

CITY OF NEBRASKA CITY, NEBRASKA
MINUTES OF CITY COUNCIL REGULAR MEETING
February 21, 2011

Pursuant to due call and notice thereof, a Regular Meeting of the City Council of the City of Nebraska City was conducted in the Council Chambers at City Hall, 1409 Central Avenue, on the 21st day of February, 2011. Notice of the meeting was given in advance thereof by posting in at least three public places, the designated method for giving notice, as shown by the Certificate of Posting Notice attached to these minutes. Availability of the agenda was communicated in advance to the media, Mayor and Commissioners of this proceeding and said meeting was open to the public.

Mayor Hobbie called the meeting to order at 6:00 p.m. The Mayor publicly stated to all in attendance that a current copy of the Nebraska Open Meetings Act was available for review and indicated the location of such copy posted in the room where the meeting was being held. Mayor Jack Hobbie then led in the Pledge of Allegiance. Upon roll call the following answered present: Brett Gay, Jeff Crunk, Dean Handy, Mark Mercer and Mayor Hobbie. The following City Officials were present: City Administrator Pat Haverty, City Clerk-Treasurer Arnold M. Ehlers, City Attorney William Davis, Police Chief David Lacy, and Public Properties Director/Zoning Director Dan Güttinger.

Commissioner Handy moved to approve the minutes of the February 7, 2011 City Council Regular Meeting. Upon roll call the following voted YES: Crunk, Gay, Mercer, Handy and Mayor Hobbie. Voting NO: None. Motion adopted.

Commissioner Mercer moved to pay all claims except Claim # 7250B. Upon roll call the following voted YES: Gay, Crunk, Handy, Mercer and Mayor Hobbie. Voting NO: None. Motion passed and adopted.

Commissioner Handy moved to approve Claim # 7250B. Upon roll call the following voted YES: Gay, Crunk, Handy and Mayor Hobbie. Voting NO: None. Abstain: Mercer. Motion passed and adopted.

Mayor Hobbie proclaimed March 2011 as “Gambling Awareness Month.”

Mayor Hobbie opened the Public Hearing on the request by the Museum Association for a grant of \$14,000 to allow the hiring of attendants and provide for free admission to all museums for Nebraska City residents. Brian Volkmer spoke in support of the grant and pointed out the increased attendance at the museums last year due to last year’s grant. No one else spoke in support or opposition to the grant. Commissioner Handy moved to close the Public Hearing. Upon roll call the following voted YES: Crunk, Mercer, Gay, Handy and Mayor Hobbie. Voting NO: None. Motion passed.

Mayor Hobbie opened the Public Hearing on the loan request by Henry Motors. Stephanie Shrader, Executive Director of Nebraska City Area Economic Development Corp explained that Henry Motors is requesting \$80,000 to add to a bank loan and renovate and add an addition to an existing property for the servicing of vehicles. Total investment to be \$350,000 with 4 FTE jobs will be created. Mike Headley spoke in support of the loan. No one else spoke in support or opposition to the loan request. Commissioner Handy moved to close the Public Hearing. Upon roll call the following voted YES: Crunk, Mercer, Gay, Handy and Mayor Hobbie. Voting NO: None. Motion passed.

The Treasurer reported a beginning balance as of January 1, 2011 of \$2,038,373.95; revenues during the month were \$569,049.33 with expenditures of \$491,876.03 leaving an ending balance on January 31, 2011 of \$2,100,244.75. Mayor Hobbie asked that the report be placed on file.

Mayor Hobbie introduced Resolution 2511-11 approving a grant to the Museum Association. Commissioner Mercer moved to approve Resolution 2511-11. Upon roll call the following voted YES: Crunk, Gay, Handy, Mercer and Mayor Hobbie. Voting NO: None. Motion passed and adopted. A true, correct and complete copy of said resolution is as follows:

RESOLUTION NO. 2411-11
TO USE PROGRAM FUNDS FROM THE CITY OF NEBRASKA CITY
ECONOMIC DEVELOPMENT PROGRAM (LB840)
WHEREAS, the **City of Nebraska City** has received Program Funds through the City of Nebraska City Economic Development Plan and,
WHEREAS, Program funds for Economic Development are allowed to be used for making grants for spurring downtown revitalization, the attraction of new capital investment through business development and to promote tourism in accordance with

the City of Nebraska City Economic Development Plan, program and governing regulations, and,
WHEREAS, the City of Nebraska City Economic Development Plan has previously been adopted, and,
WHEREAS, the Citizens Advisory Review Committee has recommended a project presented through application by an eligible entity for a grant of \$14,000 under specified conditions, and,
WHEREAS, the City Council of Nebraska City conducted a public hearing upon the proposed use of Economic Development Program funds,
NOW, THEREFORE, BE IT RESOLVED by the City Council of Nebraska City, that the obligation of funds is approved according to the recommendations of the Citizens Advisory Review Committee and the Mayor is hereby authorized to execute all necessary and appropriate documents on behalf of the City and the City of Nebraska City Economic Development Program to complete the grant project for **“Nebraska City Museum Association c/o the Civil War Veteran’s Museum ”**, contingent upon approval of the City Attorney as to form.
Passed and adopted on the 21st day of February, 2011 by the Mayor and Council of the City of Nebraska City, Nebraska.

Jack Hobbie, Mayor
ATTEST:

Arnold M. Ehlers, City Clerk

Mayor Hobbie introduced Resolution 2512-11 approving the \$80,000 loan from LB840 funds. Commissioner Handy moved to approve Resolution 2512-11. Upon roll call the following voted YES: Crunk, Gay, Mercer, Handy and Mayor Hobbie. Voting NO: None. Motion passed and adopted. A true, correct and complete copy of said resolution is as follows:

**RESOLUTION NO. 2512-11
TO USE PROGRAM FUNDS FROM THE CITY OF NEBRASKA CITY
ECONOMIC DEVELOPMENT PROGRAM (LB840)**

WHEREAS, the **City of Nebraska City** has received Program Funds through the City of Nebraska City Economic Development Plan and,
WHEREAS, Program funds for Economic Development are allowed to be used for making loans to eligible businesses in accordance with the City of Nebraska City Economic Development Plan, program and governing regulations, and,
WHEREAS, the City of Nebraska City Economic Development Plan has previously been adopted, and,
WHEREAS, the Citizens Advisory Review Committee has recommended a project presented through application by an eligible business for a loan of \$80,000 under specified conditions, and,
WHEREAS, the City Council of Nebraska City conducted a public hearing upon the proposed use of Economic Development Program funds,
NOW, THEREFORE, BE IT RESOLVED by the City Council of Nebraska City, that the obligation of funds is approved according to the recommendations of the Citizens Advisory Review Committee and the Mayor is hereby authorized to execute all necessary and appropriate documents on behalf of the City and the City of Nebraska City Economic Development Program to complete the loan for **“Henry Motors South Service Center, Inc.”**, contingent upon approval of the City Attorney as to form.
Passed and adopted on the 21st Day of February, 2011 by the City Council of Nebraska City.

Jack Hobbie, Mayor
ATTEST:

Arnold M. Ehlers, City Clerk

Riley Reeves submitted a written request to have the electricity to the lights at the skateboard park re-connected. Michael Hartman and Riley Reeves attended the meeting and reiterated how the area had been policed for debris and garbage last year. Commissioner Mercer moved to re-connect the lights for this year. Upon roll call the following voted YES: Gay, Handy, Crunk, Mercer and Mayor Hobbie. Voting NO: None. Motion passed and adopted.

Mayor Hobbie introduce Resolution 2510-11 designating “No Parking” on the south side of 14th Corso for two hundred forty two feet (242’) west of 11th Street. Commissioner Handy moved to approve Resolution 2510-10. Upon roll call the following voted YES: Crunk, Gay, Mercer, Handy and Mayor Hobbie. Voting NO: None. Motion passed and adopted. A true, correct and complete copy of said resolution is as follows:

**RESOLUTION NO. 2510-11
BE IT RESOLVED** by the Mayor and City Commissioners of the City of Nebraska City, Nebraska:

That a sign designating “No Parking Here to Corner” be placed on the South side of 14th Corso, two hundred forty two feet (242’) West of the intersection of South 11th Street and 14th Corso, to regulate parking, which regulation shall be effective twenty-four (24) hours each day, to prohibit parking of Eastbound vehicles within two hundred forty two feet of said intersection.

Passed and approved this 21st day of February, 2011.

Jack Hobbie, Mayor
Attest:

Arnold M. Ehlers, City Clerk-Treasurer

Mayor Hobbie introduced Ordinance No. 2832-11 entitled: AN ORDINANCE TO AMEND SECTION 35-235.8, SNOW EMERGENCY ROUTE DESIGNATED, OF THE CODE OF THE CITY OF NEBRASKA CITY, NEBRASKA, TO ADD 14TH CORSO FROM 11TH STREET TO 13TH STREET TO THE CITY’S SNOW EMERGENCY ROUTES; TO REPEAL THE ORIGINAL SECTION 35-235.8 OF THE CODE OF NEBRASKA CITY, AND ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT WITH THIS ORDINANCE; AND TO PROVIDE FOR AN EFFECTIVE DATE; and moved that the statutory rule requiring reading on three different days be suspended. Commissioner Handy seconded the motion to suspend the rules and upon roll call the following voted YES: Gay, Crunk, Mercer, Handy, and Mayor Hobbie. Voting NO: None. The motion to suspend was adopted by three-fifths of the Council and the statutory rule was declared suspended for consideration of said ordinance.

Said ordinance was then read by title and thereafter Mayor Hobbie moved for final passage of the ordinance, which motion was seconded by Commissioner Handy. The Mayor then stated the question: “Shall Ordinance No. 2832-11 be passed and adopted?” Upon roll call the following voted YES: Gay, Crunk, Mercer, Handy, and Mayor Hobbie. Voting NO: None. The passage and adoption of said ordinance having been concurred in by a majority of all members of the Council, the Mayor declared the ordinance adopted and the Mayor, in the presence of the Council, signed and approved the ordinance and the Clerk attested the passage and approval of the same and affixed his signature thereto. A true and correct copy of said ordinance is as follows:

ORDINANCE NO. 2832-11

AN ORDINANCE TO AMEND SECTION 35-235.8, SNOW EMERGENCY ROUTE DESIGNATED, OF THE CODE OF THE CITY OF NEBRASKA CITY, NEBRASKA, TO ADD 14TH CORSO FROM 11TH STREET TO 13TH STREET TO THE CITY’S SNOW EMERGENCY ROUTES; TO REPEAL THE ORIGINAL SECTION 35-235.8 OF THE CODE OF NEBRASKA CITY, AND ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT WITH THIS ORDINANCE; AND TO PROVIDE FOR AN EFFECTIVE DATE.

Whereas, the Mayor and City Commissioners have determined a need to add 14th Corso, from South 11th Street to 13th Street to the City’s snow emergency route;

Now Therefore, Be It Ordained by the Mayor and the City Commissioners of the City of Nebraska City, Nebraska as follows:

Section 1. That Section 35-235.8 of the Code of Nebraska City, Nebraska, be amended to read as follows:

“Sec. 35-235.8 Same- Snow Emergency routes designated.

The following streets or portions of streets within the city are hereby designated as snow emergency routes: Central Avenue from Second Street through Sixteenth Street; cross streets from First Avenue to First Corso, from Sixth Street through Tenth Street; First Corso from Sixth Street to Eleventh Street; First Avenue from Fifth Street to Eleventh Street; Third Avenue from Eleventh Street through Fourteenth Street; Fourteenth Street from Fourth Corso to Fourth Avenue; and Fourteenth Corso from South Eleventh Street to Thirteenth Street.

Section 2. That the original section 35-235.8 of the Code of Nebraska City, Nebraska, and all ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

Section 3. That this Ordinance shall be effective from and after its adoption, approval, and publication, as provided by law.

PASSED and APPROVED, this 21st day of February, 2011.

Jack Hobbie, Mayor
Attest:

Arnold M. Ehlers, City Clerk-Treasurer

Mayor Hobbie introduced Ordinance No. 2833-11 entitled: AN ORDINANCE TO VACATE THAT PORTION OF SECOND AVENUE LYING BETWEEN BLOCKS TWENTY-SIX (26) AND THIRTY-THREE (33) IN NEBRASKA CITY PROPER, OTOE COUNTY, NEBRASKA, WITH RESERVATIONS; AND TO DECLARE AN EFFECTIVE DATE.; and moved that the statutory rule requiring reading on three different days be suspended. Commissioner Handy seconded the motion to suspend the rules and upon roll call the following voted YES: Mercer, Gay, Crunk, Handy, and Mayor Hobbie. Voting NO: None. The motion to suspend was adopted by three-fifths of the Council and the statutory rule was declared suspended for consideration of said ordinance.

Said ordinance was then read by title and thereafter Mayor Hobbie moved for final passage of the ordinance, which motion was seconded by Commissioner Handy. The Mayor then stated the question: "Shall Ordinance No. 2833-11 be passed and adopted?" Upon roll call the following voted YES: Mercer, Gay, Crunk, Handy, and Mayor Hobbie. Voting NO: None. The passage and adoption of said ordinance having been concurred in by a majority of all members of the Council, the Mayor declared the ordinance adopted and the Mayor, in the presence of the Council, signed and approved the ordinance and the Clerk attested the passage and approval of the same and affixed his signature thereto. A true and correct copy of said ordinance is as follows:

ORDINANCE NO. 2833-11

AN ORDINANCE TO VACATE THAT PORTION OF SECOND AVENUE LYING BETWEEN BLOCKS TWENTY-SIX (26) AND THIRTY-THREE (33) IN NEBRASKA CITY PROPER, OTOE COUNTY, NEBRASKA, WITH RESERVATIONS; AND TO DECLARE AN EFFECTIVE DATE.

WHEREAS, representatives of Lourdes Central Catholic School have requested the vacation of that portion of Second Avenue lying between Blocks 26 and 33, in Nebraska City Proper, Otoe County, Nebraska, in order to expand the footprint of the school, and

WHEREAS, the Mayor and City Commissioners of the City of Nebraska City, Nebraska, find and determine that the vacation of said street and the expansion of said school will be in the best interests of the City of Nebraska City.

NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COMMISSIONERS OF THE CITY OF NEBRASKA CITY, NEBRASKA as follows:

SECTION 1. That the Mayor and City Commissioners of the City of Nebraska City, do hereby vacate all of Second Avenue lying between Block 26 and 33 in Nebraska City Proper, Otoe County, Nebraska.

SECTION 2. This ordinance shall take effect and be in full force and effect on July 1, 2011, after its passage, approval and publication as provided by law.

Passed and Approved this 21st day of February, 2011.

Jack Hobbie, Mayor

Attest:

Arnold M. Ehlers, City Clerk-Treasurer

Mayor Hobbie introduced Ordinance No. 2834-11 entitled: AN ORDINANCE OF THE CITY OF NEBRASKA CITY, NEBRASKA, ADOPTING THE 2009 EDITION OF THE *INTERNATIONAL BUILDING CODE*, REGULATING AND GOVERNING THE CONDITIONS AND MAINTENANCE OF ALL PROPERTY, BUILDINGS AND STRUCTURES; BY PROVIDING THE STANDARDS FOR SUPPLIED UTILITIES AND FACILITIES AND OTHER PHYSICAL THINGS AND CONDITIONS ESSENTIAL TO ENSURE THAT STRUCTURES ARE SAFE, SANITARY AND FIT FOR OCCUPATION AND USE; AND THE CONDEMNATION OF BUILDINGS AND STRUCTURES UNFIT FOR HUMAN OCCUPANCY AND USE AND THE DEMOLITION OF SUCH STRUCTURES IN THE CITY OF NEBRASKA CITY; PROVIDING FOR THE ISSUANCE OF PERMITS AND COLLECTION OF FEES THEREFORE; REPEALING ORDINANCE NO. 2601-03 OF THE CODE OF THE CITY OF NEBRASKA CITY, AND ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT THEREWITH; AND DECLARING AN EFFECTIVE DATE; and moved that the statutory rule requiring reading on three different days be suspended. Commissioner Handy seconded the motion to suspend the rules and upon roll call the following voted YES: Mercer, Gay, Crunk, Handy, and Mayor Hobbie. Voting NO: None. The motion to suspend was adopted by three-fifths of the Council and the statutory rule was declared suspended for consideration of said ordinance.

