

CHAPTER 6

CITY GOVERNMENT

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ARTICLE 1

COUNCIL AND MAYOR

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Nebraska Statutes

For statutory provisions on city councils, see R.R.S. § 16-401 et seq. and § 19-611 et seq.

(a) COUNCIL MEMBERS

6-1-1. Council Member-elect; qualifications; assumption of office.

Each Council Member-elect shall make every reasonable effort to be qualified to assume, and to assume, his or her office and make demand therefor at the first regular Council meeting in December following the general election in every even-numbered year.(Ord. 2883, 1984; Ord. 3981, 2008)

6-1-2. Office; surrender to Council Member-elect; when.

Each Council Member shall, upon expiration of the term of office for which he or she is elected, surrender his or her office upon the demand of his or her successor, which surrender shall be made on the date of the first regular Council meeting in December following the election of his or her successor. Provided, in case his or her successor does not qualify on or before such date, the

incumbent shall hold the office until a successor shall have been chosen in the manner prescribed by law and qualified for the office. (Ord. 2883, 1984; Ord. 3981, 2008)

6-1-3. Council Member; Council Member-elect; office; report of surrender; assumption; change of roll.

Each Council Member surrendering his or her office and each Council Member assuming his or her office shall immediately upon such surrender and assumption report such fact of surrender and assumption to the City Clerk, who shall accordingly change the roll of Council Members. (Ord. 2883, 1994)

6-1-4. Salary.

Effective December 3, 1996, the salary of each City Council Member shall be the sum of three thousand six hundred dollars (\$3,600.00) per annum. Effective December 3, 2002, the salary of the Mayor shall be the sum of five thousand two hundred dollars (\$5,200.00) per annum. Such salaries shall be payable in installments that, as near as may be, are in equal amounts and shall be payable in respect of the same pay periods as those for which administrative officers of the City are paid. (Ord. 3511, 1996; Ord. 3689, 2001)

6-1-5. Council Member; conflict of interest; exemption.

As authorized by Section 49-14,103.06 R.R.S. 1943, contracts involving one hundred dollars (\$100.00) or less in which a Council Member may have an interest are exempted from the provisions of Sections 49-14,103.01 through 49-14,103.03, R.R.S. 1943. (Ord. 3159, 1990)

6-1-6 to 6-1-10. Reserved.

(b) COUNCIL MEETINGS

6-1-11. Council meetings; place.

Rule 1. All meetings of the City Council shall be held in the Lied Scottsbluff Public Library building, located at 1809 Third Avenue, Scottsbluff, Nebraska, except as herein provided. In the event the Council shall determine that an emergency or public convenience or necessity require that a public meeting of the City Council be held elsewhere than in the Lied Scottsbluff Public Library building, the meeting may be held in any place designated by the City Council. Such place may be inside or outside the corporate limits of the City. Such place shall be accessible to the public and to handicapped persons. Any determination that public convenience or necessity so require, and the designation of the place of the meeting to be held pursuant to such determination, shall be made by the City Council at a meeting held no less than three (3) days prior to the meeting to be held elsewhere than in the Lied Scottsbluff Public Library building. Every determination of such an emergency or of public convenience or necessity shall include a statement of the grounds and the designation of the place shall include the street address of the building and identify the room in which the meeting is to be held. Executive sessions of the City Council which are authorized by law may, in the discretion of the City Council, be held in any room in the Lied Scottsbluff Public Library building in which the Council is meeting. (Ord. 3505, 1996; Ord. 4054, 2011)

6-1-12. Same; regular; time.

Rule 2. Regular meetings of the City Council shall be held on the first, third and fifth Mondays of each month at 6:00 P.M., except:

- (1) if any of the Mondays referred to above shall fall on a City recognized holiday, the meeting that otherwise would have been held on such a recognized holiday will be moved to the next day that is not a City recognized holiday;
- (2) if the Council, by majority vote taken at a regular meeting, determines not to hold its next regularly scheduled Monday meeting; or
- (3) as otherwise provided in section 6-1-20. (Ord. 3616, 1999; Ord. 3981, 2008)

6-1-13. Special meetings; procedure for calling.

Rule 3. Special meetings may be called by the Mayor, any two Council Members or the City Manager by filing with the City Clerk a written call therefor, stating the time of the meeting and its purpose. No other business shall be transacted at a special meeting, unless all members be present and consent thereto and the City Council declares the existence of an emergency. (Ord. 2883, 1984)

6-1-14. Notice; publication; broadcast.

Rule 3a. The City Clerk shall cause notice of each regular meeting of the City Council to be published in the Star-Herald, a newspaper published and of general circulation in the City, one (1) time not less than three (3) days prior to the date on which the meeting is to be held. Notice of each special meeting of the City Council shall be published in such newspaper one (1) time not less than one (1) day prior to the day on which the meeting is to be held or, at the election of the City Clerk, read not less than four (4) times, the last of which readings shall be completed not less than six (6) hours prior to the meeting, on any commercial radio or television station which maintains a studio in the City of Scottsbluff. (Ord. 1943, 1972; Ord. 1116)

6-1-15. Same; service upon Council.

Rule 3b. Simultaneously with publication or, as the case may be, with the first broadcast of a notice as provided in this Article and in no event less than six (6) hours before a special meeting of the City Council, the City Clerk shall cause a copy of the notice to be delivered to each City Council Member personally, or by leaving at the usual place of residence of the City Council Member within the City or at such other place within the City as the City Council Member shall previously have authorized by a writing on file in the office of the City Clerk. (Ord. 2883, 1984)

6-1-16. Same; content.

Rule 3c. The notice shall state whether the meeting is a regular or special meeting, and the date, hour and place of the meeting. (If the meeting is to be held in a place other than the Council Chamber in City Hall, the notice shall include the name and address of the building, and identification by name, number or location of the room within the building in which the meeting is to be held.) If the meeting is a regular meeting, the notice also shall state that an agenda of the meeting kept continually current is available for public inspection at the office of the City Clerk, but that a majority of the elected members of the City Council may modify the agenda at the meeting to include additional matters which the City Council determines to be of an emergency nature. If the meeting is a special meeting, the notice shall state, instead, the purpose of the meeting, and that other business may be transacted at the meeting if all of the members of the City Council are present and consent thereto and if, in addition, a majority of the members of the City Council determine the other

business to be of an emergency nature. (Ord. 2463, 1979; Ord. 1116)

6-1-17. Same; certificate of publication broadcast, delivery.

Rule 3d. There shall be filed in the office of the City Clerk attached to a copy of each notice that has been published (or, as the case may be, broadcast) and delivered as provided in this Article an affidavit of publication signed by an employee of the publisher having personal knowledge thereof (or, as the case may be, an affidavit of broadcast signed by an employee of the radio or television station having such knowledge thereof) and a certificate of the City Clerk showing delivery of all copies as provided in this Article. (Ord. 1943, 1972; Ord. 1116)

6-1-17.1. Emergency meetings; procedure.

An emergency meeting is a meeting which must be held before the notice requirements of this chapter can be met. An emergency meeting may be called in the same manner as a special meeting except that the written call for an emergency meeting shall specify the nature of the emergency, and shall state that because of the emergency it is necessary that a meeting be held before the notice requirements of this chapter can be met. Reasonable efforts shall be made to give all members of the City Council shall be given notice of the proposed emergency meeting as soon as possible. The City Manager, or the designee of the City Manager, shall maintain a list of the news media requesting notification of meetings of the City Council, and shall make reasonable efforts to provide advance notice to them of the time and place of the emergency meeting and the subjects to be discussed at that meeting. The emergency meeting may be held by means of electronic or telecommunication equipment. Any formal action taken in such meeting shall pertain only to the emergency. Complete minutes of such emergency meeting specifying the nature of the emergency and any formal action taken at the meeting shall be made available to the public by no later than the end of the next regular business day. (Ord. 3544, 1997)

6-1-18. Agenda; availability.

Rule 3e. An agenda of a forthcoming meeting of the City Council kept continually current by the City Clerk shall be available for public inspection at the office of the City Clerk from the time when notice of the meeting is published or first broadcast. Provided, a majority of the elected members of the City Council may modify the agenda of a regular meeting at the meeting; and the agenda of a special meeting may be modified if all of the members of the City Council are present and consent thereto. (Ord. 1943, 1972; Ord. 1116)

6-1-19. Same; certificate.

Rule 3f. Subsequent to the meeting, there shall be filed in the office of the City Clerk attached to the original agenda and, as the case may be, any additions thereto or other changes therein which were made prior to the meeting a certificate of the City Clerk identifying the original agenda and any additions thereto or other changes therein which were made prior to the meeting, and stating that the agenda as thus changed was kept continually current and available for public inspection in the office of the City Clerk. (Ord. 1943, 1972; Ord. 1116)

6-1-20. Regular, special meetings; adjournment.

Rule 3g. The City Council, by a majority vote of all of the members of the City Council, may adjourn or re-adjourn any regular or special meeting of the City Council to a specified date and hour which

is prior to the next regular meeting of the City Council. (Ord. 2463, 1979; Ord. 1116)

6-1-21. Quorum; continuance; compelling attendance.

Rule 4. A majority of the number of members of the City Council for which provision is made by statute shall constitute a quorum for the transaction of business, but a smaller number may adjourn or readjourn any regular or special meeting to a specified date and hour which is prior to the next regular meeting, and may compel attendance of members; provided, on the request of any two (2) members, whether a quorum be present or not, any absentee shall be sent for and compelled to attend. Any hearing previously scheduled to be held at a meeting at which a quorum is not in attendance shall stand automatically continued to the same hour at the next regular meeting of the City Council, unless the City Council at a special meeting held during the interim shall otherwise specifically direct. (Ord. 3069, 1988)

6-1-22. Roll call; call to order; presiding officer.

Rule 5. At the hour appointed for the meeting, the City Clerk shall proceed to call the roll of members; provided, at the first regular council meeting in December following the general election in every even numbered year the City Clerk shall first report to the City Council the names of all Council Members-elect who have qualified, and the report shall be spread upon the minutes of the meeting preceding the roll call. When the roll has been called, the City Clerk shall announce whether a quorum is present. Upon the appearance of a quorum at any meeting, the City Council shall be called to order by the President, if present. Should the President be absent, then the Council shall be called to order by the Vice-President. In the absence of both the President and Vice-President, the Council shall elect one of its members to serve as a temporary chairperson, who shall have all the powers and duties of the President. (Ord. 2883, 1984; Ord. 3981, 2008)

6-1-23. Order of business; general.

Rule 6. When the Council has been called to order by the presiding officer as hereinbefore provided, the Council shall proceed to business, which shall be conducted in such order as the Council may by resolution prescribe. (Ord. 1116)

6-1-24. Order of business; referring back.

Rule 7. The presiding officer may refer back to any order of business after passing it, if there be no objections by any member of the Council. (Ord 1116)

6-1-25. Order; preservation; questions of.

Rule 8. The presiding officer shall preserve order and decorum, and shall decide all questions of order, subject to an appeal to the Council. When a member is called to order, he shall be seated until the point is decided. (Ord. 1116)

6-1-26. Member; speaking.

Rule 9. Every member previous to his or her speaking shall address himself or herself to the presiding officer, and while speaking shall confine himself or herself to the question (Ord. 1116)

6-1-27. Speaker; recognition.

Rule 10. When two (2) or more members rise at once, the presiding officer shall name the member

who shall be first to speak. (Ord. 1116)

6-1-28. Motion; second; statement.

Rule 11. No motion shall be put or debated unless it be seconded; when seconded, it shall be stated by the presiding officer before it shall be debatable. (Ord. 1116)

6-1-29. Resolution; motion; writing.

Rule 12. All resolutions and motions shall be reduced to writing before being acted upon, if so required by any member of the Council. (Ord. 1116)

6-1-30. Resolution; motion; mover.

Rule 13. In all cases where a resolution or motion is entered on the minutes of the Council, the name of the member moving the same shall be entered also. (Ord. 1116)

6-1-31. Motion; privileged.

Rule 14. When a question is under debate, no motion shall be made, entertained or seconded, except the following privileged motions, to-wit: First, the previous question; Second, to lay on the table; Third, to adjourn. Each of such privileged motions shall be decided without any debate (Ord. 1116)

6-1-32. Blanks; form of questions.

Rule 15. When a blank is to be filled and different sums or times are proposed, the question shall be put on the largest sum or longest time. (Ord 1116)

6-1-33. Member; leaving room.

Rule 16 While the presiding officer is putting the question, no member shall leave the council room. (Ord. 1116)

6-1-34. Voting; when required.

Rule 17. Every member who shall be present when a question is stated by the presiding officer, shall vote thereon unless excused by a majority of the Council present. (Ord. 1116)

6-1-35. Ordinance; resolution; motion; withdrawal.

Rule 18. An ordinance, resolution, or motion may be withdrawn by the mover, with consent of the second, before the same shall be voted upon. (Ord. 1116)

6-1-36. Vote; yeas; nays.

Rule 19. If any member request if, the "yeas" and "nays" upon any question shall be taken and entered on the minutes. (Ord. 1116)

6-1-37. Motion; to reconsider.

Rule 20. A motion to reconsider shall be in order when made by a member voting with the majority, but such motion to reconsider must be made before the expiration of the third regular meeting after the consideration of the same question. (Ord. 1116)

6-1-38. Member; reprimand or censure.

Rule 21. The Council may reprimand or censure its members of any breach of trust or disorderly behavior. (Ord. 1116)

6-1-39. Rules; suspension.

Rule 22. Any rule of the Council may be suspended by a vote of three-fourths (3/4ths) of the members elected to the Council. (Ord. 1116)

6-1-40. Rules; Robert's Rules of Order.

Rule 23. In all cases and instances in which provision is not made by the foregoing rules, Robert's Rules of Order shall be the authority by which the Council is governed. (Ord. 3379)

6-1-41 to 6-1-44. Reserved.

**(c) ORDINANCES, RESOLUTIONS,
ORDERS**

6-1-45. Ordinances; resolutions, orders; passage; requisites.

All ordinances, resolutions and orders shall require for their passage or adoption the concurrence of a majority of all members elected to the Council. Ord. 1116)

6-1-46. Ordinances; reading; vote record.

Ordinances of a general or permanent nature shall be read by title on three different days, unless three-fourths (3/4ths) of the council vote to suspend this requirement. In such case such requirement shall be suspended, such ordinance shall be read by title or number and then moved for final passage. Ordinances of neither a general nor a permanent nature may be read by title once and then moved for final passage. Provided, three-fourths (3/4) of the council may require a reading of any ordinance in full before enactment under either procedure set out in this section. The "yeas" and "nays" on any vote on, or preliminary to, passage of an ordinance shall be recorded. This section shall apply to ordinances, and only ordinances, introduced for passage after July 5, 1972. (Ord. 1924, 1972; Ord. 1116)

6-1-47 to 6-1-50. Reserved.

(d) MAYOR

6-1-51. Mayor; signature; oaths.

The Mayor shall sign all ordinances, resolutions and orders which have been passed or adopted by the Council. He shall sign the City Clerk's minutes of all meetings after they have been spread at large upon the journals when the same have been approved by the action or acquiescence of the Council. The Mayor may administer oaths and affirmations in all matters coming before him or the Council. (Ord 1116)

6-1-52. Fines; penalties; remit; reprieve; pardon; Mayor; power.

The Mayor shall have the power to and may remit fines and penalties and grant reprieves and pardons, after conviction, for any offense arising under the ordinances of the City. The Mayor shall

exercise such power by an order in writing, explicitly stating therein the nature and extent of his clemency, and such order shall be entered in full on the docket of the County Court.

6-1-53. Mayor; other duties.

The Mayor shall do and perform such other duties as may be enjoined or directed by the ordinances of the City. (Ord. 1116)

6-1-54. Repealed.

ARTICLE 2

ADMINISTRATION

(a) GENERAL PROVISIONS

Section

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|---------------|---|
| <u>6-2-1</u> | <u>Office, employment; eligibility; general.</u> |
| <u>6-2-2</u> | <u>Same; residence.</u> |
| <u>6-2-3</u> | <u>Incoming officer, office; qualification; demand; assumption.</u> |
| <u>6-2-4</u> | <u>Incumbent officer; office; surrender to successor.</u> |
| <u>6-2-5</u> | <u>Bond; amount; filing; approval; premium.</u> |
| <u>6-2-6</u> | <u>Term of office; removal.</u> |
| <u>6-2-7</u> | <u>Classified service; established; exempt service.</u> |
| <u>6-2-8</u> | <u>Same; classification plan; revision.</u> |
| <u>6-2-9</u> | <u>Same; discrimination prohibited.</u> |
| <u>6-2-10</u> | <u>Compensation; how fixed; dual positions.</u> |
| <u>6-2-11</u> | <u>Fees; property of City.</u> |
| <u>6-2-12</u> | <u>Officers; employees; duties.</u> |
| <u>6-2-13</u> | <u>Additional employees; hiring.</u> |
| <u>6-2-14</u> | <u>Personnel regulations; promulgation; enforcement.</u> |
| 6-2-15 to | Reserved. |
| 6-2-18 | |

(b) OFFICERS

(1) CITY ATTORNEY AND DEPUTY(IES)

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| <u>6-2-19</u> | <u>City Attorney; established; appointment.</u> |
| <u>6-2-20</u> | <u>Same; duties; general.</u> |
| <u>6-2-21</u> | <u>Deputy City Attorneys; established; appointments.</u> |
| <u>6-2-22</u> | <u>Same; duties.</u> |
| 6-2-23 to | Reserved. |
| 6-2-26 | |

(2) CITY CLERK AND DEPUTY

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|---------------|---|
| <u>6-2-27</u> | <u>City Clerk; established City; office; place.</u> |
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6-2-28 Same; duties.
6-2-29 Deputy City Clerk; established; appointment.
6-2-30 Same; duties.
6-2-31 to Reserved.
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(3) CITY ENGINEER

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(a) GENERAL PROVISIONS

6-2-1. Office; employment; eligibility; general.

Any citizen of the United States, regardless of sex, race, national origin or religion, shall be eligible to be the head of any administrative department or to hold any other office or employment of the City, except as otherwise provided by statute, ordinance or regulation. (Ord. 3282, 1993)

6-2-2. Same; residence.

The City Manager and Assistant City Manager must reside within the corporate limits of the City. Except as otherwise provided in the Municipal Code, the City Clerk and all department heads must reside within Scotts Bluff County. (Ord. 3282, 1993)

6-2-3. Incoming officer; office; qualification; demand; assumption.

It shall be the duty of each incoming appointive officer, immediately upon his appointment, to qualify, make demand for, and assume his office. (Ord. 1116)

6-2-4. Incumbent officer; office; surrender to successor.

Each appointive officer shall immediately upon the appointment and qualification of his successor, except as otherwise provided by ordinance, surrender his office on demand to his successor (Ord. 1116)

6-2-5. Bond; amount; filing; approval; premium.

Each officer and employee of the City in a fiduciary capacity, other than those required by statute or by other sections of this Code to be bonded in a specified amount, shall, before entering upon the duties of his or her office or employment, be bonded to the City with a good and sufficient surety, conditioned that such officer or employee will honestly and without fraud perform and discharge the duties of his or her office or employment. Such bond or bonds shall indemnify the City, and be for the use and benefit of the City, against any loss or losses not exceeding in the aggregate the sum of ten thousand dollars (\$10,000.00) sustained by the City through any fraudulent or dishonest act or acts committed by any one or more of such officers or employees acting alone or in collusion with others. Such bond or bonds shall be approved by the Council, filed with the City Clerk and recorded in his or her office. The premium of any bond required to be given under this section shall be paid by the City out of the general fund or other proper fund of the City upon resolution of the Council to that effect. It shall be the duty of the City Manager to see that this section is enforced. (Ord. 1116)

6-2-6. Term of office; removal.

All officers and employees of the City whom the City Manager is authorized by ordinance to appoint shall, unless otherwise specifically provided by ordinance, serve:

- (1) until removed by the City Manager, or
- (2) in the event of the death, resignation or removal of the City Manager who appointed such officer or employee, until removed by the succeeding City Manager. (Ord. 1116)

6-2-7. Classified service; established; exempt service.

There is hereby established a classified service in respect of the offices and employments of the City, which shall include all positions in the City service that are not exempt. The exempt service shall consist of:

- (1) elected offices,
- (2) members of boards and committees,
- (3) the City Manager and such other administrative personnel as the City Manager shall designate,
- (4) voluntary personnel and personnel appointed to service without pay,
- (5) consultants or counsel rendering temporary professional service, and
- (6) positions involving seasonal or part-time employment, or unskilled work, as the City manager may designate.

6-2-8. Same; classification plan; revision.

The City Manager shall promulgate regulations assigning each position in the classified service to a job class on the basis of the kind and level of its duties and responsibilities, to the end that all posi-

tions in the classified service that are in the same class shall be sufficiently alike to permit use of a single descriptive title, the same qualifications requirements, the same test of competence, and the same pay scale. A job class may contain one position, or more than one position. The City Manager may revise the classification plan from time to time, which revisions may include additions to, or consolidation, division, other amendment or abolition of existing classes. (Ord. 1158, 1958; Ord. 1116)

6-2-9. Same; discrimination prohibited.

No person holding or seeking appointment to any position in the classified service shall be appointed, reduced or removed, or in any way favored or discriminated against because of political opinions or affiliations, or because of race, color, religious belief or sex. (Ord. 2081, 1974; Ord. 1116)

6-2-10. Compensation; how fixed; dual positions.

The compensation of the officers and employees of the City shall be such amount as, subject to statutory restrictions, shall be established by resolution of the City Council. If any person holding the office of City Clerk shall also be the head of any administrative department or other officer or employee of the City, he shall be entitled to receive the salary prescribed for both or all of such positions. (Ord. 1116)

6-2-11. Fees; property of City.

In consideration of the salaries received by all officers and employees of the City, all fees received by them in connection with official services shall be the property of the City, and shall be promptly paid over to the City Treasurer. (Ord. 1116)

6-2-12. Officers; employees; duties.

In addition to the duties prescribed by this Chapter to be performed by various officers and employees, each officer and employee shall perform such other duties as may be prescribed by other provisions of the municipal code, or by the City Manager. (Ord. 1116)

6-2-13. Additional employees; hiring.

The City Manager shall appoint such employees, in addition to those for whose appointment specific provision is made by ordinance, as he deems necessary to perform efficiently the duties and work of the various administrative departments and offices created by the municipal code. (Ord. 2243, 1976; Ord. 1116)

6-2-14. Personnel regulations; promulgation; enforcement.

The City Manager shall promulgate and enforce regulations governing personnel administration, which shall include provisions for:

- (1) the selection, employment, and promotion of employees in the departments and positions under his or her supervision on the basis of merit and fitness to perform assigned tasks,
- (2) the standardization of hours of work and leaves of absence,
- (3) a uniform treatment of dismissals and disciplinary action, including procedures for appeals,
- (4) the maintenance of adequate records of employee attendance and performance, to

form a basis for consideration in promotion, salary adjustment, layoffs, disciplinary action, and other personnel management processes, and

(5) the assignment to a subordinate of such tasks as the City Manager may designate, in connection with the maintenance of the personnel merit system, without, however, the delegation of responsibility therefor. (Ord. 1116)

6-2-15 to 6-2-18. Reserved

(b) OFFICERS

(1) CITY ATTORNEY AND DEPUTY(IES)

6-2-19. City Attorney; established; appointment.

There is hereby established the office of City Attorney of the City. The City Attorney shall be appointed by the City Manager. (Ord. 3378)

6-2-20. Same; duties; general.

