

## CITY COUNCIL PROCEEDINGS

January 13, 2010

The City Council of the City of David City, Nebraska, met in open public session in the meeting room of the City Office, 557 N 4<sup>th</sup> Street, David City, Nebraska. The Public had been advised of the meeting by publication of notice in The Banner Press on January 7<sup>th</sup>, and an affidavit of the publisher is on file in the office of the City Clerk. The Mayor and members of the City Council acknowledged advance notice of the meeting by signing the Agenda which is a part of these minutes. The advance notice to the Public, Mayor, and Council members conveyed the availability of the agenda, which was kept continuously current in the office of the City Clerk and was available for public inspection during regular office hours. No new items were added to the agenda during the twenty-four hours immediately prior to the opening of the Council meeting.

Present for the meeting were: Mayor Dana Trowbridge, Council President Gary Kroesing, Council members Gary Smith, Bill Scribner, Nick Hein, Mike Rogers, and Bill Yindrick, City Attorney Jim Egr, and City Clerk-Treasurer Joan Kovar.

The meeting opened with the Pledge of Allegiance.

Mayor Trowbridge informed the public of the "Open Meetings Act" posted on the east wall of the meeting room and Resolution No. 2-2008 establishing rules and procedures for public participation at city council meetings.

The minutes of the December 9<sup>th</sup> and December 17<sup>th</sup>, 2009 meetings of the Mayor and City Council were approved upon a motion by Council member Hein and seconded by Council member Smith. Voting AYE: Council members Yindrick, Rogers, Kroesing, Scribner, Smith, and Hein. Voting NAY: None. The motion carried.

Mayor Trowbridge asked for consideration of claims. Council member Smith made a motion to authorize the payment of claims. Council member Yindrick seconded the motion. Voting AYE: Council members Scribner, Kroesing, Hein, Rogers, Yindrick, and Smith. Voting NAY: None. The motion carried.

Mayor Trowbridge called for Committee and Officer Reports. Mayor Trowbridge stated: that a couple reports merited a brief conversation; one was the Butler County Sheriff's activity report for David City for the month of December, and the "D" Street Paving and Drainage Improvements Project Update by Matt Rief of Olsson Associates. Mayor Trowbridge stated: "Joan shared some interesting thoughts with us as to how we need to be careful as we work together toward a common goal of making the city move forward and doing as good a job as we possibly can; working from a team concept; and sometimes the things that we say without thinking tend to bother other people that are on our team. She put it very nicely. Thank you for doing that. It took some nerve to do that and I appreciate it, I really do. We learn from things like this; we sometimes take them for granted."

Council member Hein made a motion to approve the Committee and Officer Reports as presented. Council member Smith seconded the motion. Voting AYE: Council members Yindrick, Kroesing, Scribner, Rogers, Smith, and Hein. Voting NAY: None. The motion carried.



cooperative, obviously no disagreements with management, very easy to work with.” Jody explained “significant deficiencies in internal control”. There is not significant “segregation of duties” because it is not economically feasible to hire additional staff to attain more thorough segregation of duties. “The findings you are getting are extremely common to cities of your size and smaller. You have a small staff. There is not a very good way to segregate the duties. We are pointing out where we see weaknesses in the system; nothing has happened to prompt us to report these to you; we are just pointing out places where we think things are weak. We convert your books from cash to accrual. Cash is money coming in the door and money going out the door. Accrual is whether it’s here or not we’ve earned it so we’re going to put in on the income statement. We bill our customers in October for September services but we’re going to put that revenue in these financial statements because we’ve already earned it. It’s not a cash flow exactly it’s when we’ve earned it and when we’ve expended it.” Mayor Trowbridge asked, “Do you have any cities that work on the accrual?” Jodi stated, “We don’t have a single city that is completely accrual; even the city of Columbus. The reason we do convert it to accrual is because the State Auditors Office requires you to have an audit every year and state law requires that the proprietary funds (electric, water, and sewer) are on the accrual basis.” The audit was conducted for the purpose of forming opinions on the financial statements that collectively comprise the City of David City, Nebraska’s basic financial statements. “David City is receiving a clean opinion.” Jodi continued to explain the financial statements for the year ended September 30, 2009. Jodi stated, “If a governmental or a non-profit entity has more than \$500,000 worth of federal receipts, grant money, or a loan sometimes, they are required to have what we refer to as a single audit or an OMB-A133 audit which is required by the Federal Government and because of your Airport Project you hit that threshold this year.”

Council member Kroesing made a motion to accept the Audit for the fiscal year ended September 30, 2009, as prepared by Scow, Rief, Kruse, & Schumacher. Council member Rogers seconded the motion. Voting AYE: Council members Scribner, Yindrick, Hein, Smith, Rogers, and Kroesing. Voting NAY: None. The motion carried.