Said ordinance was then read by title and thereafter Mayor Hobbie moved for final passage of the ordinance, which motion was seconded by Commissioner Handy. The Mayor then stated the question: "Shall Ordinance No. 2834-11 be passed and adopted?" Upon roll call the following voted YES: Mercer, Gay, Crunk, Handy, and Mayor Hobbie.

Voting NO: None. The passage and adoption of said ordinance having been concurred in by a majority of all members of the Council, the Mayor declared the ordinance adopted and the Mayor, in the presence of the Council, signed and approved the ordinance and the Clerk attested the passage and approval of the same and affixed his signature thereto. A true and correct copy of said ordinance is as follows:

ORDINANCE NO. 2834-11

AN ORDINANCE OF THE CITY OF NEBRASKA CITY, NEBRASKA, ADOPTING THE 2009 EDITION OF THE *INTERNATIONAL BUILDING CODE*, REGULATING AND GOVERNING THE CONDITIONS AND MAINTENANCE OF ALL PROPERTY, BUILDINGS AND STRUCTURES; BY PROVIDING THE STANDARDS FOR SUPPLIED UTILITIES AND FACILITIES AND OTHER PHYSICAL THINGS AND CONDITIONS ESSENTIAL TO ENSURE THAT STRUCTURES ARE SAFE, SANITARY AND FIT FOR OCCUPATION AND USE; AND THE CONDEMNATION OF BUILDINGS AND STRUCTURES UNFIT FOR HUMAN OCCUPANCY AND USE AND THE DEMOLITION OF SUCH STRUCTURES IN THE CITY OF NEBRASKA CITY; PROVIDING FOR THE ISSUANCE OF PERMITS AND COLLECTION OF FEES THEREFORE; REPEALING ORDINANCE NO. 2601-03 OF THE CODE OF THE CITY OF NEBRASKA CITY, AND ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT THEREWITH; AND DECLARING AN EFFECTIVE DATE.

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

Section 1. That a certain document, a copy of which is on file in the office of the City Clerk-Treasurer of the City of Nebraska City, Nebraska, being marked and designated as the *International Building Code*, 2009 edition, as published by the International Code Council, be and is hereby adopted as the Building Code of the City of Nebraska City, in the State of Nebraska, for regulating and governing the conditions and maintenance of all property, buildings and structures; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use and the demolition of such structures as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said Building Code on file in the office of the City of Nebraska City are hereby referred to, adopted, and made a part hereof, as if fully set out in this ordinance, with additions, deletions and changes, if any, prescribed in Section 2 of this ordinance.

Section 2. The following sections are hereby revised or added to read as follows:

SECTION 101 - GENERAL.

101.1 Title. These regulations shall be known as the Building Code of Nebraska City, Nebraska, hereinafter referred to as "this code."

101.3 Intent. The intent of this code is to provide minimum standards to safeguard life or limb, health, property, and public welfare by regulating and controlling the design, construction, quality of materials, use and occupancy, location, and maintenance of all buildings and structures within the city and within two miles of the corporate limits of the city.

The intent of this code is not to create or otherwise establish or designate any particular case or group of persons who will or should be especially protected or benefitted by the terms of this code.

101.4.5 Fire Prevention. The provisions of the State of Nebraska, NFPA 101 Life Safety Code shall apply to matters affecting or relating to structures, processes and premises from the hazard of fire and explosion arising from the storage, handling or use of structures, materials or devices; from conditions hazardous to life, property or public welfare in the occupancy of structures or premises; and from the construction, extension, repair, alteration or removal of fire suppression and alarm systems or fire hazards in the structure or on the premises from occupancy or operation.

101.4.7 Electrical. The provisions of the State Electrical Division shall apply to the installation of electrical system, including alterations, repairs replacement, equipment, appliances, fixtures, fittings and appurtenances thereto.

SECTION 105 - PERMITS

105.1 Required. Any owner or authorized agent who intends to construct, enlarge, alter, repair, move, or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert or replace any gas, mechanical, or plumbing system, the installation of which is regulated by this code, or to cause any such work to be done, shall first make application to the building official and obtain the required permit.

A deposit will be collected during the application process to insure all inspections are obtained. This deposit will be refunded after completion of a final inspection and if the following have occurred: 1) All required inspections have been obtained. 2) Final inspections occur prior to occupancy. 3) Final inspection is done when the project is completed. 4) Project is completed before expiration of permit (24 Months). This deposit is collected to insure the compliance of all building codes and building permit regulations and will be determined as follows: 1) \$100.00 for all residential additions/ remodels/accessory buildings valued under \$10,000.00 and 2) \$200.00 for all commercial, new homes, and residential additions/remodels/accessory building valued \$10,000.00 or greater. A \$25.00 deposit will be collected for all other building permits issued.

105.2 Work exempt from permit. A building permit will not be required for the following:

- (1) Cases, counters, or partitions not over 5 feet 9 inches high;
- (2) Retaining walls, which are not over 4 feet in height measured from the bottom of the footing to the top of the wall unless supporting a surcharge or impounding flammable liquids;
- (3) Painting, papering, and similar finish work;

- (4) Shingling and residing.
- (5) Sidewalks and driveways not more than 30 inches (762 mm) above adjacent grade, and not over any basement or story below and not part of an accessible route.
- (6) Prefabricated swimming pools accessory to a Group R-3 occupancy that are less than 24 inches (762 mm) deep, do not exceed 5,000 gallons (18925 L) and are installed entirely above ground.
- (7) Swings and other playground equipment accessory to detached one and two family dwellings.

Unless otherwise exempted by this code, separate plumbing, electrical, and mechanical permits will be required for the above exempted items. Exemption from the permit requirements of this code shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this code or any other laws or ordinances of this jurisdiction.

105.5 Expiration. Every permit issued shall become invalid unless the work authorized by such permit is commenced within 180 days after its issuance, or if the work authorized by such permit is suspended or abandoned for a period of 180 days after the time the work is commenced.

All permits shall expire after two years (24 months). New plans and permit will be required to extend the project. The building official is authorized to grant by written request, one extension of time due to size and scope of project for a period of not more than one year with the payment of up to two-thirds of the original building permit fee, depending on the percentage of work completed.

SECTION 109 - FEES.

109.3 Building permit valuations. The determination of value or valuation under any of the provisions of this code shall be made by the building official. The value to be used in computing the building permit, shall be the total value of all construction work for which the permit is issued, as well as all finish work, painting, roofing, electrical, plumbing, heating, air conditioning, elevators, fire extinguishing systems and any other permanent equipment. The building official may determine valuation by applying the ICC valuation or other recognized method of estimating building construction project cost.

The value or valuation used by the building official in computing the building permit and plan review fees is only an estimate and is not intended to be used as conclusive evidence of the actual value of all construction work for which the permit is issued as well as all finish work, painting, roofing, electrical, plumbing, heating, air conditioning, elevators, fire extinguishing systems and any other permanent equipment for purposes of determining whether said value exceeds a certain percentage of the fair market value of the building in question.

109.6 Fee refunds. There shall be no refunds or credits given on permits or applications regulated by this chapter, which have expired. Permit holders returning an unused permit prior to the expiration date of the permit shall be limited to a maximum refund amounting to two-thirds of the total building permit fee, with the remaining one-third to be used to pay the cost of processing the permit. No refund shall be issued on a permit, where refund is less than \$50.00.

Where a fee has been collected in error, the building official may authorize a 100% refund.

SECTION 110 - INSPECTIONS.

110.1 Inspections and surveys. All construction or work for which a permit is required shall be subject to inspection by the building official and all such construction work shall remain accessible and exposed for inspection purposes until approved by the building official. In addition, certain types of construction shall have continuous inspection as specified in Section 1704.

Approval as a result of an inspection shall not be construed to be an approval of a violation of the provisions of this code or of other ordinances of the city. Inspections presuming to give authority to violate or cancel the provisions of this code or of other ordinances of the city shall not be valid.

A survey of the lot or lots upon which permitted work for additions, alterations, or repairs are being accomplished shall be provided by a duly licensed surveyor of the State of Nebraska before plans and specifications shall be accepted by the building official to verify compliance of the construction or work with building line setback requirements of the Nebraska City Zoning Regulations. All boundary corners of a lot or lots with permanent survey monuments shall be marked in the field by a duly licensed surveyor of the State of Nebraska.

The monuments set shall be constructed of material capable of being detected by commonly used magnetic locators. These monuments shall consist of an iron pipe or steel rod with a minimal diameter of one-half inch and minimal length of twenty-four inches. A durable cap bearing the registration number of the professional land surveyor responsible for the establishment of the monument shall be affixed securely to the top of each monument.

Said permanent survey monument shall be maintained and readily identifiable during the entire period of the time that the construction work is being accomplished for which a permit is required.

It shall be the duty of the permit applicant to cause the work to remain accessible and exposed for inspection purposes. Neither the building official nor the city shall be liable for expense entailed in the removal or replacement of any material required to allow inspection.

110.3.11 Re-inspections. A re-inspection fee may be assessed for each inspection or re-inspection when such portion of work for which inspection is called is not complete or when corrections called for are not made.

This subsection is not to be interpreted as requiring re-inspection fees the first time a job is rejected for failure to comply with the requirements of this code, but as controlling the practice of calling for inspections before the job is ready for such inspection or re-inspection.

Re-inspection fees may be assessed when the inspection record card is not posted or otherwise available on the work site, the approved plans are not readily available to the inspector, for failure to provide access on the date for which inspection is requested, or for deviating from plans requiring the approval of the building official.

In instances where re-inspection fees have been assessed, no additional inspection of the work will be performed until the required fees have been paid.

SECTION 113 - Board of Appeals

Section 113 of the International Building Code is hereby deleted. This section will be covered by the Code of Ordinances, City of Nebraska City.

SECTION 406 - MOTOR-VEHICLE-RELATED OCCUPANCIES.

406.1.4 Separation. Separations shall comply with the following:

1. The private garage shall be separated from the dwelling unit and its attic area by means of a minimum 5/8-inch Type X gypsum board applied to the garage side. Garages beneath habitable rooms shall be separated from all habitable rooms above by not less than a 5/8-inch Type X gypsum board or equivalent. Door openings between a private garage and the dwelling unit shall be equipped with either solid wood doors or solid or honeycomb core steel doors not less than 1 3/8 inches (34.9 mm) thick, or doors in compliance with Section 715.4.3. Openings from a private garage directly into a room used for sleeping purposes shall not be permitted.

SECTION 1604 - GENERAL DESIGN REQUIREMENTS.

Table 1604.5 Occupancy Category II

Occupancy Category II to include; Buildings, residential structures and unattached garages over 400 square feet, except those listed in Occupancy Categories I, II and III.

SECTION 1612 - FLOOD LOADS.

1612.3 Establishment of flood hazard areas.

To establish flood hazard areas, the applicable governing authority shall adopt a flood hazard map and supporting data. The flood hazard map shall include, at a minimum, areas of special flood hazard as identified by the Federal Emergency Management Agency in an engineering report entitled "The Flood Insurance Study for the City of Nebraska City, Nebraska", dated February 18, 2011, as amended or revised with the accompanying Flood Insurance Rate Map (FIRM) and Flood Boundary and Floodway Map (FBFM) and related supporting data along with any revisions thereto. The adopted flood hazard map and supporting data are hereby adopted by reference and declared to be part of this section.

SECTION 1809 - SHALLOW FOUNDATIONS.

1809.5 Frost Protection.

Except where otherwise protected from frost, foundations and other permanent supports of buildings and structures shall be protected from frost by one or more of the following methods:

- (1) Extending below the frost line of the locality;
- (2) Constructing in accordance with ASCE 32 (shallow foundations); or
- (3) Erecting on solid rock.

Exception: Free-standing buildings meeting all of the following conditions shall not be required to be protected:

1. Assigned to Occupancy Category I, in accordance with Section 1604.5;
2. Area of 400 square feet (37m²) or less for light frame construction; and
3. Eave height of 10 feet (3048 mm) or less.

Foundations and shallow foundations shall not bear on frozen soil unless such condition is of a permanent character.

SECTION 3303 - DEMOLITION.

Section 3303 of the International Building Code is hereby deleted. This section will be covered by the Code of Ordinances, City of Nebraska City.

SECTION 3412 - COMPLIANCE ALTERNATIVES.

Section 3412.2 Applicability.

Structures existing prior to February 22, 2011, in which there is work involving additions, alterations or changes of occupancy shall be made to comply with the requirements of this section or the provisions of Sections 3403 through 3409. The provisions in Sections 3412.2.1 through 3412.2.5 shall apply to existing occupancies that will continue to be, or are proposed to be, in Groups, A,B,E,F,M,R,S, and U. These provisions shall not apply to buildings with occupancies in Group H or I."

Section 3. That Ordinance No. 2601-03 of the Code of the City of Nebraska City, and all other ordinances or parts of ordinances in conflict herewith, are hereby repealed.

Section 4. That if any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The Mayor and City Commissioners hereby declare that it would have passed this ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

Section 5. That nothing in this ordinance or in the Building Code hereby adopted shall be construed to affect any suit or proceeding impending in any court, or any rights, acquired, or liability incurred, or any cause or causes of action acquired or existing under any act or ordinance hereby repealed as cited in Section 3 of this ordinance; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this ordinance.

Section 6. That the City Clerk-Treasurer is hereby ordered and directed to cause this ordinance to be published in pamphlet form, as provided by law.

Section 7. That this ordinance and the rules, regulations, provisions, requirements, orders and matters established and adopted hereby shall take effect and be in full force and effect from and after the date of its final passage, approval and publication, as provided by law.

Passed and Approved this 21st day of February, 2011.

Jack Hobbie, Mayor
Attest:

Arnold M. Ehlers, City Clerk-Treasurer

Mayor Hobbie introduced Ordinance No. 2835-11 entitled: AN ORDINANCE OF THE CITY OF NEBRASKA CITY, NEBRASKA, ADOPTING THE 2009 EDITION OF THE *INTERNATIONAL RESIDENTIAL CODE*, REGULATING AND GOVERNING THE CONSTRUCTION, ALTERATION, MOVEMENT, ENLARGEMENT, REPLACEMENT, REPAIR, EQUIPMENT, LOCATION, REMOVAL AND DEMOLITION OF DETACHED ONE AND TWO-FAMILY DWELLINGS AND MULTIPLE SINGLE-FAMILY DWELLINGS (TOWNHOUSES) NOT MORE THAN THREE STORIES IN HEIGHT WITH SEPARATE MEANS OF EGRESS IN THE CITY OF NEBRASKA CITY, REPEALING ORDINANCE NO. 2601-03 OF THE CODE OF THE CITY OF NEBRASKA CITY, AND ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT THEREWITH; PROVIDING FOR THE ISSUANCE OF PERMITS AND COLLECTION OF FEES THEREFORE; AND DECLARING AN EFFECTIVE DATE; and moved that the statutory rule requiring reading on three different days be suspended. Commissioner Handy seconded the motion to suspend the rules and upon roll call the following voted YES: Mercer, Gay, Crunk, Handy, and Mayor Hobbie. Voting NO: None. The motion to suspend was adopted by three-fifths of the Council and the statutory rule was declared suspended for consideration of said ordinance.

Said ordinance was then read by title and thereafter Mayor Hobbie moved for final passage of the ordinance, which motion was seconded by Commissioner Handy. The Mayor then stated the question: "Shall Ordinance No. 2835-11 be passed and adopted?" Upon roll call the following voted YES: Mercer, Gay, Crunk, Handy, and Mayor Hobbie. Voting NO: None. The passage and adoption of said ordinance having been concurred in by a majority of all members of the Council, the Mayor declared the ordinance adopted and the Mayor, in the presence of the Council, signed and approved the ordinance and the Clerk attested the passage and approval of the same and affixed his signature thereto. A true and correct copy of said ordinance is as follows:

ORDINANCE NO. 2835-11

AN ORDINANCE OF THE CITY OF NEBRASKA CITY, NEBRASKA, ADOPTING THE 2009 EDITION OF THE *INTERNATIONAL RESIDENTIAL CODE*, REGULATING AND GOVERNING THE CONSTRUCTION, ALTERATION, MOVEMENT, ENLARGEMENT, REPLACEMENT, REPAIR, EQUIPMENT, LOCATION, REMOVAL AND DEMOLITION OF DETACHED ONE AND TWO-FAMILY DWELLINGS AND MULTIPLE SINGLE-FAMILY DWELLINGS (TOWNHOUSES) NOT MORE THAN THREE STORIES IN HEIGHT WITH SEPARATE MEANS OF EGRESS IN THE CITY OF NEBRASKA CITY, REPEALING ORDINANCE NO. 2601-03 OF THE CODE OF THE CITY OF NEBRASKA CITY, AND ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT THEREWITH; PROVIDING FOR THE ISSUANCE OF PERMITS AND COLLECTION OF FEES THEREFORE; AND DECLARING AN EFFECTIVE DATE.

