court shall, as one of the conditions of probation or sentence suspension, order such person not to drive any motor vehicle for any purpose for a period of one year from the date ordered by the court and shall order that the operator's license of such person be suspended for a like period unless otherwise authorized by an order pursuant to § 71.41 of this chapter and shall issue an order pursuant to division (B) above with respect to all motor vehicles owned by such person, and such order of probation shall also include, as conditions, the payment of a \$1,000 fine and either confinement in the city or county jail for ten days or the imposition of not less than 480 hours of community service.~~

~~==== (5) Sentences of imprisonment for divisions (D)(1), (D)(1) and (D)(3) above shall be served in the county jail; except that, in the following circumstances the court may, in its discretion, order that such sentences be served in institutions under the jurisdiction of the Department of Correctional Services:~~

~~==== (a) If the sentence is to be served concurrently or consecutively with a term for conviction of a felony; or~~

~~==== (b) If the Department of Correctional Services has certified as provided in Neb. RS 28-105 as to the availability of facilities and programs for short term prisoners and the sentence is for a term of six months or more.~~

~~==== (6) All sentences of imprisonment under division (D)(4) above for one year or more shall be served in institutions under the jurisdiction of the Department of Correctional Services. Sentences of imprisonment under division (D)(4) above for less than one year shall be served in the county jail, except as provided in this division (D)(6). If the Department certifies that it has programs and facilities available for persons sentenced to terms of less than one year, the court may order that any sentence of six months or more be served in any institution under the jurisdiction of the Department. Any such certification shall be given by the Department to the State Court Administrator, who shall forward copies thereof to each judge having jurisdiction to sentence under division (D)(4) above.~~

~~———— (7) Nothing in this section shall limit the authority granted in Neb. RS 29-2221 and 29-2222 to increase sentences for habitual criminals.~~

~~(2002 Code, § 78-252.03)~~

~~———— (E) Any peace officer who has been duly authorized to make arrests for violation of traffic laws of the state or ordinances of any city may require any person who operates or has in his or her actual physical control a motor vehicle in the state to submit to a preliminary test of his or her breath for alcohol concentration if the officer has reasonable grounds to believe that such person has alcohol in his or her body, has committed a moving traffic violation or has been involved in a traffic accident. Any person who refuses to submit to such preliminary breath test or whose preliminary breath test results indicate an alcohol concentration in violation of § 71.30 of this chapter shall be placed under arrest. Any person who refuses to submit to such preliminary breath test shall be guilty of a crime and, upon conviction, fined a maximum of \$100.~~

~~(2002 Code, § 78-252.04)~~

~~———— (F) (1) Any person who operates or has in his or her actual physical control a motor vehicle in the city shall be deemed to have given his or her consent to submit to a chemical test or tests of his or her blood or breath for the purpose of determining the concentration of alcohol in such blood or breath.~~

~~———— (2) Any peace officer who has been duly authorized to make arrests for violations of traffic laws of the state or of ordinances of any city may require any person under 21 years of age to submit to a chemical test or tests of his or her blood or breath for the purpose of determining the concentration of alcohol in such blood or breath when the officer has probable cause to believe that such person was driving or was in the actual physical control of a motor vehicle in the city in violation of § 71.30 of this chapter. Such peace officer may require such person to submit to a preliminary breath test. Any person who refuses to submit to such preliminary breath test or whose preliminary breath test results indicate an alcohol concentration in violation of § 71.30 of this chapter shall be placed under arrest.~~

~~———— (3) Any person arrested as provided in this division (F) may, upon the direction of a peace officer, be required to submit to a chemical test or tests of his or her blood or breath for a determination of the concentration of alcohol. If the chemical test discloses the presence of a concentration of alcohol in violation of § 71.30 of this chapter, the person shall be found guilty of a traffic infraction as defined in Neb. RS 60-672 and upon conviction shall have his or her operator's license impounded by the court for 30 days for each violation of § 71.30 of this chapter. Any person who refuses to submit to such test or tests required pursuant to this division (F) shall not have the tests taken but shall be found guilty of a traffic infraction as defined in Neb. RS 60-672 and, upon conviction, shall have his or her operator's license impounded by the court for 90 days for refusal to submit to such tests required pursuant to this division (F).~~

~~(2002 Code, § 78-262.02)~~

~~(Ord. 98-9, passed 3-31-1998; Ord. 2005-19, passed 6-14-2005)~~

~~Statutory reference:~~

~~———— Related provisions, see Neb. RS 28-105, 28-106, 60-6,197, 60-6,197.01, 60-6,197.02, 60-6,197.03, 60-6,197.04, 60-6,211.02~~

~~§ 71.32 SERIOUS BODILY INJURY; VIOLATIONS; PENALTY.~~

~~—(A) Any person who, while operating a motor vehicle in violation of §§ 71.30 and 71.31(A) of this chapter, proximately causes serious bodily injury to another person shall be guilty of a Class IIIA felony as defined by state law and the court shall, as part of the judgment of conviction, order the person not to drive any motor vehicle for any purpose for a period of at least 60 days and not more than 15 years from the date ordered by the court and shall order that the operator's license of such person be revoked for the same period. The revocation shall not run concurrently with any jail term imposed.~~

~~—(B) For purposes of this section, the words *SERIOUS BODILY INJURY* shall mean bodily injury which involves a substantial risk of death, a substantial risk of serious permanent disfigurement, or a temporary or protracted loss or impairment of the function of any part or organ of the body.~~

~~(2002 Code, § 78-253) (Ord. 98-9, passed 3-31-1998)~~

~~Statutory reference:~~

~~—Related provisions, see Neb. RS 60-6,198~~

~~§ 71.33 TESTS; REFUSAL TO PERMIT; EFFECT; RESULT; AVAILABLE UPON REQUEST.~~

~~—The peace officer who requires a chemical blood, breath or urine test or tests pursuant to § 71.31(A) of this chapter may direct whether the test or tests shall be of blood, breath or urine. The person tested shall be permitted to have a physician of his or her choice evaluate his or her condition and perform or have performed whatever laboratory tests he or she deems appropriate in addition to and following the test or tests administered at the direction of the officer. If the officer refuses to permit such additional test to be taken, then the original test or tests shall not be competent as evidence. Upon the request of the person tested, the results of the test or tests taken at the direction of the officer shall be made available to him or her.~~

~~(2002 Code, § 78-254) (Ord. 98-9, passed 3-31-1998; Ord. 2005-19, passed 6-14-2005)~~

~~Statutory reference:~~

~~—Related provisions, see Neb. RS 60-6,199~~

~~§ 71.34 CHEMICAL TESTS.~~

~~—(A) *Consent of person incapable of refusal not withdrawn.* Any person who is unconscious or who is otherwise in a condition rendering him or her incapable of refusal shall be deemed not to have withdrawn the consent provided by § 71.31(A) of this chapter and the test may be given.~~

~~(2002 Code, § 78-255)~~

~~—(B) *Violation of statute or ordinance; results; competent evidence; permit; fee.*~~

~~—(1) Any test made under § 71.31(A) of this chapter, if made in conformity with the requirements of this section, shall be competent evidence in any prosecution under a state statute~~

~~or city ordinance involving operating a motor vehicle while under the influence of alcoholic liquor or drugs involving driving or being in actual physical control of a motor vehicle when the concentration of alcohol in the blood or breath is in excess of allowable levels.~~

~~———— (2) Any test made under § 71.31(F) of this chapter, if made in conformity with the requirements of this section, shall be competent evidence in any prosecution involving operating or being in actual physical control of a motor vehicle in violation of § 71.30 of this chapter.~~

~~———— (3) To be considered valid, tests of blood, breath or urine made under § 71.31(A) of this chapter or tests of blood or breath made under § 71.31(F) of this chapter shall be performed according to methods approved by the Department of Health and Human Services Regulation and Licensure and by an individual possessing a valid permit issued by such department for such purpose; except that, a physician, registered nurse or other trained person employed by a licensed health care facility or health care service which is defined in the Health Care Facility Licensure Act or clinical laboratory certified pursuant to the federal Clinical Laboratories Improvement Act of 1967, as such act existed on 9-1-2001, or Titles XVIII or XIX of the federal Social Security Act, as such act existed on 9-1-2001, to withdraw human blood for scientific or medical purposes, acting at the request of a peace officer, may withdraw blood for the purpose of a test to determine the alcohol concentration or the presence of drugs and no permit from the Department shall be required for such person to withdraw blood pursuant to such an order. The Department may approve satisfactory techniques or methods to perform such tests and may ascertain the qualifications and competence of individuals to perform such tests and issue permits which shall be subject to termination or revocation at the discretion of the Department.~~

~~———— (4) A permit fee may be established by regulation by the Department which shall not exceed the actual cost of processing the initial permit. Such fee shall be charged annually to each permit holder. The fees shall be used to defray the cost of processing and issuing permits and other expenses incurred by the Department in carrying out this section. The fee shall be remitted to the State Treasurer for credit to the Department of Health and Human Services Regulation and Licensure Cash Fund as a laboratory service fee.~~

~~———— (5) Relevant evidence shall not be excluded in any prosecution under a state statute or city ordinance involving operating a motor vehicle while under the influence of alcoholic liquor or drugs or involving driving or being in actual physical control of a motor vehicle when the concentration of alcohol in the blood or breath is in excess of allowable levels on the ground that the evidence existed or was obtained outside of the state.~~

~~(2002 Code, § 78-256)~~

~~(Ord. 98-9, passed 3-31-1998; Ord. 2005-19, passed 6-14-2005)~~

~~Statutory reference:~~

~~———— Related provisions, see Neb. RS 60-6,200, 60-6,201~~

~~§ 71.35 BLOOD TEST; WITHDRAWING REQUIREMENTS; DAMAGES AND THE LIKE.~~

~~—(A) Any physician, registered nurse or other trained person employed by a licensed health care facility or health care service defined in the Health Care Facility Licensure Act, a clinical laboratory certified pursuant to the federal Clinical Laboratories Improvement Act of 1967, as amended, or Titles XVIII or XIX of the federal Social Security Act, as amended, to withdraw human blood for scientific or medical purposes, or a hospital shall be an agent of the state or the city when performing the act of withdrawing blood at the request of a peace officer pursuant to § 71.31(A) and (F) of this chapter. The city shall be liable in damages for any illegal or negligent acts or omissions of such agents in performing the act of withdrawing blood. The agent shall not be individually liable in damages or otherwise for any act done or omitted in performing the act of withdrawing blood at the request of a peace officer pursuant to such sections, except for acts of willful, wanton or gross negligence of the agent or of persons employed by such agent.~~

~~—(B) (1) Any person listed in division (A) above withdrawing a blood specimen for purposes of § 71.31(A) or (F) of this chapter shall, upon request furnish to any law enforcement agency or the person being tested a certificate stating that such specimen was taken in a medically acceptable manner. The certificate shall be signed under oath before a notary public and shall be admissible in any proceeding as evidence of the statements contained in the certificate.~~

~~—(2) The form of the certificate shall be prescribed by the Department of Health and Human Services Regulation and Licensure and such forms shall be made available to the persons listed in division (A) above.~~

~~(2002 Code, § 78-257) (Ord. 98-9, passed 3-31-1998; Ord. 2005-19, passed 6-14-2005)~~

~~Statutory reference:~~

~~—Related provisions, see Neb. RS 60-6,202~~

~~§ 71.36 VIOLATION OF CITY ORDINANCE; FEE FOR TEST; COURT COSTS.~~

~~—Upon the conviction of any person for violation of § 71.30 of this chapter or Neb. RS 60-6,211.01 or of driving a motor vehicle while under the influence of alcoholic liquor or of any drug in violation of any city ordinance, or in violation of state law, there shall be assessed as part of the court costs the fee charged by any physician or any agency administering tests pursuant to a permit issued in accordance with § 71.34 of this chapter, for the test administered and the analysis thereof under the provisions of § 71.31(A) and (F) of this chapter, if such test was actually made.~~

~~(2002 Code, § 78-258) (Ord. 98-9, passed 3-31-1998; Ord. 2005-19, passed 6-14-2005)~~

~~Statutory reference:~~

~~—Related provisions, see Neb. RS 60-6,203~~

~~§ 71.37 TEST WITHOUT PRELIMINARY BREATH TEST; WHEN; QUALIFIED PERSONNEL.~~

~~— Any person arrested for any offense involving the operation or actual physical control of a motor vehicle while under the influence of alcoholic liquor or drugs shall be required to submit to a chemical test or tests of his or her blood, breath or urine as provided in § 71.31(A) of this chapter without the preliminary breath test if the arresting peace officer does not have available the necessary equipment for administering a breath test or if the person is unconscious or is otherwise in a condition rendering him or her incapable of testing by a preliminary breath test. Only a physician, registered nurse or other trained person employed by a licensed health care facility or health care service defined in the Health Care Facility Licensure Act or a clinical laboratory certified pursuant to the federal Clinical Laboratories Improvement Act of 1967, as amended, or Titles XVIII or XIX of the federal Social Security Act to withdraw human blood for scientific or medical purposes, acting at the request of a peace officer, may withdraw blood for the purposes of determining the concentration of alcohol or the presence of drugs, but this limitation shall not apply to the taking of urine or breath specimen.
(2002 Code, § 78-259) (Ord. 98-9, passed 3-31-1998; Ord. 2005-19, passed 6-14-2005)~~