At the December 9<sup>th</sup> council meeting, Council member Kroesing introduced Ordinance No. 1119 amending Chapter 9 of the City of David City, Nebraska Municipal Code Book to include provisions of the International Property Maintenance Code and it was passed on first reading. Mayor Trowbridge stated, “Ordinance No. 1119 was passed on first reading only to allow the public thirty days to give us their ideas as to whether they would be accepting the International Property Maintenance Code and the positive changes that it could bring to what used to be handled and reconciled by the Board of Health. Is anyone here to address that this evening; positively or negatively?” As there were no comments from the public, Council member Kroesing made a motion to suspend the statutory rule that requires an Ordinance be read on three separate days. Council member Yindrick seconded the motion. Voting AYE: Council members Smith, Scribner, Hein, Rogers, Yindrick, and Kroesing. Voting NAY: None. The motion carried.

Council member Yindrick made a motion to pass Ordinance No. 1119 on the third and final reading. Council member Smith seconded the motion. Voting AYE: Council members Kroesing, Hein, Rogers, Smith, and Yindrick. Voting NAY: Council member Scribner. The motion carried and Ordinance No. 1119 was passed and approved as follows:

**ORDINANCE NO. 1119**

AN ORDINANCE AMENDING CHAPTER 9 OF THE CITY OF DAVID CITY, NEBRASKA, MUNICIPAL CODE BOOK TO INCLUDE PROVISIONS OF THE INTERNATIONAL PROPERTY MAINTENANCE CODE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING FOR PUBLICATION OF THE ORDINANCE IN PAMPHLET FORM.

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

**SECTION 1.** Chapter 9 of the David City Municipal Code Book shall be amended to read:

**Chapter 9**

**ZONING REGULATIONS**

**Article 1. Zoning Administrator**

**§9-101 ZONING ADMINISTRATOR; POWER AND AUTHORITY.** The Zoning Administrator will work closely with and report to the City Council and the City Administrator. He/she will receive and review applications for zoning permits; interpret and enforce the General Plan and Zoning Ordinances; approve or deny zoning permit applications in compliance with ordinances and the General Plan; issue zoning permits and certificates of zoning inspections. Conduct inspections of property in conjunction with zoning permit applications and for compliance with ordinances and the General Plan. Conduct inspections of property resulting from complaints. Conduct follow up inspections of property for compliance, during the building process and upon completion, prior to issuance of a certificate of zoning compliance. Maintain records, subject to public inspection, of all zoning permit applications, complaints, investigations, inspections and any related activities. He/she will attend all Planning Commission and Board of Zoning Adjustment Meetings, and be required to attend city council meetings as directed by the council. The Zoning Administrator will submit a monthly city department report to the city council listing permits issued or denied, applications to the Planning Commission or Board of Adjustment and related activities.

**Article 2. Zoning / Moving Permits**

**§9-201 ZONING / MOVING PERMITS; LIMITATION.** If the work described in any Zoning / Moving Permit has not begun within six (6) months from the date of issuance thereof, said permit shall expire; it shall be cancelled by the Zoning Administrator; and written notice thereof shall be given to the persons affected.

If the work described in any Zoning / Moving Permit has not been substantially completed within two (2) years of the issuance thereof, said Permit shall expire and be cancelled by the Zoning Administrator, and written notice thereof shall be given to the persons affected, together with notice that further work as described in the

cancelled Permit shall not proceed unless, and until, a new Zoning Permit has been obtained.

**§9-202 ZONING PERMITS.** Any person desiring to commence or proceed to erect, construct, repair, enlarge, demolish, or relocate any building or dwelling, or cause the same to be done, shall file with the Municipal Clerk an application for a zoning / building permit. The application shall be in writing on a form to be furnished by the Municipal Clerk for that purpose. Every such application shall set forth the legal description of the land upon which the construction or relocation is to take place, the current zoning, the nature of the use or occupancy, the principal dimensions, the estimated cost, the names of the owner, architect, and contractor, and such other information as may be requested thereon. Payment of the permit fee set by resolution of the Governing Body is due at the time the application is filed. The application, plans, and specifications so filed with the Municipal Clerk shall be checked and examined by the Zoning Administrator. If the application, plans, and specifications are found to be in conformity with the requirements of this Chapter and all other ordinances applicable thereto, the Zoning Administrator shall authorize the Municipal Clerk to issue the said applicant a permit. Whenever there is a discrepancy between permit application procedures contained herein and those contained in any building code adopted by reference, the provisions contained herein shall govern. *(Ref. 17-130 thru 17-132, 17-550, 17-1001 RS Neb.)*