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

Section 1. That a certain document, a copy of which is on file in the office of the City Clerk-Treasurer of the City of Nebraska City, Nebraska, being marked and designated as the *International Residential Code*, 2009 edition, including Appendix Chapter G, Swimming Pools, Spas, and Hot Tubs, as published by the International Code Council, be and is hereby adopted as the Residential Code of the City of Nebraska City, in the State of Nebraska, for regulating and governing the construction, alteration, movement, enlargement, replacement, repair, equipment, location, removal and demolition of detached one and two-family dwellings and multiple single-family dwellings (townhouses) not more than three stories in height with separate means of egress as herein provided; providing for the issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, penalties, conditions and terms of said Residential Code on file in the office of the City of Nebraska City are hereby referred to, adopted, and made a part hereof, as if fully set out in this ordinance, with additions, insertions, deletions and changes, if any, prescribed in Section 2 of this ordinance.

Section 2. The following sections are hereby revised and added to read as follows:

SECTION R101 - GENERAL.

R101.1 Title. These provisions shall be known as the Residential Code for One-and Two-Family Dwellings of the City of Nebraska City, Otoe County, Nebraska, and shall be cited as such and will be referred to herein as "this code."

SECTION R105 - PERMITS

R105.1 Required. Any owner or authorized agent who intends to construct, enlarge, alter, repair, move, or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert or replace any gas, mechanical, or plumbing system, shall first make application to the building official and obtain the required permit.

A deposit will be collected during the application process to insure all inspections are obtained. This deposit will be refunded after completion of a final inspection and if the following have occurred: 1) All required inspections have been obtained. 2) Final inspections occur prior to occupancy. 3) Final inspection is done when the project is completed. 4) Project is completed before expiration of permit (24 Months). This deposit is collected to insure the compliance of all building codes and building permit

regulations and will be determined as follows: 1) \$100.00 for all residential additions/ remodels/accessory buildings valued under \$10,000.00 and 2) \$200.00 for all commercial, new homes, residential additions, remodels, accessory buildings valued \$10,000.00 or greater. A \$25.00 deposit will be collected for all other building permits issued.

R105.2 Work exempt from permit. Permits shall not be required for the following. Exemption from the permit requirements of this code shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this code or any other laws or ordinances of this jurisdiction.

Building:

1. Retaining walls that are not over 4 feet in height measured from the bottom of the footing to the top of the wall unless supporting a surcharge.
2. Water tanks supported directly upon grade if the capacity does not exceed 5,000 gallons and the ratio of height to diameter or width does not exceed 2 to 1.
3. Shingling and residing.
4. Painting, papering, tiling, carpeting, cabinets, counter tops and similar finish work.
5. Prefabricated, temporary, frameless, soft side swimming pools that have a depth of 24 inches or less.
6. Swings and other playground equipment accessory to a one- or two-family dwelling.
7. Window awnings supported by an exterior wall.

R105.5 Expiration. Every permit issued shall become invalid unless the work authorized by such permit is commenced within 180 days after its issuance, or if the work authorized by such permit is suspended or abandoned for a period of 180 days after the time the work is commenced.

All permits shall expire after two years. New plans and permit will be required to extend the project. The building official is authorized to grant by written request, one extension of time due to size and scope of project for a period of not more than one year with the payment of two-thirds of the original building permit fee, depending on the percentage of work completed.

R107. TEMPORARY STRUCTURES AND USES.

Section R107 of the International Residential Code and all subsections thereof are hereby deleted.

SECTION R108. FEES.

R108.1 General. The fee schedule is set forth in Resolution #2452-10, of the City of Nebraska City.

Subsequent revisions of said Resolution shall be considered as adopted by this Ordinance and shall be of full force and effect upon the approval thereof by the Mayor and City Commissioners, and the filing of one copy thereof in the Office of the City Clerk-Treasurer

R108.2 Permit fees. The determination of value or valuation to be used in computing the building permit fees shall be the total value of all construction work for which the permit is issued, as well as all finish work, painting, roofing, electrical, plumbing, heating, air conditioning, elevators, fire extinguishing systems and any other permanent equipment. The building official may determine valuation by applying the I.C.C. building valuation or other recognized method of estimating building construction project cost.

The value or valuation used by the building official in computing the building permit and plan review fees is only an estimate and is not intended to be used as conclusive evidence of the actual value of all construction work for which the permit is issued as well as all finish work, painting, roofing, electrical, plumbing, heating, air conditioning, elevators, fire extinguishing systems and any other permanent equipment for purposes of determining whether said value exceeds a certain percentage of the fair market value of the building in question.

R108.3 Fee Refunds. There shall be no refunds or credits given on permits or applications regulated by this chapter, which have expired. Permit holders returning an unused permit prior to the expiration date of the permit shall be limited to a maximum refund amounting to two-thirds of the total building permit fee, with the remaining one third to be used to pay the cost of processing the permit.

No refund shall be issued on a permit deposit where the refund amount is less than \$50.00. Where a fee has been collected in error the building official may authorize a 100% refund.

R108.4 Work commencing before permit issuance. Any person who commences work requiring a permit on a building, structure, gas, mechanical or plumbing system before obtaining the necessary permits shall be subject to a fee up to two times the required permit fees.

SECTION 109. INSPECTIONS and SURVEYS.

R109.1 Types of inspections. All construction or work for which a permit is required shall be subject to inspection by the building official and all such construction work shall remain accessible and exposed for inspection purposes until approved by the building official.

Approval as a result of an inspection shall not be construed to be an approval of a violation of the provisions of this code or of other ordinances of the city. Inspections presuming to give authority to violate or cancel the provisions of this code or of other ordinances of the city shall not be valid.

A survey of the lot or lots upon which permitted work for additions, alterations, or repairs are being accomplished shall be provided by a duly licensed surveyor of the State of Nebraska before plans and specifications shall be accepted by the building official to verify compliance of the construction or work with building line setback requirements of the City of Nebraska Code of Ordinances. All boundary corners of a lot or lots with permanent survey monuments shall be marked in the field by a duly licensed surveyor of the State of Nebraska.

It shall be the duty of the permit applicant to cause the work to remain accessible and exposed for inspection purposes. Neither the building official nor the city shall be liable for expense entailed in the removal or replacement of any material required to allow inspection.

In the event any permit holder or permit holder's agent shall fail to request required inspections as herein provided or in the event any permit holder or permit holder's agent shall have a backlog of one or more permits with no final inspections completed, the building official is authorized to withhold further

issuance of any permit or perform any further inspections under this code to said permit holder or the permit holder's agent until required inspections have been completed as provided by this code.

SECTION R112. BOARD OF APPEALS.

Section R112 of the International Residential Code is deleted: This section will be covered by the Code of Ordinances: City of Nebraska City.

SECTION R113. VIOLATIONS.

R113.3 Prosecution of Violation. If the notice of violation is not complied with and the abatement or correction of the violation is not completed within the time frame given in the notice of violation, the Building Official may withhold issuance of any further building permits and may withhold any further inspection pending compliance with the order of abatement or correction and the Building Official is authorized to request the legal counsel of the jurisdiction to institute the appropriate proceeding at law or in equity to restrain, correct, or abate such violation, or to require the removal or termination of the unlawful occupancy of the building or structure in violation of the provisions of this code or of the order or direction made pursuant thereto.

R113.4 Violation penalties. Any person, firm, or corporation who shall violate any of the provisions of this code shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not to exceed \$100.00, or be imprisoned in the county jail for a period not to exceed thirty (30) days, or by both such fine and imprisonment. Each day that such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder.

SECTION R301. DESIGN CRITERIA.

Table No. R301.2(1). Climatic and Geographic Design Criteria.

TABLE

GROUND SNOW LOAD	WIND SPEED ^d (mph)	SEISMIC DESIGN CATEGOR Y ^f	SUBJECT TO DAMAGE FROM			WINTER DESIGN TEMP ^e	ICE BARRIER UNDERLAYMENT REQUIRED ^h	FLOOD HAZARDS ^g
			Weathering ^a	Frost Line depth ^b	Termite ^c			
25 psf	90 mph	A-B	Severe	42"	moderate to heavy	-2° F	Yes	2011

R301.2(1) CLIMATIC AND GEOGRAPHIC DESIGN CRITERIA

For SI- 1 pound per square foot = 0.0479 kPa, 1 mile per hour = 0.447 m/s.

- a. Weathering may require a higher strength concrete or grade of masonry than necessary to satisfy the structural requirements of this code. The weathering column shall be filled in with the weathering index (i.e., "negligible," "moderate" or "severe") for concrete as determined from the Weathering Probability Map [Figure R301 2(3)] The grade of masonry units shall be determined from ASTM C 34, C 55, C 62, C 73, C 90, C 129, C 145, C 216 or C 652.
- b. The frost line depth may require deeper footings than indicated in Figure R403.1(1). The jurisdiction shall fill in the frost line depth column with the minimum depth of footing below finish grade.
- c. The jurisdiction shall fill in this part of the table to indicate the need for protection depending on whether there has been a history of local subterranean termite damage.
- d. The jurisdiction shall fill in this part of the table with the wind speed from the basic wind speed map [Figure R301.2(4)]. Wind exposure category shall be determined on a site-specific basis in accordance with Section R301.2.1.4.
- e. The outdoor design dry-bulb temperature shall be selected from the columns of 97 ½ percent values for winter from Appendix D of the International Plumbing Code. Deviations from the Appendix D temperatures shall be permitted to reflect local climates or local weather experience as determined by the building official.
- f. The jurisdiction shall fill in this part of the table with the seismic design category determined from Section R301.2.2.1.
- g. The jurisdiction shall fill in this part of the table with (a) the date of the jurisdiction's entry into the National Flood Insurance Program (date of adoption of the first code or ordinance for management of flood hazard areas), (b) the date(s) of the currently effective FIRM and FBFM, or other flood hazard map adopted by the community, as may be amended.
- h. In accordance with Sections R905.2.7.1, R905.4.3.1, R905.5.3.1, R905.6.3.1, R905.7.3.1 and R905.8.3.1, where there has been a history of local damage from the effects of ice damming, the jurisdiction shall fill in this part of the table with "YES." Otherwise, the jurisdiction shall fill in this part of the table with "NO."

SECTION R302. FIRE-RESISTANT CONSTRUCTION.

R302.1 Exterior walls. Construction, projections, openings and penetrations of exterior walls of dwellings and accessory buildings shall comply with Table R302.1. These provisions shall not apply to walls, projections, openings or penetrations in walls that are perpendicular to the line used to determine the fire separation distance. Projections beyond the exterior wall shall not extend more than 12 inches (305 mm) into the areas where openings are prohibited. No part of a detached structure shall be closer than 5 feet from a lot line.

Exception 1: Detached tool sheds and storage sheds, playhouses and similar structures with a floor area of equal to or less than 120 square feet are not required to provide wall protection.

Exception 2: An accessory building located less than 5 feet from a dwelling unit including decks greater than 30 inches above grade, shall be protected with no less than 5/8" type X gypsum board applied

to the interior side of the walls and the ceiling. The door shall be no less than a solid core or steel door no less than 1 3/8" thickness. No other openings shall be permitted.

R302.6 Dwelling/Garage Fire Separation. The garage shall be separated from the residence and its attic area by not less than 5/8-inch (15.9 mm) type X gypsum board applied to the garage wall side. Garages beneath habitable rooms shall be separated from all habitable rooms above by not less than 5/8-inch (15.9 mm) type X gypsum board or equivalent. Where the separation is a floor-ceiling assembly, the structure supporting the separation shall also be protected by not less than 5/8-inch (15.9 mm) type X gypsum board or equivalent. A cantilever projecting over a garage door shall be protected on the underside by not less than 5/8" Type X gypsum board.

Garages located less than 5 feet (914 mm) from a dwelling unit on the same lot shall be protected with not less than 5/8-inch type X gypsum board applied to the interior side of exterior walls that are within this area. Openings in these walls shall be regulated by Section R309.1. This provision does not apply to garage walls that are perpendicular to the adjacent dwelling unit wall. Accessory buildings 120 square feet or greater, located less than 5 feet from the residence shall be protected by not less than 5/8 inch type X gypsum board applied to the interior side, with no openings permitted.

SECTION R313. Deleted; Automatic Fire Sprinkler Systems.

The entire section from the International Residential Code , including all subsections is replaced with the following sections and subsections.

SECTION 313. Dwelling Unit Separation.

R313.1 Two family dwellings. Dwelling units in two-family dwellings shall be separated from each other by wall and/or floor assemblies having not less than 1 hour ceiling and wall assemblies shall extend to and be tight against the exterior wall, and wall assemblies shall extend to the under side of the roof sheathing.

Exceptions:

1. A fire resistant rating of ½ hour shall be permitted in buildings equipped throughout with an automatic sprinkler system installed in accordance with NFPA 13.
2. Wall assemblies need not extend through attic spaces when the ceiling is protected by not less than 5/8 inch (15.9 mm) Type X gypsum board and an attic draft stop constructed as specified in Section R302.12 is provide above and along the wall assembly separating the dwellings. The structural framing supporting the ceiling shall also be protected by not less than ½ inch (12.7 mm) gypsum board or equivalent.

313.1.1 Supporting construction. When floor assemblies are required to be fire-resistance-rated by Section 313.1, the supporting construction of such assemblies shall have an equal or greater fire-resistive rating.

313.2 Townhouses. Each townhouse shall be considered a separate building and shall be separated by fire-resistance-rated wall assemblies meeting the requirements of Section R302 for exterior walls.

Exception: A common 2-hour fire-resistance-rated wall is permitted for townhouses if such walls do not contain plumbing or mechanical equipment, ducts or vents in the cavity of the common wall. Electrical installations shall be installed in accordance with chapters 34 through 43. Penetrations of electrical outlet boxes shall be in accordance with Section 313.3.

313.2.1 Continuity. The fire-resistance-rated wall or assembly separating townhouses shall be continuous from the foundation to the underside of the roof sheathing, deck or slab. The fire-resistive rating shall extend the full length of the wall or assembly, including wall extensions through and separating attached enclosed accessory structures.

313.2.2 Parapets. Parapets constructed in accordance with Section 313.2.3 shall be constructed for townhouses as an extension of the exterior walls or common walls in accordance with the following:

1. Where roof surfaces adjacent to the wall or walls are at the same elevation, the parapet shall extend not less than 30 inches (762 mm) above the roof surfaces.
2. Where roof surfaces adjacent to the wall or walls are at different elevations and the higher roof is not more than 30 inches (762 mm) above the lower roof, the parapet shall extend not less than 30 inches (762 mm) above the lower roof surface.

Exception: A parapet is not required in the two cases above when the roof is covered with a minimum class C roof covering, and the roof decking or sheathing is of noncombustible materials or approved fire-retardant-treated wood for a distance of 4 feet (1219 mm) on each side of the wall or walls, or one layer of 5/8-inch (15.9 mm) Type X gypsum board is installed directly beneath the roof decking, supported by a minimum of nominal 2-inch (51 mm) ledgers attached to the sides of the roof framing members, for a minimum distance of 4 feet (1220 mm) on each side of the wall or walls.

3. A parapet is not required where roof surfaces adjacent to the wall or walls are at different elevations and the higher roof is more than 30 inches (762 mm) above the lower roof. The common wall construction from the lower roof to the underside of the higher roof deck shall have not less than a 1-hour fire-resistance rating. The wall shall be rated for exposure from both sides.

313.2.3 Parapet construction. Parapets shall have the same fire-resistance rating as that required for the supporting wall or walls. On any side adjacent to a roof surface, the parapet shall have noncombustible faces for the uppermost 18 inches (457 mm), to include counter flashing and coping materials. Where the roof slopes toward a parapet at slopes greater than two units vertical in 12 units horizontal (16.7-percent slope), the parapet shall extend to the same height as any portion of the roof within a distance of 3 feet (914 mm), but in no case shall the height be less than 30 inches (762 mm)

313.2.4 Structural independence. Each individual townhouse shall be structurally independent.

Exception:

1. Foundations supporting exterior walls or common walls.
2. Structural roof and wall sheathing from each unit may fasten to the common wall framing.
3. Nonstructural wall coverings.
4. Flashing at termination of roof covering over common wall.
5. Town houses separated by a common 2-hour fire-resistance-rated wall as provided in section 313.2.