The primary duties of the City Attorney shall be to act as legal advisor of the City Council, the City Manager, the heads of all administrative departments and all officers of the City; to draw such ordinances, contracts and other writings as may be required in the administration of the affairs of the City; to examine all bonds, contracts and documents on which the City Council will be required to act and to advise whether or not the document is in legal and proper form; to commence, prosecute and defend all civil suits and actions necessary to be commenced, prosecuted and defended on behalf of the City or that may be ordered by the City Council or City Manager; to attend the meetings of the City Council, unless excused by the City Manager; and to supervise the work of and on occasion, to assist the Deputy City Attorneys. The City Attorney shall be responsible for the performance of all duties required by statute to be performed by the City Attorney. (Ord. 3378, 1994)

6-2-21. Deputy City Attorneys; established; appointments.

There is established the office of Deputy City Attorney. The City Manager may appoint as many persons to the office of Deputy City Attorney as he or she deems appropriate. (Ord. 3378, 1994)

6-2-22. Same; duties.

The Deputy City Attorneys shall be deputies of the City Attorney and shall have responsibilities as may be assigned to them by the City Attorney. They shall also perform those duties with respect to the primary duties of the City Attorney as may be assigned to them by the City Attorney, subject to the approval of the City Manager. One or more of the Deputy City Attorneys, as designated by the City Attorney, shall have the responsibility:

(1) to file complaints and prosecute the same against all persons charged with the violation of any provision of the municipal code or, when authorized by the County Attorney as provided by statute, with the violation of a statute of the State of Nebraska; and

(2) to represent the City on appeals taken from a conviction or, as the case may be, acquittal of charges of violations the municipal code or of such statutes.

The City Manager shall have authority to appoint the Scotts Bluff County Attorney and one

or more of his or her deputies as special deputy city attorneys for the limited purpose of prosecuting violations of the provisions of the Scottsbluff Municipal Code arising out of or associated with the operation of a motor vehicle under the influence of alcohol or drugs.

Nothing in this Article shall be construed to impair the right of the City Council, vested in it by the statutes of Nebraska, to pay to the City Attorney or the Deputy City Attorneys additional compensation for legal services performed by them for the City, or to employ additional legal assistance and make payment out of funds of the City. (Ord. 3442, 1995)

6-2-23 to 6-2-26. Reserved.

(2) CITY CLERK AND DEPUTY

6-2-27. City Clerk; established City; office place.

There is hereby established the office of City Clerk. The City Clerk shall maintain his or her office in the City Hall or at such other place in the business section of the City as the Council shall provide. (Ord. 3378, 1994)

6-2-28. Same; duties.

The City Clerk shall have the custody of all records and official papers of the City. The City Clerk shall perform all the duties as prescribed by the statutes of Nebraska, such duties as are, or may be prescribed by the Municipal Code to be performed by the City Clerk, and such other duties as the City manager may prescribe. (Ord. 3378, 1994)

6-2-29. Deputy City Clerk; established; appointment.

There hereby is established the office of Deputy City Clerk. The Deputy City Clerk shall be appointed by the City Manager. The City Manager shall have discretion not to fill this position. (Ord. 3378, 1994)

6-2-30. Same; duties.

The Deputy City Clerk shall perform such duties as shall be prescribed by the Municipal Code and by the City Manager and, during the absence or disability of the City Clerk, shall also perform the duties of the City Clerk. (Ord. 3378, 1994)

6-2-31 to 6-2-33. Reserved.

(3) CITY ENGINEER

6-2-34. City Engineer; established; appointment; duties.

There is hereby established the office of City Engineer. The City Engineer shall be appointed by the City Manager. The City Engineer shall perform all the duties as prescribed by the statutes of Nebraska, such duties as are, or may be prescribed by the Municipal Code to be performed by the City Engineer, and such other duties as the City manager may prescribe. (Ord. 3378, 1994)

(4) CITY MANAGER AND ASSISTANT

6-2-35. City Manager; established; appointment; qualifications; term; residence; absence or disability.

There is hereby established the office of City Manager. The City Manager shall be the chief executive officer of the City. The City Manager shall be appointed by the City Council, and shall be chosen solely on the basis of administrative qualifications. The City Manager need not be a resident of the City or State prior to appointment, but shall become a resident of the City before assuming the duties of office. He or she shall hold office at the pleasure of the City Council. The City Council shall designate by name or by job title the individual who shall perform the duties of the office of City Manager during the absence or disability of the City Manager and, if one has been appointed, the Assistant City Manager. The City Council shall also designate at least two other individuals to serve in succession in the event of the absence or disability of both the City Manager and the individual designated by the City Council to serve in his or her absence. (Ord. 3378, 1994)

6-2-36. Bond; amount; filing; approval; premium; payment.

The City Manager, before taking office, shall give a surety company bond in the penal sum of two hundred fifty thousand dollars (\$250,000.00) conditioned upon the honest and faithful performance of the duties of the office and the faithful accounting for all property of the City of any kind or nature which shall come into his or her possession or under his or her control, which bond shall be filed with the City Clerk and approved by the Council. The premium of the bond of the City Manager shall be paid by the City. (Ord. 3378, 1994)

6-2-37. City Manager: powers; duties; general.

The City Manager shall be responsible for the proper administration of all affairs of the City. The powers and duties of the City Manager shall be:

- (1) to see that the laws and ordinances are enforced,
- (2) to appoint and remove all heads of departments and all subordinate officers and employees in the departments in both the classified and unclassified service, which appointments shall be upon merit and fitness alone, and in the classified service all appointments and removals shall be subject to the civil service provisions of the statutes of the State of Nebraska,
- (3) to exercise control over all departments and divisions thereof that may be created by the Council,
- (4) to attend all meetings of the Council with the right to take part in the discussion but not to vote,
- (5) to recommend to the Council for adoption such measures as he or she may deem necessary or expedient,
- (6) to prepare the annual budget and keep the Council fully advised as to the financial condition and needs of the City, and
- (7) to perform such other duties as may be required of him or her by statute, or by the Municipal Code or resolution of the Council. (Ord. 3378, 1994)

6-2-38. Same; power to investigate.

The City Manager may investigate at any time the affairs of any department or the conduct of any officer or employee. He or she, or any person or persons appointed by him or her for the purpose, shall have the same power as the Council to compel the attendance of witnesses and the production of books and papers and other evidence, and to punish for contempt. (Ord. 3378, 1994)

6-2-39. Same; custody and care of property.

The City Manager shall be the general custodian of all the property of the City not expressly committed to the custody and control of others by the Municipal Code. The City Manager shall preserve, keep in repair and maintain the upkeep of said property in suitable condition for use. The City Manager shall keep the insurable property of the City insured, and shall exercise reasonable diligence and care to preserve and maintain all property of the City for its use and benefit. To accomplish this end, the City Manager is hereby empowered to have any or all of said property repaired, repainted, refurnished or renewed when necessary, and to have the same stored or housed, if needed, for its preservation, at the expense of the City. (Ord. 3378, 1994)

6-2-40. Assistant City Manager; established; appointment; residence; duties.

There is hereby established the office of Assistant City Manager. The Assistant City Manager shall be appointed by the City Manager. The City Manager shall have discretion not to fill this position. The Assistant City Manager need not be a resident of the City or State prior to appointment, but shall become a resident before assuming the duties of his or her office. The Assistant City Manager shall perform such duties as prescribed by the City Manager. During the absence or disability of the City Manager, the Assistant City Manager shall perform the duties of the office of City Manager. (Ord. 3378, 1994)

6-2-41. Same; bond; amount; filing; approval; premium.

The Assistant City Manager shall, before entering upon the duties of his or her office, give to the City a surety company bond in the penal sum of two hundred fifty thousand dollars (\$250,000.00), conditioned for the faithful discharge of his or her duties and for the faithful accounting for all property and money of the City which shall come into the possession or under the control of the Assistant City Manager, which bond shall be filed with the City Clerk and approved by the Council. The premium of the bond of the Assistant City Manager shall be paid by the City. Provided, the Assistant City Manager who is in office at the time of the effective date of this section shall meet the requirements of this section within thirty (30) days after the effective date of this section. (Ord. 3474, 1995)

6-2-42. Reserved.

(5) CITY TREASURER

6-2-44. City Treasurer; established; appointment.

There is hereby established the office of City Treasurer of the City of Scottsbluff. The City Treasurer shall be appointed by the City Manager. (Ord. 3378, 1994)

6-2-45. Same; bond; amount; filing; approval; premium.

The City Treasurer shall, before entering upon the duties of his or her office, give to the City a surety company bond in the penal sum of two hundred fifty thousand dollars (\$250,000.00), conditioned for the faithful discharge of his or her duties and for the faithful accounting for all property and money of the City which shall come into the possession or under the control of the City Treasurer, which bond shall be filed with the City Clerk and approved by the Council. The premium of the bond of the City Treasurer shall be paid by the City. (Ord. 3378, 1994)

6-2-46. Same; duties.

The City Treasurer shall perform all duties prescribed by the laws of Nebraska and by the Municipal Code, and shall perform such other duties as the City Manager may prescribe. (Ord. 3378, 1994)

6-2-47 to 6-2-49. Reserved.

(c) BOARDS AND COMMISSIONS

(1) GENERAL PROVISIONS

6-2-50. Members; appointment; removal.

The members of all Boards or Commissions shall be appointed by the City Manager, with the approval of the City Council. The unexpired portion of the term of any member whose office has been vacated, or the unexpired portion of the term to which no member shall have been appointed before their term commenced, shall be filled by appointment made by the City Manager, subject to the approval of the City Council. Members shall be removable for cause by the City Manager, but only upon written charges and after a public hearing. Provided however, that when the statutes of Nebraska provide a different manner for the appointment or removal of such members, the terms of the statute shall control. (Ord. 3378, 1994)

6-2-51. Same; terms; expiration.

The term of office of each member of all Boards or Commissions shall commence on the 1st day of October and expire on the 30th day of September. The terms of office of all Board or Commission members in office on the date of the passage of this section are hereby modified accordingly. The year in which the term of office expires is not affected by the passage of this section. (Ord. 3378, 1994)

6-2-52. Same; residence; compensation; City Council members not eligible.

- (1) Members of each Board or Commission shall be residents of the City of Scottsbluff. This provision shall not apply to the Plumbers Examining Board, the Park, Cemetery and Tree Board, the Economic Development Application Review Commission, nor to any other Board or Commission which is permitted or required to have non-resident members by the statutes of the State of Nebraska.
- (2) The members of each Board or Commission shall serve without pay.
- (3) No member of the City Council shall be eligible to serve on any Board or Commission. (Ord. 4071, 2012)

6-2-53. Officers; minutes.

- (1) Each Board or Commission shall select from its membership a chairperson and a vice chairperson. The chairperson shall preside at all meetings of the Board or Commission. In the absence or disability of the chairperson, the vice chairperson shall exercise the duties of the chairperson.
- (2) City Manager shall designate a city employee to serve as secretary to each Board and Commission. Minutes shall be kept of all meetings of each such Board or Commission. The minutes shall be filed in the office of the secretary of each Board or Commission and shall be public records. (Ord. 3378, 1994)

6-2-54. Rules of Procedure; quorum.

(1) Each Board or Commission shall adopt by-laws and rules of procedure not inconsistent with the laws of the State of Nebraska or the Scottsbluff Municipal Code. In all cases and instances in which provision is not made by the rules of the Board or Commission, Robert's Rules of Order shall be the authority by which the Board or Commission is governed.

(2) A majority of the members of the Board or Commission shall constitute a quorum. (Ord. 3378, 1994)

6-2-55. Assistance by City employees.

The City Manager may assign one or more employees of the City to assist any Board or Commission in the performance of its duties. (Ord. 3378, 1994)

6-2-56 to 6-2-58. Reserved.

(2) BOARD OF ADJUSTMENT

6-2-59. Board of Adjustment; established; membership; terms.

There hereby is established a Board of Adjustment, consisting of five (5) regular members, plus one (1) additional member designated as an alternate who shall attend and serve only when one of the regular members is unable to attend for any reason. Each member, including the alternate member, shall serve a term of three years. (Ord. 3378, 1994)

6-2-60. Powers and duties.

The Board of Adjustment shall have the powers and duties prescribed by the statutes of Nebraska. (Ord. 3378, 1994)

6-2-61. Records; filing.

In the case of matters which, under statute or the Municipal Code, are required to be submitted to the Board for action by the Board, but are required to be submitted, in the first instance, to the Planning and Building Official for preliminary review or other administrative action by such officer, the Planning and Building Official, after having taken such action, shall cause to be filed in the office of the secretary of the Board all documents which have been submitted to the Planning and Building Official and written recommendations by the Planning and Building Official, together with a copy of any order entered or other action taken in writing by the Planning and Building Official, in regard to the matter, and such documents and copies shall thereupon become records of the Board. The Planning and Building Official shall retain the original copy of any order entered by him or her, duplicate copies of all written applications submitted to him or her and of his or her written recommendations to the Board and, in his or her discretion, duplicate copies of other documents in the proceedings. (Ord. 3378, 1994)

6-2-62 to 6-2-64. Reserved.

(3) BUILDING AND FIRE CODES EXCEPTIONS BOARD

6-2-65. Building and Fire Codes Exceptions Board; established; membership.

There hereby is established a Building and Fire Codes Exceptions Board. The Board shall consist of five (5) regular members, plus one (1) additional member who shall attend and serve only when one of the regular members is unable to attend for any reason. The regular members and the alternate member of the Board of Adjustment shall also be ex officio the regular members and the alternate member, respectively, of the Building and Fire Codes Exceptions Board. (Ord. 3378, 1994)

6-2-66. Duties; generally.

The Building and Fire Codes Exceptions Board shall have such duties as may be vested in it by this Chapter and by Chapters 4 and 8 of the Municipal Code. It shall not have or exercise any of the duties vested either by statute or by ordinance in the Board of Adjustment or the Planning Commission of the City. (Ord. 3378, 1994)

6-2-67 to 6-2-69. Reserved.

(4) BUSINESS IMPROVEMENT BOARD

6-2-70. Business Improvement Board; established; membership; terms.

There is hereby established in accordance with the applicable statutes of the State of Nebraska as now existing or hereafter amended, a Business Improvement Board. The Board shall have seven (7) members, plus two (2) additional members designated as alternates who shall attend and serve only when one or two of the regular members are unable to attend for any reason. The term of office of each member of the Board, including the alternate members, shall be three (3) years commencing on the first day of October.(Ord. 3681, 2001)

6-2-71. Duties.

1. The Board shall make recommendations to the City Council on the following matters:
 - a. the establishment of a business improvement district, or districts, within the boundaries of an established business area of the City zoned and used for business, public or commercial purposes;
 - b. plans for improvements in such districts(s).

2. The Board may make recommendations to the City Council on the following matters:

the use of any license and/or occupation tax funds collected under authority of Nebraska statutes applicable to business improvement district(s);

 - a. appropriate tax assessments on taxable property within such district(s);
 - b. appropriate budgets for such district(s);
 - c. the necessity of creating an off-street parking district, or districts, within, or substantially within, the boundaries of a business improvement district;
 - d. any other matter reasonably related to any power which may be exercised under the Nebraska statutes applicable to business improvement districts.

3. In the event that there is or shall hereafter be created one (1) or more off-street parking

districts, which districts are located within, or substantially within, the boundaries of any existing or hereafter created business improvement district(s), the Board may make recommendations to the City Council on the following matters:

- a. plans to construct off-street parking facilities as authorized by the Nebraska statutes applicable to off-street parking districts;
- b. appropriate tax assessments on taxable property within such district(s);
- c. appropriate budgets for such district(s);
- d. the use of any tax or other funds collected under authority of Nebraska statutes applicable to off-street parking districts;
- e. any other matter reasonably related to any power which may be exercised under the Nebraska statutes applicable to off-street parking districts. (Ord. 3378, 1994)

6-2-72. Funds; administration.

License and occupation tax funds collected as authorized by Nebraska law shall be administered by such employee(s) of the City as the City Manager shall designate. (Ord. 3378, 1994)

6-2-73 to 6-2-75. Reserved.

(5) CIVIL SERVICE COMMISSION

6-2-76. Civil Service Commission; membership; terms.

The Civil Service Commission of the City which has been created by the Civil Service Act shall have three (3) members. The term of office of each member shall be a period of six (6) years. (Ord. 3486, 1996)

6-2-77. Reduction in force; policy; adoption by City Manager.

The City Manager, after consultation with the City Council, shall adopt, in writing, a reduction in force policy, applicable to all full-time police officers and full-time firefighters, which is conformable to the requirements of the Civil Service Act. (Ord. 3486, 1996)

6-2-78. Additional Duties.

In addition to the duties previously described, the Commission shall consult with and advise the City Manager in regard to personnel regulations, policies and practices of the City. (Ord. 3486, 1996)

6-2-79. Definitions.

Whenever used in any provision of the Municipal Code which pertains to civil service or the discipline of employees who are subject to the Civil Service Act the following terms shall have the following meanings, unless the context clearly indicates otherwise:

- (a) "Accusation" means a written instrument containing a charge that an employee has engaged or is engaging in misconduct warranting the imposition of major discipline. It must be signed by the person making the charge.
- (b) "Chairperson" means the Chairperson of the Commission.
- (c) "Chief" means the Chief of Police or the Fire Chief. The Fire Chief shall only have power to impose discipline on employees assigned to the fire department. The Chief of Police shall only have power to impose discipline on employees assigned to the police department.

- (d) "Commission" means the Civil Service Commission
- (e) "Days" means days when City Hall is open for business, and does not include weekends or holidays, unless the context clearly indicates otherwise.
- (f) "Employees" means full time police officers and full time firefighters as those terms are defined in the Civil Service Act.
- (g) "Major discipline" means removal, suspension, demotion or discharge from a position held by an employee who has been permanently appointed or inducted into civil service under the Civil Service Act.
- (h) "Minor discipline" means discipline other than major discipline. Any discipline which is not committed to writing is not minor discipline.
- (i) To "notify" an accused means to deliver an instrument personally to the accused or to mail it by certified mail addressed to the accused at the residence address of the accused shown in the personnel records of the City.
- (j) "Secretary" means the secretary of the Commission. (Ord. 3486, 1996)

6-2-80. Disciplinary action procedures; general.

The procedure for the discipline of any employee shall conform to the requirements of this Article. (Ord. 3486, 1996)

6-2-81. Minor discipline.

- (1) Minor discipline may be imposed by the Chief or by the City Manager. Before any of these individuals impose minor discipline he or she must:
 - (a) investigate the alleged misconduct;
 - (b) explain the evidence to the accused; and
 - (c) give the accused an opportunity to deny, explain, or justify the alleged misconduct.
- (2) Minor discipline shall be committed to writing. One copy shall be placed in the employee's file and another shall be given to the employee. If the minor discipline was imposed by the Chief the employee may appeal to the City Manager. The appeal shall be made by a written instrument and shall be delivered to the City Manager within fifteen days after employee was notified of the minor discipline. The City Manager may make such additional investigation as he or she believes to be warranted. The City Manager may affirm, vacate, modify or increase the minor discipline imposed by the Chief. If the City Manager thinks the misconduct warrants major discipline the procedures relating to major discipline shall be followed. (Ord. 3486, 1996)

6-2-82. Temporary suspension.

The Chief or the City Manager shall have the authority to immediately suspend, with pay, any employee pending an investigation of allegations of misconduct. A temporary suspension may not exceed thirty calendar days. (Ord. 3486, 1996)

6-2-83. Major discipline.

Major discipline may only be imposed upon the accusation of the Chief, the City Manager, or any citizen or taxpayer. Major discipline may be imposed only by the City Manager. Before the Chief or City Manager may make an accusation, he or she must:

- (a) investigate the alleged misconduct;
- (b) explain the evidence against the accused; and

- (c) give the accused an opportunity to deny, explain or justify the alleged misconduct.

If an accusation is made by a person other than the City Manager or Chief the City Manager shall conduct such investigation as may be warranted, including the steps listed in the immediately preceding sentence. The investigation may be delegated to the Chief, unless the Chief is the accused, in which case the City Manager shall conduct the investigation.

Within thirty days after receiving a written accusation the City Manager shall respond to it. The response may be to (1) take no action, (2) make an oral reprimand or impose other discipline not rising to the level of minor discipline, (3) impose minor discipline, or (4) impose major discipline. Within fifteen days after making the response, the City Manager shall advise the person making the accusation of his or her response to the accusation. (Ord. 3486, 1996)

6-2-84. Accusation.

An accusation shall specify the ground or grounds for the disciplinary action proposed including both:

- (1) the acts or omissions alleged to have occurred;
- (2) the provision or provisions of the Civil Service Act under which such acts are alleged to constitute grounds for the disciplinary action proposed.
- (3) the disciplinary action which is proposed.
- (4) if signed by a person other than the Chief or City Manager the accusation shall state the residence address of the signer and shall state whether the signer is a resident or property taxpayer of the City.

If the accusation is filed by someone other than the City Manager the accusation shall be filed with the City Manager.

Within forty-eight hours after an accusation is filed with the City Manager, the City Manager shall notify the accused of it.

If the City Manager, after conducting such investigation as may be warranted, concludes that major discipline is warranted the City Manager shall impose the discipline. Upon the imposition of major discipline the City Manager shall file the accusation with the Secretary and shall notify the accused of the discipline which has been imposed and of the fact that the accusation has been filed with the Secretary. (Ord. 3486, 1996)

6-2-85. Demand for investigation.

Any employee who is subjected to major discipline may, within ten calendar days after being notified by the City Manager of the imposition of such major discipline, file with the Secretary a written demand for an investigation. (Ord. 3486, 1996)

Simultaneously with the filing such demand, the accused shall cause to be delivered to the City Manager personally or mailed, by certified mail addressed to the City Manager at City Hall, the following:

- (1) a written response to the charge(s) contained in the accusation.
- (2) names of the witnesses who will be called on behalf of the accused at the hearing before the Commission, together with a general statement concerning the nature of their testimony, and

- (3) copies of the documents to be introduced on behalf of the accused. (Ord. 3486, 1996)

6-2-86. Response by City Manager to demand for investigation.

Within ten days after receipt by the City Manager of a copy of a written demand by the accused for an investigation, the City Manager:

- (1) shall cause to be delivered to the accused personally, or mailed by certified mail addressed to the residence address of the accused shown in the personnel records, the names of the witnesses who will be called on behalf of the City Manager at the hearing before the Commission, together with a general statement of the nature of their testimony, and copies of the documents to be introduced on behalf of the City Manager,
- (2) shall in writing designate the individual who shall conduct the investigation,
- (3) shall in writing elect whether the Commission may be represented at the hearing by the City Attorney, and
- (4) shall deliver or cause to be mailed by certified mail to the City Attorney and the Chairperson a copy of such elections. (Ord. 3486, 1996)

6-2-87. Investigation.

The investigation to be made by the person designated by the City Manager shall consist solely of a review of the written submissions of the City Manager and the accused to determine whether any individuals or documents should be subpoenaed by the Commission for the subsequent public hearing before the Commission for an ultimate determination whether the City Manager acted in good faith for cause. If the person conducting the investigation determines that any individuals or documents should be so subpoenaed, the report shall specify the name(s) and address(es) of such individual(s) and identify such document(s), including its (their) supposed location and in whose custody it (they) is (are) believed to be. Such report shall be signed by the representative and by him (her) deposited with the Secretary not less than three days prior to the date of the hearing to be held by the Commission. (Ord. 3486, 1996)

6-2-88. Scheduling the hearing.