~~Statutory reference:~~

~~— Related provisions, see Neb. RS 60-6,204~~

~~§ 71.38 BLOOD SAMPLE; RESULT OF CHEMICAL TEST; ADMISSION IN CRIMINAL PROSECUTION; DISCLOSURE REQUIRED.~~

~~— (A) If the driver of a motor vehicle involved in an accident is transported to a hospital within or outside of the state and a sample of the driver's blood is withdrawn by a physician, registered nurse, qualified technician or hospital for the purpose of medical treatment, the results of a chemical test of the sample shall be admissible in a criminal prosecution for a violation of § 71.30 of this chapter to show the alcoholic content of or the presence of drugs or both in the blood at the time of the accident regardless of whether:~~

~~— (1) A peace officer requested the driver to submit to a test as provided in § 71.31(A) of this chapter; or~~

~~— (2) The driver had refused a chemical test.~~

~~— (B) Any physician, registered nurse, qualified technician or hospital in the state performing a chemical test to determine the alcoholic content or the presence of drugs in such blood for the purpose of medical treatment of the driver of a vehicle involved in a motor vehicle accident shall disclose the results of the test:~~

~~— (1) To a prosecuting attorney who requests the results for use in a criminal prosecution under Neb. RS 28-306 or § 71.30 of this chapter; and~~

~~— (2) To any prosecuting attorney in another state who requests the results for use in a criminal prosecution for driving while intoxicated, driving under the influence or motor vehicle homicide under the laws of the other state to any prosecuting attorney in the state who requests the results for use in such a criminal prosecution under the laws of the state.~~

~~(2002 Code, § 78-261) (Ord. 2005-10, passed 6-14-2005)~~

~~Statutory reference:~~

~~— Related provisions, see Neb. RS 60-6,210~~

~~§ 71.39 IMPOUNDED OPERATOR'S LICENSE; OPERATION RELATING TO EMPLOYMENT.~~

~~— Any person whose operator's license is impounded pursuant to § 71.31(F) of this chapter may be allowed by the court to operate a motor vehicle in order to drive to and from his or her place of employment.~~

~~(2002 Code, § 78-262.03) (Ord. 2005-10, passed 6-14-2005)~~

~~Statutory reference:~~

~~— Related provisions, see Neb. RS 60-6,211.03~~

~~§ 71.40 APPLICABILITY OF OTHER LAWS.~~

~~— Sections 71.30 and 71.31(F) of this chapter shall not operate to prevent any person, regardless of age, from being prosecuted or having any action taken for a violation of §§ 71.30 and 71.31(A) of this chapter or having his or her operator's license revoked pursuant to Neb. RS 60-498.01 to 60-498.04 for a violation of §§ 71.30 and 71.31(A) of this chapter or from being prosecuted or having any action taken under any other provision of law. If such person is believed to be under the influence of alcoholic liquor pursuant to §§ 71.30 and 71.31(A) of this chapter, §§ 71.30, 71.31 and 71.39 of this chapter shall not operate to prevent prosecution of such person for a violation of §§ 71.30 and 71.31(A) of this chapter even if §§ 71.30, 71.31 and 71.39 of this chapter apply.~~

~~(2002 Code, § 78-262.04) (Ord. 2005-10, passed 6-14-2005)~~

~~Statutory reference:~~

~~— Related provisions, see Neb. RS 60-6,211.04~~

~~§ 71.41 IGNITION INTERLOCK DEVICE; ORDER AUTHORIZED; ISSUANCE OF RESTRICTED CLASS O LICENSE; PROHIBITED ACTS; VIOLATION; PENALTY.~~

~~— (A) If an order of probation is granted under §§ 71.30 and 71.31(A) of this chapter, as such sections existed prior to 7-16-2004, or §§ 71.30 and 71.31(A) of this chapter and § 71.31(E) and (F) of this chapter as such sections existed on or after 7-16-2004, the court may order the defendant to install an ignition interlock device of a type approved by the Director of Motor Vehicles on each motor vehicle operated by the defendant. Any order issued by the court pursuant to this section shall not take effect until the defendant is eligible to operate a motor vehicle pursuant to Neb. RS. 60-498.02(2). The device shall, without tampering or the intervention of another person, prevent the defendant from operating the motor vehicle when the defendant has an alcohol concentration greater than the levels prescribed in § 71.30 of this chapter.~~

~~— (B) If the court orders an ignition interlock device, the court shall order the Department of Motor Vehicles to issue to the defendant a restricted Class O license as provided in Neb. RS 60-4,118.06 which indicates that the defendant is only allowed to operate a motor vehicle equipped with an ignition interlock device. Such court order shall remain in effect for a period of time as determined by the court not to exceed the maximum term of revocation which the court could have imposed according to the nature of the violation.~~

~~— (C) (1) A person who tampers with or circumvents an ignition interlock device installed under a court order while the order is in effect or who operates a motor vehicle which is not equipped with an ignition interlock device in violation of a court order made pursuant to this section shall be guilty of a crime and upon conviction be imprisoned for a maximum of six months and fined \$1,000, or both, with no mandatory minimum.~~

~~— (2) Sentences of imprisonment in this division (C) shall be served in the county jail, except that, in the following circumstances the court may, in its discretion, order that such sentence be served in institutions under the jurisdiction of the Department of Correctional Services:~~

~~— (a) If the sentence is to be served concurrently or consecutively with a term for conviction of a felony; or~~

~~— (b) If the Department of Correctional Services has certified as provided in Neb. RS 28-105 as to the availability of facilities and programs for short-term prisoners and the sentence is for a term of six months or more.~~

~~(2002 Code, § 78-262.05) (Ord. 2005-10, passed 6-14-2005)~~

~~Statutory reference:~~

~~— Related provisions, see Neb. 60-6,211.05~~

§ 71.99 PENALTY.

(A) Any person violating any provision of this ~~chapter~~ **Title** for which no specific penalty is prescribed shall be subject to § 10.99 of this code **or Section (E) hereof.**

(B) Any person convicted as having violated § 71.01 of this chapter shall be punished as provided by § 10.99.

(2002 Code, § 78-211)

(C) Every person convicted of violating the provisions of § 71.12 of this chapter relative to the duty to stop in the event of certain accidents shall be punished in accordance with § 10.99 of this code. In addition, the Court may, in its discretion, revoke the operator's or chauffeur's license of the person so convicted for a period not to exceed one year.

(2002 Code, § 78-228)

(D) Any person who willfully violates his or her promise to appear, given in accordance with § 71.19(B) of this chapter, shall be guilty of a misdemeanor regardless of the disposition of the charge upon which he or she was originally arrested. The provisions of § 71.19(B) of this chapter shall not apply to any person who is not a resident of the state.
(2002 Code, § 78-239)

(E) Waivers

CHAPTER 72: PARKING RULES

Section

- 72.01 ~~Unattended vehicles~~
- ~~72.02~~ **78.91** Generally
- 72.03 Areas
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~~§ 72.01 UNATTENDED VEHICLES.~~

~~No person having control or charge of a motor vehicle shall allow such vehicle to stand unattended without first effectively setting the brakes and, when standing upon any grade, without turning the front wheels of such vehicle to the curb or side of the street. The driver of a motor vehicle, when traveling upon a downgrade upon any street, shall not coast with the gears of the vehicle in neutral.~~

~~(2002 Code, § 78-91) Penalty, see § 10.99~~

§ 72.02 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, in such manner as to have both right wheels within 12 inches of the curb and so as to leave at least four feet between the vehicle so parked and any other parked vehicles. No person shall park a vehicle so as to obstruct a sidewalk, a private driveway or drive, for any period of time. No person shall park a vehicle, or permit it to stand within 15 feet in either direction from the entrance of any fire station.

(2002 Code, § 78-92) (Ord. 97-25, passed 11-25-1997) Penalty, see § 10.99

Statutory reference:

Related provisions, see Neb. RS 60-6,166

§ 72.03 AREAS.

The Council may, by resolution, set aside any street, alley, public way or portion thereof, where the parking of a particular kind or class of vehicle shall be prohibited, or where the parking of any vehicle shall be prohibited. No vehicle prohibited from parking at such place shall stand or be parked adjacent to the curb of the street, alley, public way or portion, longer than a period of time necessary to load and unload freight or passengers.

(2002 Code, § 78-93) Penalty, see § 10.99

§ 72.04 HANDICAPPED AREAS; RESERVATION.

(A) The Council may, by resolution, designate stalls or spaces in any street, alley or public way, or in an off-street parking facility for the exclusive use of paraplegics and handicapped persons whose vehicles display the distinguishing license plates issued to such individuals pursuant to Neb. RS 60-311.14. Such designation of parking spaces shall be made by posting immediately adjacent to and visible from each stall or space, a sign consisting of a profile view of a wheelchair with an occupant in white on a blue background.

(2002 Code, § 78-94)

~~— (B) (1) The City Clerk shall take an application from physically handicapped persons or their parent, legal guardian or foster parent for a permit which will entitle the holder or a person driving a motor vehicle for the purpose of transporting such holder to park in those spaces provided for by this section. For the purpose of this division (B), *PHYSICALLY HANDICAPPED PERSONS* shall mean visually handicapped persons and those permanently physically handicapped persons who have definite walking problems to such an extent that walking is impractical, impossible, extremely painful or generally detrimental to one's health, including those persons who have respiratory problems which incapacitate their walking, and disabled persons as defined in Neb. RS 60 311.14. *VISUALLY HANDICAPPED PERSONS* shall mean those persons using the white cane or guide dog. Persons applying for a permit shall complete such forms as are provided to the City Clerk by the Department of Motor Vehicles and shall demonstrate to the satisfaction of the City Clerk that he or she is handicapped. The City Clerk may require medical certificates and proof of a handicapped condition. Such application shall be forwarded to the Department of Motor Vehicles.~~

~~— (2) The City Clerk may take an application from any person for a motor vehicle permit which will entitle the holder or a person driving the motor vehicle for the purpose of transporting physically handicapped persons to park in those spaces provided for by this section, if the motor vehicle is used primarily for the transportation of physically handicapped persons. Such parking permit shall be used only when the motor vehicle for which it was issued is being used for the transportation of physically handicapped persons. Persons applying for permits pursuant to this section shall apply for a permit for each motor vehicle used for the transportation of physically handicapped persons and shall complete such forms as are provided to the City Clerk by the Department of Motor Vehicles and shall demonstrate to the City Clerk that each such motor vehicle is used primarily for the transportation of physically handicapped persons. Such applications shall be forwarded to the Department of Motor Vehicles.~~

~~— (3) The permit shall be a card not less than five inches by eight inches in size, to be issued by the Department of Motor Vehicles, on which is prominently displayed the letter "H" and an identifying number on the front of the card. The name, address, phone number, date of birth and age of the physically handicapped person to whom issued shall appear on the reverse side; and, if the permit is issued for a motor vehicle used primarily for the transportation of physically handicapped persons, the name, address and phone number of the party to whom issued and the license plate number of the motor vehicle for which the permit is issued shall appear on the reverse side of the permit. No permit shall be issued to any person for any motor vehicle if any valid handicapped parking permit has been issued to such person or for such motor vehicle if such permit has been suspended pursuant to this section.~~

~~— (4) A duplicate permit may be provided by the Department of Motor Vehicles without cost if the original permit is destroyed, lost or stolen. Such duplicate permit shall be valid for the remainder of the period for which the original permit was issued.~~

~~— (5) All permits authorized under this section shall be issued for a period ending January 1 of the fourth year following the date of issuance. A permit fee of \$3 shall be charged for each permit, \$1 of which shall be retained by the City Clerk and \$2 of which shall be forwarded to the Department of Motor Vehicles.~~

~~(6) Permits issued under this section 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 months. At the expiration of such period, a suspended permit may be renewed upon the payment of the permit fee.~~

~~(7) The owner or person in lawful possession of an off-street parking facility, after notifying the Police or Sheriff's Department, as the case may be, and the city when providing on-street parking or owning, operating or providing an off-street parking facility, may cause the removal, from a stall or space designated exclusively for disabled persons, other handicapped persons or motor vehicles for the transportation of physically handicapped persons, of any vehicle not displaying proper identification or one of the distinguishing license plates specified in this section 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 an on-street parking space which has been designated exclusively for handicapped persons or motor vehicles for the transportation of handicapped persons or in any so designated parking space in any off-street parking facility owned or operated by the city without properly displaying the proper identification shall be guilty of a traffic infraction as defined in Neb. RS 18-1741.01, and shall be subject to the penalties and procedure set forth in Neb. RS 18-1741.01 through 18-1741.07.~~

(2002 Code, § 78-95)

Penalty, see § 10.99

Statutory reference:

Related provisions, see Neb. RS 18-1737 through 18-1742

§ 72.05 OBSTRUCTING ALLEY; IN ALLEY.

(A) No vehicle while parked shall have any portion projecting into any alley entrance.

(2002 Code, § 78-97)

(B) No vehicle shall be parked in any alley, except for the purpose of loading or unloading during the time necessary to load or unload, which shall not exceed the maximum limit of one hour. Every vehicle while loading or unloading in any alley shall be parked in such manner as will cause the least obstruction possible to traffic in such alley.

(2002 Code, § 78-98)

Penalty, see § 10.99

§ 72.06 BUSINESS DISTRICT UNLOADING.

It shall be unlawful for the operator of any truck with an overall length of more than 20 feet to stop or park any such vehicle on a street which the Council has designated ~~to be a congested district~~ **a B-2 Zone** unless loading or unloading in an alley is impossible; and then such vehicles may stop, stand or unload for a maximum time of 30 minutes, but only after the operator of the truck has obtained written permission from the police to do so. It shall be unlawful for the operator of any truck, regardless of length, to park the vehicle within a street intersection, on a crosswalk, in front of a private driveway or

on a sidewalk. The Council may, by resolution, provide truck parking areas adjoining or adjacent to the congested district; and when such parking areas are provided, it shall be the duty of all truck operators to use such parking areas for all parking purposes.