313.3 Rated penetrations. Penetrations of wall or floor/ceiling assemblies required to be fire-resistance-rated in accordance with Section 313.3.1.1 or 313.3.1.2 Shall be protected in accordance with this section.

313.3.1 Through penetrations. Through penetrations of fire-resistance-rated wall or floor assemblies shall comply with Section 313.3.1.1 or 313.3.1.2.

Exception: Where the penetrating items are steel, ferrous or copper pipes, tubes or conduits, the annular space shall be protected as follows:

1. In concrete or masonry wall or floor assemblies where the penetrating item is a maximum 6 inches (152 mm) nominal diameter and the area of the opening through the wall does not exceed 144 square inches (92 900 mm²), concrete, grout or mortar is permitted where installed to the full thickness of the wall or floor assembly or the thickness required to maintain the fire –resistance rating.
2. The material used to fill the annular space shall prevent the passage of flame and hot gases sufficient to ignite cotton waste where subjected to ASTM E 119 time temperature fire conditions under a minimum positive pressure differential of 0.01 inch of water (3 Pa) at the location of the penetration for the time period equivalent to the fire resistance rating of the construction penetrated.

313.3.1.1 Fire-resistance-rated assembly. Penetrations shall be installed at tested in the approved fire-resistance-rated assembly.

313.3.1.2 Penetration fire stop system. Penetrations shall be protected by an approved penetration fire stop system installed as tested in accordance with ASTM E814 or UL 1479, with a minimum positive pressure differential of 0.01 inch of water (3 Pa) and shall have an F rating of not less than the required fire-resistance rating of the wall or floor/ceiling assembly penetrated.

313.3.2 Membrane penetrations. Membrane penetrations shall comply with Section 313.3.1. Where walls are required to have a fire-resistance rating, recessed fixtures shall be so installed such that the required fire resistance will not be reduced.

Exceptions:

1. Membrane penetrations of maximum 2-hour fire-resistance-rated walls and partitions by steel electrical boxes that do not exceed 16 square inches (0.0103 m²) in area provided the aggregate area of the openings through the membrane does not exceed 100 square inches (0.0645 m²) in any 100 square inches (0.0645 m²) of wall area. The annular space between the wall membrane and the box shall not exceed 1/8 inch (3.1 mm). Such boxes opposite sides of the wall shall be separated as follows:
 - 1.1 By a horizontal distance of not less than 24 inches (610 mm) at walls or partitions constructed using parallel rows of studs or staggered studs;
 - 1.2 By a horizontal distance of not less than the depth of the wall cavity when the wall cavity if filled with cellulosus loose-fill, rock wool or slag mineral wool insulation;
 - 1.3 By solid fire blocking in accordance with Section R 602.8;
 - 1.4 By protecting both boxes with listed putty pads; or
 - 1.5 By other listed materials and methods.
2. Membrane penetrations by listed electrical boxes of any materials provided the boxes have been tested for use in fire-resistance-rated assemblies and are installed in accordance with the instructions included in the listing. The annular space between the wall membrane and the box shall not exceed 1/8 inch (3.1mm) unless listed otherwise. Such boxes on opposite sides of the wall shall be separated as follows:
 - 2.1 By a horizontal distance of not less than 24 inched (610 mm) except at the walls or partitions constructed using parallel rows of studs or staggered studs;
 - 2.2 By solid fire blocking in accordance with Section R 602.8;
 - 2.3 By protecting both boxes with listed putty pads; or
 - 2.4 By other listed materials and methods.
3. The annular space created by the penetration of a fire sprinkler provided it is covered by a metal escutcheon plate.

SECTION R403. FOOTINGS.

R403.1.1 Minimum size. Minimum sizes for concrete and masonry footings shall be as set forth in Table R403.1 and Figure R403.1(1). The footing width, W, shall be based on the load-bearing value of the soil in accordance with Table R401.4.1. Spread footings shall be at least 8 inches (152 mm) thick. Footing projections, P, shall be at least 2 inches (51 mm) and shall not exceed the thickness of the footing. The size of footings supporting piers and columns shall be based on the tributary load and allowable soil pressure in accordance with Table R401.4.1. Footings for wood foundations shall be in accordance with the details set forth in Section R403.2, and Figures R403.1(2) and R403.1(3).

Figures 403.1(1), 403.1(2) and 403.1(3) Footings.

Figures 403.1(1), 403.1(2) and 403.1(3) of the International Residential Code are amended as shown on said figures at the end of this chapter. (Ord.19033§51; Jan 7, 2008).

R403.1.4.1 Frost protection. Foundation walls, piers and other permanent supports of buildings and structures shall be protected from frost by one or more of the following methods:

1. Extended below the frost line specified in Table R301.2.(1);
2. Erected on solid rock.

Exceptions:

1. Protection of freestanding accessory structures with an area of 400 square feet or less, of light-framed construction, with an eave height of 10 feet (3048 mm) or less shall not be required.
2. Decks not supported by a dwelling need not be provided with footings that extend below the frost line.
3. Slabs and monolithic slabs shall not bear on new fill unless compacted.
4. Footings shall not bear on frozen soil unless such condition is of a permanent character.

SECTION R404. FOUNDATION and RETAINING WALLS.

Table R404.1.1(5) Minimum Reinforcement; Residential Poured Walls.

Figure R404.1.1(5) as shown on said figure at the end of this chapter.

Figure R404.1.1(6) Minimum Concrete Foundation Wall Corner Detail; Residential Poured Wall.

Figure R404.1.1(6) is added to the International Residential Code as shown on said figure at the end of this chapter

Figure R404.1.1(7) Permanent Masonry Foundation Basement Wall Section.

Figure R404.1.1(7) is added to the International Residential Code as shown on said figure at the end of this chapter.

SECTION R502. WOOD FLOOR FRAMING.

R502.2.3 Fastener Spacing Recommendations for Residential Deck Ledgers When Using Pressure Treated Syp Sawn Lumber.

<u>Joist Span (ft)</u>	<u>Up to 10'</u>	<u>10'-1" to 18'</u>
½" diameter lag screw with ½" sheathing	18" o.c.	12" o.c.
½" diameter bolt with ½" sheathing	32" o.c.	18" o.c.

1. The tip of the lag screw shall fully extend beyond the inside face of the rim joist.
2. Ledgers shall be flashed to prevent water from contacting the house rim joist.
3. Lag screws and bolts need to be staggered along the length of the ledger.
4. The width of the ledger shall not be less than the width of the joists.
5. Lag screws and bolts shall be placed at least 2" in from the bottom and top of the ledger and at least 2" in from the ends.
6. 2 lag screws or bolts will be placed at the beginning, end, or splice of each ledger board attached to the structure."

SECTION P2603. STRUCTURAL AND PIPING PROTECTION.

P2603.6.1. Sewer depth. Building sewers that connect to private sewage disposal systems shall be a minimum of 18 inches (457.20 mm) below finished grade at the point of septic tank connection. Building sewers shall be a minimum of 18 inches (457.20 mm) below grade.

Section 3. That Ordinance No. 2601-03 of the City of Nebraska City of the Code of Nebraska City, and all other ordinances or parts of ordinances in conflict herewith, are hereby repealed.

Section 4. That if any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The Mayor and City Commissioners hereby declare that it would have passed this ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

Section 5. That nothing in this ordinance or in the Residential Code hereby adopted shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing under any act or

ordinance hereby repealed as cited in Section 3 of this ordinance; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this ordinance.

Section 6. That the City Clerk-Treasurer is hereby ordered and directed to cause this ordinance to be published in pamphlet form, as provided by law.

Section 7. That this ordinance and the rules, regulations, provisions, requirements, orders and matters established and adopted hereby shall take effect and be in full force and effect from and after the date of its final passage, approval and publication, as provided by law.

Passed and Approved this 21st day of February, 2011.

Jack Hobbie, Mayor

Attest:

Arnold M. Ehlers, City Clerk-Treasurer

Mayor Hobbie introduced Ordinance No. 2836-11 entitled: AN ORDINANCE OF THE CITY OF NEBRASKA CITY, NEBRASKA, ADOPTING THE 2009 EDITION OF THE *INTERNATIONAL MECHANICAL CODE*, REGULATING AND GOVERNING THE DESIGN, CONSTRUCTION, QUALITY OF MATERIALS, ERECTION, INSTALLATION, ALTERATION, REPAIR, LOCATION, RELOCATION, REPLACEMENT, ADDITION TO, USE OR MAINTENANCE OF MECHANICAL SYSTEMS IN THE CITY OF NEBRASKA CITY; PROVIDING FOR THE ISSUANCE OF PERMITS AND COLLECTION OF FEES THEREFOR; REPEALING ORDINANCE NO. 2601-03 OF THE CODE OF THE CITY OF NEBRASKA CITY AND ALL OTHER ORDINANCES AND PARTS OF THE ORDINANCES IN CONFLICT THEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE; and moved that the statutory rule requiring reading on three different days be suspended. Commissioner Handy seconded the motion to suspend the rules and upon roll call the following voted YES: Mercer, Gay, Crunk, Handy, and Mayor Hobbie. Voting NO: None. The motion to suspend was adopted by three-fifths of the Council and the statutory rule was declared suspended for consideration of said ordinance.

Said ordinance was then read by title and thereafter Mayor Hobbie moved for final passage of the ordinance, which motion was seconded by Commissioner Handy. The Mayor then stated the question: "Shall Ordinance No. 2836-11 be passed and adopted?" Upon roll call the following voted YES: Mercer, Gay, Crunk, Handy, and Mayor Hobbie. Voting NO: None. The passage and adoption of said ordinance having been concurred in by a majority of all members of the Council, the Mayor declared the ordinance adopted and the Mayor, in the presence of the Council, signed and approved the ordinance and the Clerk attested the passage and approval of the same and affixed his signature thereto. A true and correct copy of said ordinance is as follows:

ORDINANCE NO. 2836-11

AN ORDINANCE OF THE CITY OF NEBRASKA CITY, NEBRASKA, ADOPTING THE 2009 EDITION OF THE *INTERNATIONAL MECHANICAL CODE*, REGULATING AND GOVERNING THE DESIGN, CONSTRUCTION, QUALITY OF MATERIALS, ERECTION, INSTALLATION, ALTERATION, REPAIR, LOCATION, RELOCATION, REPLACEMENT, ADDITION TO, USE OR MAINTENANCE OF MECHANICAL SYSTEMS IN THE CITY OF NEBRASKA CITY; PROVIDING FOR THE ISSUANCE OF PERMITS AND COLLECTION OF FEES THEREFOR; REPEALING ORDINANCE NO. 2601-03 OF THE CODE OF THE CITY OF NEBRASKA CITY AND ALL OTHER ORDINANCES AND PARTS OF THE ORDINANCES IN CONFLICT THEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.

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

Section 1. That a certain document, a copy of which is on file in the Office of the City Clerk-Treasurer of Nebraska City, Nebraska, being marked and designated as the *International Mechanical Code*, 2009 edition, as published by the International Code Council, be and is hereby adopted as the Plumbing Code of the City of Nebraska City, Nebraska, regulating and governing the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of plumbing systems as herein provided, providing for the issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, penalties, conditions and terms of said Mechanical Code on file in the office of the City Clerk-Treasurer are hereby referred to, adopted and made a part hereof, as if fully set out in this ordinance, with the additions, insertions, deletions and changes, if any, prescribed in Section 2 of this ordinance.

Section 2. The following sections are hereby revised:

Section 101.1. Title. These regulations shall be known as the International Mechanical Code of the City of Nebraska City, Nebraska, hereinafter referred to as "this code".

Section 106.5.2 Fee schedule. The fee schedule for inspection of mechanical work is set forth in Resolution #2453-10, of the City of Nebraska City.

Subsequent revisions of said Resolution shall be considered as adopted by this Ordinance and shall be of full force and effect upon the approval thereof by the Mayor and City Commissioners, and the filing of one copy thereof in the Office of the City Clerk-Treasurer.

Section 106.5.3 Fee refunds. There shall be no refunds or credits given on permits or applications regulated by this chapter, which have expired. Permit holders returning an unused permit prior to the expiration date of the permit shall be limited to a maximum refund amounting to two-thirds of the total building permit fee, with the remaining one-third to be used to pay the cost of processing the permit. No refund shall be issued on a permit, where refund is less than \$50.00. Where a fee has been collected in error, the building official may authorize a 100% refund.

Section 108.4 Violation penalties. Any person who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or who shall erect, install, alter or repair mechanical work in violation of the approved construction documents or directive of the code official, or of a permit or certificate issued under the provisions of this code, shall be guilty of a misdemeanor, punishable by a fine of not more than \$100.00, or by imprisonment not exceeding thirty (30) days, or both such fine and imprisonment. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

Section 108.5 Stop work orders. Upon notice from the code official, that mechanical work is being done contrary to the provisions of this code or in a dangerous or unsafe manner shall immediately cease. Such notice shall be in writing and shall be given to the owner of the property, or to the owner's agent, or to the person doing the work. The notice shall state the conditions under which work is authorized to resume. Where an emergency exists, the code official shall not be required to give a written notice prior to stopping the work. Any person who shall continue any work on the structure after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable for a fine of not more than \$100.00."

Section 3. That Ordinance No. 2601-03 of the Code of the City of Nebraska City, and all other ordinances or parts of ordinances in conflict herewith, are hereby repealed.

Section 4. That if any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The Mayor and City Commissioners hereby declare that it would have passed this ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

Section 5. That nothing in this ordinance or in the Mechanical Code hereby adopted shall be construed to affect any suit or proceeding impending in any court, or any rights, acquired, or liability incurred, or any cause or causes of action acquired or existing under any act or ordinance hereby repealed as cited in Section 3 of this ordinance; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this ordinance.

Section 6. That the City Clerk-Treasurer is hereby ordered and directed to cause this ordinance to be published in pamphlet form, as provided by law.

Section 7. That this ordinance and the rules, regulations, provisions, requirements, orders and matters established and adopted hereby shall take effect and be in full force and effect from and after the date of its final passage, approval and publication, as provided by law.

Passed and Approved this 21st day of February, 2011.

Jack Hobbie, Mayor

Attest:

Arnold M. Ehlers, City Clerk-Treasurer

Mayor Hobbie introduced Ordinance No. 2837-11 entitled: AN ORDINANCE OF THE CITY OF NEBRASKA CITY, NEBRASKA, ADOPTING THE 2009 EDITION OF THE *INTERNATIONAL PLUMBING CODE*, REGULATING AND GOVERNING THE DESIGN, CONSTRUCTION, QUALITY OF MATERIALS, ERECTION, INSTALLATION, ALTERATION, REPAIR, LOCATION, RELOCATION, REPLACEMENT, ADDITION TO, USE OR MAINTENANCE OF PLUMBING SYSTEMS IN THE CITY OF NEBRASKA CITY; PROVIDING FOR THE ISSUANCE OF PERMITS AND COLLECTION OF FEES THEREFOR; REPEALING ORDINANCE NO. 2602-03 OF THE CODE OF THE CITY OF NEBRASKA CITY AND ALL OTHER ORDINANCES AND PARTS OF THE ORDINANCES IN CONFLICT THEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE; and moved that the statutory rule requiring reading on three different days be suspended. Commissioner Handy seconded the motion to suspend the rules and upon roll call the following voted YES: Mercer, Gay, Crunk, Handy, and Mayor Hobbie. Voting NO: None. The motion to suspend was adopted by three-fifths of the Council and the statutory rule was declared suspended for consideration of said ordinance.

Said ordinance was then read by title and thereafter Mayor Hobbie moved for final passage of the ordinance, which motion was seconded by Commissioner Handy. The Mayor then stated the question: "Shall Ordinance No. 2837-11 be passed and adopted?" Upon roll call the following voted YES: Mercer, Gay, Crunk, Handy, and Mayor Hobbie. Voting NO: None. The passage and adoption of said ordinance having been concurred in by a majority of all members of the Council, the Mayor declared the ordinance adopted

and the Mayor, in the presence of the Council, signed and approved the ordinance and the Clerk attested the passage and approval of the same and affixed his signature thereto. A true and correct copy of said ordinance is as follows:

ORDINANCE NO. 2837-11

AN ORDINANCE OF THE CITY OF NEBRASKA CITY, NEBRASKA, ADOPTING THE 2009 EDITION OF THE *INTERNATIONAL PLUMBING CODE*, REGULATING AND GOVERNING THE DESIGN, CONSTRUCTION, QUALITY OF MATERIALS, ERECTION, INSTALLATION, ALTERATION, REPAIR, LOCATION, RELOCATION, REPLACEMENT, ADDITION TO, USE OR MAINTENANCE OF PLUMBING SYSTEMS IN THE CITY OF NEBRASKA CITY; PROVIDING FOR THE ISSUANCE OF PERMITS AND COLLECTION OF FEES THEREFOR; REPEALING ORDINANCE NO. 2602-03 OF THE CODE OF THE CITY OF NEBRASKA CITY AND ALL OTHER ORDINANCES AND PARTS OF THE ORDINANCES IN CONFLICT THEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.