(1) Within five days after the filing of a written demand for an investigation, the Chairperson, after conferring with the other members of the Commission, the City Manager, and the accused or counsel for the accused, shall schedule the matter for hearing. The hearing shall be held not less than ten nor more than twenty calendar days after the filing of the written demand for an investigation. The Secretary shall notify the accused of the time and place of hearing at least twenty-four hours before the hearing.

(2) The Chairperson may call a special meeting of the Commission prior to the hearing. The Chairperson shall call such a meeting if requested in writing to do so by one other member of the Commission or by the City Manager. At such special meeting the Commission may consider the appointment of special counsel to represent the Commission in the hearing, and may enter appropriate orders dealing with the scope of the hearing. If a special meeting is called, the Secretary shall cause a written notice of such special meeting stating the date, place and purposes of such special meeting to be personally delivered to each member of the Commission and to the accused not less than twenty-four hours before the meeting or to be mailed not less than forty-eight hours

prior to the meeting by United States mail addressed to the members of the Commission and to the accused. Notice of such special meeting of the Commission shall be published in the Star-Herald one time not less than one day prior to the day on which the meeting is to be held or, at the election of the Secretary, read not less than four times, the last of which readings shall be completed not less than six hours prior to the meeting, on any commercial radio or television station which maintains a studio in Scotts Bluff County. (Ord. 3486, 1996)

6-2-89. Hearing.

At the hearing the accused shall be permitted to appear in person or by counsel and to present his or her defense. The Commission may affirm the action taken by the City Manager if such action is supported by a preponderance of the evidence. If the Commission shall find that the major discipline was imposed for political or religious reasons or was not made in good faith for cause, it shall order the immediate reinstatement or reemployment of the employee in the position or employment from which such employee was removed, suspended, demoted or discharged. This reinstatement shall, if the Commission in its discretion so provides, be retroactive and entitle the employee to compensation and restoration of benefits and privileges from the time of such removal, suspension, demotion or discharge. The Commission in lieu of affirming the discipline, may modify the order by directing a suspension with or without pay for given period and subsequent restoration to duty or demotion in position or pay. A decision shall be rendered no later than ten calendar days after the hearing. The findings shall be certified in writing and enforced by the City Manager. (Ord. 3486, 1996)

6-2-90 to 6-2-94. Reserved.

(6) ECONOMIC DEVELOPMENT APPLICATION REVIEW COMMISSION

6-2-95. Economic Development Application Review Commission; established; membership.

There is established an Economic Development Application Review Commission to be composed of 5 members. At least 3 members of the Commission shall be residents of the City. At least one member must have experience in banking or lending and at least one member must be a Certified Public Accountant. The Program Administrator of the City's Economic Development Program shall serve as an ex-officio, but non-voting member of the Commission. Up to 2 alternate members may be appointed to the Commission, at least one of whom shall be a resident of the City. In the event that a member is not available, or has a conflict of interest, with respect to a matter before the Commission, the Program Administrator may designate one of the alternates to act in the place of that member. (Ord. 4071, 2012)

6-2-96. Duties; Meetings.

The Economic Development Application Review Commission shall perform the following duties:

- (1) Review applications for assistance from the City's Economic Development Program and make recommendations as provided for in the City's Economic Development Plan.
- (2) Review applications and make recommendations concerning requests for funding from the City's Community Development Block Grant Re-Use Fund. (Ord. 4071, 2012)

6-2-97. Access to Information; Confidential.

Members of the Economic Development Application Review Commission may be permitted access to business information received by the City in the course of reviewing applications, which information is considered confidential under Nebraska law, the City's Economic Development Plan, or by agreement with the applicant. Unauthorized disclosure of any confidential business information shall be a Class I Violation. (Ord. 4071, 2012)

(7) ECONOMIC DEVELOPMENT CITIZEN ADVISORY COMMISSION

6-2-98. Economic Development Citizen Advisory Commission; established; membership; terms.

An Economic Development Citizen Advisory Commission is established. This Commission shall consist of 5 registered voters of the City. Each member shall serve a term of two years except that for the first Commission appointments, 3 members shall be appointed for two year terms and 2 members shall be appointed for a one year term. No member shall serve more than two consecutive terms. At least one member of the Commission shall have expertise or experience in the field of business finance or accounting. No member of the Commission shall be an elected or appointed city official, an employee of the City, a participant in a decision-making position regarding expenditures of program funds, or an official or employee of any qualifying business receiving financial assistance under the City Economic Development Program or any financial institution participating directly in the Program. Provided, the City Manager or his or her designee shall serve as "Program Liaison Officer" and shall be an ex officio member of the Commission with responsibility for assisting the Commission and providing it with necessary information and advice on the Program. In addition, the City Manager is designated as the Program Administrator for the Program with duties and responsibilities as provided for in the Scottsbluff Economic Development Plan. (Ord. 3444, 1995)

6-2-99. Duties; Meetings.

The Economic Development Citizen Advisory Commission shall review the City Economic Development Program and advise the City Council with regard to the Program, and perform any other duties as prescribed by Nebraska law. It shall schedule regular meetings at least quarterly and at least once in every six-month period, the Commission shall report to the City Council on its findings and suggestions at a public hearing called for that purpose. (Ord. 3444, 1995)

6-2-100. Access to Information; Confidential.

Members of the Economic Development Citizen Advisory Commission may be permitted access to business information received by the City in the course of its administration of the Program, which information would otherwise be confidential under Nebraska law or by agreement with a qualifying business participating in the Program. Unauthorized disclosure of any confidential business information shall be a Class I Violation. (Ord. 3444, 1995)

(8) FAIR HOUSING COMMISSION

6-2-101. Fair Housing Commission; established; membership; terms.

There is hereby established a Fair Housing Commission, which shall have five (5) members. The members of the Commission shall be a representative cross-section, as near as may be, of the inhabitants of the city. Each member shall serve a term of three (3) years. (Ord. 3378, 1994)

6-2-102. Duties.

The Fair Housing Commission shall perform the duties described elsewhere in the Municipal Code. (Ord. 3378, 1994)

6-2-103 to 6-2-105. Reserved.

(9) LIBRARY BOARD

6-2-106. Library Board; established; membership; terms.

There is hereby established a Library Board, which shall consist of five (5) members. Each member shall serve a term of five (5) years. (Ord. 3378, 1994)

6-2-107. Duties.

The Library Board shall advise the City Manager in regard to the operation, maintenance and development of the Public Library. (Ord. 3378, 1994)

(10) LIQUOR LICENSE HOLDERS INVESTIGATORY BOARD

6-2-108. Liquor License Holders Investigatory Board; established; membership; terms.

There is hereby established a Liquor License Holders Investigatory Board which shall consist of ten (10) members, six of which shall be members of the community and shall serve a term of three years.

6-2-109. Members.

The Liquor License Holders Investigatory Board shall consist of the City Manager, City Attorney, Police Chief, and City Clerk. Six additional members will be appointed as provided in this article. Two members shall be holders of licenses issued pursuant to the Nebraska Liquor Control Act. These persons need not be residents of the City if their licensed business is in the city. In appointing the other four members, preference will be given to employees of Western Nebraska Community College and the Scottsbluff Public School District, and persons who have been active in addressing alcohol-related problems. Board members who are employed by Western Nebraska Community College or the Scottsbluff Public School District need not be residents of the City.

6-2-110. Duties.

The Board shall assist the City Council in discharging its powers, functions and duties with respect to retail liquor licenses under the Nebraska Liquor Control Act. The Board will educate new license holders, investigate alleged violations of the Nebraska Liquor Control Act and violations of the municipal code, and any other matters the Police Chief believes in his discretion warrants investigation by the Board. The Board shall also perform such other duties as may be requested by the City Council. This section shall not be construed to limit the powers of the City Council. The City Council may exercise any of its lawful powers under the Nebraska Liquor Control Act at any time it deems appropriate without regard to whether the Liquor License Holders Investigatory Board has acted.

(11) PARK, CEMETERY, AND TREE BOARD

6-2-111. Park, Cemetery and Tree Board; established; membership; terms.

There is hereby established a Park, Cemetery and Tree Board. Such Board shall have seven (7) members who will serve for a term of five (5) years. Provided, all members shall live in Scotts Bluff County, Nebraska. No more than two members may reside outside the city limits of the City of Scottsbluff. (Ord. 3839, 2005)

6-2-112. Duties.

The duties of the Board shall be to consult with and advise the City Manager in regard to the development, improvement and management of the parks and cemeteries of the City. The Board shall also, upon request by the City Council, consider, investigate, and make findings, reports and recommendations concerning any manner or question involving park trees (as defined in this code) and street trees (as defined in this code) together with any other duties which may be vested in the Board by this code. (Ord. 3378, 1994)

6-2-113 to 6-2-115. Reserved.

(12) PLANNING COMMISSION

6-2-116. Planning Commission; established.

There hereby is established a Planning Commission of the City as authorized by the statutes of Nebraska. The Planning Commission shall include one alternate member. The number of members, the manner of their appointment, the period of office, and the powers of the alternate member shall be as prescribed by Nebraska law. The Commission shall perform the duties prescribed by Nebraska law. (Ord. 3440, 1995)

6-2-117. Records; Planning and Building Official; final action by Planning Commission.

In the case of matters which, under statute or the municipal code, are required to be submitted to the Planning Commission for final action, but are required to be submitted, in the first instance, to the Planning and Building Official for preliminary review or other administrative action by such officer, the Official after having taken such action, shall cause to be filed in the office of the secretary of the Commission all documents which have been submitted to the Official and written recommendations by the Official to the Commission, together with a copy of any order entered or other action taken in writing by the Official, in regard to the matter, and such documents and copies shall thereupon become records of the Commission. The Official shall retain in his or her file the original copy of any order entered by him or her, duplicate copies of all written applications submitted to him or her and of his or her written recommendations to the Commission and, in his or her discretion, duplicate copies of other documents in the proceedings. (Ord. 3378, 1994)

6-2-118. Recommendation by Planning Commission.

If the matter is one which, under statute, is required to be submitted to the Planning Commission for a recommendation to the City Council, but is required by the Municipal Code to be submitted, first, to the Planning and Building Official for preliminary review or other administrative action by such officer, the Official, after having taken such action, shall cause to be filed in the office of the

secretary of the Commission all documents (except a final plat) which have been submitted to the Official and written recommendations by the Official to the Commission, together with a copy of any order entered or other action taken in writing by the Director, in regard to the matter, and such documents (except a plat) and copies shall thereupon become records of the Commission. After the Commission shall have made a recommendation to the City Council:

(1) the Secretary of the Commission shall supply a copy of the recommendation to the Director, who shall file the copy with the City Clerk, and

(2) the Official shall cause to be presented to the City Council, for consideration and action by the City Council, the document or documents which was (were) the subject of the recommendation of the Planning Commission. Following action by the City Council, the Official shall cause the document(s):

(a) if a final plat, to be delivered to the City Clerk for recording in the office of the Register of Deeds, or

(b) if any other document, to be returned to the files in the office of the secretary of the Commission.

The Official shall retain the original copy of any order entered by him or her, and shall or, as the case may be, may also retain duplicate copies of the other documents as provided in this Article. (Ord. 3378, 1994)

6-2-119. Planning and Building Official; notice of meetings.

Notice of meetings of the Planning Commission shall be served upon the Planning and Building Official within the time and in the manner in which such notice is required to be served upon members of the Planning Commission. (Ord. 3378, 1994)

6-2-120 to 6-2-122. Reserved.

(13) PLUMBERS EXAMINING BOARD

6-2-123. Plumbers Examining Board; established; membership; terms.

There hereby is established an Plumbers Examining Board. Such Board shall have six (6) members. Each member shall serve a term of four years. (Ord. 3378, 1994)

6-2-124. Qualifications of members.

The members of the Board shall be one master plumber, one journeyman plumber, and one sheet metal worker, each holding a license of that classification, and one of whom shall hold a contractor's license of that classification, and one of whom shall hold a contractor's license issued by the City; and one individual who is neither engaged, whether as an employer or an employee, in the plumbing or sheet metal business, nor owns an interest in such a business. The City Manager shall appoint two City employees to serve as voting members of the Board. (Ord. 3378, 1994)

6-2-125. Duties.

The Plumbers Examining Board shall have the duties described in elsewhere in the Municipal Code. (Ord. 3378, 1994)

6-2-126. Disqualification.

A member of the Board shall be disqualified to sit in respect of an application for a license or certificate by, or for revocation or suspension of a license, such member of the Board or a member or employee of the firm of which such member of the board is a member or employee. (Ord. 3378, 1994)

(14) SCOTTSBLUFF CITY YOUTH COUNCIL

6-2-127. Scottsbluff City Youth Council; composition; student representative appointment; council advisor appointment.

1. The Scottsbluff City Youth Council is hereby established for the purposes of:
 - a. Educating Scottsbluff youth about the functions of municipal government.
 - b. Providing local youth a greater understanding about the City of Scottsbluff and its assets.
 - c. Generating interest and enthusiasm for local elections and the election process.
 - d. Creating a formal process whereby local youth can play an active role in city-wide issues.
 - e. Creating a stronger partnership between youth, the City of Scottsbluff and the Scottsbluff School District.
2. The Scottsbluff City Youth Council shall be a sub-committee of the Scottsbluff Senior High School Student Senate at the pleasure of the Scottsbluff City Council.
3. The Scottsbluff City Youth Council shall be led by a student representative, who will serve in an ex-officio capacity on the Scottsbluff City Council at all regular public city council meetings.
4. The student representative will not be included in closed sessions unless invited by a majority of the council.
5. The student representative will be elected by the Scottsbluff High School student body each year and approved by a three-fourths vote of the Scottsbluff City Council by July 1. In order to be eligible, the student candidate must:
 - a. Submit his or her request, in writing, to the building principal.
 - b. Obtain at least ten signatures of support from fellow high school students.
 - c. Be academically eligible as defined by applicable rules of the Nebraska Schools Activity Association.
 - d. Be a junior or senior.
6. The SCYC shall be comprised of one student representative and an unspecified number of sub-committee members of the Scottsbluff High School (SSHS) Student Senate. The number and identity of SCYC members and the requirements for participation shall be determined by the SSHS Student Senate.
7. A City Council member will be selected by the City Council each year by July 1 to serve as an advisor to the SCYC. The Council Advisor will meet no less than one time per month with the SCYC student representative and/or SCYC sub-committee.
8. The SCYC is be subject to the provisions of Section 6-2-50 through 6-2-55 of the Municipal Code. (Ord 3900, 2006)

6-2-128. Term of office; eligibility for appointment; code of conduct; removal;

1. The SCYC student representative and Council Advisor shall both serve for one year. The SCYC student representative may serve up to two consecutive terms. No SCYC student representative may use or possess, alcohol, tobacco or a controlled substance as that term is defined by the statutes of Nebraska. Any student representative that is expelled from school, drops out of school, possess or uses alcohol, tobacco or a controlled substance may be removed from office by recommendation of the Scottsbluff Senior High School Student Senate and two thirds vote of the Scottsbluff City Council. (Ord 3900, 2006)

6-2-129. Construction Alternative Selection Board.

1. All proposals involving a design-build (DB) contract or a construction management at risk (CMR) contract shall be referred to a “Construction Alternative Selection Board,” consisting of five persons selected by the City Council. Members of the selection board shall include at least one of each of the following:

- a. City Council member;
- b. City staff representative;
- c. The performance-criteria developer in the case of a DB contract;
- d. The City Engineer in the case of a CMR contract;
- e. A person having special expertise relevant to selection of design-builder or construction manager; and
- f. A resident of the city, other than an individual included in (a) through (d) above.

A member of the selection board designated under (d) or (e) above shall not be employed by or have an interest in a design-builder or a construction manager who has a proposal being evaluated, and shall not be an employee of the city or the performance criteria developer.

2. The selection board shall evaluate proposals from a design-builder or construction manager, taking into consideration criteria as outlined in the city’s construction policies.

3. The records of the selection board in evaluating proposals and making recommendations shall be considered public records under Neb. Rev. Stat. §84-712.01.(Ord. 3998, 2009)

(d) DEPARTMENTS

(1) FINANCE DEPARTMENT

6-2-130. Finance Department; established.

There is hereby established a Finance Department. (Ord. 3378, 1994)

6-2-131. Finance Director; office established; duties.

There is hereby established the office of Finance Director. The Finance Director shall be the head of the Finance Department and shall have such duties and perform such functions as prescribed by the City Manager. (Ord. 3378, 1994)

6-2-132 to 6-2-134. Reserved.

(2) FIRE DEPARTMENT

6-2-135. Fire Department; established.

There is hereby established a Fire Department. (Ord. 3378, 1994)

6-2-136. Fire Chief; established.

There is hereby established the office of Fire Chief of the City. (Ord. 3378, 1994)

6-2-137. Same; duties.

The Fire Chief shall be the head of the Fire Department, and shall have, under such rules and regulations as the City Manager may prescribe, supervision of all firefighters, charge and control of the training, equipment and stationing of all firefighters, and charge and control of all the property, implements and apparatus used in the Fire Department. The Fire Chief shall also perform all duties prescribed by the statutes of the State of Nebraska to be performed by the Chief of the Fire Department, such duties as are or may be prescribed by the Municipal Code to be performed by the Fire Department, and such other duties as prescribed by the City Manager. The Fire Chief shall be a resident of the City, the City of Gering, the Village of Terrytown, or of an unincorporated area within five (5) miles of the city limits of the City. (Ord. 3636, 1999)

6-2-138. Repealed by Ordinance No. 3478.

6-2-139. Personnel; appointment.

The personnel of such department shall be appointed by the City Manager. (Ord. 3378, 1994)

6-2-140. Fire Department; firefighters; employ.

The City Manager is hereby authorized to employ paid firefighters. (Ord. 3378, 1994)

6-2-141. Volunteer fire, rescue personnel; rules; regulations.

The City Manager shall promulgate rules and regulations, which shall be binding upon all volunteer fire and rescue personnel of the City as well as upon the City, determining who shall be deemed to be:

- (1) active volunteer fire and rescue personnel within the meaning of Chapter 35 of the statutes of Nebraska, and
- (2) members of the volunteer fire department who keep their dues promptly paid up, and are present and render active service when called out for the legitimate purposes of the volunteer fire department of the City within the meaning of Chapter 35 of the statutes of Nebraska. (Ord. 3378, 1994)

6-2-142. Equipment; supply; ownership; possession.

It shall be the duty of the City Manager at the expense of the City to furnish and equip the firefighters of the City with waterproof coats, helmets and such other usual and necessary paraphernalia for their wear and use in putting out or fighting fire in the City. Such equipment shall be and remain the property of the City for immediate use in case of fire, and be under the care and control of the Fire Chief. (Ord. 3378, 1994)

6-2-143. Same; care.

It shall be the duty of the Fire Department to keep its apparatus, hose, engine and other equipment in serviceable condition. (Ord. 3378, 1994)

6-2-144 to 6-2-146. Reserved.

(3) LIBRARY DEPARTMENT

6-2-147. Library; established.

There is hereby established a Library Department. (Ord. 3378, 1994)

6-2-148. Library Director; office established; duties.

There is hereby established the office of Library Director. The Library Director shall be the head of the Library Department and shall perform such functions as prescribed by the City Manager. (Ord. 3378, 1994)

6-2-149 to 6-2-151. Reserved.

(4) DEPARTMENT OF PARKS AND RECREATION

6-2-152. Department of Parks and Recreation; established.

There is hereby established a Department of Parks and Recreation. (Ord. 3378, 1994)

6-2-153. Director of Parks and Recreation; office established; appointment; duties.

There is hereby established the office of Director of Parks and Recreation. The Director of Parks and Recreation shall be the head of the Department of Parks and Recreation, and shall perform such functions as prescribed by the City Manager. (Ord. 3378, 1994)

6-2-154 to 6-2-156. Reserved.

(5) PERSONNEL DEPARTMENT

6-2-157. Personnel Department; established.

There is hereby established a Personnel Department. (Ord. 3378, 1994)

6-2-158. Personnel Director; office established; appointment; duties.

There is hereby established the office of Personnel Director. The Personnel Director shall be the head of the Personnel Department and shall perform such functions as prescribed by the City Manager. (Ord. 3378, 1994)

6-2-159 to 161. Reserved.

(6) DEVELOPMENT SERVICES DEPARTMENT

6-2-162. Development Services Department; established; duties.

There hereby is established a Department of Development Services. (Ord. 3534, 1997)

6-2-163. Development Services Director; office established.

There hereby is established the office of Development Services Director. The Development Services Director shall be the head of the Development Services Department. He or she shall perform such duties as prescribed by the Municipal Code, and such other duties as prescribed by the City Manager. The Development Services Director is also known as the Planning and Building Official. Any reference in this Code to "Planning and Building Official" or "City Planner" shall be considered as a reference to the Development Services Director. (Ord. 3898, 2006)

6-2-164. Repealed.

6-2-165. Community Development Division; established.

There hereby is established a Community Development Division in the Department of Development Services. The Division may exercise all the power and authority granted to an urban renewal authority by the statutes of Nebraska. (Ord. 3534, 1997)

6-2-166. Same; Community Development Administrator; office; established; appointment.

There hereby is established the office of Community Development Administrator who shall direct the Community Development Division. The Community Development Administrator shall be appointed by the City Manager. (Ord. 3378, 1994)

6-2-167 to 6-2-169. Reserved.

(7) POLICE DEPARTMENT

6-2-170. Police Department; established.

There is hereby established a Police Department. (Ord. 3378, 1994)

6-2-171. Police Chief; office established.

There is hereby established the office of Police Chief. (Ord. 3378, 1994)

6-2-172. Same; duties; residence.

The Police Chief shall be the head of the Police Department, and, under such rules and regulations as the City Manager may prescribe, shall have the supervision of all police officers, both regular and special, the charge and control of the training, equipping and stationing of all such police officers, and the charge and control of all the property and equipment used in the Police Department. He or she shall also perform all the duties prescribed by the statutes of the State of Nebraska to be performed by the Chief of Police or City Marshal, and such other duties as are or may be prescribed by the ordinances of the City of Scottsbluff, to be performed by the Police Department. The Police Chief shall be a resident of the City, the City of Gering, the Village of Terrytown, or of an unincorporated area within five (5) miles of the city limits of the City. (Ord. 3636, 1999)

6-2-173 to 6-2-174. Reserved.

(8) PUBLIC WORKS DEPARTMENT

6-2-175. Public Works Department; established.

There is hereby established a Public Works Department. (Ord. 3706, 2002)

6-2-176. Public Works Director; office established.

There is hereby established the office of Public Works Director. The Public Works Director shall be the head of the Public Works Department and shall perform such functions as prescribed by the City Manager. (Ord. 3706, 2002)

6-2-177 to 6-2-199. Reserved.

ARTICLE 3

COUNTY COURT

Section

6-3-1 Fines; remittance to school district Treasurer.

6-3-1. Fines; remittance to school district Treasurer.

The City Treasurer shall pay over all fines and penalties received from the County Court to the Treasurer of the school district lying wholly or partially within the City.

ARTICLE 4

MISCELLANEOUS PROVISIONS

Section

6-4-1 Wards; defined.

6-4-2 Municipal year; established.

6-4-3 Abandoned personal property; impoundment.

6-4-4 Same; sale.

6-4-5 Same; reclaim.

6-4-6 Same; proceeds of sale.

6-4-7 Same; record.

6-4-8 Same; accountkeeping; City Treasurer's duties.

6-4-1. Wards; defined.