(2002 Code, § 78-103) Penalty, see § 10.99

§ 72.07 NEAR FIRE HYDRANTS.

No vehicle shall be parked within 15 feet in either direction of any fire hydrant. ~~The curb space within such area of 15 feet in either direction of such fire hydrant located within the B-1, B-2 and I-1 zoning districts shall be painted yellow to indicate such prohibition.~~

(2002 Code, § 78-104) Penalty, see § 10.99

Statutory reference:

Related provisions, see Neb. RS 60-6,166(b)

§ 72.08 STREET INTERSECTIONS.

No vehicle shall be parked or left standing for any purpose within 25 feet of the intersection of curblines or within 15 feet of the intersection of the property lines at any such intersection if there is no curb.

(2002 Code, § 78-105) Penalty, see § 10.99

Statutory reference:

Related provisions, see Neb. RS 60-6,166(b)

§ 72.09 OBSTRUCTING TRAFFIC.

No person shall, except in case of an accident or emergency, stop within any street intersection, alley entrance or any such location as to obstruct any street, crosswalk or alley entrance.

(2002 Code, § 78-106) Penalty, see § 10.99

Statutory reference:

Related provisions, see Neb. RS 60-6,166(a)

§ 72.10 CURBS.

(A) No vehicle shall park on any street with its left side to the curb unless the street has been designated to be a one-way street by the Council. Vehicles must not be parked at any curb in such a position as to prevent another vehicle already parked at the curb from moving away.

(2002 Code, § 78-107)

~~(B) It shall be the duty of the Public Works Superintendent to cause the curb space to be painted and keep it painted as provided in this chapter.~~ All areas in the city which are no parking areas may be designated by painting the curb or pavement with yellow paint. No person 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 of a street, except at such places where the parking of vehicles is prohibited by the provisions of this chapter. The marking or designating of portions of streets or alleys where the parking of vehicles is prohibited or limited shall be done only by the city through its proper officers, at the direction of the Council.

(2002 Code, § 78-108)

Penalty, see § 10.99

~~§ 72.11 SPECIAL PARKING AREA DESIGNATED.~~

~~(A) The following described real estate owned by the city: the 19-foot wide paved area located on lots 1, 2 and 3 in block 21, original Town of Wayne, Nebraska, abutting the alleys adjoining such lots; is designated and made available as a parking area for motor vehicles.~~

~~(B) The parking and the use shall be subject to all of the general regulations and ordinances of the city unless specifically changed or modified. Motor vehicles shall be parked in such area at an angle of approximately 30 degrees in parking zone stalls. These parking zone stalls shall be marked on or near the paved parking area. No motor vehicle shall be parked in the area for longer than 24 hours. Appropriate signs sufficiently legible to be seen by any ordinarily observant person giving notice of the regulations contained in this section shall be placed in proper positions at or near the parking area; provided, no trucks larger than three quarter ton pickup trucks, no motorcycles and no bicycles shall in any event park in the parking area described in this section.~~

~~(2002 Code, § 78-109) Penalty, see § 10.99~~

§ 72.12 REPAIR.

(A) No person shall adjust or repair any automobile or motorcycle, or race the motor of such vehicle, while standing on the public streets or alleys of the city, excepting in case of breakdown or other emergency requiring such work.

(B) No person or employee connected with a garage or repair shop shall use sidewalks, streets or alleys in the vicinity of such garage or shop for the purpose of working on automobiles or vehicles of any description.

(2002 Code, § 78-110) Penalty, see § 10.99

§ 72.13 INOPERABLE MOTOR VEHICLES.

No motor vehicle which is not in running condition, or which is not fully equipped and licensed for lawful operation on the streets of the city, or which is not supplied with fuel and lubrication for immediate operation shall be parked or left standing in any street, highway or alley; provided, in case

of emergency a motor vehicle which would otherwise be in violation of this section may be parked for a time, not to exceed one hour, as may be required for its removal.
(2002 Code, § 78-111) Penalty, see § 10.99

~~§ 72.14 CURRENT LICENSE.~~

~~It shall be unlawful to park or place on the streets, alleys or other public property any motor vehicle without first securing a current license as provided by law; and no such licensed motor vehicle shall be allowed to stand for a longer period than 24 hours.~~

~~(2002 Code, § 78-112) Penalty, see § 10.99~~

~~Statutory reference:~~

~~Related provisions, see Neb. RS 60-323~~

§ 72.15 TIME LIMITS.

(A) The Council may, by ordinance, entirely prohibit or set a time limit for the parking and stopping of any motor vehicle, trailer, camper, boat or other such conveyance on any street, alley or district designed by such ordinance; and the parking or stopping of any motor vehicle, trailer, camper, boat or other such conveyance in any street, alley or district for a period of time longer than fixed in such ordinance shall constitute a violation of this chapter.
(2002 Code, § 78-113)

(B) The parking of any motor vehicle, trailer, camper, boat or other such conveyance on a public street for over 72 consecutive hours is unlawful, except where a different maximum time limit is posted.
(2002 Code, § 78-114)
Penalty, see § 10.99

§ 72.16 EMERGENCY VEHICLES.

The provisions of this chapter regulating the movement, parking and standing of vehicles shall not apply to authorized emergency vehicles while the driver of such vehicle is operating the vehicle in an emergency in the necessary performance of public duties.
(2002 Code, § 78-115)

§ 72.17 LIABILITY OF OWNER.

If any vehicle is found upon any street or alley in violation of any of the provisions of this chapter regulating the stopping, standing or parking of vehicles and the identity of the driver cannot be determined after a reasonable effort, the owner or person in whose name such vehicle is registered shall be held prima facie the driver of such vehicle and responsible for such violation.
(2002 Code, § 78-116)

§ 72.18 TOWING.

The Chief of Police and every police officer is vested with authority to tow to the police station, or to any place provided by the Police Department for such purpose, any vehicle which shall be found unlawfully standing or parked in any street, highway or alley, or which shall be abandoned by the owner or driver.

(2002 Code, § 78-117)

§ 72.19 SNOW REMOVAL AND STREET CLEANING.

The ~~Public Works Superintendent~~ **City Administrator or his or her designate**, or any member of the Department of Public Works, and/or the Chief of Police, or any member of the Police Department shall have the authority to move parked vehicles whenever such vehicles interfere with snow removal or street cleaning operations on the streets of the city.

(2002 Code, § 78-118)

§ 72.20 TOWING CHARGES.

Any owner of a vehicle towed by the Police Department as provided in this chapter shall pay the cost of towing the vehicle. No person shall move any vehicle towed by the Police Department or by any person under the direction of the Police Department before paying the towing and storage fees and providing satisfactory evidence of such payment to the Police Department.

(2002 Code, § 78-119) Penalty, see § 10.99

§ 72.21 UNLAWFUL PARKING.

The fact that a vehicle is towed away by the Police Department and a fee paid for towing and storage of the vehicle shall not be considered a defense in the prosecution for unlawful parking under any of the provisions of this chapter.

(2002 Code, § 78-120)

§ 72.22 LOADING ZONES.

(A) The term **LOADING ZONE** means that space adjacent to a street curb reserved for the exclusive use of vehicles during the loading or unloading of passengers or materials.

(B) A loading zone shall be created within the city in the following manner: an owner, agent or lessee of any building desiring the creation of a loading zone to serve the building shall make application in writing to the City Administrator upon a form to be prepared and furnished by the City Administrator. The City Administrator is given authority to approve or disapprove the application.

(C) If, upon receipt of an application and after such investigation as he or she may think proper,

the City Administrator shall determine that loading or unloading of merchandise or passengers at the place indicated in the application is necessary for the relief of the traffic congestion and for the orderly conduct of business of the applicant and that such loading or unloading will not unduly interfere with safe and efficient movement of traffic, the City Administrator may grant the application. If the application is granted, the City Administrator shall forthwith cause to be erected appropriate signs to inform the public that the zone is a loading zone and that parking in the zone is prohibited, except as hereinafter provided in § 72.23 of this chapter.

(D) No parking shall be permitted during the hours of 6:00 a.m. to 6:00 p.m, in any loading zone created under the provisions of this section; however, a vehicle temporarily using the zone for the purpose of and while actually engaged in loading or unloading may be parked in the zone, but such parking shall not exceed 30 minutes.

(E) The City Administrator is also given authority to revoke any grant of a loading zone under this section and discontinue the loading zone for just cause, to be determined by the City Administrator.

(2002 Code, § 78-121) Penalty, see § 10.99

§ 72.23 VIOLATIONS BUREAU.

(A) There is established within the Police Department a Violations Bureau for the collection of fines for parking violations. Such violations shall not be subject to prosecution in the Court, except when payment of the fine is not made within the time prescribed by this section. When payment is not made within such time, the violations shall be prosecuted in the same manner as other violations of this code.

(B) Whenever any vehicle with or without a driver is found parked, standing or stopped in violation of this chapter, or any statute of the state relating to parking, all of which shall be referred to in this section as “parking violations”, the officer finding such vehicle shall take the registration number of the vehicle and may take any other information displayed on the vehicle which may identify its owner or operator, and shall conspicuously affix to such vehicle a parking citation on a form provided by the Chief of Police for such purpose, which form shall require the owner or operator to answer to the charge against him or her in accordance with this section.

(C) All citations for parking violations shall contain, in addition to any other information required by law, the following information:

- (1) The amount of the fine if paid within five days;
- (2) The amount of the fine if paid within six to 15 days;
- (3) The location where the payment of the fine may be made; and
- (4) A statement that a complaint will be filed after 25 days if the fine is not paid in that time.

(D) The fines for parking violations shall be set from time to time by the Council and a schedule

of such fines is on file and available in the city offices.

(E) Any person charged with a parking violation may appear before the Violations Bureau and waive arraignment and right to a hearing and enter a plea of guilty by paying the appropriate fine as established and set from time to time by the Council. The first \$0.75 of the initial \$1 fine and the first \$0.50 of each additional \$1 fine so paid shall be assessed as a fee covering the costs of administration.

(F) If any person charged with a parking violation does not appear in response to a citation within a period of five days, the Chief of Police shall, after the fifth day, send the registered owner of the vehicle to which the citation was affixed a letter mailed to the last known address of such person informing him or her of the violation and the penalty if not paid within 16 to 25 days, and that, if such letter is disregarded, he or she will become the subject of a complaint after 25 days from the date of violation.

(G) The Chief of Police ~~shall~~ **may** cause a complaint to be filed against any person who has failed to dispose of a parking violation within 25 days. Such person, upon conviction of such violation, shall be punished pursuant to § 10.99 of this code and shall be fined not less than ~~\$25~~ **100**.

(H) The Violations Bureau shall collect and account for all moneys paid pursuant to this section, issue receipts and keep records of all violators, showing the name, time and date of the violation and disposition. All money collected by the Police Department under this section, net of the amount for administration, shall be disbursed by the city as provided by law.
(2002 Code, § 78-122) (Ord. 99-5, passed 6-8-1999)

§ 72.24 PRESUMPTION OF VIOLATION.

In any prosecution charging a violation of any ordinance or regulation governing the parking of a motor vehicle, proof that the particular vehicle described in the complaint was parked in violation of such law or regulation, together with proof that the defendant named in the complaint was, at the time the vehicle was found parked, standing or stopped, the registered owner of such vehicle shall constitute prima facie evidence that the registered owner of such vehicle was the person who committed or authorized such violation. This section shall apply only when the procedure prescribed in § 72.25 of this chapter has been followed.
(2002 Code, § 78-123)

§ 72.25 PARKING LOTS, SHOPPING CENTERS AND MALLS.

(A) Upon the written request of the owner or operator of a parking lot, shopping center or similar semipublic or privately owned area within the city, the city may provide for regulation of traffic, public use and conduct of invitees upon the specified area. Such written request, and a legal description of the area to be regulated, shall be filed in the office of the City Clerk.

(B) Upon such specified areas, the city may, by ordinance, regulate the flow of traffic, speed limits, offenses against public morals, unlawful assembly, trespass and similar offenses to the same effect and with the same authority as public thoroughfares, public parking lots and other public areas;

provided, the owner has complied with Neb. RS 60-2401.01 et seq. Nothing in this section shall require the city to furnish labor, material, supervision, personnel or services in connection with the establishment, supervision or enforcement of such ordinances, or the maintenance or upkeep of such areas.

(2002 Code, § 78-125)

§ 72.26 PROHIBITED TERRACE PARKING.

(A) In residential areas only, it shall be unlawful for any person to park, or leave standing any recreational equipment including, but not limited to, camper, boat or other similar recreational equipment upon any terrace parking space. Any vehicle found in violation of this section is subject to a fine in accordance with § 72.23 of this chapter and the vehicle is subject to impoundment.

(B) In residential areas only, it shall be **unlawful** for any person to park, or leave standing any pickup, automobile or motorcycle parked upon any terrace parking, **No any** commercial vehicles, ~~are allowed upon any terrace parking. Also prohibited are~~ utility trailers, construction or agricultural equipment, straight trucks, or step vans.

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

COMMERCIAL VEHICLE. A commercially licensed motor vehicle that has commercial decals and/or a federal DOT number on the vehicle that is configured with accessories, including, but not limited to, those that hold materials, ladders, signs, storage space, tool access or delivery accessories, and/or have tandem axles or dual wheels and are used for the conduct of commercial business.

TERRACE PARKING. The use of any portion of the right-of-way of any street for the parking of motor vehicles. Such parked vehicles shall not extend over any sidewalk and shall not present a traffic hazard.

(2002 Code, § 78-137) (Ord. 2002-6, passed 1-9-2002; Ord. 2006-10, passed 9-12-2006; Ord. 2006-22, passed 11-28-2006) Penalty, see § 10.99

§ 72.26 PROHIBITED PARKING; GRASS OR UNIMPROVED AREA.