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

Section 1. That a certain document, a copy of which is on file in the Office of the City Clerk-Treasurer of Nebraska City, Nebraska, being marked and designated as the *International Plumbing Code*, 2009 edition, as published by the International Code Council, be and is hereby adopted as the Plumbing Code of the City of Nebraska City, Nebraska, regulating and governing the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of plumbing systems as herein provided, providing for the issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, penalties, conditions and terms of said Plumbing Code on file in the office of the City Clerk-Treasurer are hereby referred to, adopted and made a part hereof, as if fully set out in this ordinance, with the additions, insertions, deletions and changes, if any, prescribed in Section 2 of this ordinance.

Section 2. The following sections are hereby revised:

Section 101.1 Title. These regulations shall be known as the International Plumbing Code of the City of Nebraska City, Nebraska, hereinafter referred to as "this code".

Section 106.6.2 Fee schedule. The fee schedule for plumbing inspections is set forth in Resolution #2453-10, of the City of Nebraska City.

Subsequent revisions of said Resolution shall be considered as adopted by this Ordinance and shall be of full force and effect upon the approval thereof by the Mayor and City Commissioners, and the filing of one copy thereof in the Office of the City Clerk-Treasurer.

Section 106.6.3 Fee refunds. There shall be no refunds or credits given on permits or applications regulated by this chapter, which have expired. Permit holders returning an unused permit prior to the expiration date of the permit shall be limited to a maximum refund amounting to two-thirds of the total building permit fee, with the remaining one-third to be used to pay the cost of processing the permit. No refund shall be issued on a permit, where refund is less than \$50.00. Where a fee has been collected in error, the building official may authorize a 100% refund.

Section 108.4 Violation penalties. Any person who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or who shall erect, install, alter or repair plumbing work in violation of the approved construction documents or directive of the code official, or of a permit or certificate issued under the provisions of this code, shall be guilty of a misdemeanor, punishable by a fine of not more than \$100.00, or by imprisonment not exceeding thirty (30) days, or both such fine and imprisonment. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

Section 108.5 Stop work orders. Upon notice from the code official, work on any plumbing system that is being done contrary to the provisions of this code or in a dangerous or unsafe manner shall immediately cease. Such notice shall be in writing and shall be given to the owner of the property, or to the owner's agent, or to the person doing the work. The notice shall state the conditions under which work is authorized to resume. Where an emergency exists, the code official shall not be required to give a written notice prior to stopping the work. Any person who shall continue any work in or about the structure after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable to a fine of not more than \$100.00.

Section 305.6.1 Sewer depth. Building sewers that connect to private sewage disposal systems shall be a minimum of 18 inches (457.20 mm) below finished grade at the point of septic tank connection. Building sewers shall be a minimum of 18 inches (457.20 mm) below grade.

Section 904.1 Roof extension. All open vent pipes that extend through a roof shall be terminated at least 6 inches (152.4 mm) above the roof, except that where a roof is to be used for any purpose other than weather protection, the vent extensions shall be run at least 7 feet (2134 mm) above the roof."

Section 3. That Ordinance No. 2602-03 of the Code of the City of Nebraska City, and all other ordinances or parts of ordinances in conflict herewith, are hereby repealed.

Section 4. That if any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The Mayor and City Commissioners hereby declare that it would have passed this ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

Section 5. That nothing in this ordinance or in the Plumbing Code hereby adopted shall be construed to affect any suit or proceeding impending in any court, or any rights, acquired, or liability

incurred, or any cause or causes of action acquired or existing under any act or ordinance hereby repealed as cited in Section 3 of this ordinance; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this ordinance.

Section 6. That the City Clerk-Treasurer is hereby ordered and directed to cause this ordinance to be published in pamphlet form, as provided by law.

Section 7. That this ordinance and the rules, regulations, provisions, requirements, orders and matters established and adopted hereby shall take effect and be in full force and effect from and after the date of its final passage, approval and publication, as provided by law.

Passed and Approved this 21st day of February, 2011.

Jack Hobbie, Mayor

Attest:

Arnold M. Ehlers, City Clerk-Treasurer

Mayor Hobbie introduced Ordinance No. 2838-11 entitled: AN ORDINANCE OF THE CITY OF NEBRASKA CITY, NEBRASKA, ADOPTING THE 2009 EDITION OF THE *INTERNATIONAL FUEL GAS CODE*, REGULATING AND GOVERNING FUEL GAS SYSTEMS AND GAS-FIRED APPLIANCES IN THE CITY OF NEBRASKA CITY; PROVIDING FOR THE ISSUANCE OF PERMITS AND COLLECTION OF FEES THEREFOR; REPEALING ORDINANCE NO. 2602-03 OF THE CODE OF THE CITY OF NEBRASKA CITY AND ALL OTHER ORDINANCES AND PARTS OF THE ORDINANCES IN CONFLICT THEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE; and moved that the statutory rule requiring reading on three different days be suspended. Commissioner Handy seconded the motion to suspend the rules and upon roll call the following voted YES: Mercer, Gay, Crunk, Handy, and Mayor Hobbie. Voting NO: None. The motion to suspend was adopted by three-fifths of the Council and the statutory rule was declared suspended for consideration of said ordinance.

Said ordinance was then read by title and thereafter Mayor Hobbie moved for final passage of the ordinance, which motion was seconded by Commissioner Handy. The Mayor then stated the question: "Shall Ordinance No. 2838-11 be passed and adopted?" Upon roll call the following voted YES: Mercer, Gay, Crunk, Handy, and Mayor Hobbie. Voting NO: None. The passage and adoption of said ordinance having been concurred in by a majority of all members of the Council, the Mayor declared the ordinance adopted and the Mayor, in the presence of the Council, signed and approved the ordinance and the Clerk attested the passage and approval of the same and affixed his signature thereto. A true and correct copy of said ordinance is as follows:

ORDINANCE NO. 2838-11

AN ORDINANCE OF THE CITY OF NEBRASKA CITY, NEBRASKA, ADOPTING THE 2009 EDITION OF THE *INTERNATIONAL FUEL GAS CODE*, REGULATING AND GOVERNING FUEL GAS SYSTEMS AND GAS-FIRED APPLIANCES IN THE CITY OF NEBRASKA CITY; PROVIDING FOR THE ISSUANCE OF PERMITS AND COLLECTION OF FEES THEREFOR; REPEALING ORDINANCE NO. 2602-03 OF THE CODE OF THE CITY OF NEBRASKA CITY AND ALL OTHER ORDINANCES AND PARTS OF THE ORDINANCES IN CONFLICT THEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.

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

Section 1. That a certain document, a copy of which is on file in the Office of the City Clerk-Treasurer of Nebraska City, Nebraska, being marked and designated as the *International Fuel Gas Code*, 2009 edition, as published by the International Code Council, be and is hereby adopted as the Fuel and Gas Code of the City of Nebraska City, Nebraska, for regulating and governing the fuel gas systems and gas-fired appliances as herein provided; providing for the issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, penalties, conditions and terms of said Fuel Gas Code on file in the office of the City Clerk-Treasurer are hereby referred to, adopted and made a part hereof, as if fully set out in this ordinance, with the additions, insertions, deletions and changes, if any, prescribed in Section 2 of this ordinance.

Section 2. The following sections are hereby revised:

Section 101.1. Title. These regulations shall be known as the International Fuel Gas Code of the City of Nebraska City, Nebraska, hereinafter referred to as "this code".

Section 106.6.2 Fee schedule. The fee schedule for Fuel Gas inspections is set forth in Resolution #2453-10, of the City of Nebraska City.

Subsequent revisions of said Resolution shall be considered as adopted by this Ordinance and shall be of full force and effect upon the approval thereof by the Mayor and City Commissioners, and the filing of one copy thereof in the Office of the City Clerk-Treasurer.

Section 106.6.3 Fee refunds. There shall be no refunds or credits given on permits or applications regulated by this chapter, which have expired. Permit holders returning an unused permit prior to the expiration date of the permit shall be limited to a maximum refund amounting to two-thirds of the

total building permit fee, with the remaining one-third to be used to pay the cost of processing the permit. No refund shall be issued on a permit, where refund is less than \$50.00. Where a fee has been collected in error, the building official may authorize a 100% refund.

Section 108.4 Violation penalties. Persons who shall violate a provision of this code, fail to comply with any of the requirements thereof or erect, install, alter or repair work in violation of the approved construction documents or directive of the code official, or of a permit or certificate issued under the provisions of this code, shall be guilty of a misdemeanor, punishable by a fine of not more than \$100.00, or by imprisonment not exceeding thirty (30) days, or both such fine and imprisonment. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

Section 108.5 Stop work orders. Upon notice from the code official, that work is being done contrary to the provisions of this code or in a dangerous or unsafe manner shall immediately cease. Such notice shall be in writing and shall be given to the owner of the property, the owner's agent, or to the person doing the work. The notice shall state the conditions under which work is authorized to resume. Where an emergency exists, the code official shall not be required to give a written notice prior to stopping the work. Any person who shall continue any work on the structure after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable for a fine of not more than \$100.00."

Section 3. That Ordinance No. 2602-03, of the City of Nebraska City, and all other ordinances or parts of ordinances in conflict herewith, are hereby repealed.

Section 4. That if any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The Mayor and City Commissioners hereby declare that it would have passed this ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

Section 5. That nothing in this ordinance or in the Fuel Gas Code hereby adopted shall be construed to affect any suit or proceeding impending in any court, or any rights, acquired, or liability incurred, or any cause or causes of action acquired or existing under any act or ordinance hereby repealed as cited in Section 3 of this ordinance; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this ordinance.

Section 6. That the City Clerk-Treasurer is hereby ordered and directed to cause this ordinance to be published in pamphlet form, as provided by law.

Section 7. That this ordinance and the rules, regulations, provisions, requirements, orders and matters established and adopted hereby shall take effect and be in full force and effect from and after the date of its final passage, approval and publication, as provided by law.

Passed and Approved this 21st day of February, 2011.

Jack Hobbie, Mayor

Attest:

Arnold M. Ehlers, City Clerk-Treasurer

Mayor Hobbie introduced Ordinance No. 2839-11 entitled: AN ORDINANCE VACATING THE ALLEY IN BLOCK 26; NEBRASKA CITY PROPER, IN THE CITY OF NEBRASKA CITY, OTOE COUNTY, NEBRASKA; RESERVING AN UTILITIES EASEMENT TWELVE (12") FEET IN WIDTH, AS DESCRIBED HEREIN; AND PROVIDING FOR AN EFFECTIVE DATE; and moved that the statutory rule requiring reading on three different days be suspended. Commissioner Mercer seconded the motion to suspend the rules and upon roll call the following voted YES: Gay, Crunk, Handy, Mercer and Mayor Hobbie. Voting NO: None. The motion to suspend was adopted by three-fifths of the Council and the statutory rule was declared suspended for consideration of said ordinance.

Said ordinance was then read by title and thereafter Mayor Hobbie moved for final passage of the ordinance, which motion was seconded by Commissioner Handy. The Mayor then stated the question: "Shall Ordinance No. 2839-11 be passed and adopted?" Upon roll call the following voted YES: Mercer, Gay, Crunk, Handy, and Mayor Hobbie. Voting NO: None. The passage and adoption of said ordinance having been concurred in by a majority of all members of the Council, the Mayor declared the ordinance adopted and the Mayor, in the presence of the Council, signed and approved the ordinance and the Clerk attested the passage and approval of the same and affixed his signature thereto. A true and correct copy of said ordinance is as follows:

ORDINANCE NO. 2839-11

AN ORDINANCE VACATING THE ALLEY IN BLOCK 26, NEBRASKA CITY PROPER, IN THE CITY OF NEBRASKA CITY, OTOE COUNTY, NEBRASKA; RESERVING A UTILITIES EASEMENT TWELVE (12') FEET IN WIDTH, AS DESCRIBED HEREIN; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the owners of the property in Block Twenty-six, Nebraska City Proper, have requested that the alley in said block be vacated, and

WHEREAS, the Mayor and City Commissioners of the City of Nebraska City, Nebraska, find the City no longer has a need for the alley, and find the request of the applicants should be approved.

NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COMMISSIONERS OF THE CITY OF NEBRASKA CITY, NEBRASKA as follows:

SECTION 1. That the alley in Block 26, Nebraska City Proper, Otoe County, Nebraska, be and the same is hereby vacated, and title to such property shall vest in the owners of the abutting property and become a part of such property, one-half on each side thereof.

SECTION 2. That the City of Nebraska City reserves an easement, over the center twelve feet of the vacated alley, running east and west through the alley, unto itself and all persons or entities, at this time, or hereafter, holding franchises, contracts, permits, or licenses heretofore granted, or hereafter to be granted by said City, to furnish electric energy, water, gas, sewer service, CATV or fiber optic service, or any other public utility to the City, or its inhabitants thereof, and to enter said easement area to lay, install, erect and maintain therein the wires, pipes, manholes or other construction necessary and incident to said purposes.

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

Passed and Approved this 21st day of February, 2011.

Jack Hobbie, Mayor

Attest:

Arnold M. Ehlers, City Clerk-Treasurer

Mayor Hobbie introduced Ordinance 2841-11 entitled; AN ORDINANCE AUTHORIZING THE ISSUANCE OF A COMBINED UTILITIES REVENUE BOND, SERIES NO. 28, OF THE CITY OF NEBRASKA CITY, NEBRASKA, IN THE MAXIMUM DRAWABLE PRINCIPAL AMOUNT OF SEVEN MILLION DOLLARS (\$7,000,000) FOR THE PURPOSE OF FINANCING THE ACQUISITION, CONSTRUCTION, IMPROVEMENT, REPAIR, REHABILITATION OR EXTENSION OF THE CITY'S WASTEWATER TREATMENT FACILITY; AUTHORIZING THE ISSUANCE OF SAID BOND IN THE FORM OF A PROMISSORY NOTE TO EVIDENCE A LOAN FROM THE NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY; APPROVING THE EXECUTION AND DELIVERY OF A LOAN CONTRACT WITH THE NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY; APPROVING RELATED DOCUMENTS WITH RESPECT TO SAID LOAN; PRESCRIBING THE FORM OF SAID BOND AND THE COVENANTS AND AGREEMENTS MADE BY SAID CITY TO FACILITATE AND PROTECT THE PAYMENT THEREOF; PROVIDING FOR THE COLLECTION, SEGREGATION, PLEDGING AND APPLICATION OF THE REVENUES OF THE COMBINED UTILITIES OF SAID CITY FOR THE PURPOSE OF PAYING THE COST OF OPERATION AND MAINTENANCE OF SAID UTILITIES AND PAYING THE INTEREST ON AND PRINCIPAL OF SAID SERIES OF BOND; APPROVING EXECUTION OF RELATED DOCUMENTS; PROVIDING FOR THE SALE OF THE BOND; AUTHORIZING THE DELIVERY OF THE BOND TO THE PURCHASER; PROVIDING FOR THE DISPOSITION OF THE BOND PROCEEDS AND ORDERING THE ORDINANCE PUBLISHED IN PAMPHLET FORM; and moved that the statutory rule requiring reading on three different days be suspended. Commissioner Handy seconded the motion to suspend the rules and upon roll call the following voted YES: Mercer, Gay, Crunk, Handy, and Mayor Hobbie. Voting NO: None. The motion to suspend was adopted by three-fifths of the Council and the statutory rule was declared suspended for consideration of said ordinance.

Leroy Frana, General Manager of Nebraska City Utilities explained the procedure involved in securing the low interest loan for the Wastewater Plant Improvement Project. Commissioner Crunk questioned the need to borrow \$7,000,000 when N.C. Utilities had over \$20,000,000 cash in the bank. Leroy cited additional cash needs for other anticipated projects and calling Series 25 Bond in June, all of which would be approximately \$5,500,000 over the next two years. Commissioner Gay added that this ordinance was just the enabling mechanism for the loan and that the actual decision on how much to borrow would come at the March 7th meeting. Commissioner Mercer stated that he would like to see the loan at no more than \$5,000,000.