The City shall be divided into four wards which are bounded by the following lines:

(1) Line A shall be the line defined as:

Beginning at the intersection of Broadway Avenue and the southern corporate boundary of

the City: then north on Broadway to the centerline of 27th Street, then east on 27th Street to the centerline of 5th Avenue, then north on 5th Avenue to the corporate boundary of the City;

(2) Line B shall be the line defined as:

Beginning at the center of the intersection of Broadway and 17th Street: then east on 17th Street to the centerline of 13th Avenue, then north on 13th Avenue to 20th Street, then east on 20th Street to the corporate boundary of the City.

(3) Line C shall be the line defined as:

Beginning at the center of the intersection of Broadway and 20th Street: then west on 20th Street to the corporate boundary of the City.

Ward One shall be that portion of the City which lies east of Line A and north of Line B. Ward Two shall be that portion of the City which lies east of Line A and south of Line B. Ward Three shall be that portion of the City which lies west of Line A and south of Line C. Ward Four shall be that portion of the City which lies west of Line A and north of Line C. (Ord. 3207, 1992)

6-4-2. Municipal year; established.

The municipal year of the City, for the purposes of granting or renewing licenses and posting bonds in connection therewith, the designation of City depositories, and all other matters of a general nature for which other provision is not made by statute or ordinance shall begin the first day of May in each year. (Ord. 2689, 1981)

6-4-3. Abandoned personal property; impoundment.

Whenever a police officer shall find in the streets, alleys or public places of the City, or there shall be received by any police officer, any article of personal property that has been abandoned or the owner of which cannot be ascertained and located after reasonable inquiry, the police officer may remove and impound such property. Provided, nothing in this Article shall apply to motor vehicles. (Ord. 1941, 1972; Ord. 1116)

6-4-4. Same; sale.

All property so impounded and remaining impounded for a period of ninety (90) days or more may be sold by the City at public auction. The City Clerk shall cause notice of the sale to be published in a newspaper of general circulation within the City, and posted at not less than one (1) conspicuous public place within the City, not less than ten (10) days prior to the sale. The notice shall identify with reasonable particularity the property to be sold, and state the time and place of sale. If the property has not clearly been abandoned, and the name and last known address of the owner of the property can be ascertained by reasonable inquiry, a copy of such published notice shall be mailed to such owner, addressed to his or her last known address, not less than five (5) days after publication of the notice. (Ord. 1941, 1972; Ord. 1116)

6-4-5. Same; reclaim.

Should any person prior to such sale establish to the satisfaction of the Police Chief that such person is the owner of the property, the property shall be delivered to such person at the place of impounding or sale upon payment

6-4-6. Same; proceeds of sale.

After the sale, the City shall:

- (1) deduct from the proceeds the cost of publishing the notice of the sale,
- (2) hold the overplus, if any, of such proceeds subject to the order of the owner of the property,
- (3) immediately after the sale mail to the owner of the property, if his or her name and last known address can be ascertained by reasonable inquiry, a notice stating that such sale has been held and the amount of overplus, if any, due such owner, and
- (4) at any time within twelve (12) months thereafter, upon demand of the owner, pay such overplus to him or her. (Ord. 1941, 1972; Ord. 1116)

6-4-7. Same; record.

The Police Chief shall keep a record of all property impounded; the name and last known address of the owner, if ascertainable by reasonable inquiry; the circumstances of each impounding; and the disposition made of each property. (Ord. 1941, 1972; Ord. 1116)

6-4-8. Same; accountkeeping; City Treasurer's duties.

It shall be the duty of the Police Chief to account for and pay to the City Treasurer all fees and other amounts received by him or her under the provisions of this Article. (Ord. 1941, 1972; Ord. 1116)

ARTICLE 5

EMPLOYEES' PENSIONS

(a) PLAN; CREATION; EFFECTIVE DATE; DEFINITIONS

Section

| | |
|---------------|--|
| <u>6-5-1</u> | <u>General City Employees' Pension Plan.</u> |
| <u>6-5-2</u> | <u>Exclusive benefit; nondiversion.</u> |
| <u>6-5-3</u> | <u>Definitions; generally.</u> |
| <u>6-5-4</u> | <u>Company.</u> |
| <u>6-5-5</u> | <u>Credited years of service.</u> |
| <u>6-5-6</u> | <u>Earned income.</u> |
| <u>6-5-7</u> | <u>Salary.</u> |
| <u>6-5-8</u> | <u>Employee.</u> |
| <u>6-5-9</u> | <u>Employer.</u> |
| <u>6-5-10</u> | <u>Salary reduction contribution.</u> |
| <u>6-5-11</u> | <u>The employer's regular contribution.</u> |
| <u>6-5-12</u> | <u>Inactive member.</u> |
| <u>6-5-13</u> | <u>Member.</u> |
| <u>6-5-14</u> | <u>Member's voluntary contribution; active member.</u> |
| <u>6-5-15</u> | <u>Same; member absent on leave without pay.</u> |
| <u>6-5-16</u> | <u>Employer's additional contribution.</u> |
| <u>6-5-17</u> | <u>Gender and number.</u> |

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|---------------|---|
| <u>6-5-18</u> | <u>Permanent position.</u> |
| <u>6-5-19</u> | <u>Retirement Committee; established.</u> |
| <u>6-5-20</u> | <u>Same; members.</u> |
| <u>6-5-21</u> | <u>Same; election.</u> |
| <u>6-5-22</u> | <u>Same; ballot</u> |
| <u>6-5-23</u> | <u>Same; time; notice.</u> |
| <u>6-5-24</u> | <u>Same; nominations.</u> |
| <u>6-5-25</u> | <u>Same; tabulation of ballots.</u> |
| <u>6-5-26</u> | <u>Same; members elected.</u> |
| <u>6-5-27</u> | <u>Same; records.</u> |
| <u>6-5-28</u> | <u>Same; officers.</u> |
| <u>6-5-29</u> | <u>Same; quorum.</u> |
| <u>6-5-30</u> | <u>Same; duties of officers.</u> |
| <u>6-5-31</u> | <u>Same; rules.</u> |

(b) EMPLOYMENT, CONTINUITY, LENGTH

| | |
|---------------|-------------------------------|
| <u>6-5-32</u> | <u>Active service; leave.</u> |
| <u>6-5-33</u> | <u>Guard or reserve duty.</u> |
| <u>6-5-34</u> | <u>Leave without pay.</u> |
| <u>6-5-35</u> | <u>Reemployed member.</u> |
| <u>6-5-36</u> | <u>Months; years.</u> |

(c) ELIGIBILITY FOR MEMBERSHIP

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|---------------|--------------------------------|
| <u>6-5-37</u> | <u>Membership; compulsory.</u> |
| <u>6-5-38</u> | <u>General qualifications.</u> |
| <u>6-5-39</u> | <u>Period of membership.</u> |
| 6-5-40 to | Reserved. |
| 6-5-43 | |

(d) RETIREMENT

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|---------------|---|
| <u>6-5-44</u> | <u>Normal retirement date.</u> |
| <u>6-5-45</u> | <u>Early retirement date.</u> |
| <u>6-5-46</u> | <u>Delayed retirement date.</u> |
| <u>6-5-47</u> | <u>Commencement of retirement benefits.</u> |
| 6-5-48 to | Reserved. |
| 6-5-51 | |

(e) CONTRIBUTIONS; ACCOUNT; FUTURE SERVICE

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|---------------|---------------------------|
| <u>6-5-52</u> | <u>Member's account.</u> |
| <u>6-5-53</u> | <u>Employer' account.</u> |
| 6-5-54 to | Reserved. |
| 6-5-57 | |

(f) RETIREMENT BENEFITS

| | |
|---------------------|--|
| <u>6-5-58</u> | <u>Services on, after December 29, 1969; accounts; retirement value.</u> |
| <u>6-5-59</u> | <u>Same; benefit; election.</u> |
| <u>6-5-60</u> | <u>Services before December 29, 1969; eligibility.</u> |
| <u>6-5-61</u> | <u>Same; benefit; election.</u> |
| <u>6-5-62</u> | <u>Limitation on annuities.</u> |
| <u>6-5-63</u> | <u>Limitation of benefits.</u> |
| 6-5-64 to 6-5-67 | Reserved. |

(g) OTHER BENEFITS

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| <u>6-5-68</u> | <u>Benefits on termination of employment.</u> |
| <u>6-5-69</u> | <u>Death benefit.</u> |
| <u>6-5-70</u> | <u>Limitation on installments.</u> |
| <u>6-5-71</u> | <u>Disability benefit.</u> |
| <u>6-5-72</u> | <u>Limitation on installments.</u> |
| 6-5-73 to 6-5-76 | Reserved. |

(h) CONTINUANCE OF PLAN

| | |
|---------------------|-----------------------------|
| <u>6-5-77</u> | <u>Continuance of plan.</u> |
| <u>6-5-78</u> | <u>Amendments.</u> |
| <u>6-5-79</u> | <u>Termination of plan.</u> |
| 6-5-80 to 6-5-83 | Reserved. |

(i) FIREFIGHTERS

| | |
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| <u>6-5-84</u> | <u>Firefighters' Retirement System; establishment.</u> |
| <u>6-5-85</u> | <u>Firefighters' Retirement System Fund; established; investment.</u> |
| <u>6-5-86</u> | <u>Retirement Committee established; operation.</u> |
| <u>6-5-87</u> | <u>Same; selection; terms; members; qualifications; vacancies.</u> |
| <u>6-5-88</u> | <u>Retirement Committee; members selected by firefighters; election.</u> |
| <u>6-5-89</u> | <u>Same; ballot.</u> |
| <u>6-5-90</u> | <u>Same; time; notice.</u> |
| <u>6-5-91</u> | <u>Same; nominations.</u> |
| <u>6-5-92</u> | <u>Same; ballots; tabulating.</u> |
| <u>6-5-93</u> | <u>Same; who elected.</u> |
| <u>6-5-94</u> | <u>Same; City Clerk; records.</u> |
| <u>6-5-95</u> | <u>Retirement Committee; chairman; vice-chairman; secretary; terms; qualifications; election.</u> |
| <u>6-5-96</u> | <u>Same; vacancies.</u> |

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| <u>6-5-97</u> | <u>Same; quorum.</u> |
| <u>6-5-98</u> | <u>Same; chairman; vice chairman; duties.</u> |
| <u>6-5-99</u> | <u>Retirement Committee; rules.</u> |
| 6-5-100 to | Reserved. |
| 6-5-103 | |

(j) POLICE OFFICERS

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| <u>6-5-104</u> | <u>Definitions; generally.</u> |
| <u>6-5-105</u> | <u>Members from both the police force.</u> |
| <u>6-5-106</u> | <u>Officers from the police force.</u> |
| <u>6-5-107</u> | <u>Participating police officer.</u> |
| <u>6-5-108</u> | <u>Police force.</u> |
| <u>6-5-109</u> | <u>Police officer.</u> |
| <u>6-5-110</u> | <u>Police Officers' Retirement System; established.</u> |
| <u>6-5-111</u> | <u>Police officers' Retirement System Fund; established; investment.</u> |
| <u>6-5-112</u> | <u>Retirement Committee; established; operation.</u> |
| <u>6-5-113</u> | <u>Same; selection; terms; members; qualifications; vacancies.</u> |
| <u>6-5-114</u> | <u>Retirement Committee; members selected by police officers; election.</u> |
| <u>6-5-115</u> | <u>Same; ballot.</u> |
| <u>6-5-116</u> | <u>Same; time; notice.</u> |
| <u>6-5-117</u> | <u>Same; nominations.</u> |
| <u>6-5-118</u> | <u>Same; ballots; tabulating.</u> |
| <u>6-5-119</u> | <u>Same; who elected.</u> |
| <u>6-5-120</u> | <u>Same; City Clerk; records.</u> |
| <u>6-5-121</u> | <u>Retirement Committee; chairman; vice-chairman;</u> <u>secretary; term; qualifications; election.</u> |
| <u>6-5-122</u> | <u>Same; vacancies.</u> |
| <u>6-5-123</u> | <u>Same; quorum.</u> |
| <u>6-5-124</u> | <u>Same; chairman; vice chairman; duties.</u> |
| <u>6-5-125</u> | <u>Retirement Committee; rules.</u> |

Nebraska Statutes

For statutory provisions on city employees' pensions, see R.R.S. § 19-3501.

(a) PLAN; CREATION; EFFECTIVE DATE; DEFINITIONS

6-5-1. General City Employees' Pension Plan.

A pension plan, which shall be known as the Scottsbluff General City Employees' Pension Plan, and which is designed and intended to provide retirement benefits for eligible appointed employees of the City of Scottsbluff, excluding employees subject to the provisions of the police officer's and firefighter's pension statutes, is hereby created by the City of Scottsbluff. The pension plan so created began operation December 29, 1969, which date is the original effective date of the plan. The plan is designed and intended to comply with the applicable provisions of Internal Revenue Code section 401(a) as amended, and the applicable provisions of the Revised Statutes of Nebraska, as

amended. The plan subsequently has been amended from time to time by ordinance provisions included in this Article. The provisions in this Article shall apply to such pension. (Ord. 3148, 1990)

6-5-2. Exclusive benefit; nondiversion.

This pension plan is maintained for the exclusive benefit of eligible employees of the City of Scottsbluff, Nebraska, or their beneficiaries, for the purpose of distributing to such eligible employees or their beneficiaries the corpus and income of the funds accumulated under this pension plan. Under this pension plan, it is impossible, prior to the satisfaction of all liabilities with respect to such eligible employees and their beneficiaries, for any part of the corpus or income of this pension plan to be used for, or diverted to, purposes other than the exclusive benefit of such eligible employees and their beneficiaries. (Ord. 3148, 1990)

6-5-3. Definitions; generally.

As used in this Article, the words and phrases defined in such sections of this Article shall have the meanings so ascribed to them in such sections, unless the context otherwise requires. (Ord. 3148, 1990)

6-5-4. Company.

The term "Company" means a company approved by the City of Scottsbluff for the purpose of administering this retirement plan. (Ord. 3148, 1990)

6-5-5. Credited years of service.

The term "Credited Years of Service" shall mean every year of service, after age twenty-one (21) and the first full year of service, during which the employee worked at least thirty-seven (37) hours per week for forty-eight (48) weeks. (Ord. 3148, 1990)

6-5-6. Earned income.

The term "Earned Income" means the sum of all salary payable to the member in any one (1) calendar year, before salary reduction contributions. (Ord. 3148, 1990)

6-5-7. Salary.

"Salary" means the amount payable at regular intervals to the member for services performed, before salary reduction contributions but excluding amounts paid the member for reimbursable expenditures. The amount of salary taken into account for any year shall not exceed two hundred thousand dollars (\$200,000.00), as adjusted by the Secretary of the Treasury. On and after August 1, 1994, the amount of salary taken into account for any year shall not exceed one hundred fifty thousand dollars (\$150,000), as adjusted by the Secretary of the Treasury. (Ord. 3148, 1990)

6-5-8. Employee.

The term "Employee" means any person, excluding persons subject to the provisions of the policemen's and firemen's pension, who has been or shall be appointed to a permanent position which requires active service for the employer at least thirty-seven (37) hours each week and at least forty-eight (48) weeks each year. (Ord. 3148, 1990)

6-5-9. Employer.

The term “Employer” means the City of Scottsbluff. (Ord. 3148, 1990)

6-5-10. Salary reduction contribution.

The employer shall deposit bi-weekly with the company to the account of the member an amount equal to three (3) percent of the biweekly salary otherwise payable or creditable to the member, instead of paying or crediting such amount to the member directly. The amount so deposited shall be designated as “salary reduction contributions,” but, although designated as employee contributions, are being paid by the employer in lieu of contributions by the member. Such contributions shall be fully vested and nonforfeitable for purposes of the plan. Such contributions are a condition of the employment of any member, and no member has discretion to receive the contributions directly instead of having them paid by the employer to the plan. The amount of withholding and contributions by the employer for purposes of FICA shall be computed on the amount of the member's earned income, but the whole of the amount to be withheld shall be withheld solely from that portion of the member's earned income payable or creditable to the member after deduction of the salary reduction contributions. (Ord. 3148, 1990)

6-5-11. The employer's regular contribution.

The term “Employer’s Regular Contribution” means the amount deposited with the company by the employer on behalf of a member as provided in this section. The employer's regular monthly contribution for each member shall be an amount equal to three (3) percent of the member’s earned income. With respect to each member who shall be entitled to past service benefits, the employer also shall deposit, prior to the time when payment of such benefits is to commence, an amount or amounts sufficient to purchase a straight-life monthly annuity for such member as provided in this Article. (Ord. 3148, 1990)

6-5-12. Inactive member.

The term “Inactive Member” means a person whose employment with the employer ceases before he or she enters into retirement. (Ord. 3148, 1990)

6-5-13. Member.

The term “Member” means an employee of the City of Scottsbluff as defined in this Article who participates in this plan and who is not an inactive member. (Ord. 3148, 1990)

6-5-14. Member’s voluntary contribution; active member.

The term “Member's Voluntary Contribution” shall mean any contribution made by a member voluntarily beyond the member’s salary reduction contributions. Any member may make voluntary contributions at a rate not to exceed ten (10) percent of his or her earned income during each year; provided, any highly compensated employee, as defined by Internal Revenue Service, may not make a voluntary contribution that exceeds by more than two (2) percent the average of the percentage contributions of all non-highly compensated employees; and provided, further, no member’s voluntary contributions shall be made which do not conform to the requirements of Internal Revenue Code section 401(m) Nondiscrimination Test for Matching Contributions and Employee Contributions. For the purposes of the above phrase “percentage contributions,” the term “contributions” shall include both the members’ salary reduction contributions and their voluntary

contributions. (Ord. 3148, 1990)

6-5-15. Same; member absent on leave without pay.

Any member absent on leave without pay may, for not to exceed one (1) year, continue to make voluntary contributions, which contributions, however, shall be not less than at the rate of six (6) percent of his or her most recent annual earned income, if he or she desires to continue to acquire further service credits during his or her leave of absence; provided, no contributions by a member absent on leave shall be made which do not conform to the requirements of Internal Revenue Code section 401(m) Nondiscrimination Test for Matching Contributions and Employee Contributions. (Ord. 3148, 1990)

6-5-16. Employer's additional contribution.

The term "Employer's Additional Contribution" means the amount deposited with the company by the employer to match a member's voluntary contribution. Beginning September 28, 1987, the employer's additional contribution shall be an amount equal to one-half (1/2) of the member's voluntary contribution; provided, the employer's additional contribution shall not exceed a maximum of 1.5 percent of the member's earned income. Voluntary contributions made by a member absent on leave without pay shall not be matched by the employer. (Ord. 3148, 1990)

6-5-17. Gender and number.

The masculine generally shall include the feminine, and the singular shall include the plural. (Ord. 3148, 1990)

6-5-18. Permanent position.

The term "Permanent Position" means a full-time position authorized in the City's annual budget. (Ord. 3148, 1990)

6-5-19. Retirement Committee; established.

There is established a General Employees Retirement Committee to supervise the general operation of the General Employees Retirement Fund. (Ord. 3352, 1994)

6-5-20. Same; members.

The General Employees Retirement Committee shall consist of the Mayor, the City Manager, the City Finance Director, and a member from each of the following City departments: Administration, Library, Development Services, and Police. There shall be two members from the Department of Parks and Recreation, one of whom shall be an employee of and elected by the employees of the Zoo Division. There shall be four members from the Department of Public Works, one each of whom shall be an employee of and elected by the employees of the Water Division, Wastewater Division, Transportation Division, and Environmental Services Division. Each department shall elect the member to represent that department as set out in this Article. All committee members shall serve for terms of three years. In order to represent a department, a member shall be an employee of the City of Scottsbluff whose primary duties are conducted in that department and who is a participant in the General Employees Retirement Fund. For the purposes of this section, "Administration" shall be deemed to consist of employees who are assigned to the office of the City Manager, the City Clerk, the Finance Department, and the Personnel Department. (Ord. 3718, 2002)

6-5-21. Same; election.

The member from each department who will serve on the Retirement Committee shall be elected by that department at an election to be conducted by the City Clerk according to the procedures set out in this Article. The City Clerk shall be the judge of the sufficiency of all acts performed in connection with the election. (Ord. 3352, 1994)

6-5-22. Same; ballot.

Each department election shall be accomplished by secret ballots on forms to be supplied by the City Clerk upon request. Each ballot shall contain the names of all candidates listed in alphabetical order who have been nominated as provided in this Article, and shall bear no identification of the person who marked the ballot. Each ballot shall be deposited by the person who marked the ballot with the City Clerk, or the City Clerk's designee, in a sealed envelope before 4:00 P.M. on the date of the election, or by mailing to the City Clerk by Certified Mail not less than three (3) days prior to the date of the election. (Ord. 3352, 1994)

6-5-23. Same; time; notice.

The first election shall be held on May 1, 1994. Elections shall then be held annually on each May 1 (or, if this date is a Saturday, Sunday or City holiday, on the first Monday following). If the City Clerk determines that there are one (1) or more vacancies in the membership of the Committee, the City Clerk shall call a special election to fill the unexpired term for any vacated positions, which shall be held not sooner than fifteen (15) days nor later than forty-five (45) days after the City Clerk determines that a vacancy has occurred, as determined by the City Clerk. The Clerk shall cause notice of each election together with a copy of sections 6-5-19 through 6-5-31, and other written information concerning the election as the Clerk shall determine to be necessary and proper, to be delivered to each department employee who is a participant in the General Employees Retirement Fund or mailed to each employee to the last known residence of each employee, not less than ten (10) days prior to the date of the election. (Ord. 3356, 1994)

6-5-24. Same; nominations.

An employee of a department may nominate himself or herself as a candidate for the department representative on the Retirement Committee. Other nominations may be made by three (3) or more departmental employees. All nominations shall be made in writing on a form to be supplied by the City Clerk, which form shall be signed by the departmental employee or departmental employees making the nomination and be deposited with or mailed to the City Clerk, or the City Clerk's designee, not less than seven (7) days prior to the date of the election, or, if mailed, mailed by Certified Mail to the City Clerk not less than seven (7) days prior to the date of the election. (Ord. 3352, 1994)

6-5-25. Same; tabulation of ballots.

Within twenty-four (24) hours after expiration of the time within which the ballots are to be deposited with the City Clerk or the City Clerk's designee (exclusive of Saturdays, Sundays and City holidays), the City Clerk, in the presence of either the City Manager or the Assistant City Manager, shall cause the envelopes containing the ballots to be opened, and the votes for the candidate or candidates to be counted and tabulated, and shall enter in the records of his or her office a certificate

signed by the City Clerk, stating the time when, the place where and the name of the person(s) in whose presence the envelopes were opened and the ballots were counted and tabulated, the number of ballots timely deposited in an acceptable form, and the total number of valid votes cast for the candidate or each candidate for the position(s). The City Clerk shall also retain ballots, if any, which were received but not counted, to which shall be appended a statement, signed by the Clerk, concerning the reason(s) for non-counting. (Ord. 3352, 1994)

6-5-26. Same; members elected.

The candidate receiving the highest number of votes from the employees of a department shall be determined to have been elected to represent that department. In the case of a tie vote, the names of the persons as to which there has been a tie vote shall be placed on separate ballots which shall be drawn by lot by the City Clerk or the City Clerk's designee. The person whose name is drawn first shall be the person elected. (Ord. 3352, 1994)

6-5-27. Same; records.

In addition to the records referred to in the previous sections, the City Clerk shall establish and maintain records concerning the following:

- (1) the names and addresses of each departmental employee eligible to receive, and to whom was delivered or mailed the notice of election and accompanying documents,
- (2) a copy of the notice and other documents delivered or mailed, and a certificate concerning the date on which delivery or mailing occurred,
- (3) nominations received in acceptable form and dates of receipt, and nominations, if any, which were not timely received or were not in acceptable form and, if not in acceptable form, the reason(s) for non-acceptance, and
- (4) the names and addresses of the departmental employees by whom ballots were deposited with, or mailed by Certified Mail to, the City Clerk, or the City Clerk's Designee, and the date and hour of the deposit or mailing. (Ord. 3352, 1994)

6-5-28. Same; officers.