(A) It shall be unlawful for any person to park, or leave standing, any vehicle, upon any front yard area in front of the building line on any private residential property or city owned terrace property which has not been improved for parking purposes pursuant to the provisions of § 152.139 of this code.

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

FRONT YARD. A yard extending across the front of a lot between the side lot lines. There shall be a required **FRONT YARD** on each street side of a corner lot. Through lots shall require frontages on both streets.

VEHICLE. Defined as set forth in Neb. RS 60-676.

(C) Any vehicle found in violation of this section is subject to a fine in accordance with § 72.23 of this chapter.

(2002 Code, § 78-139) (Ord. 2006-4, passed 9-12-2006; Ord. 2007-5, passed 7-3-2007; Ord. 2008-16, passed 11-4-2008) Penalty, see § 10.99

§ 72.27 RESTRICTED PARKING LOTS.

(A) *Unauthorized parking; towing; violation; penalty.* ~~It shall be unlawful for~~ Any person ~~to~~ **who** parks a motor vehicle in a properly posted, restricted parking lot without the consent of the owner or tenant authorized to give permission shall be guilty of a violation. Any person found guilty under this section shall be subject to the penalties provided in § 72.23 of this chapter. If the identity of the operator of a motor vehicle in violation of this section cannot be determined, the owner or person in whose name such vehicle is registered shall be held prima facie responsible for such violation. When a police officer observes or is advised by the property owner, or his or her designate, that a motor vehicle may be in violation of this section, he or she shall make a determination as to whether a violation has in fact occurred and, if so, shall personally serve or attach to such motor vehicle a citation pursuant to the provisions of § 72.23 of this chapter.

(2002 Code, § 78-140)

(B) *Signs designating.* Signs designating a restricted parking lot shall be readily visible and shall state the purpose or purposes for parking on the restricted parking lot, state the hours for restricted parking and state who to contact for information regarding a towed vehicle.

(2002 Code, § 78-141)

(Ord. 2006-20, passed 9-26-2006) Penalty, see § 10.99

CHAPTER 73: SNOW PLOW ALERT

Section

- 73.01 Definitions
- 73.02 Parking on city streets
- 73.03 Stalled vehicle on city street
- 73.04 Declarations of Director
- 73.05 Termination of parking prohibition by the Director
- 73.06 Provisions temporarily effective to take precedence
- 73.07 Removal, impounding, return of vehicles

§ 73.01 DEFINITIONS.

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

CITY ADMINISTRATOR or ***DESIGNATE***. The person authorized by the Council to enforce this chapter.

ROADWAY. The portion of a street or highway improved, designed or ordinarily used for vehicular travel, exclusive of the berm or shoulder.
(2002 Code, § 78-281) (Ord. 2004-3, passed 4-13-2004)

§ 73.02 PARKING ON CITY STREETS.

(A) Whenever the City Administrator or designate finds, on the basis of falling snow, sleet or freezing rain, or on the basis of a forecast by a weather service, of snow, sleet or freezing rain, that weather conditions will make it necessary that motor vehicle traffic be expedited and that parking on city streets be prohibited or restricted for snow plowing and other purposes, the City Administrator or designate shall put into effect the parking prohibition on all city streets as necessary by declaring a snow plow alert or weather emergency.

(B) Notwithstanding the provisions of division (A) above, a parking prohibition shall automatically go into effect on any part of any city street until terminated pursuant to § 73.05 of this chapter, upon which there has been an accumulation of snow and ice of three inches or more for one hour or more between 7:00 a.m. and 10:00 p.m. of any day.

(C) Once in effect, a prohibition under this section shall remain in effect until terminated by

announcement of the City Administrator or designate in accordance with this chapter. ~~; except that, any street area which has become substantially clear of snow and ice from curb to curb for the length of the entire block shall be automatically excluded from this prohibition.~~ While the prohibition is in effect, no person shall park or allow to remain parked any vehicle on any portion of a city street to which it applies. This prohibition shall remain in effect for the duration of the storm and/or until removed.

(2002 Code, § 78-282) (Ord. 2004-3, passed 4-13-2004; Ord. 2008-4, passed 3-4-2008)

§ 73.03 STALLED VEHICLE ON CITY STREET.

Whenever a vehicle becomes stalled for any reason, whether or not in violation of this chapter, or on any part of a city street on which there is a covering of snow, sleet or ice, upon which there is a parking prohibition in effect, the person operating such vehicle shall take immediate action to have the vehicle towed or pushed off the roadway of such street, or onto the public space portion of a nearby driveway. No person shall abandon or leave his or her vehicle in the roadway of a street, except for the purpose of securing assistance during the actual time necessary to go to a place of assistance and return without delay.

(2002 Code, § 78-283) Penalty, see § 10.99

§ 73.04 DECLARATIONS OF DIRECTOR.

(A) The City Administrator or designate shall cause each declaration by him or her pursuant to this chapter to be publicly announced by means of broadcast or telecast, from stations with a normal operating range covering the city or by cable television; and he or she may cause such declaration to be further announced in the newspapers of general circulation when feasible. Each announcement shall describe the action taken by the City Administrator or designate, including the time it became or will become effective, and shall specify the streets or areas affected. A parking prohibition declared by the City Administrator or designate shall not go into effect until at least three hours after it has been announced, at least five times, between 6:00 a.m. and 10:00 p.m., in accordance with this section.

~~(B) The City Administrator or designate shall make or cause to be made a record of each time and date when any declaration is announced to the public in accordance with this section. (2002 Code, § 78-284) (Ord. 2004-3, passed 4-13-2004)~~

§ 73.05 TERMINATION OF PARKING PROHIBITION BY THE DIRECTOR.

Whenever the ~~Director~~ **City Administrator or designate** shall find that some or all of the conditions which give rise to a parking prohibition in effect pursuant to this chapter no longer exists, he or she may declare the prohibition terminated, in whole or in part, in a manner prescribed by this chapter, effective immediately upon announcement.

(2002 Code, § 78-285)

§ 73.06 PROVISIONS TEMPORARILY EFFECTIVE TO TAKE PRECEDENCE.

Any provision of this chapter which becomes effective by declaration of the ~~Director~~ **City Administrator or designate** or upon the occurrence of certain weather conditions shall, while temporarily in effect, take precedence over other conflicting provisions or law normally in effect; except that, it shall not take precedence over provisions of law relating to traffic accidents, emergency travel of authorized emergency vehicles or emergency traffic directions by a police officer. (2002 Code, § 78-286)

§ 73.07 REMOVAL, IMPOUNDING, RETURN OF VEHICLES.

(A) ~~Members of the Police Department and Public Works Department~~ **City employees** are authorized to remove or have removed a vehicle from a street to the nearest garage or other place of safety, including another place on a street, or to a garage designated or maintained by the Police Department when:

(1) The vehicle is parked on a part of a street on which a parking prohibition is in effect pursuant to this chapter;

(2) The vehicle is stalled on a part of a street on which there is a covering of snow, sleet or ice on which there is a parking prohibition in effect pursuant to this chapter and the person who was operating such vehicle does not appear to be removing it in accordance with the provisions of this chapter; or

(3) The vehicle is parked in violation of any parking ordinance or provisions of law and is interfering or about to interfere with snow removal operations.

(B) Whenever an officer or employee removes or has removed a vehicle from a street as authorized in this section and the officer knows or is able to ascertain from the registration records in the vehicle the name and address of the owner, such officer shall give or cause to be given notice to such owner of the fact of such removal and the reasons for removal and of the place to which such vehicle has been removed.

(C) No person shall recover any vehicle removed in accordance with this section, except as provided in this division (C). Before the owner or person in charge of such vehicle shall be allowed to recover it from the place where it has been placed or impounded, he or she shall present to a member of the Police Department evidence of his or her identity and right to possession of the vehicle, and shall sign a receipt for its return, shall pay the cost of impound, shall pay any cost of storage accrued and shall pay any issued and outstanding parking ticket.

(D) It shall be the duty of the Police Department to keep a record of each vehicle removed in accordance with this section. The records shall include:

- (1) A description of the vehicle;
- (2) Its license number;
- (3) The date and time of its removal;

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- (4) Where it was removed from;
- (5) Its location;
- (6) The name and address of its owner and last operator, if known;
- (7) Its final disposition; and
- (8) The parking violation involved.

(E) This section shall be supplemental to any other provisions of law granting members of the Police Department authority to remove vehicles.
(2002 Code, § 78-287) (Ord. 2004-3, passed 4-13-2004)

CHAPTER 74: ALL-TERRAIN AND UTILITY VEHICLES

Section

- 74.01 Definitions
- 74.02 Operation on streets
- 74.03 Hours of operation
- 74.04 Requirements
- 74.05 Exceptions
- 74.06 Crossing state highways
- 74.07 Additional requirements

§ 74.01 DEFINITIONS.

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

ALL-TERRAIN VEHICLE. Any motorized off-highway vehicle which:

- (1) Is 50 inches or less in width;
- (2) Has a dry weight of 900 pounds or less;
- (3) Travels on three or more low-pressure tires;
- (4) Is designed for operator use only with no passengers or is specifically designed by the original manufacturer for the operator and one passenger;
- (5) Has a seat or saddle designed to be straddled by the operator; and
- (6) Has handlebars or any other steering assembly for steering control.

(Neb. RS 60-6,355)

STREET or ***HIGHWAY.*** The entire width between the boundary limits of any street, road, avenue, boulevard or way which is publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

(Neb. RS. 60-624)

UTILITY-TYPE VEHICLE.

(1) Any motorized off-highway vehicle which:

- (a) Is not less than 48 inches, nor more than 74 inches in width;
- (b) Is not more than 135 inches, including bumper, in length;
- (c) Has a dry weight of not 900 pounds nor more than 2,000 pounds;
- (d) Travels on four or more low-pressure tires; and

(e) Is equipped with a steering wheel and bench or bucket-type seating designed for at least two people to sit side-by-side.

(2) ***UTILITY-TYPE VEHICLE*** does not include golf carts or low-speed vehicles.

(Neb. RS 60-6,355)

(2002 Code, § 78-290) (Ord. 2011-32, passed 1-17-2012; Ord. 2012-62, passed 1-2-2013)

§ 74.02 OPERATION ON STREETS.

An all-terrain vehicle and a utility-type vehicle may be operated on streets within the corporate limits of the city only if the operator and the vehicle comply with the provisions of this chapter.

(2002 Code, § 78-291) (Ord. 2011-32, passed 1-17-2012; Ord. 2012-62, passed 1-2-2013)

§ 74.03 HOURS OF OPERATION.

An all-terrain vehicle or a utility-type vehicle may be operated only between the hours of sunrise and sunset and shall not be operated at a speed in excess of 30 mph. When operating an all-terrain vehicle or utility-type vehicle as authorized in this chapter, the headlight and taillight of the vehicle shall be on and the vehicle shall be equipped with a bicycle safety flag which extends not less than five feet above the 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-glow in color.

(2002 Code, § 78-292) (Ord. 2011-32, passed 1-17-2012; Ord. 2012-62, passed 1-2-2013) Penalty, see § 10.99

§ 74.04 REQUIREMENTS.

Any person operating an all-terrain vehicle or utility-type vehicle as authorized in this chapter shall have:

- (A) A valid Class O operator's license or a farm permit as provided in Neb. RS 60-4,126; and
- (B) Liability insurance coverage for the all-terrain vehicle or a utility-type vehicle while operating

the all-terrain vehicle or a utility-type vehicle on a street or highway. The person operating the all-terrain vehicle or a utility-type vehicle shall provide proof of such insurance coverage to any peace officer requesting such proof within five days of such a request.

(2002 Code, § 78-293) (Ord. 2011-32, passed 1-17-2012; Ord. 2012-62, passed 1-2-2013) Penalty, see § 10.99

§ 74.05 EXCEPTIONS.

(A) All-terrain vehicles and utility-type vehicles may be operated without complying with §§ 74.03 and 74.04 of this chapter on streets and highways in parades which have been authorized by the state or any department, board, commission or political subdivision of the state.

(B) An all-terrain vehicle or an utility-type vehicle shall not be operated on any state highway within the city limits, except as provided in § 74.06 of this chapter.

(C) All ATVs and UTVs are to abide by the state statutes pertaining to the operation of vehicles on roadways within the state.

(2002 Code, § 78-294) (Ord. 2011-32, passed 1-17-2012; Ord. 2012-62, passed 1-2-2013)

§ 74.06 CROSSING STATE HIGHWAYS.

Subject to § 74.05 of this chapter, the crossing of a state highway shall be permitted by an all-terrain vehicle or an utility-type vehicle only if:

(A) The crossing is made at an angle of approximately 90 degrees to the direction of the state 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 state highway;

(C) The operator yields the right-of-way to all on-coming traffic that constitutes an immediate potential hazard; and

(D) Both the headlight and taillight of the vehicle are on when the crossing is made.

(2002 Code, § 78-295) (Ord. 2011-32, passed 1-17-2012; Ord. 2012-62, passed 1-2-2013) Penalty, see § 10.99

§ 74.07 ADDITIONAL REQUIREMENTS.

(A) The vehicle must be licensed with the city and display a city approved, reflective license plate with numbers and/or letters four inches high, prominently and clearly displayed on the rear of the vehicle.

(B) The vehicle license shall be renewed no later than April 1 of each year.

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(C) Each and every operator of an ATV or utility vehicle shall possess an ATV operator's permit and shall carry said permit on his or her person while in operation of the ATV or utility vehicle.

(D) Operator's permits shall be renewed within 30 days prior to the operator's license's date of expiration.