Said ordinance was then read by title and thereafter Mayor Hobbie moved for final passage of the ordinance, which motion was seconded by Commissioner Gay. The

Mayor then stated the question: "Shall Ordinance No. 2839-11 be passed and adopted?" Upon roll call the following voted YES: Mercer, Gay, Handy, and Mayor Hobbie. Voting NO: None. Abstain: Crunk. The passage and adoption of said ordinance having been concurred in by a majority of all members of the Council, the Mayor declared the ordinance adopted and the Mayor, in the presence of the Council, signed and approved the ordinance and the Clerk attested the passage and approval of the same and affixed his signature thereto. A true and correct copy of said ordinance is as follows:

ORDINANCE NO. 2841-11

AN ORDINANCE AUTHORIZING THE ISSUANCE OF A COMBINED UTILITIES REVENUE BOND, SERIES NO. 28, OF THE CITY OF NEBRASKA CITY, NEBRASKA, IN THE MAXIMUM DRAWABLE PRINCIPAL AMOUNT OF SEVEN MILLION DOLLARS (\$7,000,000) FOR THE PURPOSE OF FINANCING THE ACQUISITION, CONSTRUCTION, IMPROVEMENT, REPAIR, REHABILITATION OR EXTENSION OF THE CITY'S WASTEWATER TREATMENT FACILITY; AUTHORIZING THE ISSUANCE OF SAID BOND IN THE FORM OF A PROMISSORY NOTE TO EVIDENCE A LOAN FROM THE NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY; APPROVING THE EXECUTION AND DELIVERY OF A LOAN CONTRACT WITH THE NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY; APPROVING RELATED DOCUMENTS WITH RESPECT TO SAID LOAN; PRESCRIBING THE FORM OF SAID BOND AND THE COVENANTS AND AGREEMENTS MADE BY SAID CITY TO FACILITATE AND PROTECT THE PAYMENT THEREOF; PROVIDING FOR THE COLLECTION, SEGREGATION, PLEDGING AND APPLICATION OF THE REVENUES OF THE COMBINED UTILITIES OF SAID CITY FOR THE PURPOSE OF PAYING THE COST OF OPERATION AND MAINTENANCE OF SAID UTILITIES AND PAYING THE INTEREST ON AND PRINCIPAL OF SAID SERIES OF BOND; APPROVING EXECUTION OF RELATED DOCUMENTS; PROVIDING FOR THE SALE OF THE BOND; AUTHORIZING THE DELIVERY OF THE BOND TO THE PURCHASER; PROVIDING FOR THE DISPOSITION OF THE BOND PROCEEDS AND ORDERING THE ORDINANCE PUBLISHED IN PAMPHLET FORM

BE IT ORDAINED BY THE MAYOR AND BOARD OF COMMISSIONERS OF THE CITY OF NEBRASKA CITY, NEBRASKA:

Section 1. The Mayor and Board of Commissioners hereby find and determine as follows:

a) that the City presently owns and operates an electric light and power plant and distribution system, a waterworks system, sewerage plant and collection system and gas system (collectively the "combined utilities");

b) that by Ordinance No. 2662-06 the City authorized the issuance of Combined Utilities Revenue Refunding Bonds, Series No. 25, of the City in the original principal amount of Two Million Two Hundred Forty Thousand Dollars (\$2,240,000) dated June 15, 2006, which bonds are secured by a lien upon and a pledge of the revenue and earnings of the combined utilities (the "Series No. 25 Bonds");

c) that by Ordinance No. 2745-09 the City authorized the issuance of Combined Utilities Revenue Refunding Bonds, Series No. 26, of the City in the original principal amount of Two Million Eight Hundred Ten Thousand Dollars (\$2,810,000) dated March 19, 2009, which bonds are secured by a lien upon and a pledge of the revenue and earnings of the combined utilities (the "Series No. 26 Bonds");

d) that by Ordinance No. 2753-09 the City authorized the issuance of Combined Utilities Revenue Refunding Bonds, Series No. 27, of the City in the original principal amount of Three Million Two Hundred Ten Thousand Dollars (\$3,210,000) dated April 16, 2009, which bonds are secured by a lien upon and a pledge of the revenue and earnings of the combined utilities (the "Series No. 27 Bonds");

e) that the Series No. 25 Bonds, the Series No. 26 Bonds and the Series No. 27 Bonds (collectively, the "Outstanding Parity Bonds") issued pursuant to Ordinance No. 2662-06, Ordinance No. 2745-09 and Ordinance No. 2753-09 (collectively, the "Outstanding Parity Ordinances") constitute the only outstanding bonded indebtedness of the City for which the revenues and earnings of the City's combined utilities have been pledged;

f) that under the terms of Outstanding Parity Ordinances, the City is authorized to issue bonds which qualify as "Additional Bonds" of equal lien to the Outstanding Parity Bonds provided that the revenue of the combined utilities for the fiscal year next preceding the date of the authorization of such Additional Bonds, as based upon a certified public accountant's report, after deduction of operation and maintenance expenses, is (at least) equal to 1.25 times the average annual bond requirements of such Additional Bonds and the Outstanding Parity Bonds, which average annual bond requirements shall be determined by adding all of the principal and interest which will become due when computed to the absolute maturity of such Additional Bonds and the Outstanding Parity Bonds and dividing the total by the number of years remaining that the longest bond of any issue of said bonds has to run to maturity;

g) that, based upon a certified public accountant's report the "revenues" (as defined in the Outstanding Parity Ordinances) of the City's combined utilities for the fiscal year ended August 31, 2010, after deduction of operations and maintenance expenses, are at least equal to 1.25 times average annual bond requirements of the Outstanding Parity Bonds and the proposed Series No. 28 Bond;

h) that all conditions for issuance of the bonds herein authorized as "additional bonds" of equal lien to the Outstanding Parity Bonds as contained in the Outstanding Parity Ordinances are found to have been met and the City is not in default in making any payments in the respective accounts as set forth in the Outstanding Parity Ordinances and the City has the right to issue the bonds herein authorized as "additional bonds" on a parity with and equal in lien to the Outstanding Parity Bonds;

i) that NDEQ has approved a project relating to the acquisition, construction, improvement, repair, rehabilitation or extension of the City's Sanitary Sewer System (the "Sanitary Sewer Project") for which the estimated total cost is not less than \$7,000,000 and NDEQ has agreed to lend the City funds in the maximum amount of \$7,000,000 (the "2011 SRF Sanitary Sewer Loan") and in such connection has agreed to accept the Series No 28 Bond (in such amount and as defined below) payable from the revenues of the combined utilities. In connection with the 2011 SRF Sanitary Sewer Loan it will be necessary for the City to approve, execute and deliver an agreement entitled "Contract for Loan between the Nebraska Department of Environmental Quality and the City of Nebraska City" (the "NDEQ Sanitary Sewer Loan Contract") and it is necessary and advisable for the City to approve the execution and delivery of said NDEQ Sanitary Sewer Loan Contract and the "Note" as described therein (for the maximum borrowed amount of \$7,000,000, which Note shall evidence, be and constitute the 2011 NDEQ Sanitary Sewer Note as herein authorized); and

j) that to satisfy the borrowing requirements described in this Section 1, it is necessary for the City to issue its Combined Utilities Revenue Bond, Series No. 28, in the principal amount of not to exceed \$7,000,000 (the "Series No. 28 Bond" and sometimes referred to herein as the "2011 NDEQ Sanitary Sewer Note") pursuant to Sections 18-1803 to 18-1805 R.R.S. Neb. 2007, provided the exact amount of such Series No. 28 Bond shall be determined by resolution of the Board of Commissioners prior to the execution and delivery thereof. All conditions, acts and things required by law to exist or to be done precedent to the issuance of said bond as provided for in this Ordinance and as Additional Bonds equal in lien to the Outstanding Parity Bonds do exist and have been done in regular and due form and time as required by law.

Section 2. Unless the context shall clearly indicate otherwise, the following terms shall have the following meanings when used in this ordinance:

a) "combined utilities" shall mean the electric light and power plant and distribution system, waterworks system, sewerage plant and collection system and gas system of the City of Nebraska City, Nebraska, as now existing and all additions (including any additional systems which may hereafter be lawfully included in the combined utilities of the City), extensions, improvements and betterments hereafter made;

b) "revenues" shall mean all the rates, rentals, fees, charges, earnings and other monies from any source whatever derived by the City of Nebraska City through its ownership and operation of its combined utilities;

c) "Series No. 25 Bonds" shall mean the \$2,240,000 principal amount of "Combined Utilities Revenue Refunding Bonds, Series No. 25" dated June 15, 2006, authorized pursuant to Ordinance No. 2662-06 at any time outstanding;

d) "Series No. 26 Bonds" shall mean the \$2,810,000 principal amount "Combined Utilities Revenue Refunding Bonds, Series No. 26" authorized to be issued pursuant to Section 3 of Ordinance No. 2745-09 at any time outstanding;

e) "Series No. 27 Bonds" shall mean the \$3,210,000 principal amount "Combined Utilities Revenue Refunding Bonds, Series No. 27" authorized to be issued pursuant to Section 3 of Ordinance No. 2753-09 at any time outstanding;

f) "Series No. 28 Bond" shall mean the "Combined Utilities Revenue Bond, Series No. 28" in the maximum principal amount of \$7,000,000 authorized to be issued pursuant to Section 3 of this ordinance at any time outstanding

g) "Additional Bonds" shall mean any bond including refunding bonds, authorized and issued pursuant to the provisions of the Outstanding Parity Ordinances and Section 9 of this ordinance at any time outstanding, which are payable on a parity with the Series No. 28 Bond and the Outstanding Parity Bonds and equally and ratably secured therewith;

h) "Outstanding Parity Bonds" shall mean, collectively, the Series No. 25 Bonds, the Series No. 26 Bonds and the Series No. 27 Bonds; and

i) "Outstanding Parity Ordinances" shall mean, collectively, Ordinance No. 2662-06, Ordinance No. 2745-09 and Ordinance No. 2753-09, pursuant to which the Outstanding Parity Bonds have been issued.

Section 3. (a) To provide for paying the costs of the Sanitary Sewer Project as described in Section 1 hereof, there shall be and there are hereby ordered issued the City's Combined Utilities Revenue Bond, Series No. 28, in the form of a single promissory note (referred to in this Ordinance sometimes as the "2011 NDEQ Sanitary Sewer Note") in the principal amount not to exceed \$7,000,000, or such lesser amount as may be approved the Board of Commissioners, with such note to be in such form and to have such payment terms as are set forth in Exhibit A to this Ordinance which exhibit is by such reference incorporated herein as if fully set forth; provided, however, the exact amount of such 2011 NDEQ Sanitary Sewer Note shall be approved by resolution of the Board of Commissioners of the City prior to the execution and delivery thereof. In connection with the 2011 NDEQ Sanitary Sewer Note, the City shall also enter into the Contract for Loan between the Nebraska Department of Environmental Quality and the City of Nebraska City, Nebraska (the "NDEQ Sanitary Sewer Loan Contract") in substantially the form set forth in Exhibit B to this Ordinance, which exhibit is by such reference incorporated herein as if fully set forth. The terms of the 2011 NDEQ Sanitary Sewer Note and the NDEQ Sanitary Sewer Loan Contract are hereby approved and the Mayor and City Clerk are hereby authorized to execute and deliver the 2011 NDEQ Sanitary Sewer Note and the NDEQ Sanitary Sewer Loan Contract with such changes from the forms presented and attached hereto as such officers shall deem appropriate for and on behalf of the City. The Mayor and City Clerk and any other officer or officers of the City are hereby further authorized to take such further actions and to execute such certificates and other documents as shall be deemed necessary or appropriate by any of them in connection with the issuance and delivery of the 2011 NDEQ Sanitary Sewer Note and the NDEQ Sanitary Sewer Loan Contract. For all purposes of this Ordinance, the 2011 NDEQ Sanitary Sewer Note shall constitute a revenue bond of the City of Nebraska City as authorized by Sections 18-1803 to 18-1805, R.R.S. Neb. 2007, as amended, and shall be included within the terms "bond" and "combined revenue bond" where such inclusion is appropriate. (b) Additional notes may be issued to

NDEQ as Additional Bonds upon compliance with the terms of this Ordinance. (c) The 2011 NDEQ Sanitary Sewer Note is sometimes referred to in this Ordinance as the "Series No. 28 Bond".

Section 4. As long the Series No. 28 Bond herein authorized remains outstanding and unpaid the entire combined utilities system of the City of Nebraska City, consisting of the electric light and power plant, distribution system and transmission lines owned by said City and now supplying light and power to said City and the inhabitants of said City and surrounding territory, the waterworks system of said City now supplying service to the City and its inhabitants, the sewerage plant and collection system of said City now supplying service to the City and its inhabitants, and the gas system of said City now supplying service to the City and its inhabitants and surrounding territory, and all improvements and extensions that may hereafter be made to each of said respective utilities (constituting the "combined utilities" as defined in Section 2 of this ordinance), shall continue to be combined and the revenues and earnings of said combined utilities shall be and the same hereby are pledged for the purpose of paying the principal of and the interest on the Series No. 28 Bond and the Outstanding Parity Bonds, equally and ratably. The issue of Series No. 28 Bond shall stand on an equal footing with said Outstanding Parity Bonds and any Combined Electric, Water, Sewer and Gas Utilities Revenue Bonds of the City hereafter issued under the conditions and provisions hereafter specified and shall enjoy parity of lien upon the revenues and earnings of said combined utilities with the Outstanding Parity Bonds and such Additional Bonds. Said entire combined utilities, for all the purposes of this ordinance, shall continue to be operated on an annual basis commencing the first day of September and ending the last day of August of each year.

Section 5. The revenues and earnings of the combined utilities are hereby pledged and hypothecated for the payment of the Series No. 28 Bond and the Outstanding Parity Bonds and the City does hereby agree with the holders of said Series No. 28 Bond, Outstanding Parity Bonds and any Additional Bonds as follows:

- A. Combined Utilities Fund. The entire gross revenues and income derived from the operation of the combined utilities shall be set aside as collected and deposited in a separate fund which has been previously created by Ordinance No. 873 of the City of Nebraska City and which is herein confirmed and designated and referred to as the "Combined Utilities Fund". For purposes of allocating the monies in the Combined Utilities Fund, the City shall maintain the following Accounts:
 - I. Operation and Maintenance Account;
 - II. Combined Utilities Revenue Bond Account;
 - III. Tax Reimbursement Account;
 - IV. Combined Utilities Bond and Interest Reserve Account;
 - V. Improvement and Extension Account; and
 - VI. Surplus Account.

For as long as any of the City's Series No. 28 Bond or Outstanding Parity Bonds or any Additional Bonds remain outstanding and unpaid the City shall maintain said Accounts for the administration of said Fund as follows:

I. OPERATION AND MAINTENANCE ACCOUNT: The City shall set aside in this Account each month an amount sufficient to provide for the operation and maintenance of its combined utilities and the expenses of operation and maintenance of said combined utilities shall be paid out of this Account. As used in this Ordinance, the term "operation and maintenance" shall mean the ordinary and reasonable costs of operating and maintaining the electric system determined in accordance with the Uniform System of Accounts, but excluding depreciation, amortization and debt service (also excluding, as debt service, any debt service, however designated, which is to be paid as a component of any contract for the purchase of power or services).

II. COMBINED UTILITIES REVENUE BOND ACCOUNT:

A. during the period from the first day of the month immediately following the date of closing, until and including that December 31 or June 30 which next immediately follows the "Initiation of Operation" (as defined in the NDEQ Sanitary Sewer Loan Contract; in this Ordinance hereafter referred to as the "Initiation of Operation (Sewer)") of the Sanitary Sewer Project an amount such that if the same amount were credited on the first day of each calendar month from such date of credit until the next payment date upon which any amount falls due on the 2011 NDEQ Sanitary Sewer Note, whether for principal or interest, the amount accumulated by such monthly credits would equal the amount falling due on such payment date on the 2011 NDEQ Sanitary Sewer Note, provided, however, that such credits shall be required only as and to the extent that such payments are not provided from other sources including amounts advanced by NDEQ pursuant to the NDEQ Sanitary Sewer Loan Contract and the 2011 NDEQ Sanitary Sewer Note;

B. during the period from and including that January 1 or July 1 which immediately follows the Initiation of Operation (Sewer) under the terms of the NDEQ Sanitary Sewer Loan Contract until the 2011 NDEQ Sanitary Sewer Note has been paid in full an amount equal to one-sixth of the installment amount (principal and interest) due on the next installment payment date for the 2011 NDEQ Sanitary Sewer Note;

Such transfers to the Combined Utilities Revenue Bond Account shall be made in such amounts and at such times as there will be sufficient sums in such Account to meet the required payments due on the Series No. 28 Bond. The deposits to the Combined Utilities Revenue Bond Account provided for in this ordinance shall be in addition to those provided in the Outstanding Parity Ordinances with respect to the Outstanding Parity Bonds. All amounts paid into the Combined Utilities Revenue Bond Account shall be used by said City for the sole purpose of paying the interest on and principal of said Series No. 28 Bond and Outstanding Parity Bonds as and when the same become due.