The officers of the Retirement Committee shall be Chairman, Vice Chairman, and Secretary. Each officer's term of office shall be a period of one (1) year beginning on the date of election. All officers shall be elected by a majority vote of at least two-thirds (2/3) of the members of the Committee. Vacancies in any of the officer positions shall be filled by election in the same manner as elections for a whole term of office, except that the officer elected shall serve for the unexpired term of the office for which the vacancy existed. (Ord. 3352, 1994)

6-5-29. Same; quorum.

A quorum shall be a majority of the members of the Retirement Committee for the transaction of any business (other than the election of officers). (Ord. 3626, 1999)

6-5-30. Same; duties of officers.

The Chairman of the Retirement Committee shall preside at meetings of the Committee, and shall have the power to vote as a member of the Committee. The Vice Chairman shall perform the duties of the Chairman in the event of disability or absence of the Chairman. (Ord. 3352, 1994)

6-5-31. Same; rules.

The Retirement Committee shall adopt rules of procedure governing the calling of its meetings (which shall provide for adequate notice) and the conduct of its meetings, and providing for other rules and regulations, not inconsistent with Federal or State law or the Municipal Code, as the Committee shall determine to be necessary or proper for the orderly and proper performance of its duties. (Ord. 3352, 1994)

(b) EMPLOYMENT, CONTINUITY, LENGTH

6-5-32. Active service; leave.

“Employment” for the purposes of this Article only shall mean the total length of continuous active service for the employer, together with the period of any vacation, holiday, sick leave, special leave, or leave without pay, commencing on or after December 29, 1968. (Ord. 3148, 1990)

6-5-33. Guard or reserve duty.

Any employee who, while an employee, participates in active training duty or duty with troops or at field exercises or for instructions, not to exceed fifteen (15) days in any one (1) calendar year, as a member of the National Guard of Nebraska, Army Reserve, Naval Reserve, Marine Corps Reserve, Air Force Reserve, or Coast Guard Reserve shall be deemed to have been on special leave with pay. (Ord. 3148, 1990)

6-5-34. Leave without pay.

Absence with leave without pay includes any leave of absence without pay which may hereafter be granted to an employee by special permission of the City Manager. Any employee who, while an employee, for the purpose of being inducted into, enlisting in, determining physical fitness to enter, or performing training duty in the Armed Forces of the United States or National Guard of Nebraska, when ordered by proper authority to active service, and who, within ninety (90) days after honorable discharge or separation from active duty returns to the service of the employer, also shall be deemed to have been absent with leave without pay. (Ord. 3148, 1990)

6-5-35. Reemployed member.

After December 29, 1969, a person whose employment has ceased, and who may have been or may thereafter be reemployed by the employer, shall be deemed to have been employed by the employer only from the date of such reemployment. (Ord. 3148, 1990)

6-5-36. Months; years.

Length of service shall be computed:

- (1) for purposes of benefits payable in respect of services rendered on or after December 29, 1969, by taking into consideration only full calendar months of service, and
- (2) for purposes of benefits payable in respect of services rendered prior to December 29, 1969, by taking into consideration only full years of service. (Ord. 3148, 1990)

(c) ELIGIBILITY FOR MEMBERSHIP

6-5-37. Membership; compulsory.

Each employee who shall be eligible to become a member of the plan shall become such a member. (Ord. 3148, 1990)

6-5-38. General qualifications.

Prior to January 1, 1988, each employee shall be eligible to become a member of the plan on any January 1st or July 1st succeeding his or her twenty-first birthday and when such employee has been continuously employed by the employer for the twelve (12) months next preceding his or her date of eligibility and has not attained age sixty-four (64) on or before his or her date of eligibility. Effective January 1, 1988, each employee who has otherwise met the eligibility requirements of this Article as of January 1, 1988, shall become a member of the plan as of January 1, 1988, determined without regard to the employee's entry into employment after attaining age sixty-four (64). After December 31, 1987, each employee shall be eligible to become a member of the plan on the 1st day of the month following the date when the employee has been continuously employed by the employer for the twelve (12) months next preceding his or her date of eligibility, provided however, that if upon such date the employee has not reached his or her twenty-first birthday, then he or she shall become eligible to become a member of the plan on his or her twenty-first birthday. (Ord. 3619, 1999.)

6-5-39. Period of membership.

Each employee shall become a member of the plan on the first date when he or she shall have met the general qualifications set forth in the preceding section; provided, an employee who becomes eligible to become a member of the plan when he or she is absent with leave without pay shall not be eligible to become a member until the first day of the month next succeeding his or her return to active service with the City. Each employee, upon becoming a member of the plan, shall have withheld from his or her earned income, by the employer, the amount of his or her member's contribution. A person who shall have become a member of the plan shall not thereafter lose his or her status as such member while he or she continues to be in the employment of the employer, and his or her membership shall terminate when he or she ceases to be in the employment of the employer, upon retirement or otherwise, and he or she shall be entitled only to those benefits herein specifically provided. (Ord. 3148, 1990)

6-5-40 to 6-5-43. Reserved.

(d) RETIREMENT

6-5-44. Normal retirement date.

Each member or inactive member shall be eligible to retire at the end of the month in which his or her sixty-fifth birthday occurs. (Ord. 3148, 1990)

6-5-45. Early retirement date.

Any member or inactive member may retire at the end of any month after his or her fifty-fifth birthday. (Ord. 3148, 1990)

6-5-46. Delayed retirement date.

If a member remains in employment after his or her normal retirement date, the date of his or her termination of employment with the employer shall be his or her retirement date. (Ord. 3 148, 1990)

6-5-47. Commencement of retirement benefits.

Retirement benefits under sections 6-5-58, 6-5-59, 6-5-60 or 6-5-61 shall not commence until the member shall have terminated employment with the employer. (Ord. 3148, 1990)

6-5-48 to 6-5-51. Reserved.

(e) CONTRIBUTIONS; ACCOUNTS; FUTURE SERVICE

6-5-52. Member's account.

Each member's contributions will be held by the company in a separate account (but not a segregated fund) to the credit of the member. Investment earnings, gains and losses will be credited to the member's account according to the contract with the company. (Ord. 3148, 1990)

6-5-53. Employer's account.

The employer's contribution for each member will be held by the company in a separate account (but not segregated fund) and accumulated along with investment earnings, gains and losses according to the contract with the company. Recaptures of employer contributions on terminations in accordance with section 6-5-68 will be used as a credit against future employer contributions. (Ord. 3148, 1990)

6-5-54 to 6-5-57. Reserved.

(f) RETIREMENT BENEFITS.

6-5-58. Services on, after December 29, 1969; accounts; retirement value.

At the retirement date of a member, the sum of the amounts in his or her member's account and his or her employer's account shall be combined. The combined amount shall be called the retirement value. At the retirement date of an inactive member, the amount is his or her inactive member's account, as defined in section 6-5-68, shall be called the retirement value. (Ord. 3148, 1990)

6-5-59. Same; benefit; election.

The retirement value, at the election of the member or inactive member made at least sixty (60) days prior to his or her retirement date:

- (1) shall be applied to purchase a monthly annuity on the plan elected by the member or the inactive member, or
- (2) shall be paid to the member in a lump sum.

The annuity options shall be based on the alternative agreed upon between the employer and the company, or any other plan requested by the member or inactive member and approved by the company. In the event that no such election of plan with respect to an annuity is made, the annuity will be on the life annuity plan. The minimum single annuity payment shall be fifteen dollars

(\$15.00). If annuity payments payable hereunder shall be less than fifteen dollars (\$15.00) a month, the company shall pay to the member in one sum an amount equal to the member's account. (Ord. 3148, 1990)

6-5-60. Services before December 29, 1969; eligibility.

Employees who shall have become members of the plan effective December 29, 1969, shall upon attaining age sixty-five (65) or upon retirement, whichever is later, be entitled to receive payment of retirement benefits, also, in respect of services rendered prior to December 29, 1969, as provided in section 6-5-61. (Ord. 3148, 1990)

6-5-61. Same; benefit; election.

The benefits to which a member shall be entitled under section 6-5-60 shall be, at the election of the member:

- (1) a monthly annuity payment in an amount equal to two-tenths (2/10) of one (1) percent of the member's monthly salary on December 29, 1969, multiplied by the number of full years of service rendered prior to December 29, 1969, which would have constituted credited years of service had the plan been in effect throughout the term of such service, or
- (2) a lump sum payment equal to the retirement values. (Ord. 3148, 1990)

6-5-62. Limitation on annuities.

Notwithstanding any other section to the contrary, no annuity may be selected under sections 6-5-59 or 6-5-61 unless such annuity provides that the entire interest of the retired active or inactive member

- (1) will be distributed to such retiree not later than the required beginning date;
- (2) will be distributed, beginning not later than the required beginning date, in accordance with regulations issued by the Secretary of the Treasury, over the life of such retiree or over the lives of such retiree and a designated beneficiary (or over a period not extending beyond the life expectancy of such retiree or the life expectancy of such retiree and a designated beneficiary);
- (3) if the distribution of the retiree's interest has begun in accordance with paragraph (2), and the retiree dies before his or her entire interest has been distributed to him or her, the remaining portion of such interest will be distributed at least as rapidly as under the method of distributions being used under paragraph (2) as of the date of his or her death,
- (4) except as provided in paragraphs (5) and (7), if a retiree dies before the distribution of the retiree's interest has begun in accordance with paragraph (2), the entire interest of the retiree will be distributed within five (5) years after the death of such retiree,
- (5) if any portion of the retiree's interest is payable to (or for the benefit of) a designated beneficiary,
 - (a) such portion will be distributed (in accordance with regulations) over the life of such designated beneficiary (or over a period not extending beyond the life expectancy of such beneficiary), and
 - (b) such distributions begin not later than one (1) year after the date of the retiree's death or such later date as the Secretary of the Treasury may by regulations prescribe;
- (6) for purposes of paragraph (4), the portion referred to in paragraph (5) shall be treated as distributed on the date on which such distributions begin;
- (7) if the designated beneficiary referred to in paragraph (5) is the surviving spouse of the retiree,
 - (a) the date on which the distributions are required to begin under paragraph (5)(b) shall

- not be earlier than the date on which the retiree would have attained age 70 1/2, and
- (b) if the surviving spouse dies before the distributions to such spouse begin, paragraphs (3), (4), (5) and (6) shall be applied as if the surviving spouse were the retiree;
- (8) for purposes of this section, the term “required beginning date” means April 1st of the calendar year following the later of
- (a) the calendar year in which the employee attains age 70 ½, or
 - (b) the calendar year in which the employee retires;
- (9) for purposes of this section, the life expectancy of a retiree and the retiree's spouse (other than in the case of a life annuity) may be redetermined but not more frequently than annually:
- (10) for purposes of this section, the term “designated beneficiary” means any individual designated as a beneficiary by the retiree;
- (11) under regulations prescribed by the Secretary of the Treasury, for purposes of this section, any amount paid to a child shall be treated as if it had been paid to the surviving spouse if such amount will become payable to the surviving spouse upon such child reaching majority (or other designated event permitted under regulations); and
- (12) for all purposes, any distribution required under the incidental death benefit requirements of section 401(a) of the Internal Revenue Code of 1986, as amended, shall be treated as a distribution required under this section. In this regard, any annuity or installation form of payment selected by the retiree must provide that distributions will be made in accordance with the regulations of the Secretary of the Treasury under such section 401 (a)(9) including the incidental death benefit requirements of section 1.401(a)(9)-2 of the regulations, the provisions of which are incorporated herein by this reference. (Ord. 3148, 1990)

6-5-63. Limitation of benefits.

The limitations on annual benefits for an employee covered by a defined benefit plan, annual additions for an employee covered by a defined contribution plan and annual benefits and annual additions for an employee covered by a combination of defined benefit and defined contribution plans maintained by the employer under sections 415(b), (c) and (e), respectively, of the Internal Revenue Code of 1986, as amended, are incorporated herein by this reference. Notwithstanding the foregoing, the limitation of section 415(b) for any employee who first participated in the plan before January 1, 1990, shall not be less than such employee’s accrued benefit (determined without regard to any amendment made after October 14, 1987); provided, however, in the event that the limitations of section 415(e) would be exceeded for any limitation year, such employee's annual benefit under section 6-5-61 shall be decreased to the extent necessary to satisfy such limitations. The employer has made the election described in section 415(b)(10)(c) of the Internal Revenue Code. (Ord. 3148, 1990)

6-5-64 to 6-5-67. Reserved.

(g) OTHER BENEFITS

6-5-68. Benefits on termination of employment.

Any member leaving the employment of the employer before his or her normal retirement date and before completing four (4) years as a member shall receive a lump sum payment equal to his or her member's account. A terminating member having completed four (4) years or more as a member may

elect to receive a lump sum payment equal to his or her member's account whether or not he or she elects to receive such lump sum payment, his or her member's account, if any, and employer's account shall be replaced by a single account called his or her inactive member's account, which at his or her election may be used to purchase a deferred annuity at a retirement age, or shall be paid to him or her in a lump sum at such an age. The amount in his or her inactive member's account at the date of termination shall be equal to the sum of any amount remaining in his or her member's account together with a percentage of the amount in his or her employer's account. Said percentage shall depend on the number of credited years of service prior to the date of termination in accordance with the following table:

| Years of Credited Service Upon Date of Termination | Percentage of Employer's Account |
|---|---|
| 4 Years | 40% |
| 5 Years | 60% |
| 6 Years | 80% |
| 7 Years | 100% |

Notwithstanding the foregoing, a member's percentage of his or her employer's account shall be one hundred (100) percent upon attaining his or her normal retirement date. As of January 5th of each year, each inactive member's account will be credited with interest less expenses for the previous year.

The forfeited percentage of the employer's account shall reduce the amount of the employer's regular contribution under section 6-5-11.

For any employee who completes one hour of service with the employer on or after January 1, 1988, and who was ineligible to participate in the plan by virtue of the limitation appearing at the end of the first sentence of section 6-5-38, Years of Credited Service credited to such employee prior to January 1, 1988 shall be taken into account solely for the purpose of determining such employee's percentage of employer's account. Provided, however, such employee's years of credited service credited to the employee before January 1, 1988, shall not be taken into account for purposes of determining such employee's percentage of employer's account for years beginning on and after January 1, 1988. (Ord. 3148, 1990)

6-5-69. Death benefit.

In the event of the death of a member before his or her retirement date, the death benefit shall be a lump sum payment equal to his or her member's account and employer's account. In the event of the death of an inactive member before his or her retirement date, the death benefit shall be a lump sum payment equal to the amount in the inactive member's account at the date of death. The death benefit shall be paid to the beneficiary designated by the member or inactive member, or to his or her personal representative in the absence of a beneficiary designation. Either the beneficiary or, before the date of death, the member or inactive member may elect to have the death benefit paid in installments on any basis satisfactory to the company. (Ord. 3148, 1990)

6-5-70. Limitation on installments.

Any installment method of distribution selected under section 6-5-69 shall satisfy the requirements of section 6-5-62. (Ord. 3148, 1990)

6-5-71. Disability benefit.

In the event of total permanent disability of a member before his or her retirement date, he or she shall be eligible for a lump sum payment equal to his or her member's account and employer's account. In the event of total permanent disability of an inactive member before his or her retirement date, he or she shall be eligible for a lump sum payment equal to his or her inactive member's account. The member or inactive member may elect to have the disability benefit paid in installments on any basis satisfactory to the company. Such benefit shall be in addition to other benefits to which the member may be entitled under this Article. (Ord. 3148, 1990)

6-5-72. Limitation on installments.

Any installment method of distribution selected under section 6-5-71 shall satisfy the requirements of section 6-5-62. (Ord. 3148, 1990)

6-5-73 to 6-5-76. Reserved.

(h) CONTINUANCE OF PLAN

6-5-77. Continuance of plan.

It is the expectation of the employer that it will continue this plan and the payments of its contributions hereunder indefinitely, but the same is not assumed as a contractual obligation of the employer, and the right is reserved to the employer by action of its City Council at any time to discontinue this plan and its contributions hereunder. (Ord. 3148, 1990)

6-5-78. Amendments.

The employer may at any time amend this plan in any manner which it deems desirable, but no such amendment shall have the effect of reverting in the employer any part of the funds theretofore contributed, nor to reduce the value of pension or other benefits theretofore accrued to any member or beneficiary by reason of contributions theretofore made. (Ord. 3148, 1990)

6-5-79. Termination of plan.

Upon discontinuance of contributions by the employer for the purpose of terminating the plan, retirement annuities and deferred retirement annuities shall be purchased for the members with the amount remaining in the employee, employer and inactive member accounts as of the date of such discontinuance of contributions. (Ord. 3148, 1990)

6-5-80 to 6-5-83. Reserved.

(i) FIREFIGHTERS

6-5-84. Firefighters' Retirement System; established.

There hereby is established pursuant to subdivision (b) of Chapter 16, Article 10 of Chapter 16 of the statutes of Nebraska, as now existing or hereafter amended, a Firefighters' Retirement System (hereinafter usually referred to as "F.R.S."), which:

(1) shall comply with all of the mandatory provisions of such statute as interpreted in this subdivision (i) of this Article (as hereby adopted or subsequently supplemented or otherwise amended), and

(2) with respect to authorizing but nonmandatory provisions of such statute, shall have such other features, as are prescribed in this subdivision (i) of this Article (as hereby adopted or subsequently supplemented or otherwise amended).

Such F.R.S. shall become operative January 1, 1984, except that all requirements in the statute concerning acts to be done with respect to the System prior to that date, for which provision is not expressly made in this subdivision (i) of this Article, shall be timely performed as provided in the statute. (Ord. 2839, 1983)

6-5-85. Firefighters' Retirement System Fund; established; investment.

There hereby is established, and the City shall keep and maintain, a Firefighters' Retirement System Fund for the purpose of investing payroll deductions and City contributions to the F.R.S. The Retirement Committee shall contract on behalf of the City for investment of the funds in such Fund in accordance with the applicable statutes of Nebraska, as now existing or hereafter amended. (Ord. 2839, 1983)

6-5-86. Retirement Committee; established; operation.

There hereby is established a F.R.S. Retirement Committee of six (6) members to supervise the general operation of the F.R.S. (Ord. 2839, 1983)

6-5-87. Same; selection; terms; members; qualifications; vacancies.

The members of the Retirement Committee shall be selected and shall have such terms of office, and vacancies shall be filled, as provided in the applicable statutes of Nebraska, as now existing or hereafter amended. The four (4) members of the Retirement Committee to be selected by the active paid firefighters (excluding firefighters identified in section 16-1039, Revised Statutes of Nebraska) shall be active members of the City's Fire Department or members of the general public. One (1) of the two (2) members to be designated by the City Council shall be the Mayor, or such other member of the City Council as the City Council shall by resolution designate, and the other member shall be the City Manager. The members of the Committee who are not participants in the F.R.S. shall have a general knowledge of retirement plans. (Ord. 2839, 1983)

6-5-88. Retirement Committee; members selected by firefighters; election.

The four (4) members of the Retirement Committee to be selected by the active paid firefighters (with the exception noted in section 6-5-87) shall be elected by such firefighters at an election to be conducted by the City Clerk in accordance with the provisions of this subdivision (i) of this Article.

The City Clerk shall be the judge of the sufficiency of all acts performed in connection with the election. (Ord. 2839, 1983)

6-5-89. Same; ballot.

Such election shall be accomplished by secret ballots on forms to be supplied by the City Clerk upon request. Each ballot shall contain the names of all candidates, listed in alphabetical order, who have been nominated as provided in section 6-5-91, and shall bear no identification of the person who marked the ballot. Such ballot shall be deposited by the person who marked the ballot with the City Clerk, or the City Clerk's deputy, in a sealed envelope before 4:00 P.M. on the date of the election, or by such person mailed to the City Clerk by certified mail not less than three (3) days prior to the date of the election. (Ord. 2839, 1983)

6-5-90. Same; time; notice.

The first such election shall be held on November 28, 1983, and subsequent regular elections shall be held on the same date of the month (or, if such date is a Saturday, Sunday or City holiday, on the first Monday following) at subsequent four (4)-year intervals. In the event there occurs a vacancy in the membership of such members of the Committee of which the City Clerk shall be the judge, the City Clerk shall call a special election to fill the unexpired term of the member(s) whose position(s) have (has) been vacated, which shall be held not sooner than fifteen (15) days nor later than forty-five (45) days after the vacancy shall have occurred, as determined by the City Clerk. The Clerk shall cause notice of each such election, whether regular or special, together with a copy of sections 6-5-86 to 6-5-94, inclusive, of this Article, and such other written information concerning the election as the Clerk shall determine to be necessary or proper to be delivered to each active member of the Fire Department (with the exception noted in section 6-5-87 of this Article), or mailed to each such firefighter in a postage prepaid envelope addressed to the last known residence of such firefighter, not less than seven (7) days prior to the date of the election. (Ord. 2839, 1983)

6-5-91. Same; nominations.

Nominations of candidates to be elected by the firefighters, or to fill vacancies in such positions, may be made only as herein provided. A firefighter may nominate himself or herself: Other nominations may be made by three or more firefighters. All such nominations shall be made in writing on a form to be supplied by the City Clerk, which form shall be signed by the firefighter or firefighters making the nomination and be deposited with the City Clerk, or the City Clerk's deputy, not less than two (2) days prior to the date of the election or, if mailed, mailed by certified mail to the City Clerk not less than five (5) days prior to the date of the election. (Ord. 2839, 1983)

6-5-92. Same; ballots; tabulating.

Within twenty-four (24) hours expiration of the time within which the ballots are to be deposited with the City Clerk (exclusive of Saturdays, Sundays and City holidays), the City Clerk, in the presence of the Fire Chief, shall cause the envelopes containing the ballots which shall have been timely deposited as herein provided to be opened, and the votes for the candidate or candidates to be counted and tabulated, and shall enter in the records of his or her office a certificate, signed by him or her, stating the time when, the place where and name of the person(s) in whose presence the envelopes were opened and the ballots were counted and tabulated, the number of ballots timely deposited and in acceptable form, and the total number of valid votes cast for the candidate or each

candidate for the position(s). The City Clerk shall also retain ballots, if any, which were received but not counted, to which shall be appended a statement, signed by the Clerk, concerning the reason(s) for noncounting. (Ord. 2839, 1983)

6-5-93. Same; who elected.

Where four (4) members are to be selected, the four (4) candidates receiving the highest number of votes shall be deemed to have been elected by the firefighters. Where more than one vacancy is to be filled, the candidates to fill such vacancies, equal in number to the number of vacancies to be filled, who receive the highest number of votes shall be deemed to have been elected to fill such vacancies. Where only one (1) vacancy is to be filled, the candidate receiving the highest number of votes to fill the vacancy shall be deemed to have been elected. In the case of a tie vote, the names of the persons as to which there has been a tie vote shall be placed on separate ballots; such ballots shall be drawn by lot by the City Clerk, and the person(s) whose name is (are) thus first drawn shall be the person(s) elected. (Ord. 2839, 1983)

6-5-94. Same; City Clerk; records.