(E) Any operator operating an ATV or utility vehicle must stop immediately when signaled to do so by a law enforcement officer.

(F) The operator must sign a written acknowledgment of the terms of this chapter and complete a safety program approved by the city.

(G) The operator must wear a protective helmet that meets the motorcycle helmet standards of the state.

(H) The operator must be at least 19 years of age.

(I) No operator shall permit any passengers to ride on ATVs which are not specifically designed by the manufacturer to carry passengers.

(2002 Code, § 78-296) (Ord. 2011-32, passed 1-17-2012; Ord. 2012-62, passed 1-2-2013) Penalty, see § 10.99

~~CHAPTER 75: TRUCK TRAFFIC~~

~~Section~~

- ~~75.01 Definitions~~
- ~~75.02 Application of regulation~~
- ~~75.03 Truck traffic in the city~~
- ~~75.04 City parks~~
- ~~75.05 Enforcement~~

~~75.99 Penalty~~

~~Cross-reference:~~

- ~~Truck parking, see Ch. 77, Schd. IV~~
- ~~Truck routes, see Ch. 76, Schd. VI~~

~~§ 75.01 DEFINITIONS.~~

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

~~**DEVIATING TRUCK.** A truck which leaves and departs from a truck route while traveling inside the city.~~

~~**TRUCK.** Any vehicle designed or operated for the transportation of property and whose body weight or whose combined body and load exceeds 10,000 pounds (five tons).~~

~~**TRUCK ROUTE.** A way over certain streets over and along which trucks coming into and going out of the city must operate.
(2002 Code, § 78-171)~~

~~§ 75.02 APPLICATION OF REGULATION.~~

~~(A) **Generally.** All trucks within the city shall be operated only over and along truck routes established in this chapter and on the other designated streets over which truck travel is permitted.~~

~~(B) **Exceptions.** This chapter shall not prohibit:~~

~~———— (1) *Operation on street of destination.* The operation of trucks upon any street where necessary to the conduct of business at a destination point; provided, streets upon which such traffic is permitted are used, until reaching the intersection nearest the designation point;~~

~~———— (2) *Emergency vehicles.* The operation of emergency vehicles upon any street in the city;~~

~~———— (3) *Public utilities.* The operation of trucks owned or operated by the city, public utilities, any contractor or materialmen, while engaged in the repair, maintenance or construction of streets, street improvements or street utilities within the city; or~~

~~———— (4) *Detoured trucks.* The operation of trucks upon any officially established detour in any case where such truck could lawfully be operated upon the street for which such detour is established.~~

~~(2002 Code, § 78-172) Penalty, see § 75.99~~

~~§ 75.03 TRUCK TRAFFIC IN THE CITY.~~

~~———— (A) *Outside origin.*~~

~~———— (1) *One inside destination point.* All trucks entering the city for a destination point in the city shall proceed only over an established truck route and shall deviate only at the intersection with the street upon which such traffic is permitted, nearest to the destination point. Upon leaving the destination point, a deviating truck shall return to the truck route by the shortest permissible route.~~

~~———— (2) *Multiple inside destination points.* All trucks entering the city for multiple destination points shall proceed only over established truck routes and shall deviate only at the intersection with the street upon which such traffic is permitted nearest to the first destination point. Upon leaving the first destination point, a deviating truck shall proceed to other destination points by the shortest direction, and only over streets upon which traffic is permitted. Upon leaving the first destination point, a deviating truck shall return to the truck route by the shortest permissible route.~~

~~———— (B) *Inside origin; outside destination points.* All trucks on a trip operating in the city and traveling in the city for a destination point outside the city shall proceed only over streets upon which such traffic is permitted.~~

~~(2002 Code, § 78-175) Penalty, see § 75.99~~

~~§ 75.04 CITY PARKS.~~

~~———— Trucks shall not be operated upon or in any of the city parks in the city.
(2002 Code, § 78-176) Penalty, see § 75.99~~

~~§ 75.05 ENFORCEMENT.~~

~~— (A) *City Clerk; maps.* The City Clerk shall keep and maintain accurate maps setting out truck routes and streets upon which truck traffic is permitted, or in the alternative, where truck traffic is prohibited; the map shall be kept on file in the office of the City Clerk and shall be available to the public.~~

~~— (B) *Signs.* The Chief of Police or the Public Works Superintendent of the city shall cause all truck routes on those streets upon which truck traffic is prohibitive to be clearly sign posted to give notice that this chapter is in effect.~~

~~— (C) *Failure to post.* No person shall be charged with violating the provisions of this chapter by reason of operating a truck upon the street wherein truck travel is prohibited unless appropriate signs are posted on such street.~~

~~— (D) *Weigh-in.* The Chief of Police shall have the authority to require any person driving or in control of any commercial vehicle not proceeding over a truck route or street over which truck traffic is permitted to proceed to any public or private scale available for the purpose of weighing and determining whether this chapter has been complied with.~~

~~(2002 Code, § 78-177)~~

~~§ 75.99 PENALTY.~~

~~— Any person violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor and, upon conviction, shall be punished in accordance with § 10.99 of this code.~~

~~(2002 Code, § 78-178)~~

CHAPTER 76: TRAFFIC SCHEDULES

Schedule

- I. Traffic-control signals; location
- II. Yield signs; location
- III. Stop sign locations
- IV. Avoiding traffic signal; driving or turning on public or private property
- V. Speed limits
- VI. Truck routes

SCHEDULE I. TRAFFIC-CONTROL SIGNALS; LOCATION.

(A) A **TRAFFIC-CONTROL SIGNAL** is any signal, whether manually, electronically or mechanically operated, by which traffic is alternately directed to stop and permitted to proceed. Traffic-control signals are established at the following locations in the city:

North, south, east and west approaches to the intersection of Seventh and Main Streets
North, south, east and west approaches to the intersection of Third and Main Streets
North, south, east and west approaches to the intersection of Second and Main Streets
115' West of the centerline of Sherman Street at the east and west approaches of Seventh Street

(B) It shall be unlawful for any person to violate the provisions of this ~~schedule~~ **section, and said offense shall be punishable by the waiver and fine schedules prescribed by the Uniform County Court Rules.**

(2002 Code, § 78-8) ~~Penalty, see § 10.99~~

Statutory reference:

Authority to designate a highway as a stop intersection, see Neb. RS 60-680(1)(f)

SCHEDULE II. YIELD SIGNS; LOCATION.

(A) Yield signs are established at the following locations in the city:

East 14th Street at the south approach of Providence Road
East 14th Street at the north approach of Claycomb Road
East 14th Street at the north approach of Linden Street
East 14th Street at the north approach of Vintage Hill Drive
Pearl Street at the east and west approaches of 11th Street
West First 1st Street at the south approach of South Blaine Street
East 6th Street at the east and west approaches of Windom Street
East 21st Street at the south approach of Claycomb Road

(B) The driver of a vehicle approaching a yield sign shall slow to a speed responsible under the existing conditions and, if required for safety to stop, shall stop at a clearly marked stop line, but if there is no such line, before entering the crosswalk or on the near side of the intersection, or, if no crosswalk is indicated, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway. After slowing or stopping, such driver shall yield the right-of-way to any vehicle in the intersection or approaching on another street so closely as to constitute an immediate hazard if such driver moved across or into such intersection.

(C) It shall be unlawful for any person to violate any provisions of this ~~schedule~~ **section, and said offense shall be punishable by the waiver and fine schedules prescribed by the Uniform County Court Rules.**

(2002 Code, § 78-9) ~~Penalty, see § 10.99~~

Statutory reference:

Authority to designate intersections as a yield intersection, see Neb. RS 60-680(1)(f)

(Sec. 78-10 of old code book)

SCHEDULE III. STOP SIGN LOCATIONS.

(A) *West of Main Street, north of Seventh Street.*

(1) Stop signs are established at the following locations in the city:

Lincoln Street at the east and west approaches of West 13th Street, to be enforced during times the City Pool is open
Lincoln Street at the east and west approaches of West 11th Street
Main Street at the west approach of West 8th Street
Main Street at the west approach of West 9th Street
Main Street at the west approach of West 10th Street
Main Street at the west approach of West 11th Street
Main Street at the west approach of West 12th Street
Main Street at the west approach of West 13th Street
Pearl Street at the east end west approaches of West 12th Street
Pearl Street at the east and west approaches of West 9th 10 th Street
West 13th Street at the south approach of Lincoln Street
West 13th Street at the south approach of Pearl Street
West 7th Street at the north approach of Lincoln Street
West 7th Street at the north approach of Douglas Street
West 7th Street at the north approach of Sherman Street
West 7th Street at the north approach of Haas Avenue
West 7th Street at the north approach of Pheasant Run
West 7th Street at the north approach of Pearl Street
West 9th Street at the north and south approaches of Pearl Street

(2) Except where directed to proceed by a police officer or traffic-control signal, every driver of a vehicle approaching an intersection where a stop is indicated by a stop sign shall stop, which, for the purpose of this ~~division (A)~~ **Section 78.10**, shall be a completed cessation of movement, at a clearly marked stop line, but if there is no such line, before entering the crosswalk on the near side of the intersection or, if no crosswalk is indicated, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic from the intersecting roadway before entering the intersection. After having stopped, such driver shall yield the right-of-way to any vehicle which has entered the intersection from another street or which is approaching so closely on such street as to constitute an immediate hazard if such driver moved across or into such intersection.

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(3) It shall be unlawful for any person to violate the provisions of this division (A).
(2002 Code, § 78-10)

(B) *East of Main Street, north of Seventh Street.*

(1) Stop signs are established at the following locations in the city:

Centennial Road at the west approach of East 14th Street
East 10th Street at the south approach of Pine Heights Road
East 10th Street at the north approach of Lilac Lane
East 10th Street at the north and south approaches of Walnut Street
East 10th Street at the south approach of Nebraska Street
East 10th Street at the south approach of Logan Street
East 10th Street at the north approach of Hillcrest Road
East 21st Street at the south approach of Claycomb Road
East 7th Street at the north approach of Centennial Road
East 7th Street at the north approach of Hillside Drive
East 7th Street at the north approach of Providence Road
East 7th Street at the north approach of Pine Heights Road
East 7th Street at the north approach of Logan Street
East 7th Street at the north approach of Nebraska Street
East 7th Street at the north approach of Windom Street
East 7th Street at the north approach of Walnut Drive
East 9th Street at the north approach of Walnut Street
Lindahi Drive at the south approach of Walnut Street
Logan Street at the east and west approaches of East 9th Street
Logan Street at the east and west approaches of East 8th Street
Main Street at the east approach of East 9th Street
Main Street at the east approach of East 8th Street
Main Street at the east approach of East 10th Street
Nebraska Street at the east and west approaches of East 9th Street
Pine Heights Road at the west approach of East 9th Street
Providence Road at the west approach of Poplar Street
Providence Road at the east and west approaches of Sunnyview Drive
Providence Road at the east and west approaches of East 10th Street

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Windom Street at the east and west approaches of East 10th Street
Windom Street at the east and west approaches of East 8th Street
Windom Street at the east and west approaches of East 9th Street

(2) Except where directed to proceed by a police officer or traffic-control signal, every driver of a vehicle approaching an intersection where a stop is indicated by a stop sign shall stop, which, for the purpose of this ~~division (B)~~ **Section 78.11**, shall be a completed cessation of movement, at a clearly marked stop line; but, if there is no such line, then before entering the crosswalk on the near side of the intersection, or, if no crosswalk is indicated, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic from the intersecting roadway before entering the intersection. After having stopped, such driver shall yield the right-of-way to any vehicle which has entered the intersection from another street or which is approaching so closely on such street as to constitute an immediate hazard if such driver moved across or into such intersection.

(3) It shall be unlawful for any person to violate the provisions of this division (B).
(2002 Code, § 78-11)

(C) *East of Main Street, south of Seventh Street.*

(1) Stop signs are established at the following locations in the city:

Dearborn Street at the east and west approaches of East 5th Street
Dearborn Street at the east and west approaches of East 6th Street
East 4th Street at the north approach of Dearborn Street
East 4th Street at the north approach of Walnut Street
East 4th Street at the north and south approaches of Windom Street
East 4th Street at the north and south approaches of Nebraska Street
East 7th Street at the south approach of Tomar Drive
East 7th Street at the south approach of Thorman Street
East 7th Street at the south approach of Valley Drive
East 7th Street at the south approach of Dearborn Street
East 7th Street at the south approach of Walnut Street
East 7th Street at the south approach of Windom Street
East 7th Street at the south approach of Nebraska Street
East 7th Street at the south approach of Logan Street
Fairground Avenue at the north approach of South Logan Street
Logan Street at the east and west approaches of East 2nd Street
Logan Street at the east and west approaches or East 6th Street

Logan Street at the east and west approaches of East 3rd Street
Logan Street at the east and west approaches of East 4th Street
Logan Street at the east and west approaches of East 5th Street
Main Street at the east approach of 6th Street
Main Street at the east approach of 11th Street
Main Street at the east approach of 5th Street
South Main Street at the east approach of Fairground Avenue
Tomar Drive at the East approach of East 6th Street
Windom Street at the east and west approaches of East 5th Street

(2) Except where directed to proceed by a police officer or traffic-control signal, every driver of a vehicle approaching an intersection where a stop is indicated by a stop sign shall stop, which, for the purpose of this ~~division (C)~~ **Section 78.12**, shall be a completed cessation of movement, at a clearly marked stop line, but if there is no such line, before entering the crosswalk on the near side of the intersection or, if no crosswalk is indicated, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic from the intersecting roadway before entering the intersection. After having stopped, such driver shall yield the right-of-way to any vehicle which has entered the intersection from another street or which is approaching so closely on such street as to constitute an immediate hazard if such driver moved across or into such intersection.