III. TAX REIMBURSEMENT ACCOUNT: The Tax Reimbursement Account created by Section 18 of Ordinance No. 873 of the City of Nebraska City shall continue and so long as any of the Series No. 28 Bond remains outstanding and unpaid, and the City of Nebraska City covenants and agrees that it will maintain said Account and after providing for the required transfers from the Combined Utilities

Fund into the Operation and Maintenance Account and Combined Utilities Revenue Bond Account, said City will pay monthly into said Tax Reimbursement Account out of the Combined Utilities Fund an amount equal to one-twelfth of \$9,633 to pay any contractual obligations made by said City for payment of charges in lieu of taxes to the respective political subdivisions in which any of the properties of said combined utilities is situated or for the payment of any taxes or governmental charges in lieu of taxes imposed by operation of law; provided, no payments shall be made to any political subdivision in default to said City for the payment for any service rendered to any said political subdivision by said combined utilities.

IV. COMBINED UTILITIES BOND AND INTEREST RESERVE ACCOUNT: The City hereby confirms its respective undertakings with respect to deposits to the Combined Utilities Bond and Interest Reserve Account as set forth in the Outstanding Parity Ordinances. Under the terms of the Outstanding Parity Ordinances any ordinance authorizing the issuance of Additional Bonds shall provide for separate sub-accounts to be established within the Combined Utilities Bond and Interest Reserve Account for each outstanding series of bonds, with the required balance for each such issue of Additional Bonds to be established as the Board of Commissioners shall determine appropriate for each such issue, including if deemed appropriate for a particular series no such sub-account. With respect to each such issue, the sub-account is to be equal to ten percent (10%) of the original principal amount of such series (or, if less, the maximum amount which is permitted to be held and invested without yield restriction under applicable regulations of the United States Treasury relating to Section 103(b) and 148 of the Internal Revenue Code of 1986). In accordance with the terms of the Outstanding Parity Ordinances, separate sub-accounts are established within the Combined Utilities Bond and Interest Reserve Account for each currently outstanding series of bonds as follows:

<u>Series No.</u>	<u>Sub-account Amount</u>
24	\$210,000
25	\$224,000
26	\$281,000
27	\$321,000
28	\$-0-

Upon delivery of the Series No. 28 Bond, no sub-account shall be created in the Combined Utilities Bond and Interest Reserve Account with respect to the Series No. 28 Bond. Each sub-account shall secure the series for which it is established and shall be drawn upon to meet payments on such series only, until such series is no longer outstanding. In the event of withdrawals from any such sub-account or sub-accounts, the City will transfer each month all revenues of the combined utilities available in the Combined Utilities Fund, after making the required payments into the Operation and Maintenance Account, Combined Utilities Revenue Bond Account and Tax Reimbursement Account, until such required balances has been restored, and amounts available to restore deficiencies shall be applied to the respective deficient sub-accounts in the Combined Utilities Bond and Interest Reserve Account on a pro rata basis in accordance with the respective principal amounts outstanding for each such series for which there is a deficient sub-account. The amount of the monthly credit required for the purpose of accumulating any additional amounts in the Combined Utilities Bond and Interest Reserve Account shall be set so that the amounts required in each such sub-account shall be accumulated in a period of not more than five years. In no event shall the amount required to be accumulated and maintained in the Combined Utilities Bond and Interest Reserve Account exceed the maximum amount permitted to be held and invested without yield restrictions under applicable regulations of the United States Treasury relating to Section 103(b) and 148 of the Internal Revenue Code of 1986.

V. IMPROVEMENT AND EXTENSION ACCOUNT: Pursuant to Ordinance No. 2472-96, the City is required to maintain a balance of \$325,000 in the Improvement and Extension Account. The City shall continue to maintain the sum of \$325,000 in such account. If the balance of the Improvement and Extension Account should fall below \$325,000, the City shall make monthly payments of not less than \$6,000 so as to restore said Account to the balance of \$325,000. Money in the Improvement and Extension Account may be used for the extension and improvement of the combined utilities upon order of the City's Board of Public Works and with the consent of the City Commissioners of Commissioners.

VI. SURPLUS ACCOUNT: After providing for the required payments in to the Operation and Maintenance Account, the Combined Utilities Revenue Bond Account, the Tax Reimbursement Account, the Combined Utilities Bond and Interest Reserve Account and the Improvement and Extension Account, all of the remaining revenues shall be credited to the Surplus Account. All money credited to the Surplus Account, from whatever source, shall be used only for the following purposes:

- a. Filling any deficiency in required monthly payments in the Operation and Maintenance Account, the Combined Utilities Revenue Bond Account, the Tax Reimbursement Account, the Combined Utilities Bond and Interest Reserve Account and the Improvement and Extension Account.
- b. Accelerating the payments for the required balance of the Combined Utilities Revenue Bond Account, the Combined Utilities Bond and Interest Reserve Account and the Improvement and Extension Account.
- c. Any lawful corporate purpose of the City.
- d. Retiring the Outstanding Parity Bonds or the Series No. 28 Bond or any Additional Bonds then outstanding prior to their respective maturities under their respective option provisions or by purchase in the open market.
- e. Payment of interest on and principal of bonds of the combined utilities system junior in lien to the Outstanding Parity Bonds, the Series No. 28 Bond and any Additional Bonds, providing such notes or bonds are issued to pay for costs incident to construction of extensions, enlargements, improvements or betterments to said combined utilities.

Money on deposit in the Combined Utilities Fund which has not yet been credited to an Account therein in accordance with this Section, and monies credited to the Operation and Maintenance Account and the Combined Utilities Revenue Bond Account may, to the extent practicable and reasonable, be invested in direct obligations of or obligations the principal and interest of which are unconditionally

guaranteed by the United States of America, which investments shall mature, in the case of monies invested from the Operation and Maintenance Account and the Combined Utilities Revenue Bond Account, at such times and in such amounts as shall be required to provide monies to make the payments to be made from said Accounts in a timely fashion. All interest and income derived from monies held in the Combined Utilities Fund and not yet credited to any of the accounts established therein, and from monies credited to the Tax Reimbursement Account, the Operation and Maintenance Account and the Surplus Account shall, when realized and collected, be credited to the said Fund or to the respective Account from which such investments were made. All monies and income from investments made from monies credited to the Combined Utilities Revenue Bond Account and from monies credited to the Combined Utilities Bond and Interest Reserve Account and the Improvement and Extension Account shall, when realized and collected, be credited to the respective Account from which such investments were made, unless there shall be credited thereto the respective amounts then required by paragraphs II, IV and V of this Section 5, in which event such interest and income shall be credited to the Surplus Account. All investments held for the credit of any Fund or Account may be sold when required to make the payments to be made from such Fund or Account. Any monies credited to the Combined Utilities Fund or any Account therein which are not invested shall be secured in the manner provided by law for the security of Funds for cities of the first class within the State of Nebraska.

It is understood that the revenues of the combined utilities are to be credited to the various Accounts hereinabove described in the order in which said Accounts have been listed and if within any period the revenues are insufficient to credit the required amounts in any of said Accounts, the deficiencies shall be made up the following period or periods after payments into all the Accounts enjoying a prior claim on the revenues have been made in full.

Section 6. The City of Nebraska City covenants and agrees with each of the purchasers and holders of the Series No. 28 Bond and the Outstanding Parity Bonds that so long as any of said bonds remain outstanding and unpaid said City will fix, establish, maintain and collect such rates, fees or charges for electricity, water, sewer and gas, and for electric, water, sewer and gas service furnished by or through the combined utilities as will produce revenues sufficient to provide funds to pay the reasonable costs of operation and maintenance of the combined utilities of said City and to pay, when due, the principal of and interest on the Outstanding Parity Bonds and the Series No. 28 Bond together with the principal of and interest on any utilities revenue bonds of the City hereafter issued which are payable from the revenues of the combined utilities as and when the same become due. Said City further covenants and agrees that said rates will be sufficient to provide funds to make the monthly payments into the accounts hereinbefore referred to in accordance with the provisions hereof.

Section 7. The City will not hereafter grant any franchise or right to any person, firm or corporation to own or operate an electric, water, sewer or gas plant or system in competition with that owned by the City.

Section 8. While any of the Outstanding Parity Bonds or Series No. 28 Bond are outstanding, the City will render bills to all customers for electric, water, sewer and gas services. If bills are not paid within sixty days after due, the City will take all lawful measures to collect delinquent amounts due, including utility service shut-off, in accordance with existing state statutes and City ordinances and other applicable laws, and will make appropriate charge for use of all properties of the City connected to the electric, water, sewer and gas systems.

Section 9. The City of Nebraska City covenants and agrees that so long as any of the Outstanding Parity Bonds or the Series No. 28 Bond remain outstanding and unpaid said City will not issue any Additional Bonds or other obligations or indebtedness payable out of the revenues and earnings of the combined utilities of said City, or any part thereof, which are superior in position to, or are issued on an equality with, the Outstanding Parity Bonds or Series No. 28 Bond unless the following appropriate conditions are met:

(a) The revenue of the combined utilities for the fiscal year next preceding the date of the authorization of the Additional Bonds, as based upon a certified public accountant's report, after deduction of operation and maintenance expenses, is (at least) equal to 1.25 times the average annual bond requirements of the Series No. 28 Bond, the Outstanding Parity Bonds, any Additional Bonds then outstanding and the Additional Bonds to be issued, which average annual bond requirements shall be determined by adding all of the principal and interest which will become due when computed to the absolute maturity of the Series No. 28 Bond, the Outstanding Parity Bonds and any Additional Bonds then outstanding and all of the principal and interest of the Additional Bonds to be issued and dividing the total by the number of years remaining that the longest bond of any issue of said bonds (including the Additional Bonds to be issued) has to run to maturity. If a certified public accountant's report for the fiscal year next proceeding the date of issuance of the Additional Bonds is not yet available, the City may rely on a certified public accountant's report for the year next preceding the year next preceding the date of issuance of such Additional Bonds, provided that the City Board of Public Works shall certify that, based upon unaudited information available for the year next preceding the date of issuance of the Additional Bonds, there is no material adverse change in the revenues and earnings of the combined utilities system.

(b) The City shall not be in default in making any payment into the respective accounts created by this ordinance.

The City reserves the right and power, however, to issue Additional Bonds junior and subordinate to the Series No. 28 Bond, the Outstanding Parity Bonds and any Additional Bonds then outstanding, and the interest and principal of any such bonds can be paid from funds available for improvements and enlargements to the combined utilities of the City as authorized in this ordinance or from other surplus utility funds which are available for such debt service.

The City further reserves the right to issue refunding bonds to refund any revenue bonds then outstanding and unpaid which are payable from the revenues of the combined utilities without compliance

with the foregoing conditions if such refunding bonds shall not mature earlier than the bonds being refunded and shall comply with the refunding provisions of the ordinance authorizing the bonds being refunded, if any. In computing average bond requirements with respect to any proposed issue of refunding bonds, debt service on the bonds being refunded shall be disregarded for any period of time when such refunded bonds are to be no longer outstanding under the terms of their authorizing ordinance. All refunding bonds issued in accordance with the terms of this Section 9 shall have the same equality of pledge as the bonds being refunded.

In the event any changes in the rates, rentals and charges for the use and service of the combined utilities have been made during the preceding fiscal year or during the interval between the end of such fiscal year and the issuance of such Additional Bonds, or in the event the City shall covenant in the ordinance or Ordinance authorizing the issuance of such Additional Bonds to impose, effective upon the issuance of such Additional Bonds, higher rates, rentals and charges for such use and service, Additional Bonds may be issued based upon the report of a consulting engineer or certified public accountant and the consulting engineer or independent certified public accountant of the City shall, in determining the net collections for such fiscal year, adjust the net collections to reflect the result as if such changed rates, rentals and charges, or such higher rates, rentals and charges had been in existence for such entire preceding fiscal year period, and the amount of such net collections adjusted as aforesaid shall be conclusive evidence and the only evidence required to show compliance with the provisions and requirements of paragraph (a) of this Section 9.

Section 10. So long as any of the Series No. 28 Bond or Outstanding Parity Bonds shall remain outstanding said City will carry adequate insurance on the combined utilities properties of said City in such amounts as are normally carried by private companies engaged in similar operations including, without limiting the generality of the foregoing, fire and windstorm insurance, public liability insurance and any additional insurance covering such risks as shall be recommended by the Board of Public Works of the City.

All such insurance policies shall be in such form and amount as shall be approved or recommended by the Board of Public Works of said City or, if there be no such Board, by the Board of Commissioners of said City. All insurance monies, except public liability, shall be used by the City in making good the loss or damage in respect of which they were paid, either by repairing the property damaged or replacing the property destroyed, and any expenditures in excess of \$10,000 from said monies shall be made only upon a certificate issued by the city engineer or by consulting engineers employed by the City and filed with the City Clerk stating that the insurance proceeds, together with any other monies available for that purpose, are sufficient for the repair or replacement of any such properties; and when the City shall have been furnished with a certificate of the city engineer or of consulting engineers employed by the City stating that the property damaged or destroyed has been fully repaired or replaced and such repairs or replacements have been fully paid for, the residue, if any, of such insurance monies shall be paid into the Improvement and Extension Account created by Section 9 of this ordinance unless said Improvement and Extension Account is filled to its maximum amount, in which event the insurance monies shall be paid into the Surplus Account.

If the proceeds of any insurance shall be insufficient to repair or replace the property damaged or destroyed, and if the City shall have no other funds available to pay the amount of the deficiency, the amount of said deficiency may be paid out of the Improvement and Extension Account created by Section 5 of this ordinance; provided, however, that all of the conditions contained in said Section with respect to the use and application of said Improvement and Extension Account shall be complied with. If, in the opinion of the city engineer or the consulting engineers employed by the City, it is to the best interest of the City not to repair or replace the damaged properties and that failure to repair or replace said properties will not affect the sufficiency of the income and revenue from the remaining properties to maintain and operate the same properly and provide funds sufficient to meet the payments required under all of the provisions of this ordinance, then said insurance monies shall be paid into said Improvement and Extension Account.

The proceeds of any and all policies for public liability receivable by the City shall be paid to and be held by the City Treasurer and used in paying the claims on account of which they were received.

Section 11. So long as the Series No. 28 Bond is outstanding and unpaid, the City of Nebraska City agrees that it will not sell, lease or otherwise dispose of any of the property of the combined utilities, the revenues of which are pledged hereunder, located within the corporate limits of said City or any of the property located within or without the corporate limits of said City which is necessary or useful to the supplying of services from said combined utilities to the inhabitants of said City, except any portion of said properties which is determined to be no longer necessary or useful in the operation of said combined utilities; provided, however, said City shall have the right to sell any of the properties of the combined utilities now or hereafter located outside the corporate limits of said City which are not necessary or useful to the supplying of service to the City and its inhabitants. No sale of any properties shall be made except for cash and then only after certificate has been issued by a consulting engineer setting forth the value of such properties and making a determination of the loss of revenues that will be sustained by the sale of such properties and finding that the revenues to be derived from the remaining properties of said combined utilities will be sufficient to comply with all the terms, covenants and provisions of this ordinance, which said certificate shall be filed in the office of the City Clerk. Any sale of properties made pursuant to the terms and conditions of this Section shall be made free and clear of the pledge of the revenues of said properties under the terms and conditions of this ordinance. The net proceeds of any such sale shall be used by the City for the purpose of redeeming Series No. 28 Bond, Outstanding Parity Bonds or revenue bonds hereafter issued on an equal lien with the Series No. 28 Bond and Outstanding Parity Bonds, or applied to the pro rata payment of the principal of and accrued interest on all of said revenue bonds of the City, such redemption being made in the manner, after the notice and in accordance with all the conditions specified with respect to said bonds.