In addition to the records referred to in section 6-5-92, the City Clerk shall establish and maintain records in the office of the Clerk concerning the following:

(1) names and addresses of each firefighter eligible to receive, and to whom was delivered or mailed the notice of election, and accompanying documents, referred to in section 6-5-90;

(2) a copy of the notice and other documents so delivered or mailed, and a certificate concerning the date on which delivery or mailing occurred;

(3) nominations received in acceptable form and dates of receipt, and nominations, if any, which were not timely received or were not in acceptable form and, if not in acceptable form, the reason(s) for nonacceptance; and

(4) names and addresses of the firefighters by whom ballots were deposited with, or mailed by certified mail to, the City Clerk, or the City Clerk's deputy, the date and hour of such deposit and the date of such mailing. (Ord. 2839, 1983)

6-5-95. Retirement Committee; chairman; vice-chairman; secretary; term; qualifications; election.

There hereby are established the offices of chairman, vice-chairman and secretary of the Retirement Committee, whose term of office shall be a period of one (1) year beginning on the first Thursday of the month of December in each year, commencing on that date in the year 1983. The chairman and vice-chairman shall be members of the Committee. All of such officers shall be elected by a majority vote of all of the members of the Committee. (Ord. 2839, 1983)

6-5-96. Same; vacancies.

Vacancies in the office of chairman, vice-chairman and secretary of the Retirement Committee shall be filled by election in the same manner as elections for a whole term of office. (Ord. 2839, 1983)

6-5-97. Same; quorum.

A quorum of the members of the Retirement Committee for the transaction of any business (other than the election of a chairman, vice-chairman or secretary) shall be four (4) members. (Ord. 2839,

1983)

6-5-98. Same; chairman; vice-chairman; duties.

The chairman of the Retirement Committee shall preside at meetings of the Committee and shall have power to vote as a member of the Committee. The vice-chairman shall perform the duties of the chairman in the event of disability or absence of the chairman. (Ord. 2839, 1983)

6-5-99. Retirement Committee; rules.

The Retirement Committee shall adopt rules of procedure governing the calling of its meetings (which shall provide for adequate notice) and the conduct of its meetings, and such other rules and regulations, not inconsistent with statute or any ordinance enacted by the City Council, as the Committee shall determine to be necessary or proper for the orderly and otherwise proper performance of its duties under statute and ordinances of the City. (Ord. 2839, 1983)

6-5-100 to 6-5-103. Reserved.

(j) POLICE OFFICERS

6-5-104. Definitions; generally.

For purposes of the sections contained in subdivision (j) of this Article, and of interpretation of words and phrases in subdivision (a) of Chapter 16, Article 10 of the statutes of Nebraska, as now existing or hereafter amended, the words and phrases defined hereafter shall have the meanings described to them in the following sections. (Ord. 2839, 1983)

6-5-105. Members from both the police force.

The phrase “members from both the police force” means police officers as defined in this Article. (Ord. 2839, 1983)

6-5-106. Officers from the police force.

The phrase “officers from the police force” means police officers as defined in this Article. (Ord. 2839, 1983)

6-5-107. Participating police officer.

The words and phrases “participating police officer,” “police officer participating in the retirement system” and “participants in such retirement system” mean and include every police officer of the City's Police Department. (Ord. 2839, 1983)

6-5-108. Police force.

The term “police force” means the City's Police Department. (Ord. 2839, 1983)

6-5-109. Police officer.

The term “police officer” means any member of the City's Police Department who has authority to make arrests (exclusive of citizen's arrests) for violation of ordinances of the City and other laws. The term includes part-time as well as full-time, and temporary as well as permanent, police officers. (Ord. 2839, 1983)

6-5-110. Police Officers' Retirement System; established.

There hereby is established, pursuant to subdivision (a) of Chapter 16, Article 10 of the statutes of Nebraska, as now existing or hereafter amended, a Police Officer's Retirement System (hereinafter usually referred to as "P.O.R.S."), which:

(1) shall comply with all of the mandatory provisions of such statute as interpreted in this subdivision (j) of this Article (as hereby adopted or subsequently supplemented or otherwise amended), and

(2) with respect to authorizing but nonmandatory provisions of such statute, shall have such other features as are prescribed in this subdivision (j) of this Article (as hereby adopted or subsequently supplemented or otherwise amended).

Such P.O.R.S. shall become operative January 1, 1984, except that all requirements in the statute concerning acts to be done with respect to the System prior to that date, for which provision is not expressly made in this subdivision (j) of this Article, shall be timely performed as provided in the statute. (Ord. 2839, 1983)

6-5-111. Police Officers' Retirement System Fund; established; investment.

There hereby is established, and the City shall keep and maintain, a Police Officers' Retirement System Fund for the purpose of investing payroll deductions and City contributions to the P.O.R.S. The Retirement Committee shall contract on behalf of the City for investment of the funds in such Fund in accordance with the provisions in the applicable statutes of Nebraska, as now existing or hereafter amended. (Ord. 2839, 1983)

6-5-112. Retirement Committee; established; operation.

There hereby is established a P.O.R.S. Retirement Committee of six (6) members to supervise the general operation of the P.O.R.S. (Ord. 2839, 1983)

6-5-113. Same; selection; terms; members; qualifications; vacancies.

The members of the Retirement Committee shall be selected and shall have such terms of office, and vacancies shall be filled, as provided in the applicable statutes of Nebraska, as now existing or hereafter amended. The four (4) members of the Retirement Committee to be selected by the officers from the police force shall be officers from the police force. One (1) of the two (2) members to be designated by the City Council shall be the Mayor, or such other member of the City Council as the City Council shall by resolution designate, and the other member shall be the City Manager. The members of the Committee who are not participants in the P.O.R.S. shall have a general knowledge of retirement plans. (Ord. 2839, 1983)

6-5-114. Retirement Committee; members selected by police officers; election.

The four (4) members of the Retirement Committee to be selected by the officers from the police force shall be elected by such officers at an election to be conducted by the City Clerk in accordance with this Article. The City Clerk shall be the judge of the sufficiency of all acts performed in connection with the election. (Ord. 2839, 1983)

6-5-115. Same; ballot.

Such election shall be accomplished by secret ballots on forms to be supplied by the City Clerk upon

request. Each ballot shall contain the names of all candidates, listed in alphabetical order, who have been nominated as provided in this Article and shall bear no identification of the person who marked the ballot. Such ballot shall be deposited by the person who marked the ballot with the City Clerk or the City Clerk's deputy, in a sealed envelope before 4:00 P.M. on the date of the election, or by such person mailed to the City Clerk by certified mail not less than three (3) days prior to the date of the election. (Ord. 2839, 1983)

6-5-116. Same; time; notice.

The first such election shall be held on November 28, 1983, and subsequent regular elections shall be held on the same date of the month (or, if such date is a Saturday, Sunday or City holiday on the first Monday following) at subsequent four (4)-year intervals. In the event there occurs a vacancy in the membership of such members of the Committee, of which the City Clerk shall be the judge, the City Clerk shall call a special election to fill the unexpired term of the member(s) whose position(s) have (has) been vacated, which shall be held not sooner than fifteen (15) days nor later than forty-five (45) days after the vacancy shall have occurred, as determined by the City Clerk. The Clerk shall cause notice of each such election, whether regular or special, together with a copy of sections 6-5-112 to 6-5-120, inclusive, of this Article, and such other written information concerning the election as the Clerk shall determine to be necessary or proper, to be delivered to each police officer, or mailed to each such officer in a postage prepaid envelope addressed to the last known residence of such officer, not less than seven (7) days prior to the date of the election. (Ord. 2839, 1983)

6-5-117. Same; nominations.

Nominations of candidates to be elected by the police officers, or to fill vacancies in such positions, may be made only as herein provided. A police officer may nominate himself or herself. Other nominations may be made by three (3) or more police officers. All such nominations shall be made in writing on a form to be supplied by the City Clerk, which form shall be signed by the police officer or officers making the nomination and be deposited with the City Clerk, or the City Clerk's deputy, not less than two (2) days prior to the date of the election or, if mailed, mailed by certified mail to the City Clerk not less than five (5) days prior to the date of the election. (Ord. 2839, 1983)

6-5-118. Same; ballots; tabulating.

Within twenty-four (24) hours after expiration of the time within which the ballots are to be deposited with the City Clerk (exclusive of Saturdays, Sundays and City holidays), the City Clerk, in the presence of the Police Chief, shall cause the envelopes containing the ballots which shall have been timely deposited as herein provided to be opened, and the votes for the candidate or candidates to be counted and tabulated, and shall enter in the records of his or her office a certificate signed by him or her, stating the time when, the place where and name of the person(s) in whose presence the envelopes were opened and the ballots were counted and tabulated, the number of ballots timely deposited and in acceptable form, and the total number of valid votes cast for the candidate or each candidate for the position(s). The City Clerk shall also retain ballots, if any, which were received but not counted, to which shall be appended a statement, signed by the Clerk, concerning the reason(s) for noncounting. (Ord. 2839, 1983)

6-5-119. Same; who elected.

Where four (4) members are to be elected, the four (4) candidates receiving the highest number of

votes shall be deemed to have been elected by the police officers. Where more than one (1) vacancy is to be filled, the candidates to fill such vacancies, equal in number to the number of vacancies to be filled, who receive the highest number of votes shall be deemed to have been elected to fill such vacancies. Where only one (1) vacancy is to be filled, the candidate receiving the highest number of votes to fill the vacancy shall be deemed to have been elected. In the case of a tie vote, the names of the persons as to which there has been a tie vote shall be placed on separate ballots; such ballots shall be drawn by lot by the City Clerk; and the person(s) whose name is (are) thus first drawn shall be the person(s) elected. (Ord. 2839, 1983)

6-5-120. Same; City Clerk; records.

In addition to the records referred to in section 6-5-118, the City Clerk shall establish and maintain records in the office of the Clerk concerning the following:

- (1) names and addresses of each police officer eligible to receive, and to whom was delivered or mailed the notice of election, and accompanying documents, referred to in section 6-5-116;
- (2) a copy of the notice and other documents so delivered or mailed, and a certificate concerning the date on which delivery or mailing occurred;
- (3) nominations received in acceptable form and dates of receipt, and nominations, if any, which were not timely received or were not in acceptable form and, if not in acceptable form, the reason(s) for nonacceptance; and
- (4) names and addresses of the police officers by whom ballots were deposited with, or mailed by certified mail to, the City Clerk, or the City Clerk's deputy, the date and hour of such deposit and the date of such mailing. (Ord. 2839, 1983)

6-5-121. Retirement Committee; chairman; vice-chairman; secretary; term; qualifications; election.

There hereby are established the offices of chairman, vice-chairman and secretary of the Retirement Committee, whose term of office shall be a period of one (1) year beginning on the first Thursday of the month of December in each year, commencing on that date in the year 1983. The chairman and vice-chairman shall be members of the Committee. All of such officers shall be elected by a majority vote of all of the members of the Committee. (Ord. 2839, 1983)

6-5-122. Same; vacancies.

Vacancies in the office of chairman, vice-chairman and secretary of the Retirement Committee shall be filled by election in the same manner as elections for a whole term of office. (Ord. 2839, 1983)

6-5-123. Same; quorum.

A quorum of the members of the Retirement Committee for the transaction of any business (other than the election of a chairman, vice-chairman or secretary) shall be four (4) members. (Ord. 2839, 1983)

6-5-124. Same; chairman; vice-chairman; duties.

The chairman of the Retirement Committee shall preside at meetings of the Committee, and shall have power to vote as a member of the Committee. The vice-chairman shall perform the duties of the chairman in the event of disability or absence of the chairman. (Ord. 2839, 1983)

6-5-125. Retirement Committee; rules.

The Retirement Committee shall adopt rules of procedure governing the calling of its meetings (which shall provide for adequate notice) and the conduct of its meetings, and such other rules and regulations, not inconsistent with statute or any ordinance enacted by the City Council, as the Committee shall determine to be necessary or proper for the orderly and otherwise proper performance of its duties under statute and ordinances of the City.

ARTICLE 6

FEES

(a) ANIMALS

Section

(a) FEES RELATING TO ANIMALS

6-6-1 Animals.

(b) PERMITS RELATING TO BUILDINGS AND CONSTRUCTION

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6-6-3 Removal of building or structure.

6-6-4 Solar Code.

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(f) SEWER USE FEES

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- 6-6-28 Water service.

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- 6-6-30 Parking permits and fees.

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- [6-6-34 Labor of city employees; use of city equipment.](#)
- [6-6-35 Obstruction of streets for carnivals, bazaars, or the sale of merchandise.](#)
- [6-6-36 Deposit for City services.](#)

(a) FEES RELATING TO ANIMALS

6-6-1. Animals.

The following fees are hereby imposed for matters relating to animals:

| | |
|---|---------|
| License fee for each mini-pig..... | \$5.00 |
| License tax for each neutered dog. | \$5.00 |
| License tax for each nonneutered dog. | \$10.00 |
| Replacement for lost animal license tag. | \$1.00 |

For an animal that is owned by an individual sixty-two (62) years of age or older the following fees are applicable:

| | |
|---|---------|
| License fee for each mini-pig..... | \$4.00 |
| License tax for each neutered dog. | \$4.00 |
| License tax for each nonneutered dog. | \$10.00 |
| Replacement for lost animal license tag. | \$1.00 |

(Ord. 3567, 1997)

(b) PERMITS RELATING TO BUILDINGS AND CONSTRUCTION

6-6-2. Building permit.

(1) The fees for a permit for the construction or alteration of a building or structure, and for an incidental certificate of occupancy shall be as follows:

| <u>New Construction</u> | | |
|-------------------------|------------------|--|
| | Cost | Fee |
| Commercial | First \$1,000.00 | \$80.00 |
| | Excess | \$5.00 per \$1,000.00 or part thereof |
| All other | First \$1,000.00 | \$30.00 |
| | Excess | \$5.00 per \$1,000.00 or part thereof |

(2) Definitions.

Any term used in this section which is defined in Chapter 25, article 2 of the municipal code shall, for the purpose of this section, bear the meaning assigned to it in Chapter 25, article 2.

As used in this section, the following terms have the following meaning:

- (A) Commercial means any construction for a use other than (1) a single or two family dwelling, or (2) a use accessory to a single or two family dwelling.
- (B) Cost means the estimated cost of construction determined as provided elsewhere in this section.
- (C) Excess means the estimated cost in excess of one thousand dollars.

(3) Determination of cost.

For the purposes of this section the estimated cost of construction shall be calculated as follows:

- (A) For commercial construction: one hundred fifty dollars per square foot of improvement.
- (B) For one and two family dwellings: one hundred dollars per square foot of improvement.
- (C) For detached garages: fifteen dollars per square foot of improvement.
- (D) For fences, roof repair or replacement, carports and sheds of a size less than 200 hundred square feet, and for the removal of a building or structure, the reasonable, good faith estimate of the applicant for the permit. (Ord. 3894, 2006; 4035, 2010)

6-6-3. Removal of building or structure.

The fee for a permit for the removal of a building or structure from one lot to another or to a new location on the same lot shall be thirty dollars (\$30.00) for the first one thousand dollars (\$1,000.00), or part thereof, and five dollars (\$5.00) per each additional one thousand dollars (\$1,000.00), or part thereof, of the estimated cost of moving. (Ord. 3894, 2006)

6-6-4. Solar Code.

The fee for a permit required under the Solar Code shall be the sum of thirty dollars (\$30.00) for issuance of the permit and, in addition, the following fee(s):

- (1) for collectors (including related piping and regulating devices):
 - up to 1000 sq.ft. (93m²). \$5.00
 - between 1001 (93.1m²) and 2000 sq.ft. (186m²). \$7.00
 - more than 2000 sq.ft. (186m²). \$5.00 plus \$1.00 per 1000 sq.ft. (93m²)
or fraction thereof over 2000 sq.ft. (186m²)
- (2) for storage tanks (including related piping and regulating devices):
 - up to 750 gallons (8m³). \$3.00
 - between 751 (3m³) and
2000 gallons (8m³). \$5.00
 - more than 2000 (8m³) gallons. \$3.00 plus \$1.00 per 1000 gallons (4m³) or
fraction thereof over 2000 gallons (8m³)
- (3) for rock storage:
 - up to 1500 cu.ft. (42m³). \$3.00
 - between 1501 (42.1m³) and 3000 cu.ft. (84m³). \$5.00
 - more than 3000 cu.ft. (84m³). \$3.00 plus \$1.00 per 1000 cu.ft. (28m³)
or fraction thereof over 3000 cu.ft. (84m³)
- (4) for each appliance or piece of equipment regulated by the Solar Code for which no

fee is listed. \$3.00

Provided, the above fees do not include permit fees for any parts of the solar system which are subject to the requirements of other applicable codes.(Ord. 3894, 2006; 4035, 2010)

6-6-5. Sewer tap.

(1) Before a sewer tap permit as provided for in this Article shall be issued, the owner of the premises from which the connection is to be made shall pay to the City Clerk for each connection a tap fee of \$10.00 and a Sewer Plant Investment Fee based on the water meter size as follows:

| <u>Water Meter Size</u> | <u>Investment Fee</u> |
|-------------------------|-----------------------|
| 3/4" | \$ 200.00 |
| 1" | \$ 234.00 |
| 1½" | \$ 266.00 |
| 2" | \$ 306.00 |
| 3" | \$ 434.00 |
| 4" | \$ 560.00 |

(2) If the water meter size to a premises is increased, then the owner of the premises shall, prior to the meter change, pay to the City Clerk an Investment Fee equal to the difference in (a) the Investment Fee assigned to the new meter size and (b) the Investment Fee assigned to the previously existing meter size. A reduction in water meter size shall not require an Investment Fee nor shall there be any refund of all or any part of an Investment Fee previously paid for a larger meter.

(3) If (a) the premises abut a street or alley in which the sewer is located; (b) the premises have not previously been included within a district created for the purpose of construction of the sewer; (c) no part of the cost of construction of the sewer has been paid by the owner or previous owner(s) of the premises (the cost of construction shall not include the furnishing of a right-of-way or payment of general taxes or sewer charges); and (d) the cost, or a part of the cost, has been paid by the City; then no permit shall be issued until there is paid a fee of \$8.00 per running foot of the premises abutting the street or alley in which the sewer is located. This fee shall be in addition to the connection fees set out above. Provided, if the sewer was constructed prior to January 1, 1962, then the amount of the additional fee shall not exceed \$75.00. All amounts paid pursuant to this section shall be placed in the sewer fund of the City and shall not be refundable. (Ord.4074, 2012)

6-6-6. Sewer connection; extension.

Before a permit to make a connection or extension as provided in this Article shall be issued for a premises outside the city, the applicant shall pay to the City Clerk a tap fee of twenty dollars (\$20.00) and a Sewer Plant Investment Fee of double the amount set forth in §6-6-5 of the Scottsbluff Municipal Code, depending on the size of the water meter for the premises. These fees shall be paid to the City Clerk for each dwelling, business, commercial, industrial, or agricultural unit that has been or is proposed to be connected, except that no fee shall be charged for units for which a fee for connection has already been paid. (Ord. 4068, 2012)

6-6-7. Water connection.

Before a permit to connect to a water main of the City shall be issued, all applicable fees listed below shall be paid. All fees shall be placed in the water fund of the City, and shall not be subject to refund.

- (1) a basic connection fee of thirty-two dollars (\$32.00); and

- (2) the applicable fee provided for in the resolution adopted pursuant to this Article; and
- (3) if the premises to be connected are outside the City and the line to be connected is:
 - (a) a main, a fee of one hundred fifty dollars (\$150.00) for each dwelling, business, commercial, industrial or agricultural unit that will be served by the line, or
 - (b) a service line, a fee of one hundred fifty dollars (\$150.00) unless the fee described in section (3)(a) of this section has previously been paid for the premises.(Ord. 3853, 2005)

6-6-7.1 Special provisions for sewer and water connections.

- (1) The provisions of this section apply where the premises for which an application for water and/or sewer service is made:
 - (a) abuts a street, alley or highway or road in which the sewer or water main is located, or otherwise abuts or is adjacent to the sewer or water main;
 - (b) has not previously been included within a district created for the purpose of construction of the sewer, or water main;
 - (c) no part of the cost of construction of the sewer or water main has been paid by the owner or previous owner(s) of the premises (the cost of construction shall not include the furnishing of a right-of-way or payment of general taxes or sewer or water charges); and
 - (d) the cost, or a part of the cost, has been paid by the City.
- (2) If subsection (1) of this section is applicable, then then no permit shall be issued until the payment of a fee calculated as follows:
 - i. A qualified engineer designated by the City shall determine the cost of constructing the sewer or water main in question as of the date the determination is made, that is, at the present time.
 - ii. The engineer who determined the cost as described above shall, in the same manner as is done in determining the extent of the special benefit conferred by the original construction of a public improvement, make an equitable apportionment of the cost of the sewer or water main among the properties benefitted by the sewer or water main.
 - iii. The fee payable by the applicant shall be the amount determined in the paragraphs immediately above. In all cases where the City borrowed funds to finance the construction of the sewer or water main, the fee shall be increased by a sum equal to interest on the amount determined in the paragraph immediately above (1) at the rate paid by the City for any sum borrowed to finance the construction, and (2) calculated for the period of time between the borrowing of the funds and the time the debt was paid, or if the debt has not been paid, from the date of the borrowing of the funds to the date of the application for service.
- (3) The City Manager may allow the applicant to pay the fee described in this section in ten annual installments. As a condition to such allowance, the City Manager shall require such security as the City Manager deems adequate. If payments are made in installments, the payments shall include interest at a rate specified by the City Manager. The first such installment shall be paid before the connection is made. The day and month the first payment is made is called the anniversary date. The second installment shall be due on the anniversary date of the next year after the payment

of the first installment, and each subsequent installment shall be due on the anniversary date of each subsequent year until the balance, with interest, is paid in full. An installment is delinquent if not paid when due. If an installment becomes delinquent, it shall bear interest at the rate specified in Section 45-104.01, Revised Statutes of Nebraska, as such rate may be adjusted from time to time by the Legislature, until the same is paid. Should there be three or more of said installments delinquent the City Manager may declare all future installments immediately due and payable, and the City may proceed to collect in any lawful manner all sums and interest which due to it.

(4) The fee described in subsection (2) shall be in addition to the applicable connection fees for water and sewer service as described elsewhere in this Chapter.

(5) In the event that a person has paid special assessments to reimburse the City for the cost of construction of such sewer or water main, the City shall, upon collection of the entire fee described in subsection (2), pay to such person a sum equal to the difference between the amount of such assessments paid by such person and the amount such person would have paid if the premises for which application for service is made had been originally a part of the district created for the purpose of construction of the sewer or water main. The total amount paid under this subsection shall in no event exceed the amount of the fee collected by the City pursuant to subsection (2) of this section. For the purpose of this subsection the term "special assessments" shall include interest.(Ord 3853, 2005)

6-6-8. Electrical inspection.

(a) The following fees are hereby imposed for inspections relating to electrical construction of residential property:

- (1) for each receptacle outlet for power, each outlet for heating, and each lighting fixture to be installed: twenty cents (\$0.20),
- (2) for each electrical service entrance equipment assembly to be installed: two dollars (\$2.00),
- (3) for each electric motor of one-half (1/2) horsepower rating or more to be installed: two dollars (\$2.00),
- (4) for each totally electric heating appliance and each air-conditioning appliance (individual or combined with heating) to be installed: two dollars (\$2.00),
- (5) for each electric sign assembly to be installed: two dollars (\$2.00); provided, the minimum fee for an application shall be three dollars (\$3.00); provided, further, no permit fee shall be required in respect of any building, structure or work done by any governmental agency or subdivision,
- (6) for reinspections required as a result of a correction order: ten dollars (\$10.00).
- (7) for renewal of an electrical permit: five dollars (\$5.00).