(3) It shall be unlawful for any person to violate the provisions of this division (C).
(2002 Code, § 78-12)

(D) *West of Main Street, south of Seventh Street.*

(1) Stop signs are established at the following locations in the city:

Grainland Road at the north approach of South Maple Street
Grainland Road at the north approach of South Blaine Street
Grainland Road at the north approach of Pheasant Run Road
Main Street at the west approach of West 4th Street
Main Street at the west approach of West 5th Street
Main Street at the west approach of West 6th Street
Main Street at the west approach of West 1st Street
Oak Drive at the west approach of 3rd Avenue
Oak Drive at the east approach of West 3rd Street
Pearl Street at the east and west approaches of West 6th Street
Pearl Street at the east and west approaches of West 5th Street

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Pearl Street at the east and west approaches of West 2nd Street
Pearl Street at the east and west approaches of West 3rd Street
Pearl Street at the east and west approaches of West 4th Street
Sherman Street at the east and west approaches of West 6th Street
South Main Street at the west approach of Clark Street
West 1st Street at the north and south approaches of Douglas Street
West 1st Street at the north and south approaches of Lincoln Street
West 1st Street at the north and south approaches of Pearl Street
West 1st Street at the north and south approaches of Sherman Street
West 1st Street at the north approach of Blaine Street
West 3rd Street at the north and south approaches of Douglas Street
West 3rd Street at the north and south approaches of Sherman Street
West 3rd Street at the south approach of Blaine Street
West 3rd Street at the south approach of Wildiff Wilcliff Drive
West 3rd Street at the north and south approaches of Lincoln Street
West 4th Street at the north and south approaches of Sherman Street
West 5th Street at the north and south approaches of Sherman Street
West 7th Street at the south approach of Pearl Street
West 7th Street at the south approach of Lincoln Street
West 7th Street at the south approach of Douglas Street
West 7th Street at the south approach of Sherman Street
West 7th Street at the south approach of Oak Drive
West 7th Street at the south approach of Donner Pass
West 7th Street at the south approach of Pheasant Run

(2) Except where directed to proceed by a police officer or traffic-control signal, every driver of a vehicle approaching an intersection where a stop is indicated by a stop sign shall stop, which, for the purpose of this ~~division (D)~~ **Section 78.13**, shall be a completed cessation or movement, at a clearly marked stop line, but if there is no such line, then before entering the crosswalk on the near side of the intersection or, if no crosswalk as indicated, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic from the intersecting roadway before entering the intersection. After having stopped, such driver shall yield the right-of-way to any vehicle which has entered the intersection from another street or which is approaching so closely on such street as to constitute an immediate hazard if such driver moved across or into such intersection.

(3) It shall be unlawful for any person to violate the provisions of this division (D).

(2002 Code, § 78-13)

(Ord. 2001-9, passed 8-14-2001; Ord. 2005-15, passed 5-31-2005; Ord. 2009-22, passed 11-17-2009;
Ord. 2012-11, passed 5-1-2012; Ord. 2012-58, passed 10-16-2012)

SECTION 78-15 OF OLD CODE BOOK**SCHEDULE IV. AVOIDING TRAFFIC SIGNAL; DRIVING OR TURNING ON PUBLIC OR PRIVATE PROPERTY.**

~~(A)(1)~~ It shall be unlawful for the driver of any vehicle to drive such vehicle directly from a highway across property adjacent to two highways intersecting at an intersection and enter upon the intersecting highway to avoid following the instructions of a traffic-control device or signal erected at the intersection.

~~(2) It shall be unlawful for any person to drive a motor vehicle on or across property belonging to another person as a shortcut or a part of a route of travel without stopping the motor vehicle or without having business to conduct with the owner, tenant or licensee of the property.~~

~~(3) It shall be unlawful for any person to drive a motor vehicle from a roadway or alley onto property belonging to another and re-enter a roadway or alley without stopping the motor vehicle or without conducting legitimate business with the owner or tenant of the property.~~

~~(4) Failure to stop a motor vehicle while traveling over or across property as described in this section shall constitute a rebuttable presumption of the violation of this schedule.~~

~~(5) To stop a motor vehicle, for purposes of this schedule, the operator of a motor vehicle shall be required to bring the motor vehicle to a complete cessation of motion and disembark from the vehicle and conduct legitimate business with the owner or tenant of the property or remain in the vehicle and conduct legitimate business with the owner or tenant.~~

~~(6) This schedule shall not apply to the operator of any law enforcement, public safety or emergency vehicle.~~

~~(7) The provisions of this schedule shall only apply to property for which regulation by the Police Department has been requested by the owner or tenant. Any owner or tenant requesting regulation shall make such request in writing to the Chief of Police and shall be responsible for the cost of publishing the enabling ordinance providing for the initial designation of the property as property to be regulated pursuant to this schedule. The owners or tenants of all properties regulated by this section shall erect signs readily visible to motor vehicle operators entering the regulated property, which signs shall state as follows:~~

~~24 HOURS
RESTRICTED PARKING
LOT CUSTOMERS AND EMPLOYEES ONLY
PURSUANT TO CITY CODE CH. 76, SCHD. IV~~

~~(2002 Code, § 78-14)~~

~~(B) The provisions of division (A) above shall be enforced at the following locations:~~

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<i>Name</i>	<i>Address</i>
Carhart Lumber Company	105 Main Street
Casey's General Store	407 East Seventh Street
Dairy Queen/Brazier	708 North Main Street
Godfather's Pizza	106 South Main Street
Presto Convenience Store	1034 Main Street
Sav Mor Pharmacy	1022 Main Street

~~(2002 Code, § 78-15)~~

SCHEDULE V. SPEED LIMITS.

(A) (1) No person shall operate a motor vehicle on the streets of the city at a rate of speed greater than is reasonable and proper, having regard to the traffic, the use of the road and the condition of the road, nor at a rate of speed such as to endanger the life and limb of any person, nor in any case in excess of 25 mph on any street within the corporate limits of the city, except on the following streets:

<i>Street</i>	<i>Location</i>	<i>Speed Limit</i>
City access road	Extending from 4th Street to the City Summer Sports Complex parking lot	20 mph
East Seventh Street	From a point 800 feet east of the east line of Pine Heights Road (as extended south) east to the east line of Centennial Road	45 mph
Grainland Road	From the west line of Blaine Street (as extended south), west to the corporate limits	30 mph
Main Street	From the south line of 14th Street north to a point 2,100 feet north of Country Club Road	45 mph
Main Street	From the south line of Seventh Street north to the south line of 14th Street	30 mph
Seventh Street	From a point 700 feet west of the west line of Oak Drive (as extended north) west to the north-south county road which is 1 mile west of the intersection of Seventh and Main Streets	45 mph
Seventh Street	From 800 feet west of the west line of Sherman Street to a point 800 feet east of the east line of Pine Heights Road (as extended south)	30 mph
South Main Street	From the north line of Clark Street (as extended east) south to the corporate limits at Logan Creek	30 mph
West Seventh Street	From 800 feet west of the west line of Sherman Street to a point 700 feet west of the west line of Oak Drive (as extended north)	35 mph

(2) Speed limits shall be plainly indicated by appropriate signs. Unless otherwise posted, the speed limit within the corporate limits of the city shall be 25 mph.

(2002 Code, § 78-212)

(B) (1) 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 city 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 city 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.

(2) The driver of any motor vehicle may be ~~arrested~~ **apprehended** without a warrant under the authority granted in this schedule if the ~~arresting~~ **apprehending** 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.

(2002 Code, § 78-213)

(Ord. 99-13, passed 11-30-1999; Ord. 2008-8, passed 7-1-2008) Penalty, see ~~§ 10.99~~ **Uniform County Court Rules**

Statutory reference:

Related provisions, see Neb. RS 60-6,192

Speed restrictions, see Neb. RS 60-6,185 et seq.

~~SCHEDULE VI. TRUCK ROUTES.~~

~~There is established within the city the following truck routes outside origin, outside destination. All trucks entering the city from destination points outside the city shall operate only over the following designated routes:~~

Eastbound	When entering the city from the west on State Highway No. 35, and traveling in an eastbound direction through the city, staying on Highway No. 35, to the city limits
Northbound	When entering the city from the south on State Highway No. 15, and traveling in a northbound direction through the city, staying on Highway No. 15, to the city limits
Southbound	When entering the city from the north on State Highway No. 15, and traveling in a southbound direction through the city, staying on Highway No. 15, to the city limits
Westbound	When entering the city from the east on State Highway No. 35, and traveling in a westbound direction through the city, staying on Highway No. 35, to the city limits

~~(2002 Code, § 78-173) Penalty, see § 10.99~~

CHAPTER 77: PARKING SCHEDULES

Schedule

- I. Handicapped parking
- II. Angle parking
- III. Prohibited, restricted parking
- IV. Truck parking

SCHEDULE I. HANDICAPPED PARKING.

(A) The following parking spaces shall be designated handicapped parking areas:

<i>Number of Spaces</i>	<i>Location</i>
1 parking space	At the intersection of Third and Main Streets on the northeast corner of Third Street
1 parking space	At the intersection of Third and Main Streets on the southeast corner of Third Street
1 parking space	At the intersection of Third and Pearl Streets on the northeast side of Pearl Street
1 parking space	At the intersection of Second and Main Streets on the northwest corner of Second Street
1 parking space	At the intersection of Second and Main Streets on the southeast corner of Second Street
1 parking space	At the intersection of Fourth and Main Streets on the northeast corner of Fourth Street
1 parking space	At the intersection of Main and Pearl Streets on the north side of Third Street
1 parking space	At the intersection of Third and Pearl Streets on the southwest side of Pearl Street
1 parking space	Between Third and Fourth Streets on the east side of Lincoln Street
1 parking space	On the north side of First Street between Main and Pearl Streets (on the east side of the alley)
2 parking spaces	Between Pearl and Lincoln Streets on the south side of Third Street

(B) Appropriate signs shall be placed to advise the public of these restricted parking regulations. (2002 Code, § 78-96) (Ord. 2002-2, passed 2-26-2002; Ord. 2002-9, passed 4-9-2002; Ord. 2004-19, passed 1-11-2005; Ord. 2005-3, passed 2-22-2005; Ord. 2005-27, passed 9-13-2005; Ord. 2008-2, passed 2-19-2008; Ord. 2009-24, passed 1-5-2010)

~~SCHEDULE II. ANGLE PARKING.~~

~~—(A) Angle parking generally. On all streets or parts of streets designated in this section, all motor vehicles shall be parked between the painted lines headed in the general direction of traffic at an angle of approximately 30 degrees and not more than one tier deep. Angle parking shall be in effect on:~~

Second Street from Pearl Street to Logan Street
The east side of Pearl Street from First Street to Third Street
The east side of Lincoln Street between Fifth Street and Sixth Street
The north side of Ninth Street between Main Street and Logan Street
The north side of Main Street from First Street to Fifth Street
The south side of Sixth Street for a distance of 150 feet west of Main Street

~~(2002 Code, § 78-99)~~

~~—(B) Angle parking on parts of First and Third Streets. On the parts of streets designated in this schedule, all motor vehicles shall be parked between the painted lines headed in the general direction of traffic at an angle of approximately 30 degrees and not more than one tier deep. Angle parking shall be in effect on:~~

The north side of Third Street from Pearl Street to Logan Street
The north side of First Street from Pearl Street to Main Street

~~(2002 Code, § 78-100)~~

~~—(C) Angle parking on parts of Second, Pearl and Lincoln Streets. On the parts of streets designated in this schedule, all motor vehicles shall be parked between the painted lines slanted in the general direction of traffic at an angle of approximately 30 degrees and not more than one tier deep. Angle parking shall be in effect on:~~

The east side of Lincoln Street between Fifth Street and Sixth Street
The north side of Second Street for a distance of 75 feet west of Pearl Street
The west side of Pearl Street between Fifth Street and Sixth Street

~~(2002 Code, § 78-101)~~

~~—(D) *Angle parking on Fifth Street.* On the parts of streets designated in this schedule, all motor vehicles shall be parked between the painted lines slanted in the general direction of traffic at an angle of approximately 30 degrees, and not more than one tier deep. Angle parking shall be in effect on the south side of Fifth Street between Pearl Street and Main Street and on the north side of East Fifth Street between Main Street and 150 feet easterly thereof.~~

~~(2002 Code, § 78-102)~~

~~(Ord. 97-6, passed 5-27-1997)~~

SCHEDULE III. PROHIBITED, RESTRICTED PARKING.

(A) Certain vehicles prohibited in designated congested district.

(1) The east side of Main Street commencing at Fairground Avenue and continuing south to the city limits is designated a congested district, and no truck or commercial vehicle over one ton in capacity shall be parked or left standing for any period of time within the designated congested district.

(2) Appropriate signs will be placed to advise the public of this parking regulation.
(2002 Code, § 78-124)

(B) Prohibited parking; northeast quadrant of the city.