Section 12. The City will cause proper books and accounts for the combined utilities to be kept and will cause the books and accounts to be audited annually by an independent firm of certified public accountants and will make generally available to the holder the Series No. 28 Bond the balance sheet and

profit and loss statement of the City as certified by such accountants. The holders of any of said bonds shall have at all reasonable times the right to inspect the system and the records, accounts and data of the City relating thereto.

Section 13. The City of Nebraska City hereby covenants and agrees with the holder or holders of the Series No. 28 Bond, or any of them, that it will punctually perform all duties with reference to said combined utilities required by the Constitution and laws of the State of Nebraska, including the making and collecting of sufficient rates for service of said combined utilities and segregating the revenues of said combined utilities and the application of the respective funds and accounts created by this ordinance, and it hereby covenants and agrees not to sell, lease, loan, mortgage or otherwise encumber, except as provided in this ordinance, or in any manner dispose of said combined utilities, except as provided by Section 15 of this ordinance, until all of the Series No. 28 Bond shall have been paid in full, both principal and interest, or unless and until provision shall have been made for the payment of all said bonds and interest thereon in full, and the City further covenants and agrees with the holders of said bonds to maintain in good condition and continuously operate said combined utilities, and the City will not permit or allow franchises, permits, privileges, easements or other rights necessary or desirable for said purposes to lapse and will from time to time take all reasonable steps to secure renewal of all such franchises, permits, easements and rights at the expiration thereof, if same shall expire prior to maturity of the Series No. 28 Bond.

Section 14. The City of Nebraska City hereby agrees that in the event that said City shall default in the payment of the principal of or interest on the Series No. 28 Bond as the same shall become due, whether at maturity or upon call for redemption, and in the event that such default shall continue for a period of thirty (30) days, or in the event that said City or the governing body or officers, agents or employees thereof shall fail or refuse to comply with any of the provisions of this ordinance or of the statutes of the State of Nebraska, then at any time thereafter and while such default shall continue, the holder of the Series No. 28 Bond may, by written notice to said City filed in the office of the City Clerk or delivered in person to the Mayor or City Clerk of said City, declare the principal of all said Series No. 28 Bond then outstanding to be due and payable immediately, and upon any such declaration given as aforesaid, all of said bond shall become and be immediately due and payable, anything in this ordinance or in said bond contained to the contrary notwithstanding. This provision, however, is subject to the condition that if at any time after the principal of said Series No. 28 Bond shall have been so declared to be due and payable, all arrears of interest upon all of said outstanding bond, except interest accrued but not yet due on such bond, and all arrears of principal upon said bond shall have been paid in full, and all other defaults, if any, by the City under the provisions of this ordinance and the applicable statutes of the State of Nebraska shall have been cured, then and in every case the holder of the Series No. 28 Bond, by written notice to the City given as hereinbefore specified, may rescind and annul such declaration and its consequences, but no such rescission or annulment shall extend to or affect any subsequent default or impair any rights consequent thereon.

Section 15. The officers of the City are authorized to take any and all actions deemed necessary by them in connection with the carrying out and performance of the terms of this Ordinance.

Section 16. The Board of Commissioners hereby expressly declares the intent and understanding that interest on the Series No. 28 Bond shall not be excludable from gross income under the terms of Section 103 of the Internal Revenue Code of 1986, as amended, and the City as issuer shall not file any information report with respect to the Series No. 28 Bond pursuant to Section 149(e) of the Code.

Section 17. The City's obligations under this ordinance and the liens, pledges, dedications, covenants and agreements of the City herein made or provided for shall be fully discharged and satisfied as the Series No. 28 Bond and said Series No. 28 Bond shall no longer be deemed outstanding hereunder if such Series No. 28 Bond shall have been purchased and cancelled by the City or when payment of the principal of and any applicable redemption premium, if any, on such Series No. 28 Bond plus interest thereon to the dates of maturity or redemption (a) shall have been made or caused to be made in accordance with the terms thereof; or (b) shall have been provided for by depositing in escrow with any state or national bank having trust powers or trust company in trust solely for such payment (i) sufficient monies to make such payment and/or (ii) direct general obligations of or obligations the principal and interest of which are unconditionally guaranteed by the United States of America (herein referred to as "Government Obligations") in such amount and bearing interest payable and maturing or redeemable at stated fixed prices at the option of the holder as to principal at such times as will insure the availability of sufficient monies to make such payment and such bonds shall cease to draw interest from the date of their redemption or maturity and, except for the purposes of such payment, shall no longer be entitled to the benefits of this Ordinance; provided that, with respect to the Series No. 28 Bond called or to be called for redemption, the City shall have duly given notice of redemption or made irrevocable provision for such notice. Any such monies so deposited with such state or national bank or trust company as provided in this section may be invested and reinvested in Government Obligations at the direction of the City and all interest and income from all such Government Obligations in the hands of such bank or trust company which are not required for payment of the Series No. 28 Bond or interest for which the deposit was made shall be paid to the City as and when realized and collected. With respect to any deposit made for purposes of satisfying the Series No. 28 Bond under this Section 17, there shall be furnished to NDEQ and the Nebraska Investment Finance Authority ("NIFA") an opinion of nationally recognized bond counsel that such deposit for payment of the Series No. 28 Bond will not adversely affect the exclusion for interest from gross income for federal tax purposes on any bonds issued by NIFA to provide funds for deposit into the Nebraska Drinking Water Facilities Loan Fund and/or the Wastewater Treatment Facilities Construction Loan Fund (as applicable) and the furnishing of such opinion shall be a condition required to be satisfied prior to the making of any such deposit in trust for payment and satisfaction with respect to the Series No. 28 Bond unless the Series No. 28 Bond then being defeased is to be prepaid and redeemed within 60 days from the time of such deposit.

Section 18. The provisions of this ordinance shall constitute a contract between the City of Nebraska City and the holder of the Series No. 28 Bond, and after the issuance of the bond no changes, additions or alterations of any kind shall be made in the provisions of this ordinance in any manner, except

as herein provided, until such time as said Series No. 28 Bond and the interest thereon shall be paid in full, or unless and until provision shall have been made for the payment of all said bonds and interest thereon in full, or unless and until the holder of the Series No. 28 Bond agrees to any such change in writing.

Section 19. If any section, paragraph, clause or provision of this Ordinance shall be held invalid, the invalidity of such section, paragraph, clause or provision shall not affect any of the other provisions of this Ordinance.

Section 20. All ordinances, resolutions or orders or parts thereof in conflict with the provisions of this Ordinance are to the extent of such conflict hereby repealed.

Section 21. This ordinance shall be published in pamphlet form and take effect as provided by law.

PASSED AND APPROVED this 21st day of February, 2011.

(S E A L)

Jack Hobbie, Mayor

ATTEST:

Arnold M. Ehlers, City Clerk - Treasurer

Pat Haverty updated the Council on the newly revised 2-hour parking regulations for the downtown business district. The main change from the last diagram was the addition of the 2-hour restriction north of the alleys on 7th, 8th, 9th, and 10th Streets North of Central Avenue as well as south of the alleys on 7th, 8th, and 9th Streets South of Central Avenue. Commissioner Mercer asked if the 2-hour parking restriction applied to Saturdays. Chief David Lacy stated that his department had not enforced the 2-hour parking restrictions on Saturdays. Pat Haverty added that the revised ordinance stated that the 2-hour parking regulations would be enforced Mondays thru Fridays except for holidays. Commissioner Mercer then moved to approve the proposed 2-hour parking ordinance and direct the City Attorney to draft the new ordinance. Upon roll call the following voted YES: Gay, Crunk, Handy, Mercer and Mayor Hobbie. Voting NO: None. Motion passed and adopted.

Mayor Hobbie introduced Resolution 2509-11 authorizing the Mayor to sign the Task Order Agreement between the City and Olsson Associates for the 4th Corso Mill & Overlay Project. Commissioner Handy moved to approve Resolution 2509-11. Upon roll call the following voted YES: Crunk, Gay, Mercer, Handy and mayor Hobbie. Voting NO: None. Motion passed and adopted. A true, correct and complete copy of said resolution is as follows:

Resolution 2509-11

Whereas: Nebraska City is developing a transportation project for which it intends to obtain Federal funds; and

Whereas: Nebraska City as a sub-recipient of Federal-Aid funding is charged with the responsibility of expending said funds in accordance with Federal, State and local laws, rules, regulations, policies and guidelines applicable to the funding of the Federal-Aid project; and

Whereas: Nebraska City and Olsson Associates wish to enter into an Engineering Services Agreement to complete National Environmental Policy Act (NEPA) services for the Federal-Aid project.

Now, Therefore Be It Resolved: by the Mayor and Commissioners of the City of Nebraska City that; Mayor Jack Hobbie is hereby authorized to sign the attached Task Order Agreement between the City of Nebraska City and Olsson Associates.

Passed and adopted this 21st day of February, 2011.

The City Council of Nebraska City:

Brett Gay	
Jeff Crunk	
Dean Handy	
Mark Mercer	
Mayor Jack Hobbie	

Commissioner Handy moved the adoption of said resolution.

Commissioner Mercer seconded the motion.

Roll Call: 0 Yes 0 No 0 Abstained 0 Absent

Resolution adopted, signed and billed as adopted.

Attest:

Arnold M. Ehlers, City Clerk - Treasurer

Mayor Hobbie introduced Ordinance No. 2840-11 entitled: AN ORDINANCE TO AMEND SECTION 35-267 OF THE CODE OF THE CITY OF NEBRASKA CITY, NEBRASKA, TO INCREASE THE PENALTY; TO REPEAL THE ORIGINAL SECTION 35-267 OF THE CODE OF NEBRASKA CITY, AND ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT WITH THIS ORDINANCE; AND TO DECLARE AN EFFECTIVE DATE; and moved that the statutory rule requiring reading on three different days be suspended. Commissioner Handy seconded the motion to suspend the rules and upon roll call the following voted YES: Mercer, Gay, Crunk, Handy and Mayor Hobbie. Voting NO:

None. The motion to suspend was adopted by three-fifths of the Council and the statutory rule was declared suspended for consideration of said ordinance.

Said ordinance was then read by title and thereafter Mayor Hobbie moved for final passage of the ordinance, which motion was seconded by Commissioner Handy. The Mayor then stated the question: "Shall Ordinance No. 2840-11 be passed and adopted?" Upon roll call the following voted YES: Mercer, Gay, Crunk, Handy, and Mayor Hobbie. Voting NO: None. The passage and adoption of said ordinance having been concurred in by a majority of all members of the Council, the Mayor declared the ordinance adopted and the Mayor, in the presence of the Council, signed and approved the ordinance and the Clerk attested the passage and approval of the same and affixed his signature thereto. A true and correct copy of said ordinance is as follows:

ORDINANCE NO. 2840-11

AN ORDINANCE TO AMEND SECTION 35-267 OF THE CODE OF THE CITY OF NEBRASKA CITY, NEBRASKA, TO INCREASE THE PENALTY; TO REPEAL THE ORIGINAL SECTION 35-267 OF THE CODE OF NEBRASKA CITY, AND ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT WITH THIS ORDINANCE; AND TO DECLARE AN EFFECTIVE DATE.

Whereas, in keeping up with a program to update the ordinances of the City of Nebraska City, it has been recommended that the over parking violation penalty be increased.

Now Therefore, Be It Ordained by the Mayor and the City Commissioners of the City of Nebraska City, Nebraska as follows:

Section 1. That Section 35-267 of the Code of Nebraska City, Nebraska, be amended to read as follows:

"Sec. 35-267. Penalty.

The notice of violation of the provisions of this division shall instruct the owner or operator of the vehicle over parked, and it shall be his duty, to pay the sum of ten dollars (\$10.00) as a fine for each such over parking violation, provided the same is paid within five (5) days of the date of issuance. If such fine is not paid within five (5) days of issuance, as provided above, the fine for such over parking violation shall be the sum of twenty dollars (\$20.00). Such fine may be paid at the city hall or at a depository box provided for such purposes by the city council."

Section 2. That the original section 35-277 of the Code of Nebraska City, Nebraska, and all other ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed.

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

PASSED and APPROVED, this 21st day of February, 2011.

Jack Hobbie, Mayor

Attest:

Arnold M. Ehlers, City Clerk-Treasurer

1st Class Flwr	63.00	Misc		Madsen, D	46.00	Rec
A-1 Locksmith	74.45	Rep		Mead Lumber	1,012.80	Supp
Adkins Signs	150.00	Advert		Medicaid	98.88	Misc
Alamar	206.45	Unif		Medicare	395.53	Misc
Allied Ins	200.00	Bond		Medico	211.54	Misc
Ameritas	121.40	Ins		Menards	27.88	Supp
Anthens, G	84.00	Rec		Mercer's	373.63	Rep
Arbor Mart	3,552.32	Fuel		Midwest Co-op	68.20	Maint
Asphalt Material	254.98	Maint		Midwest Turf	315.02	Rep
Battery Zone	169.30	Supp		Mullenax Auto	201.27	Rep
Beard's Salvage	181.00	Rep		National Ent Tech	480.00	Supp
Bennett, R	6,424.71	Contr		Nationwide	10,836.21	Inv
Blue Cross	881.70	Ins		NC Pub Sch	150.00	Misc
Bob's Welding	24.00	Rep		NC Utilities	10,175.28	Util
Bound Tree	572.48	Med		NE Dept Rev	170.29	Sales Tax
BSN Sports	237.99	Supp		NE HHS	40.00	Misc
Callaway	548.18	Msde		NE Humanities	75.00	Misc
Casey, J	68.55	Misc		NE Medicaid	189.95	Misc
Century Lumber	5.99	Rep		NE Salt/Grain	4,330.83	Maint
Cintas	57.70	Contr		O'Reilly Auto	36.62	Rep
Citizen Printing	436.50	Supp		Orscheln	754.43	Rep
Conner, J	69.00	Rec		Otoe Co Clerk	2,742.24	Contr
Creative Product	107.75	Supp		Otoe Co Treas	776.94	Misc
Crown Awards	268.51	Supp		Palfleet Equip	1,066.00	Rep
Cunningham Far	58.00	Rep		Payroll	86,577.38	Payroll
Earl May	152.90	Maint		Pitney Bowes	129.18	Supp
F&B Const	500.00	ROW		Purchase Power	400.00	Supp

Farris, M	143.00	Rec		Schendel Pest	91.00	Pest Cont
Farris, P	134.75	Rec		Shell	3,087.70	Fuel
Feld Fire	97.00	Supp		St. Mary's Hosp	3.60	Med
Fire Protect	466.00	Maint		State Chem Mfg	135.56	Supp
Fireguard	307.95	Unif		Table Creek	1,725.00	Conc
Food Pride	168.11	Supp		Tree City Tees	152.95	Unif
Giittinger, D	53.04	Mileage		Tri-State Office	67.68	Supp
Heartland Class	142.27	Advert		Turpel, R	63.24	Mileage
Hopkins Auto	85.74	Rep		Unum	2.89	Ins
Ideal Pure Water	43.50	Contr		Vander Haags	399.40	Rep
IIMC	210.00	Dues		Vasa, J	121.00	Rec
Keim Equip	616.80	Rep		Watkins	29.00	Rep
Kochanowicz, B	22.00	Rec		Windstream	2,248.96	Tele
Konica Business	132.37	Contr		Winn, Inc.	374.06	Msde
Konica Premier	15.00	Contr		Wood Family Fuel	62.10	Fuel
Landis Engine	202.45	Rep		Wurtele, G	47.63	Mileage
Linweld	120.70	Med				

Meeting adjourned at 7:26 p.m.

Arnold M. Ehlers, City Clerk – Treasurer

I, the undersigned City Clerk for the City of Nebraska City, Nebraska, hereby certify that the foregoing is a true and correct copy of proceedings had and done by the Mayor and Board of Commissioners, that all of the subjects included in the foregoing proceedings were contained in the agenda for the meeting, kept continually current and available for public inspection at the office of the City Clerk; that such subjects were contained in said agenda for at least twenty-four hours prior to said meeting; that at least one copy of all reproducible material discussed at the meeting was available at the meeting for examination and copying by members of the public; that the said minutes from which the foregoing proceedings have been extracted were in written form and available for public inspection within ten working days and prior to the next convened meeting of said body; that all news media requesting notification concerning meetings of said body were provided advance notification of the time and place of said meeting and the subjects to be discussed at said meeting.

Arnold M. Ehlers, City Clerk-Treasurer