In addition to the fees described in this subsection, there shall be imposed a \$30.00 fee for each inspection. All fees described in this subsection shall be paid in advance.

(b) The following fees are hereby imposed for inspections relating to electrical inspection of commercial property:

- (1) Existing service: \$30.00 plus \$2.75 per branch circuit.
- (2) Temporary Service Fees: same as new service and circuits.
- (3) Fire Alarm: \$30.00 plus \$2.75 per zone
- (4) Low Voltage Control: \$30.00 plus \$2.75 per zone.
- (5) New Service

1-100A: \$12.50 plus \$2.75 per branch circuit
101-200A: \$17.50 plus \$2.75 per branch circuit
201-300A: \$30.00 plus \$2.75 per branch circuit
301-400A: \$42.50 + \$2.75 per branch circuit
401-500A: \$55.00 + \$2.75 per branch circuit
501-600A: \$67.50 + \$2.75 per branch circuit
601-700A: \$80.00 + \$2.75 per branch circuit
701-800A: \$92.50 + \$2.75 per branch circuit
801-900A: \$105.00 + \$2.75 per branch circuit
901-1000A: \$117.50 + \$2.75 per branch circuit

IF OVER 1000A

1st 1000A: \$117.50

Each additional 100A: \$12.50 + \$2.75 per branch circuit

In addition to the fees described in this subsection, there shall be imposed an administration fee of 15% of the total fee for each inspection. All fees described in this subsection shall be paid in advance. (Ord. 3894, 2006)

6-6-9. Plumbing inspection.

The following fees are hereby imposed for inspections relating to plumbing construction: water service line, for inspection of each water piping system, fixture, water closet, lavatory, sink, bathtub, slop sink, urinal, water heater, drinking fountain, dishwasher, automatic washer, supply line and drain, coffee urn, lawn sprinkler system, sump pump, water softener, steam boiler, hot water boiler, soda fountain, grease trap, garage wash trap, industrial trap, chemical trap, gas appliance, gas service line or gas piping system, a fee in the amount of one dollar and fifty cents (\$1.50).

In addition to the fees described in this section, there shall be imposed a \$30.00 fee for each inspection. All fees described in this section shall be paid in advance. (Ord. 3894, 2006)

6-6-9.1. Septic tank and drain field permit.

A. The fees for a permit for the construction of a septic and drain field shall be as follows:

Thirty dollars for the first one thousand dollars of the estimated cost of the sanitary facilities, and

Five dollars for each one thousand dollars of the estimated cost of the sanitary facilities in excess of one thousand dollars, and

Four dollars for each inspection.

B. The estimated cost of construction will be determined by the city or by an independent contractor with whom the city has contracted to perform those functions.

6-6-10. Other permits related to building.

The following fees are hereby imposed for other permits relating to building:

- (1) variation of application of any provision of the building code; one-half the original building fee or \$20.00 whichever is greater;
- (2) failure to obtain proper permit. \$ 50.00
- (3) backflow device. 30.00
- (4) demolition permit. 30.00
- (5) renewal of building permit. 5.00
- (6) certificate of occupancy,
permanent or temporary, otherwise than incidental to a permit for which
provision is made in subparagraph (1). 30.00
- (7) police or fire system connection fee. 100.00
- (8) police or fire alarm system, annual monitoring fee, system with
automatic dialer. 50.00
- (9) police or fire alarm system, annual monitoring fee, system
without automatic dialer. 90.00
- (10) permit for installation of private water well. 30.00
- (11) reinspection fee: third trip to reinspect. 50.00
- (12) occupancy permit for new mobile home. 150.00
- (13) occupancy permit for used mobile home. 100.00

6-6-10.1 Plan review for compliance with fire prevention code.

Plan review fee for compliance with fire prevention code shall be as follows:

Estimated Construction

| Cost | Fee |
|----------------------|--|
| \$1.00 - \$5,000 | \$ 5.00 |
| \$5,001 - \$25,000 | \$ 5.00 for the first \$5,000 plus \$ 2.00 each additional \$5,000 or fraction thereof. |
| \$25,001 - \$50,000 | \$15.00 for first \$25,000 plus \$ 2.00 each additional \$5,000 or fraction thereof. |
| \$50,001 - \$100,000 | \$25.00 for first \$50,000 plus \$ 1.00 each additional \$5,000 or fraction thereof. |
| \$100,000 \$200,000 | \$35.00 for the first \$100,000 plus \$ 1.00 each additional \$10,000 or fraction thereof. |
| \$200,000 - or more | \$50.00 for the first \$200,000 plus \$ 1.00 for each additional \$10,000 or fraction thereof, except that the total fee shall not exceed \$500.00. |

This fee will include inspections by the fire official for compliance with the fire prevention code.

6-6-10.2 Fire inspections for specific establishments.

Fees for inspection by the fire official pursuant to regulations or directives of the appropriate state

licensing agency shall be as follows:

Child Care Centers:

| | |
|----------------------------|---------|
| 0-8. | \$40.00 |
| 9-12. | \$50.00 |
| 13 or more. | \$60.00 |
| Any re-inspection. | \$40.00 |

Liquor Establishments:

| | |
|---|---------|
| Non-consumption establishments. | \$50.00 |
| Consumption. | \$75.00 |
| Re-inspection of either. | \$50.00 |

Hospitals, Nursing Homes & Other Care Facilities:

| | |
|---------------------------|---|
| 50 beds or less. | \$50.00 |
| 51 to 100 beds. | \$100.00 |
| 101 or more beds. | \$150.00 |
| Re-inspection. | \$50.00 up to one hour; \$25 each additional half hour not to exceed \$150.00 |

Retail or Wholesale Firework Location. \$50.00

6-6-10.3. Permit for above ground storage of flammable or combustible liquids.

The fee to apply for a permit for above ground storage of flammable or combustible liquids, liquified petroleum gases, or anhydrous ammonia shall be the sum of fifty dollars (\$50.00). (Ord. 3614, 1999)

6-6-10.4. Building contractor registration.

The fee for building contractor registration shall be fifty dollars for the initial registration and twenty-five dollars to renew such registration. (Ord. 3880, 2005)

This section renumbered by the City Clerk pursuant to § 14-2-9

6-6-10.5. Stormwater Pollution Prevention Permits.

The fees for a Stormwater Pollution Prevention Permit shall be as follows:

| | |
|----------------------|----------|
| Residential. | \$100.00 |
| Commercial. | \$400.00 |

(c) CEMETERIES

6-6-11. Burial spaces; Fairview Cemetery.

Effective October 1, 2009, the purchase price of burial spaces in Fairview Cemetery shall be as follows:

| Addition | Section | Lot | Space | Price |
|-------------------|----------------|------------|--------------|--------------|
| Original Cemetery | All | All | All | 550.00 |
| First | All | All | All | 550.00 |

| | | | | |
|--|-------------------------------------|---------------------------------------|-------------------|--------|
| Second | All, except B & C | All | All | 550.00 |
| Second | B | All | Infant | 100.00 |
| Second | B | All | Adult | 550.00 |
| Third | Replat of A | All | All | 550.00 |
| Replat of Third | B | All | All | 550.00 |
| Third | C | All | Infant | 100.00 |
| Replat of Third | C | All | Infant | 100.00 |
| Replat of Third | Replat No. 1 of D | All | All | 550.00 |
| Replat of Third | Replat No. 2 of E & F and part of D | 568 to 738, incl. (Whole spaces only) | All | 550.00 |
| Replat of Third | Replat No. 2 of E & F and part of D | 568 to 738, incl. (Half spaces only) | Infant, cremation | 300.00 |
| Third | Replat of G | 1 to 51, incl. | A, B, C, and D | 550.00 |
| Third | Replat No. 2 of G | 1-A to 1-D, incl. | All | 550.00 |
| Third | Replat of G | 4 to 29, incl. and 37 to 49, incl. | E, F, G, and H | 550.00 |
| Alleyways (Ord 3801, 2004; Ord. 4005, 2009) | All | All | | 550.00 |

6-6-12. Service charges; Fairview Cemetery.

The following charges shall be made for services rendered by the City in Fairview Cemetery:

| | |
|--|----------|
| Grave opening and closing, adult..... | \$450.00 |
| Grave opening and closing, infant..... | 150.00 |
| (Limited to rough box not to exceed 50" in length) | |
| Saturday (A.M. only opening and closings, additional charge..... | 300.00 |
| Cremation burial. | 150.00 |
| Disinterment, adult..... | 600.00 |
| Disinterment, infant..... | 400.00 |
| Disinterment, cremation..... | 300.00 |
| Foundation fee. | 100.00 |
| Recorded deed (in addition to fees of Register of Deeds)..... | 35.00 |

| | |
|------------------------------|--------|
| Monument Permit Fee. | 50.00 |
| Perpetual care. | 150.00 |

(Ord 3801, 2004; Ord. 4005, 2009)

(d) RECREATION FEES

6-6-13. Campground.

(1) Users of Riverside Park campground shall pay fees to the City daily for use of facilities at such campground as follows:

Campsite:

| | |
|----------------------------------|----------|
| Full hookup. | \$20.00 |
| Electric and water only. | \$15.00 |
| Dry camp. | \$10.00 |
| Use of dump station. | \$7.00 |
| Monthly rate. | \$400.00 |

(2) Users of Riverside Park campground who pay for six days at the campground may remain for a seventh day at no additional charge. The services provided for the seventh day shall be the same as for the previous six days. (Ord. 3757, 2003; Ord. 4049, 2011)

6-6-14. Riverside Zoo.

Visitors at Riverside Park Zoo shall pay to the City on each visit made during the established visiting hours an admission fee as follows:

| | |
|-----------------------|-------------------------|
| Age 5 to 12. | \$2.00 inclusive of tax |
| Age 13 to 65. | 4.00 inclusive of tax |
| Over 65. | 2.00 inclusive of tax |
| 4 and under. | Free inclusive of tax |

The payment of admission fees is subject to the following exceptions:

(1) The Zoo Supervisor may subject to the approval of the Director of Parks and Recreation and the City Manager:

- (a) designate up to four (4) days in a calendar year for promotional functions during which no admission fee or a reduced admission fee shall be payable and
- (b) conduct fund-raising activities before and after regular zoo hours where any admission charged shall be considered as admission to the fund-raising activity and not as zoo admission fees.

(2) Those exceptions specified in Chapter 15.

(3) Any Wednesday which is not a holiday, admission to the zoo will be one (1) dollar per person over the age of four (4) years, regardless of the age of the person.

(4) The Zoo Supervisor, with approval of the Director of Parks and Recreation, may designate up to two hundred days in a calendar year for which the admission fees to the zoo may be reduced or eliminated. This shall be in addition to any other special fees authorized elsewhere in this Section.

(5) The following additional fees are applicable to the use of the Riverside Zoo:

Use of Zoo before or after public hours. A fee based on the number of guests at \$1.00 per person of any age with a minimum of \$100.00 plus \$30.00 per hour, plus any additional costs incurred such as overtime, equipment set up by the zoo staff, or educational programs.

“Day at the Zoo” for either private rentals or a promotional underwriting of zoo attendance
 Saturday, Sunday or holiday. \$1,000.00
 Monday through Friday. 500.00
 Reservation of gazebo and specifically designated picnic area. 15.00 per hour
 Reservation of the Conference Room. \$35.00 per hour
 Use of the conference room by a recognized non-profit organization (normal zoo admissions applies for individuals touring the zoo. Free

(6) General Group Rate. Any organized group of 15 or more paying individuals that makes advance arrangements may receive \$0.50 off each admission.

(7) School Rate. Any group from a recognized school or a recognized organization whose primary function is education shall be admitted for the following fees:

Age 5 to 12. \$0.50 inclusive of tax
 Age 13 to 65. \$1.00 inclusive of tax
 Over 65. \$1.00 inclusive of tax
 4 and under. Free

(8) Pre purchase group rate. Any business or individual willing to purchase at least 50 tickets at least 7 days in advance may buy those tickets for \$1.00 each. Each ticket will admit one person of any age and can be used only once. The tickets will be sold with an expiration date, after which time they will not be valid. These tickets are non-refundable.

(9) The zoo will be allowed to distribute a small number of individual free admissions (no more than 2% of total zoo attendance) or discount admissions for promotional purposes, support city functions or to reward services rendered the zoo. The number of free or discount admissions will be recorded and reported at the end of each fiscal year. (Ord. 4018, 2010)

6-6-15. Swimming pools; admissions.

The charges for admission to swimming pools of the City shall be as follows:

Westmoor Pool Single Admission:

Age 5 and under. \$ 1.00
 Age 6 to 15, inclusive. \$ 3.00
 Age 16 to 61, inclusive. \$ 3.50
 Over age 61. \$ 1.50
 Tube rental. \$ 2.00
 Tube rental for holders of annual family pass. \$ 1.00

Splash Arena Single Admission:

Age 5 and under. \$ 1.00
 Age 6 to 61, inclusive. \$ 2.50

Over age 61. \$ 1.50
Season Ticket
 June through August, inclusive
 Individual. \$75.00

September through May, inclusive
 Individual. \$50.00
 Annual Family. \$175.00

A maximum of two adults and four children may be admitted on a family pass. The names of the persons entitled to be admitted shall be written on the pass. Additional names may be added to the pass for the payment of a fee in the amount of ten dollars per person.

Punch cards
 40 punches. \$ 40.00

Punch cards will be punched once for each dollar or portion thereof to be applied to an admission fee. A punch card is valid until all punches are used but not longer than two years from the date of purchase. Its use is not restricted to the purchaser's family members.

Monument Valley Adventure Pass. \$200.00

The Monument Valley Adventure Pass will admit the holder and any member of the holder's immediate family to any swimming pool operated by either the City of Scottsbluff or the City of Gering.

Special Night Activities (as designated by the Director of Parks and Recreation):

Regular pool admission shall be charged.

Private Party Pool Rental Fees (available after regular pool hours):

Splash Arena Pool:
 Fifteen dollars (\$15.00) for each fifteen minutes or portion thereof.

Westmoor Pool:
 Small group rate, not to exceed fifty people: \$125.00 per hour
 Large group rate, fifty-one to one hundred fifty people: \$200.00 per hour
 Corporate rental rate, one hundred fifty-one to three hundred people: \$300.00 per hour

These prices include the use of tubes and slides. Concessions will be made available upon request.

The City Council by resolution may authorize a promotional discount on the charge for annual family season tickets and Monument Valley Adventure passes as provided in this Article. No refund shall be made of any admission charge except in the case of a mistake on the part of the officer or employee who issued a ticket or punched a card.

(Ord. 3964, 2008)

6-6-15.1. Park user fees.

(1) A charge of \$50 per field per day shall be made for use of the City's fields for organized baseball or softball events in the City parks. For this fee, the City shall allow the use of the field and

shall prepare the field and chalk the baselines once each day. If additional field preparation or chalking is requested, an additional charge of \$50 shall be made.

(2) Any individual or organization desiring to reserve a park shelter shall pay the following fees and deposit:

| Park | Shelter/Facility | Deposit | Fee | Amenities | Key |
|------------|--------------------|---------|---------|---------------|--|
| Centennial | Gazebo | \$50.00 | \$50.00 | E | B = Buffet Table E = Electricity G = Grill L = Lights W = Water Mini Park open: Sunrise to Sunset All Other Parks open: 6:00 AM – 11:00 PM |
| Frank | Cosmos (Rectangle) | \$25.00 | \$25.00 | E, W, G, B, L | |
| | Octagon | \$25.00 | \$25.00 | E, L | |
| Lacy | Lions (East) | \$25.00 | \$25.00 | W | |
| | Kiwanis (West) | \$25.00 | \$25.00 | E, W, B, L | |
| Pioneer | Lions (Large) | \$25.00 | \$25.00 | E, G, B, L | |
| | Small | \$25.00 | \$25.00 | E, G, L | |
| Mini Park | Central | \$25.00 | \$25.00 | | |
| Northwood | Middle | \$25.00 | \$25.00 | G | |
| Riverside | Elks | \$25.00 | \$25.00 | G | |
| | Kiwanis | \$25.00 | \$25.00 | | |
| Veteran's | West | \$25.00 | \$25.00 | G | |
| Landers | Northeast | \$25.00 | \$25.00 | W | |
| | Southwest | \$25.00 | \$25.00 | W | |

(3) A special event permit shall require the following deposits and fees:

Event liability insurance in the amounts of

- \$1,000,000 medical liability
- \$2,000,000 accidents
- \$200,000 property damage

Damage deposits \$25.00-500.00

The cost of the deposit is dependent upon

- Size, nature, and location of event
- Appropriate use of facility
- Timing in relation to other events

- Organization’s ability to provide support deemed necessary by Parks and Recreation Department to conduct the event

For-profit events and sports tournaments will be charged a rental fee for use of city property in addition to a damage deposit.

Rental fee is 10% of fees charged for event participation.

This may be verified by one or more of the following, or by other means designated by the city.

- Admission Fees
- Flyers
- Registrations
- Brackets
- Number of vendors (Ord. 3739, 2002; Ord. 4055, 2011)

(e) LICENSES AND OCCUPATION TAXES

6-6-16. Plumbing licenses.

The following fees are hereby imposed for licenses relating to plumbing:

Provisional Master Plumber

| | |
|-----------------------------|---------|
| examination fee. | \$40.00 |
| license fee.. . . . | 25.00 |
| renewal license fee.. . . . | 25.00 |

Journeyman plumber, sheetmetal for heating worker, steam fitter, gas fitter, oil fitter, or water fitter

| | |
|-----------------------------|-------|
| examination fee. | 40.00 |
| license. | 15.00 |
| renewal license fee.. . . . | 15.00 |

6-6-17. Other licenses.

The following fees are hereby imposed for licenses required by the Municipal Code:

| | |
|---|--------|
| Bicycle registration. | \$5.00 |
| Electric Personal Assistive Mobility Device registration. | 5.00 |
| Public dances | |
| per day. | 5.00 |
| six month license. | 50.00 |
| one year license. | 100.00 |
| Bingo permit. | 10.00 |
| Peddling permit | |
| per day. | 7.50 |
| per week.. . . . | 12.00 |
| per year.. . . . | 40.00 |
| Pawnbrokers permit.. . . . | 50.00 |
| new address permit. | 25.00 |

| | |
|---------------------------------|-------|
| Application fee, taxi cab. | 25.00 |
| Arborist permit..... | 10.00 |

(Ord. 2597, 1998; Ord. 3968, 2008; Ord. 4048, 2011)

6-6-18. Occupation taxes.

The occupation tax referred to elsewhere in the municipal code shall be upon each of the following occupations and businesses (except as provided in such section) in amounts, respectively, as follows:

- A -

| | |
|--|---------------|
| Alcohol, alcoholic liquors. Per year- | |
| Manufacture of alcohol and spirits | \$1,000.00 |
| Catering Licensee..... | 200.00 |
| Manufacture of beer | 500.00 |
| Manufacture of wine | 500.00 |
| Alcoholic liquor (except beer) wholesaler | 1,000.00 |
| Beer wholesaler | 250.00 |
| A - retailer of beer only, for consumption on premises | 200.00 |
| B - retailer of beer only, for consumption off premises (sale in original packages only) | 200.00 |
| C - retailer of alcoholic liquors for consumption on premises and off premises (sale in original packages only), except nonprofit corporation which is a club | 600.00 |
| C - retailer of alcoholic liquors, including beer for consumption on the premises only, nonprofit corporation which is a club | 150.00 |
| D - retailer of alcoholic liquors, including beer, for consumption off premises (sale in original packages only) | 400.00 |
| I - retailer of alcoholic liquors, for consumption on premises only | 500.00 |
| Special Designated License, except for special designated license issued to a holder of a catering license .. | 50.00 per day |

Non-beverage User

| | |
|---------------|--------|
| Class 1 | 5.00 |
| Class 2 | 25.00 |
| Class 3 | 50.00 |
| Class 4 | 100.00 |
| Class 5 | 250.00 |

- B -

Billboard advertising, bill posting, thrust upon public view or attention from billboards located upon private property, or elsewhere, for pay or hire, by persons, firms or corporations -
Per Year \$ 25.00

- D -

Dog kennels
Kennel authorized to keep less than five (5) dogs
Per Year 25.00

Kennel authorized to keep five (5) dogs or more
Per Year 50.00

- F -

Fire insurance company or association
Per Year 5.00

- H -

Hawkers and peddlers
Per Day 1.00
Per Year 15.00

- P -

Pawnbrokers
Per Year 100.00

Petroleum products, refineries of
Per Year 250.00

Pet shop
Per Year 50.00
(Ord 3835, 2005; Ord. 3991, 2009)

(f) SEWER USE FEES

6-6-19. Minimum charge.

Each user shall pay a sewer service charge in the minimum amount of \$41.79 which shall cover the first 10,000 gallons of water consumed by the user during the bimonthly billing period as determined in Chapter 18. Each user shall pay an additional charge of \$3.10 per each 1,000 gallons of water

consumed in excess of 10,000 gallons during the applicable billing period. Provided, however, wholesale users shall pay 92.5% of the charges provided in this paragraph.

The rates and fees provided for in this section shall be effective with respect to all connections, installations and usage on or after January 1, 2010, and for usage for which billings are made on or after January 1, 2010. (Ord. 4010, 2009)

6-6-20. Private water supply.

With respect to users having a private water supply which is discharged into the City's sanitary sewer system, sewer service charges shall be calculated as follows:

- (1) Commercial and industrial users shall meter their water supply at their expense and their sanitary sewer use charge shall be based on the quantity of water consumed on the premises from all sources.
- (2) Single-family residential users within the city limits shall pay \$51.14 per bimonthly period.
- (3) Single-family residential users outside the city limits shall pay \$85.61 per bimonthly period.
- (4) Multi-family residential users shall pay \$73.61 per dwelling unit per bimonthly period.

The rates and fees provided for in this section shall be effective with respect to all connections, installations and usage on or after January 1, 2010, and for usage for which billings are made on or after January 1, 2010. (Ord. 4010, 2009)

6-6-21. Mobile tanks.

Users who discharge from mobile tanks into the City's sanitary sewer system at a point provided for that purpose at the wastewater treatment plant shall be charged the following fees:

- (a) Where the discharge is of normal domestic sewage as defined in this Chapter, and the user discharges less than 100 gallons during a calendar month, there shall be no charge.
- (b) Where the discharge is of normal domestic sewage and the user discharges 100 gallons or more during a calendar month the charge shall be \$5.00 for the first 100 gallons and \$2.00 for each 100 gallons or fraction thereof thereafter.
- (c) Where the discharge is not of normal domestic sewage the charge shall be \$5.00 for each 100 gallons or fraction thereof.

6-6-22. Surcharge.

- (1) There will be a \$0.50 per billing cycle surcharge fee to all residents of the city for stormwater regulatory requirements and the use, upkeep and maintenance of the city's stormwater collection system.
- (2) Users who contribute wastewater the strength of which is greater than normal domestic sewage shall, in addition to the basic sewer charge, pay a surcharge equal to \$0.504 per pound for the first ten thousand (10,000) pounds of excess B.O.D. per billing cycle (or up to the limit of their contract with the City), and a surcharge of \$1.014 for all additional excess B.O.D. per billing cycle. A contribution of more than twelve thousand (12,000) pounds of excess B.O.D. per billing cycle, in the absence of a contract, shall subject the user to the sanctions and penalties provided in this

Chapter. Users with a contract who exceed the limits of their contract may also be subject to the sanctions and penalties provided in this Chapter.

(3) Users who contribute wastewater the strength of which is greater than normal domestic sewage shall, in addition to the basic sewer charge, pay a surcharge equal to \$0.063 per pound of excess suspended solids per billing cycle.