(1) No person shall, at any time, park a vehicle upon the following described streets or parts of streets:

All of Lloyd Court from the southerly line of Brooke Drive to and including the entire circle
The east side of the centerline of Vintage Hill Drive from East 14th Street north of the city limits
The east side of the centerline of Eastview Drive from the north line of Poplar Street to the south line of Sycamore Street
The east side of the centerline of Ada Drive from Sunnyview Drive to the north line of Poplar Street
The east side of the centerline of Providence Road from the north line of East Seventh Street north to the south line of East Tenth Street
The east side of the centerline of Hillside Drive from the north line of East Seventh Street north to the city limits
The east side of the centerline of North Main Street from the north line of East Seventh Street north to the south line of East 14th Street
The east side of the centerline of Claycomb Road from the north line of East 14th Street north to the city limits
The east side of the centerline of Providence Road from the north line of East Seventh Street north to the south line of East 14th Street
The east side of the centerline of Lilac Lane from the north line of East Tenth Street north to the south line of Hillcrest Road
The east side of the centerline of Pine Heights Road from the north line of East Seventh Street north to the south line of East Tenth Street
The east side of the centerline of the north-south alley between Walnut Street and the college campus from the north line of East Tenth Street north to the south line of East 14th Street
The east side of the centerline of Logan Street from the north line of East Seventh Street north to the south line of East Tenth Street
The east side of the centerline of Nebraska Street from the north line of East Seventh Street north to the south line of East Tenth Street
The east side of the centerline of Windom Street from the north line of East Seventh Street north to the south line of East Tenth Street
The east side of the centerline of Walnut Drive from the north line of East Seventh Street north to the south line of East Ninth Street

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The east side of the centerline of Walnut Street from the north line of East Ninth Street north to the south line of East 14th Street
The east side of the centerline of Linden Street from the north line of East 14th Street north to the south line of Aspen Street
The north side of the centerline of East Tenth Street from the east line of Windom Street to the west line of Walnut Street
The north side of the centerline of East Tenth Street from the east line of Main Street east to the west line of Logan Street
The north side of the centerline of East Seventh Street from the east line of Main Street east to the city limits
The north side of the centerline of 14th Street between the east boundary of the Wayne State College Technology Building Lot on the quarter section line east to Claycomb Road
The north side of the centerline of East 14th Street from the west line of Walnut Street west to the college campus
The north side of the centerline of East 12th Street from the west line of Walnut Street west to the college campus
The north side of the centerline of East 13th Street from the west line of Walnut Street west to the college campus
The south side of the centerline of East 14th Street from the west line of Walnut Street west to the college campus
The south side of the centerline of Aspen Street from the east line of Claycomb Road east to the city limits
The south side of the centerline of East 14th Street from the east line of Providence Road east to the city limits
The south side of the centerline of Poplar Street from the west line of Ada Drive to the west line of Providence Road
The south side of the centerline of East Tenth Street from the east line of Main Street east to the west line of Logan Street
The south side of the centerline of East Tenth Street from the east line of Nebraska Street, east to the city limits
The south side of the centerline of Hillcrest Road from the east line of Walnut Street east to the point where Hillcrest Road turns south and then on the east side of the centerline to the north line of East Tenth Street
The south side of the centerline of Poplar Street from the west line of Hillside Drive to the east line of Eastview Drive
The south side of the centerline of Sunnyview Drive from the west line of Hillside Drive to the east line of Providence Road
The south side of the centerline of East 12th Street from the west line of Walnut Street to the college campus
The south side of the centerline of East Ninth Street from the east line of Main Street east to the west line of Pine Heights Road
The south side of the centerline of East 13th Street from the west line of Walnut Street west to the college campus
The south side of the centerline of Sunnyview Drive from the west side of Providence Road to the east line of Alda Drive
The south side of the centerline of Sycamore Street from the west line of Hillside Drive to the east line of Eastview Drive
The south side of the centerline of 14th Street from Providence Road east to Claycomb Road
The south side of the centerline of Brooke Drive from the east line of Claycomb Road east to the city limits
The south side of the centerline of Sycamore Street from the west line of Hillside Drive to the east line of Eastview Drive
The south side of the centerline of East Eighth Street from the east line of Main Street to the north-south alley east of Windom Street
The west side of the centerline of Providence Road from the north line of East Seventh Street north to the south line of East Tenth Street

The west side of the centerline of Logan Street from the north line of East Seventh Street north for a distance of 150 feet
The west side of the centerline of Walnut Street from 10th Street north to J.G. Lewis Drive
The west side of the centerline of Providence Road from the north line of East Seventh Street north to the south line of East 14th Street
The west side of the centerline of Circle Drive from the north line of East Ninth Street north to the circle and the entire circle
The west side of Claycomb Road from the north line of 14th Street going north a distance of 104 feet
The west side of the centerline of Pine Heights Road from the north line of East Seventh Street north for a distance of 25 feet

(2) Appropriate signs shall be placed to advise the public of these prohibited parking regulations.
 (2002 Code, § 78-126)

(C) *Restricted parking 12:00 midnight to 5:00 a.m.; northeast quadrant of the city.*

(1) No person shall, at any time, park a vehicle between the hours of 12:00 midnight and 5:00 a.m. upon any of the following described streets or parts of streets:

The east side of the centerline of Circle Drive from the north line of East Ninth Street north to the circle
The north side of the centerline of East Tenth Street from the east line of Walnut Street east to the city limits
The north side of the centerline of Poplar Street from the east line of Eastview Drive to the west line of Hillside Drive
The north side of the centerline of East Ninth Street from the east line of Main Street east to the west line of Pine Heights Road
The north side of the centerline of East Eighth Street from the east line of Main Street east to the north-south alley east of Windom Street
The north side of the centerline of Aspen Street from the east line of Claycomb Road east to the city limits
The north side of the centerline of East Tenth Street from the east line of Nebraska Street to the west line of Windom Street
The north side of the centerline of Hillcrest Road from the east line of Walnut Street east to where Hillcrest Road turns south and then on the west side of the centerline to the north line of East Tenth Street
The north side of the centerline of Sunnyview Drive from the east line of Providence Road east to the west line of Hillside Drive
The south side of the centerline of East Tenth Street from the east line of Logan Street east to the west line of Nebraska Street
The west side of the centerline of Walnut Street from the north line of East Ninth Street north to the south line of Hillcrest Road
The west side of the centerline of Windom Street from the north line of East Seventh Street north to the south line of East Tenth Street
The west side of the centerline of Lilac Lane from the north line of East Tenth Street north to the south line of Hillcrest Road

The west side of the centerline of Walnut Street from the north line of Hillcrest Road north to the south line of East 14th Street
The west side of the centerline of Nebraska Street from the north line of East Seventh Street north to the south line of East Tenth Street
The west side of the centerline of Claycomb Road from the north line of East 14th Street north to the city limits
The west side of the centerline of Linden Street from the north line of East 14th Street north to the south line of Aspen Street
The west side of the centerline of Logan Street from a point 25 feet north of the north line of East Seventh Street north to the south line of East Tenth Street
The west side of the centerline of Hillside Drive from the north line of Seventh Street north to the city limits
The west side of the centerline of Eastview Drive from the north line of Poplar Street north to the south line of Sunnyview Drive
The west side of the centerline of Walnut Street from a point 190 feet north of the north line of East Seventh Street north to the south line of East Ninth Street
The west side of the centerline of Pine Heights Road from the north line of East Seventh Street north to the south line of East Tenth Street

(2) Appropriate signs shall be placed to advise the public of these restricted parking regulations.

(2002 Code, § 78-127)

(D) *Prohibited parking; northwest quadrant of the city.*

(1) No person shall, at any time, park a vehicle upon the following described streets or parts of streets:

The east side of the centerline of Sherman Street from the north line of West Seventh Street north to the south line of West 13th Street
The east side of the centerline of Lincoln Street from the north line of West Seventh Street to the south line of West 13th Street
The east side of the centerline of Pearl Street from the north line of West Seventh Street to the south line of West 13th Street
The east side of the centerline of Meadow Lane from the north line of Westwood Road north to the city limits
The east side of the centerline of Lawndale Drive from the north line of Fairacres Road north to the south line of Westwood Road
The east side of the centerline of Sunset Drive from the north line of Fairacres Road north to the south line of Westwood Road
The east side of the centerline of Douglas Street from the north line of West Seventh Street north to the south line of West 13th Street
The north side of the centerline of West 12th Street from the west line of Main Street west to the north-south alley between Main Street and Pearl Street

The north side of the centerline of Crescent Drive from the west line of Sherman Street west to the point where Crescent Drive turns north and then on the east side of the centerline north to the south line of Westwood Road
The north side of the centerline of West 13th Street from the west line of Main Street west to the north-south alley between Main Street and Pearl Street
The north side of the centerline of West 11th Street from the west line of Main Street to the north-south alley between Main Street and Pearl Street
The north side of the centerline of Park Street from the west line of Lincoln Street west to the east line of Douglas Street
The north side of the centerline of West 13th Street from the west line of Main Street to the east line of Lincoln Street
The north side of the centerline of West Seventh Street from the west line of Main Street west to the city limits
The south side of the centerline of West Ninth Street from the west line of Main Street to the east line of Lincoln Street; thence from the west line of Douglas Street to the east line of Sherman Street
The south side of the centerline of West Tenth Street from the west line of Mam Street to the east line of Sherman Street
The south side of the centerline of West 12th Street from the west line of Main Street west to the east line of Sherman Street
The south side of the centerline of West 13th Street from the west line of Main Street west to the east line of Lincoln Street
The south side of the centerline of West 13th Street from the west line of Main Street to the east line of Lincoln Street
The south side of the centerline of Fairacres Road from the west line of Sherman Street west to the city limits
The south side of the centerline of West 11th Street from the west line of Main Street to the east hue of Sherman Street
The south side of the centerline of West Eighth Street from the west line of Main Street west to the city limits
The south side of the centerline of West 13th Street from the west line of Douglas Street to the east line of Sherman Street
The south side of the centerline of Westwood Road from the west line of Sherman Street west to the city limits
The west side of the centerline of Main Street from the north line of East Seventh Street north to the south line of East 14th Street
The west side of the centerline of Lincoln Street from the south line of West 13th Street south a distance of 150 feet
The west side of the centerline of Sherman Street north a distance of 100 feet from the north line of West Seventh Street

(2) Appropriate signs shall be placed to advise the public of these prohibited parking regulations.
 (2002 Code, § 78-128)

(E) *Restricted parking 12:00 midnight to 5:00 a.m.; northwest quadrant of the city.*

(1) No person shall, at any time, park a vehicle between the hours of 12:00 midnight and 5:00 a.m. upon any of the following described streets or parts of streets:

The north side of the centerline of West Ninth Street from the west line of Main Street to the east line of Lincoln Street
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The north side of the centerline of West 13th Street from the west line of Douglas Street to the east line of Sherman Street
The north side of the centerline of West 12th Street from the west line of the north-south alley between Main Street and Pearl Street west to the east line of Sherman Street
The north side of the centerline of West Tenth Street from the west line of Main Street to the east line of Sherman Street
The north side of the centerline of West 13th Street from the west line of Main Street to the east line of Lincoln Street
The north side of the centerline of West Ninth Street from the west line of Douglas Street to the east line of Sherman Street
The north side of the centerline of Westwood Road from the east line of Sherman Street west to the city limits
The north side of the centerline of West Eighth Street from the west line of Main Street to the east line of Sherman Street
The north side of the centerline of Crescent Drive from the west line of Sherman Street west to the point where Crescent Drive turns north and then on the west side of the centerline north to the south line of Westwood Road
The south side of the centerline of Fairacres Road from the west line of Sherman Street west to the city limits
The south side of the centerline of Park Street from the west line of Lincoln Street to the east line of Douglas Street
The west side of the centerline of Pearl Street from the north line of West Seventh Street north to the city limits
The west side of the centerline of Lincoln Street from the north line of West Seventh Street north to a point 150 feet south of the south line of West 13th Street
The west side of the centerline of Lawndale Drive from the north line of Fairacres Road north to the south line of Westwood Road
The west side of the centerline of Sunset Drive from the north line of Fairacres Road north to the south line of Westwood Road

(2) Appropriate signs shall be placed to advise the public of these restricted parking regulations.

(2002 Code, § 78-129)

(F) *Prohibited parking; southeast quadrant of the city.*

(1) No person shall, at any time, park a vehicle upon the following described streets or parts of streets:

The east side of the centerline of Nebraska Street from the north line of East Second Street north to the south line of East Seventh Street
The east side of the centerline of South Nebraska Street from the south line of Fairgrounds Avenue south to the city limits
The east side of the centerline of Dearborn Street from the north line of East Fifth Street north to the south line of East Seventh Street
The east side of the centerline of Walnut Street from the north line of East Fourth Street north to the south line of East Seventh Street
The east side of the centerline of Wayside Lane from the north line of Valley Drive north to the south line of East Sixth Street

The east side of the centerline of Tomar Drive from the south line of East Seventh Street south 600 feet
The east side of the centerline of South Windom Street from the north line of Fairgrounds Avenue north to the south line of East Third Street
The east side of the centerline of Main Street from the north line of Sixth Street to the south line of Seventh Street
The east side of the centerline of Windom Street from the north line of East Third Street north to the south line of East Seventh Street
The east side of the centerline of South Windom Street from the south line of Fairgrounds Avenue south to the city limits
The east side of the centerline of Logan Street from the north line of East Fourth Street north to the south line of East Seventh Street
The south side of the centerline of Fairgrounds Avenue from the east line of South Nebraska Street east to the city limits
The south side of the centerline of East Third Street from the east line of Logan Street to the west line of Windom Street
The south side of the centerline of East Fourth Street from the north-south alley between Main Street and Logan Street east to the city limits
The south side of the centerline of Valley Drive from the east line of Fifth Street east to the point where Valley Drive turns north and then on the east side of the centerline north to the south line of East Seventh Street
The south side of the centerline of East Fifth Street from the north-south alley between Main Street and Logan Street east to Valley Drive
The south side of the centerline of East Seventh Street from the east line of Main Street east to the city limits
The south side of the centerline of Folk Street from the east line of South Nebraska Street to the west line of South Windom Street
The south side of the centerline of East Sixth Street from the north-south alley between Main Street and Logan Street east to the west line of Tomar Drive
The west side of the centerline of Windom Street from the south line of East Seventh Street south for a distance of 25 feet
The west side of the centerline of Tomar Drive from the south line of East Seventh Street south 600 feet
The west side of the centerline of Windom Street from the north line of East Third Street north to the south line of East Fourth Street