(4) The expression “per billing cycle” as used in this section means the period for which the sewer service charge is payable.

(5) The rates and fees provided in this section shall be effective with respect to usage for which billings are made on or after January 1, 2012. (Ord. 4063, 2011)

(g) SOLID WASTE COLLECTION

6-6-23. Residential.

The minimum monthly charges for collection and disposal service to residential units for solid waste contained in approved containers shall be as follows, effective for all billings made on and after January 1, 2012:

One-family unit (including mobile homes with an individual water or sewer connection). \$16.01

One-family two container unit (including mobile homes with an individual water or sewer connection). \$36.61

The minimum requirement for one-family two container units is twelve months from the date of request for two container service

| Multifamily structures (including mobile home parks with a single water or sewer connection) | Rate Per Unit |
|--|---------------|
| 2 to 4 units. | 16.01 |
| 5 to 6 units. | 14.38 |
| 7 to 10 units. | 13.60 |
| 11 to 16 units. | 12.80 |
| 17 to 39 units. | 11.97 |
| 40 to 59 units. | 11.18 |
| 60 or more units. | 10.40 |

Hotels, motels and rooming houses shall be considered as commercial establishments and shall pay charges based on the charges provided for institutional business, commercial and industrial establishments as provided in this Chapter. The charges for quantities or services which exceed those covered by the minimum charge shall be an amount equal to the reasonable cost of the service as determined by the City Manager or the designee of the City Manager.

The rates and fees provided in this section shall be effective with respect to usage for which billings are made on or after January 1, 2012. (Ord. 4063, 2011)

6-6-24. Institutional; business; commercial; industrial.

(a) The monthly charges for collection and disposal of solid waste of institutional, business, commercial and industrial establishments, and solid waste in required containers at construction sites, shall be based upon the number of approved containers collected per collection. Where an establishment has its own water or sewer connection, the fact that it shares a building with another establishment, or does not occupy the entire building, shall be of no significance. The charge per approved container per collection shall, effective for all billings made on and after January 1, 2012 be as follows:

| | Each time container is emptied | Monthly minimum |
|----------------|---|------------------------|
| 90 gallon | \$8.27 | \$33.08 |
| 1.5 cubic yard | 11.04 | 44.16 |
| 3.0 cubic yard | 21.00 | 84.00 |

The rates and fees provided in this section shall be effective with respect to usage for which billings are made on or after January 1, 2012. (Ord. 4063, 2011)

6-6-25. Yard Waste Container Charge.

Those containers designated for yard waste shall be sold by the City at the following rates:

| | |
|---------------------|------------------------|
| 90 gallon..... | \$80.00 plus tax/each |
| 1.5 cubic yard..... | \$340.00 plus tax/each |

(Ord. 3994, 2009)

6-6-26. Trees, brush, yard waste, computer monitors; disposition at City disposal sites.

Every person who shall dispose of trees, brush, yard waste or computer monitors in any disposal site of the City shall effective January 1, 2004, pay the following fee:

| | |
|------------------------|-----------------------|
| Trees/Brush. | \$6.00 per cubic yard |
| Yard waste. | \$3.50 per cubic yard |
| Computer monitor. | \$5.00 each |

Provided, residents of the City of Scottsbluff may dispose of yard waste at any of the City's disposal sites without charge.(Ord 3776, 2003)

6-6-26.1. Recyclable materials.

1. The monthly fee for the disposition of recyclable materials for residential customers shall be \$1.50 per month within the city limits and \$4.00 per month outside the city limits. The monthly fee for the disposition of recyclable materials for institutional, business, commercial and industrial customers shall be \$2.50 per month within the city limits and \$6.00 per month outside the city limits. Provided however, no fee will be charged for the disposition of recyclable materials at designated disposal sites.

2. Every person who shall dispose of an appliance at any disposal site of the City shall pay a charge of \$20.00 per appliance.

3. The fee for the Gaylord (cardboard) containers shall be \$20.00 per month.

4. The rates and fees provided in this section shall be effective with respect to usage for which billings are made on or after January 1, 2010. (Ord. 3824, 2004; Ord. 4010, 2009)

6-6-27. Special collections.

Upon request, the City may, but is not required to, make special collections of solid waste. When such a collection is made, the charges shall be as follows:

| | |
|---|---------|
| Residential 90 gallon roll-out trash container. | \$10.00 |
| Residential yard waste container. | \$10.00 |
| Each appliance. | \$25.00 |
| Pallets (price for each pallet). | \$5.00 |
| Tires (price for each tire): | |
| Car. | \$ 5.00 |
| Truck. | \$10.00 |
| Tractor. | \$22.00 |

The charges for the collection of other solid waste shall be based on volume as measured by the capacity of a standard ½ ton pickup truck. There shall be a minimum charge of \$10.00. If the volume of solid waste as estimated by the representative of the Sanitation Department exceeds to capacity of a standard ½ ton pickup truck, the charge shall be \$30.00 for each pickup load.

(h) WATER SERVICE

6-6-28. Water service.

(1) Each user of the City water system located within the City limits shall pay charges based on bimonthly consumption as follows:

| <u>Gallons</u> | <u>Rate per Thousand Gallons</u> |
|-------------------|----------------------------------|
| Up to 10,000 | \$1.934 |
| 10,001 to 20,000 | 1.573 |
| 20,001 to 60,000 | 1.566 |
| 60,001 to 100,000 | 1.549 |
| Over 100,000 | 1.535 |

Consumption of any part of 1,000 gallons shall be considered as consumption of an entire 1,000 gallons for purposes of calculating consumption and the applicable rate(s).

(2) Each user of the City water system located within the City limits shall pay minimum bimonthly charges as follows:

| <u>Water Meter Size</u> | <u>Minimum Charge</u> | <u>Gallons</u> |
|-------------------------|-----------------------|----------------|
| 5/8" or 3/4" | \$19.34 | 10,000 |
| 1" | 35.07 | 20,000 |
| 1½" | 66.39 | 40,000 |
| 2" | 89.88 | 55,000 |
| 3" | 144.18 | 90,000 |
| 4" | 221.07 | 140,000 |
| 6" | 313.17 | 200,000 |
| 8" | 466.67 | 300,000 |

Payment of the minimum charge shall constitute payment in full for any quantity of water not exceeding the amount shown in the "Gallons" column opposite the applicable "Minimum Charge." In the case of premises as to which the final date for connection of the plumbing has been deferred under section 22-1-8, there shall be a bimonthly charge for standby fire protection service of \$6.00. Each user of the City water system located outside of the City limits shall pay the following:

For the first twenty (20) years of service through the City water system located outside the City limits. 2 times the minimum charges listed above

For 21-25 years. 1.75 times the minimum charges listed above

For 26 years and over. 1.5 times the minimum charges listed above

Provided, users of the City water system that are serviced by the airport water line shall pay triple the minimum charges listed above.

The rates and fees provided for in this section shall be effective with respect to all connections, installations, and usage on or after January 1, 2012.(Ord. 4063, 2011)

(i) LAND USE

6-6-29. Land use permits.

The following fees are hereby imposed for matters pertaining to zoning and land use:

| | |
|--|----------|
| Special exception from fire prevention code. | \$100.00 |
| Preliminary plat filing fee. | 100.00 |
| Subdivision application where not to be platted. | 50.00 |
| Subdivision application. | 50.00 |
| Amended plat application | |
| Filing fee. | 50.00 |
| Additional fee for each property owner entitled to notice. | 3.00 |
| Special permit. | 100.00 |
| Special permit to construct perimeter fence. | 100.00 |
| Special permit, planned unit development. | 250.00 |
| Application for zoning amendment. | 100.00 |
| Appeal to Board of Adjustment | |
| Filing fee. | 100.00 |
| Additional fee for each name on list. | 3.00 |
| Application for mobile home park permit | |
| First twenty spaces or fraction thereof. | 100.00 |
| Each additional space. | 5.00 |
| Plan filing fee for mobile home park. | 100.00 |

(Ord. 3458, 1995)

(j) PARKING

6-6-30. Parking permits and fees.

The following fees are hereby imposed relating to the parking of vehicles:

| | |
|---|------|
| Over parking | |
| If paid within 24 hours after notice. | 0.50 |

| | |
|---|------|
| If paid more than 24 hours and less than 72 hours after notice. | 1.00 |
| Limited time parking permit. | 5.00 |
| Handicapped parking permit. | 3.00 |

\$2.00 shall be retained by the City, and 1.00 forwarded quarterly to the
Department of Motor Vehicles

(Ord. 3499, 1996)

(k) MISCELLANEOUS FEES

6-6-31. Police escort fees.

A fee of ten dollars shall be paid for each police escort during the transportation of monies or valuables.

6-6-31.1. Cost Recovery.

1. Purpose.

The purpose of this section is to enable the City of Scottsbluff (the “city”) to require reimbursement from:

- A. Those responsible for (either intentionally, accidentally, or as a result of actions by others) or owning or controlling property affected by, the leaking, spilling, releasing or allowing certain hazardous substances or materials to escape containment, or for damaged and/or downed power lines, electric service lines, gas mains, gas service conduits, water mains, sanitary sewer mains, storm sewer mains, occupancy leads, telephone lines, cable television lines, traffic signals and signs; thereby requiring the city and/or its agents, to provide containment, cleaning and/or disposal of hazardous substances or materials, or for the securing and prudent monitoring of the site of an accidental or natural disaster, including those involving public or private utilities.

- B. Those responsible for (either intentionally, accidentally, or as a result of actions by others) or owning or controlling property affected by or involved in an incident, either emergency or non-emergency, including bomb threats, vehicle fires, illegal fires, extrication from vehicles involved in accidents, and accident related clean up.

2. Definitions.

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

Accident, including natural disaster

An unforeseen or unexpected happening or occurrence which of itself causes great harm or damage, or which creates the potential for great harm or damage to individuals and/or property, and which requires immediate and prudent securing and monitoring by the city, and/or agents of the city, to reduce the potential for such damage, but does not include emergency incidents.

Bomb threat

Bomb threat means the verbal or written threat of a bomb or other explosive device which if discharged as threatened would (1) violate a federal, state or local law, or (2) cause property damage and/or personal injury or death.

Dangerous or hazardous substances or materials

Any substance (including gases or vapors) which if spilled, leaked or otherwise released from its container, is dangerous or harmful to the environment or human or animal life, health, or safety, or otherwise constitutes a danger, threat or nuisance to the public health, safety or welfare. Hazardous materials shall include, but not be limited to, such substances as chemicals and gases, explosives, radioactive materials, petroleum or petroleum based products, poisons, biologic agents, flammable, combustibles, hazardous wastes, or corrosives. The Fire Chief or the chief's designee, shall have reasonable discretion to determine whether any particular substance constitutes a hazardous material.

Emergency incident

Emergency incident means a bomb threat, vehicle fire, an illegal fire, extrication from vehicles involved in accidents, and accident related clean up.

Emergency response

The providing, sending and/or utilization of public works, police, fire and/or rescue services by the city at an emergency incident or at an incident involving release of a dangerous or hazardous substance or material, or an accident requiring immediate and prudent securing and monitoring by the city and/or agents of the city.

Expense of an emergency response

A. The expense for an emergency incident will be determined according to ordinances adopted by the city council.

B. For all other emergency responses, the direct costs incurred by the city in making an appropriate emergency response to an accident or incident, including the costs of providing police, fire fighting and rescue services, public works and/or other city personnel, or the services of other agents of the city, at the scene of an incident or accident. Related administrative costs, which for agents of the city shall be 15% of the actual charge to the city, accruing after the occurrence of such incident or accident are also included. Such costs and expenses shall include the salaries or wages, cost of workers' compensation benefits, and fringe benefits of the personnel responding to the incident or accident and the costs of equipment and materials used.

Illegal fire

Illegal fire means a fire set or determined to have been set in violation of a federal, state or local law and shall include an arson fire, a fire set in violation of a "no burning" ban or order and/or a fire set without a required permit.

Responsible Party

Responsible party means any individual, firm, corporation, association, partnership, commercial entity, consortium, joint venture, government entity or any other legal entity responsible for an emergency incident or any owner, tenant, occupant or party in control of real and/or personal property from which, onto which or related to which there is a public safety or fire emergency incident and their heirs, estates, successors and assigns.

3. Duty to Remove and Clean Up.

It shall be the duty of any person, firm, corporation, public or private utility, or any other entity directly or indirectly causing, contributing to, or allowing the leakage, spillage or any other release of dangerous or hazardous substances or materials, or owning or controlling property affected thereby or requiring the securing and monitoring of sites or locations of accidents and/or natural disasters, including downed power lines and electric service lines, ruptured gas mains, gas service conduits, water mains, occupancy leads, telephone lines, or cable television lines, to immediately secure, monitor and clean up the area or location in such manner that the area or location involved is fully restored to the condition existing prior to such occurrence. The city shall have no duty to

contain, clean up or dispose of any release of hazardous substances or materials, or other materials, but in emergency situations the Fire Chief or Chief of Police, or their designees, shall have the authority to take whatever action is reasonably necessary to protect the health, safety and welfare of the general public including securing and monitoring sites of accidents or providing for or arranging for the containment, removal and clean up of any hazardous substances or materials. The city shall inspect the site to insure that clean up has been fully completed.

4. Failure to Remove and Clean Up.

Any person or entity failing to comply with the provisions of this chapter, and/or where a non-emergency incident, emergency response is provided by the city, shall be liable to the city and shall reimburse the city for all costs and expenses, including the costs incurred by the city or any agents the city engages, for the complete abatement, clean up, restoration and/or securing of the affected area.

5. Payment of Bill.

The city shall, within ten days of receiving itemized costs incurred for an emergency response, submit a bill for the same by first class mail or personal delivery to any person or entity liable for these expenses as previously enumerated under this section. The bill shall require full payment within thirty (30) days from date of billing.

6. Enforcement.

If any person or entity fails to pay the bill submitted by the city as above provided, the city shall have the right to bring an action in the appropriate court to collect such costs. If such person or entity is the owner of real property affected or partially affected by the release of hazardous materials, or requiring emergency securement or monitoring, the city shall have the right to add any and all costs of clean up, restoration and/or of any emergency response, to the tax roll of such property and to levy and collect such costs in the same manner as provided for the levy and collection of real property taxes against said property.

7. Fee Schedule

The cost for the city's response to emergency incidents, the city shall charge a fee equal the costs incurred by the city and shall be based upon the time and materials used by the city in clean up and containment, according to §§6-6-31, 6-6-32, 6-6-33, 6-6-33.1, 6-6-33.2, and 6-6-34, as well as all other costs and expenses incurred by the city, plus administrative costs set forth in paragraph 2 above.

6-6-32. Liquidated damages for excessive police alarms.

The liquidated expense for excessive police alarms described in Chapter 16 shall be as follows:

| Number of False Alarms | Amount (each occurrence) |
|-------------------------------|-------------------------------------|
| 5 to 10 | \$25.00 |
| 11 to 20 | \$50.00 |
| 21 or more | \$100.00 |

6-6-33. Police administrative tow fees.

Whenever a motor vehicle is towed as described elsewhere in this code a police administrative fee in the sum of \$10.00 shall be charged and shall be in addition to any sums charged by the towing agency. (Ord. 3529, 1997)

6-6-33.1. Towing and storage of motor vehicles.

(1) The storage cost of motor vehicles at the police warehouse or at the City/County impound lot shall be the sum of \$2.00 per day. These storage fees shall be separate from, and in addition to, any fees charged for storage of the vehicle when actually in the private towing contractor's impound lot. These storage fees shall be retained by the City, less any payments made to Scotts Bluff County pursuant to the Inter Local Cooperation Agreement for vehicle storage.

(2) The fee for the following types of vehicle towing shall be:

- a. From the police towing contractors lot to the City/County impound lot. \$18.00
- b. From the police warehouse to the City/County impound lot. \$18.00
- c. Any other special tows requested by the Police Department during the normal business hours of the private towing contractor. \$18.00

These towing fees shall be in addition to any tower fees due the private towing contractor for any previous tows. (Ord. 3529, 1997)

6-6-33.2. Miscellaneous; police services.

From time to time, the Police Department provides certain services to the general public for which a fee is charged. The fees for the following services shall be as follows:

- a. Criminal history checks: \$7.50.
- b. Private security services: \$30.00 per hour.
- c. Fingerprints: \$5.00 per card.
- d. Video tape duplication: \$25.00 (includes the video tape).
- e. Audio tape duplication: \$15.00 (includes the audio tape).
- f. Copies of police photographs: \$15.00 plus processing costs. (Ord. 3597, 1998)

6-6-34. Labor of City Employees; Use of City Equipment.

(a) When city employees perform work which for any lawful reason can be charged to some other person, the rate charged to the other person shall be as set forth in this section, plus an additional 15% administrative fee.

(b) For work involving the use of city equipment the following rates shall be charged:

- Asphalt kettles. \$30.00/hour
- Bucket Truck. \$45.00/hour
- Cement Saw. \$4.00 linear foot
- Chain Saw. \$20.00/hour
- Chipper. \$45.00/hour
- Compressors. \$25.00/hour
- Dump Truck. \$35.00/hour
- Fire Hydrants. \$10.00/per day,
plus charges for water consumed as specified elsewhere
- Flow Totes. \$45.00/per day
- Flusher Truck. \$55.00/hour
- Forklift. \$30.00/hour
- Hand Blowers (snow). \$20.00/hour

| | |
|---|-----------------|
| Hand Mower. | \$20.00/hour |
| Line Eraser. | \$20.00/hour |
| Loaders. | \$60.00/hour |
| Motor Graders. | \$65.00/hour |
| One Ton Trucks. | \$25.00/hour |
| Paint Guns. | \$25.00/hour |
| Paint Machines (ride on). | \$40.00/hour |
| Pickups and other vehicles. | \$25.00/hour |
| Pump 4". | \$30.00/hour |
| Pump (Diaphragm D). | \$20.00/hour |
| Rodding Machine. | \$22.00/hour |
| Rollers: Pneumatic. | \$55.00/hour |
| Steel. | \$30.00/hour |
| Salt Spreaders. | \$40.00/hour |
| Sampler. | \$15.00/per day |
| Sewer Jet. | \$200.00/hour |
| Emergency. | \$300.00/hour |
| Skid-Steer Loader. | \$30.00/hour |
| Snow Blowers (on loaders). | \$45.00/hour |
| Snow Plows: Jeep, etc. | \$30.00/hour |
| Stanley Power Unit. | \$20.00/hour |
| Sweepers. | \$65.00/hour |
| Tapping Machine A-2. | \$30.00/hour |
| Tapping Machine B-100. | \$25.00/hour |
| Tapping Machine D-5. | \$25.00/hour |
| Tractor w/Backhoe. | \$40.00/hour |
| Tractor w/Mowers. | \$40.00/hour |
| Wastewater televised pipeline inspection. | \$200.00/hour |
| after regular business hours. | \$300.00/hour |
| Wet Tapping Equipment. | \$150.00/hour |

(c) For work involving the use of the following equipment of the City's Fire Department the following rates shall be charged:

| | |
|--|---------------|
| Aerial Apparatus. | \$500.00/hour |
| Class "A" Pumper. | \$250.00/hour |
| Specialized Rescue Apparatus/Units. | \$150.00/hour |
| Staff Vehicles. | \$ 25.00/hour |

(d) If, in performing work as described in this section, any equipment of the City's Fire Department is consumed or is contaminated or otherwise damaged to the extent that it is no longer useable, the persons to whom the work is charged will replace it at current market value.

(e) For the repair of frozen water meters the rate charged shall be the labor rate for city employees specified elsewhere in this section. In addition thereto the City shall charge for transportation at the rate of \$10.00 per hour with a \$5.00 minimum and the following frozen meter fee:

| | |
|-------------------|---------|
| 5/8ths inch meter | \$10.25 |
| 3/4ths inch meter | \$16.18 |

1 inch meter \$22.95

(f) For the labor of city employees the rate charged shall be \$20.00 per employee per hour or fraction thereof. If overtime is involved, the rate shall be \$30.00 per employee per hour or fraction thereof. Provided however, that the rate for the City's Fire Chief and Fire Captain is the rate of \$30.00 per hour or fraction thereof and if overtime is involved, the rate is \$45.00 per hour or fraction thereof.(Ord. 3824, 2004)

6-6-35. Obstruction of streets for carnivals, bazaars, or the sale of merchandise.

When applying for a permit to obstruct the sidewalk or street the sale of merchandise, or for any activity described in section 20-6-52, the applicant shall pay the following fee:

Permit to sell merchandise on public sidewalks. 2.00

Permit to operate one of the activities described in Section 20-6-52.. . . . 25.00

(Ord. 3520, 1997)

6-6-36. Deposit for City services.

(1) Any person applying on or after October 15, 2004 for solid waste collection service, sewer service, water service, or any one or more of such services shall pay to the City a deposit in the sum of \$100.00. If such person is the owner of the premises for which such service or services is requested, each such deposit will entitle such person to service at up to four locations. The requirement of a deposit shall be waived when one of following conditions is met:

(a) The customer produces a letter from another utility indicating a credit history which is satisfactory to the City Manager or the designee of the City Manager, or

(b) An on-line credit check indicates credit history which is satisfactory to the City Manager or the designee of the City Manager. If the applicant desires an on-line credit check he or she will pay the City the actual cost of conducting the credit check. A deposit in the amount of \$25.00 will be paid to the City for this purpose. If the actual cost of the credit check is less than \$25.00, the City will refund the difference.

(2) Any person who applied for service before July 1, 1997, and whose service thereafter is terminated for non-payment of the charges for such service shall, as a condition of the resumption of such service, make the deposit previously described. The exceptions to the deposit requirement described in paragraph 1 above will not be available to such person.

(3) Interest shall not be paid upon the sums held by the City as deposits.

(4) If a person who has paid a deposit fails to timely pay for such service or services the deposit will be applied against the unpaid charges, the service for which payment was not timely made will be terminated, and such service will not be resumed until the charges have been paid in full and an additional sum has been paid sufficient to restore the deposit to \$100.00. The exceptions to the deposit requirement described in paragraph 1 above will not be available to such person.

(5) If a person who has paid a deposit as required in this section applies for the service or services described in this section at a different location, such person will be required to pay the \$100.00 for the different location, subject to the exceptions as noted in paragraph (1) above.

(6) Upon final termination of service and payment of all charges the deposit will be returned to the person who paid it or his or her successor in interest. (Ord. 3808, 2004).

ARTICLE 7

PENALTIES FOR VIOLATION OF THE MUNICIPAL CODE

Section

| | |
|-------|---|
| 6-7-1 | Classification of penalties; sentences; where served. |
| 6-7-2 | Penalty provided in other part of municipal code; disposition where no specific penalty provided. |

6-7-1. Classification of penalties; costs; sentences; where served.

(1) For the purposes of this municipal code and any subsequent amendments thereto, violations are divided into the following classes which are distinguished from one another by the following penalties which are authorized upon conviction:

Class I Violation. . . . Maximum - seven days imprisonment or five hundred dollar fine, or both
Minimum - none

Class II Violation. Maximum - two hundred fifty dollar fine
Minimum--none

Class W Violation. As provided in Chapter 22, Article 5

(2) In all cases the convicted defendant shall pay the costs of prosecution.

(3) All sentences of imprisonment shall be served in the Scotts Bluff County jail.(Ord. 3926, 2006)

6-7-2. Penalty provided in other part of municipal code; disposition where no specific penalty provided.

Any violation defined anywhere in this municipal code without specification of its class shall be punishable as provided in that portion of the Municipal Code which defines that violation. If no specific penalty is provided, the violation is a Class II violation.