(2) Appropriate signs shall be placed to advise the public of these prohibited parking regulations.
(2002 Code, § 78-130)

(G) *Restricted parking 12:00 midnight to 5:00 a.m.; southeast quadrant of the city.*

(1) No person shall, at any time, park a vehicle between the hours of 12:00 midnight and 5:00 a.m. upon any of the following described streets or parts of streets:

The east side of the centerline of Logan Street from the north line of Fairgrounds Avenue north to the south line of East Fourth Street
The north side of the centerline of Valley Drive from the east line of East Fifth Street east to the point where Valley Drive turns north and then on the west side of the centerline north to the south line of East Seventh Street

The north side of the centerline of East Fourth Street from the east line of Main Street east to the city limits
The north side of the centerline of East Third Street from the east line of Logan Street east to the west line of Windom Street
The north side of the centerline of Fairgrounds Avenue from the east line of Main Street east to the city limits
The north side of the centerline of East Fifth Street east to a point where East Fifth Street becomes Valley Drive
The north side of the centerline of East Sixth Street east to the city limits
The north side of the centerline of Folk Street from the east line of South Nebraska Street east to the west line of South Windom Street
The west side of the centerline of Windom Street from the south line of East Third Street south to the north line of Fairgrounds Avenue
The west side of the centerline of Walnut Street from the north line of East Fourth Street north to the south line of East Seventh Street
The west side of the centerline of Dearborn Street from the north line of East Fourth Street north to the south line of East Seventh Street
The west side of the centerline of Wayside Lane from the north line of Valley Drive north to the south line of East Sixth Street
The west side of the centerline of Logan Street from the south line of East Fifth Street south to the north line of Fairgrounds Avenue
The west side of the centerline of South Nebraska Street from the south line of Fairgrounds Avenue south to the city limits
The west side of the centerline of Windom Street from the north line of East Third Street north to the south line of East Seventh Street
The west side of the centerline of Nebraska Street from the north line of East Second Street north to the south line of East Seventh Street
The west side of the centerline of South Windom Street from the south line of Fairgrounds Avenue south to the city limits

(2) Appropriate signs shall be placed to advise the public of these prohibited parking regulations.

(2002 Code, § 78-131)

(H) *Prohibited parking; southwest quadrant of the city.*

(1) No person shall, at any time, park a vehicle upon the following described streets or parts of streets:

The east side of the centerline of Wilcliff Drive from the north line of West First Street north to the south line of West Third Street
The east side of the centerline of Donner Pass from the south line of West Seventh Street south to the south line of Nathan Drive

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The east side of the centerline of Pearl Street from the north line of West Fifth Street north to the south line of West Seventh Street
The east side of the centerline of Lincoln Street from the south line of West Seventh Street south to the city limits
The east side of the centerline of Douglas Street from the south line of West Seventh Street south to the city limits
The east side of the centerline of Sherman Street from the south line of West Seventh Street south to the north line of West Fourth Street and from the south line of West Third Street south to the north line of Grainland Road
The east side of the centerline of Blaine Street from the north line of Grainland Road north to the south line of West Third Street
The east side of the centerline of Maple Street from the north line of Grainland Road north to the south line of Second Avenue
The east side of the centerline of Oak Drive from the north line of Second Avenue north to the south line of West Seventh Street
The north side of the centerline of Second Avenue from the west line of Maple Street west to the east line of Birch Street
The north side of the centerline of West Sixth Street from the west line of Main Street west to the east line of the north-south alley between Main Street and Pearl Street
The south side of the centerline of Nathan Drive from the west line of Donner Pass west to the city limits
The south side of the centerline of Grainland Road from the west line of Sherman Street west to the city limits
The south side of the centerline of First Avenue from the west line of Maple Street west to the east line of Birch Street
The south side of the centerline of West Seventh Street from the west line of Main Street west to the city limits
The south side of the centerline of West First Street from the west line of Pearl Street west to the east line of Wilcliff Drive
The south side of the centerline of West Second Street from the north-south alley between Pearl Street and Lincoln Street west to the east line of Blaine Street
The south side of the centerline of West Third Street from the west line of Pearl Street west to the east line of Oak Drive
The south side of the centerline of West Fourth Street from the west line of Pearl Street west to the east line of the elementary school
The south side of the centerline of West Fifth Street from the west line of Main Street west to the east line of the elementary school
The south side of the centerline of West Sixth Street from the west line of Main Street west to the east line of Sherman Street
The south side of the centerline of Clark Street from the west line of Main Street west to the east line of Pearl Street
The south side of the centerline of Third Avenue from the west line of Oak Drive west to the city limits
The west side of the centerline of Pearl Street from the north line of Sixth Street north to the south line of West Seventh Street
The west side of the centerline of Birch Street from the north line of First Avenue north to the south line of Second Avenue
The west side of the centerline of Sherman Street from the south line of West Fourth Street south to the north line of West Third Street

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The west side of the centerline of Main Street from the north line of Fourth Street north to the south line of Seventh Street
West of the centerline of Main Street beginning 65 feet north of the centerline of the 100 block of West 1st Street, south to the intersection of Main and West 1st Street. Said curb shall be painted yellow to clearly designate this restricted parking area

(2) Appropriate signs shall be placed to advise the public of these prohibited parking regulations.

(2002 Code, § 78-132)

(I) *Restricted parking 12:00 midnight to 5:00 a.m.; southwest quadrant of the city.*

(1) No person shall, at any time, park a vehicle between the hours of 12:00 midnight and 5:00 a.m. upon any of the following described streets or parts of streets:

The east line of Blaine Street
The east side of the centerline of Sherman Street from the south line of West Fourth Street south to the north line of West Third Street
The north side of the centerline of West Third Street from the north-south alley between Pearl Street and Lincoln Street west to the east line of Oak Drive
The north side of the centerline of West Fifth Street from the west line of Main Street west to the east line of the elementary school
The north side of the centerline of West Second Street from the west line of Head Street
The north side of the centerline of West Sixth Street from the north-south alley between Main Street and Pearl Street west to the east line of Sherman Street
The north side of the centerline or Grainland Road from the west line of Sherman Street west to the city limits
The north side of the centerline of Third Avenue from the west line of Oak Drive west to the city limits
The north side of the centerline of West Fourth Street from the west line of Main Street west to the east line of the elementary school
The west side of the centerline of Blaine Street from the south line of West Second Street south to the north line of Grainland Road
The west side of the centerline of Sherman Street from the south line of West Seventh Street south to the north line West Fourth Street and from the south line of West Third Street south to the north line of Grainland Road
The west side of the centerline of Douglas Street from the south line of West Seventh Street south to the city limits

(2) Appropriate signs shall be placed to advise the public of these prohibited parking regulations.

(2002 Code, § 78-133)

(J) *Parking time limits of 30 minutes and one hour; location.*

(1) No person shall, at any time, park a vehicle between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, for more than 30 minutes upon the south side of the centerline of East Tenth

Street from the east line of Logan Street east to the west line of Nebraska Street.

(2) No person shall, at any time, park a vehicle between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, for more than one hour upon the west side of Pearl Street from 140 feet, eight inches south of the centerline of Third Street to 200 feet, eight inches south of the centerline of Third Street.

(3) Appropriate signs shall be placed to advise the public of these restricted parking regulations.

(2002 Code, § 78-134)

(K) *Restricted parking from 3:00 a.m. to 5:30 a.m. on certain streets.* No person shall, at any time, park a vehicle between the hours of 3:00 a.m. and 5:30 a.m. upon any of the following streets or parts of streets:

First Street from the east line of Pearl Street east to the west line of Main Street
Fourth Street from the east line of Main Street east 150 feet, to include terrace parking
Main Street from the north line of Clark Street north to the south line of Fifth Street
Second Street from the east line of Pearl Street east to the west line of Logan Street
Third Street from the east line of Pearl Street east to the west line of Logan Street

(2002 Code, § 78-135)

(L) *Restricted parking from 12:00 midnight to 7:00 a.m. on certain streets.*

(1) No person shall, at any time, park a vehicle between the hours of 12:00 midnight and 7:00 a.m. upon any of the following streets or parts of streets including angle parking spaces:

The east side of the centerline of Lincoln Street from the north line of Fifth Street to the south line of Sixth Street
The north side of the centerline of Fifth Street from the west line of Pearl Street to the east line of Lincoln Street
The west side of the centerline of Pearl Street from the north line of Fifth Street to the south line of Sixth Street

(2) Appropriate signs shall be placed to advise the public of these restricted parking regulations.

(2002 Code, § 78-136)

(M) *Restricted parking from midnight to 5:00 p.m. on certain streets.* No person shall, at any time, park a vehicle between the hours of midnight and 5:00 p.m. upon any of the following streets or parts of streets including angle parking spaces: the west side of the centerline of Walnut Drive between 10th and 12th Streets.

(2002 Code, § 78-138)

(N) *Restricted parking from 7:00 a.m. to 9:00 a.m. and from 3:00 p.m. to 5:00 p.m. Monday through Friday.*

Wayne - Traffic Code

(1) No person shall, at any time, park a vehicle between the hours of 7:00 a.m. and 9:00 a.m. and between the hours of 3:00 p.m. and 5:00 p.m. Monday through Friday upon any of the following streets: the east side of the centerline of Sherman Street from the south line of West Fourth Street to the north line of West Third Street.

(2) Appropriate signs shall be placed to advise the public of these restricted parking regulations.

(2002 Code, § 78-142)

(O) *Restricted parking from 7:00 a.m. to 9:00 a.m. Monday through Friday.*

(1) No person shall, at any time, park a vehicle between the hours of 7:00 a.m. and 9:00 a.m. Monday through Friday upon any of the following streets:

The north side of the centerline of Third Street from the west line of Sherman Street to the east line of Douglas Street
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The west side of the centerline of Douglas Street from the south line of West Fourth Street to the north line of West Third Street
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(2) Appropriate signs shall be placed to advise the public of these restricted parking regulations.

(2002 Code, § 78-143)

(Ord. 98-2, passed 2-10-1998; Ord. 99-18, passed 2-8-2000; Ord. 2000-5, passed 3-14-2000; Ord. 2001-22, passed 12-18-2001; Ord. 2002-14, passed 8-13-2002; Ord. 2002-15, passed 8-27-2002; Ord. 2004-1, passed 3-9-2004; Ord. 2004-20, passed 1-11-2005; Ord. 2005-22, passed 8-9-2005; Ord. 2006-23, passed 12-12-2006; Ord. 2006-27, passed 12-19-2006; Ord. 2008-18, passed 9-16-2008; Ord. 2008-19, passed 9-16-2008; Ord. 2008-21, passed 10-21-2008; Ord. 2010-1, passed 1-5-2010; Ord. 2011-9, passed 8-16-2011; Ord. 2011-10, passed 8-16-2011; Ord. 2011-11, passed 8-16-2011; Ord. 2012-13, passed 5-15-2012; Ord. 2012-55, passed 10-2-2012; Ord. 2012-56, passed 10-2-2012; Ord. 2012-61, passed 12-18-2012)

SCHEDULE IV. TRUCK PARKING.

(A) No chassis cab, step van or semi-tractor or semi-trailer style vehicle(s) shall be parked on any public street or on any private property in any of the R-1 through R-4 **5** Zoning Districts between the hours of 9:00 p.m. and 7:00 a.m. Except for temporary loading and/or unloading, the parking of semi-trailers in any R-1 through R-4 **5** Zoning District is prohibited.

(B) (1) The following locations are designated as truck parking areas:

200 block of East 2nd Street
North side of 100 block of West Clarks Street
South 150 feet of the 100 block of South Pearl Street

(2) Vehicles of the type described above are allowed to park on the designated truck parking areas not to exceed 72 consecutive hours. It shall be unlawful to park any chassis cab, step van or semi-tractor or semi-trailer style vehicle(s) on any public street or on private property in any R-1 through R-4 **5** Zoning Districts overnight, except for emergencies. Any person violating this section shall be subject to the penalty provisions of §§ 10.99 or 75.99 of this code, and the presumption set forth in § 73.23 of this code shall be applicable.

(C) A truck driver or owner may request temporary permission to park a chassis cab, step van or semi-truck tractor overnight in an R-1 through R-4 **5** Zoning District for special circumstances (e.g., grain harvest season). Such temporary permission would be granted by the City Police Department on a case by case, day by day basis.

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

CHASSIS CAB. Any motor vehicle shipped from the manufacturer with a cab on chassis only having four or more drive wheels or two or more drive axles upon which an aftermarket manufacturer has or may install a customized van box, dump box, cement mixer, wrecker body, tool box or similar configuration and having a wheelbase of 120 inches or more.

SEMI-TRAILER. Any cargo, flatbed or van trailer designed specifically to be pulled by a truck tractor and/or power unit and which is over 30 feet in length.

SEMI-TRUCK. Any truck tractor or power unit with one or more drive axles or eight or more drive wheels designed for the purpose of pulling a semi-truck trailer and/or pup-trailer more than 30 feet in length.

STEP VAN or WALK-IN-VAN. Any manufactured motor vehicle so configured as to allow the driver to step up or walk into the extra tail cab, and/or which allows the driver access to the cargo area without having to leave the vehicle and which the driver and/or passenger doors slide back and forth to close and whose primary design intent is to haul cargo, freight or equipment and/or serve as a pickup and delivery vehicle with a wheelbase of 120 inches or more.

(2002 Code, § 78-174) (Ord. 2004-12, passed 10-26-2004)