**§9-203 BUILDING MOVING; REGULATIONS.** It shall be unlawful for any person, firm, or corporation to move any building or structure within the Municipality without a written permit to do so. Application may be made to the Municipal Clerk, and shall include the present and future location of the building to be moved, the proposed route, the equipment to be used, and such other information as the Governing Body may require. The application shall be accompanied by a certificate issued by the County Treasurer to the effect that all the provisions regulating the moving of buildings have been complied with on the part of the owner of the real estate upon which the said building is presently located. The Municipal Clerk shall refer the said application to the Municipal Police for approval of the proposed route over which the building is to be moved. Upon approval of each municipal department head listed on the building moving permit, and upon approval of the Zoning Administrator, the Municipal Clerk shall then issue the said permit; provided, that a good and sufficient corporate surety bond, check, or cash in the amount set by motion of the Governing Body and conditioned upon moving said building without doing damage to any private or Municipal property is filed with the Municipal Clerk prior to the granting of any permit. All buildings wider than ten feet (10'), or longer than twenty feet (20'), or, when in a position to move, higher than fifteen feet (15'), or of any other size which shall require displacement of any City property, shall require a building moving permit and a building moving fee in the amount set by motion of the Governing Body. All other buildings or structures shall require only a building moving permit. In the event it will be necessary for any licensed building mover to interfere with the telephone or telegraph poles and wires, or a gas line, the company or companies owning, using, or operating the said poles, wires or line shall upon proper notice of at least twenty-four (24) hours, be present and assist by disconnecting the said poles, wires, or line relative to the building moving operation. All expense of the said disconnection, removal, or related work shall be paid in advance by the licensee unless such disconnection or work is furnished on different terms as provided in the said company's franchise. Whenever the moving of any building necessitates interference

with a water main, sewer main, pipes, or wire belonging to the Municipality, notice in writing of the time and route of the said building moving operation shall be given to the various Municipal officials in charge of the Municipal utility departments who shall proceed in behalf of the Municipality and at the expense of the mover to make such disconnections and do such work as necessary. (Ref. 60-6,288 to 60-6,294, 60-6,296)

**§9-204 BUILDING MOVING; DEPOSIT.** At such time as the building moving has been completed, each municipal department head listed on the building moving permit shall inspect the premises and report to the Municipal Clerk as to the extent of damages, if any, resulting from the said relocation and whether any Municipal laws have been violated during the said operation. Upon a satisfactory report from each municipal department head listed on the building moving permit, the Municipal Clerk shall return the corporate surety bond, cash, or check deposited by the applicant. In the event the basement, foundation, or portion thereof is not properly filled, covered, or in a clean and sanitary condition, the Governing Body may apply the money deposited for the purpose of defraying the expense of correcting the said conditions. If the expense of correcting the hazardous condition is greater than the amount of the deposit set by motion of the Governing Body, as required herein, the Governing Body may recover such excess expense by civil suit or otherwise as prescribed by law.

### Article 3. Building Code

**§9-301 BUILDING CODE; ADOPTED BY REFERENCE.** To provide certain minimum standards, provisions, and requirements for safe and stable design, methods of construction, and uses of materials in buildings hereafter erected, constructed, enlarged, altered, repaired, relocated, and converted, the Uniform Building Code the most recent edition, recommended by the International Conference of Building Officials, and printed in book or pamphlet form is hereby incorporated by reference in addition to all amended editions as though printed in full herein insofar as said code does not conflict with the Statutes of the State of Nebraska.

One (1) copy of the Building Code is on file at the office of the Municipal Clerk and is available for public inspection at the city office during their regular business hours.

The provisions of the Building Code shall be controlling throughout the Municipality and throughout its zoning jurisdiction. (Ref. 17-1001, 18-132, 19-902, 19-922 RS Neb.)

### Article 4. Plumbing Code

**§9-401 PLUMBING CODE; ADOPTED BY REFERENCE.** To provide certain minimum standards, provisions, and requirements for safe and stable installation, methods of connection, and uses of materials in the installation of plumbing and heating shall be as found in the Uniform Plumbing Code, the most recent edition, published by the International Association of Plumbing and Mechanical Officials in book or pamphlet form, is hereby incorporated by reference in addition to all amended editions as though printed in full herein insofar as said code does not conflict with the Statutes of the State of Nebraska.

One (1) copy of the Plumbing Code is on file at the office of the Municipal Clerk and is available for public inspection at the city office during their regular business hours.

The provisions of the Plumbing Code shall be controlling throughout the Municipality and throughout its zoning jurisdiction. (*Ref. 17-1001, 18-132, 19-902, 19-922 RS Neb.*)

#### **Article 5. Electrical Code**

**§9-501** **ELECTRICAL CODE; ADOPTED BY REFERENCE.** To provide certain minimum standards, provisions, and requirements for safe and fire proof installation, methods of connection, and uses of materials in the installation of electrical wiring and appliances shall be as found in the National Electrical Code, the most recent edition, as recommended and published by the National Fire Protection Association, printed in book or pamphlet form, in addition to all amended editions as though printed in full herein insofar as said code does not conflict with the statutes of the State of Nebraska. All prior ordinances in conflict herewith shall be and are hereby repealed.

One (1) copy of the Electrical Code is on file at the office of the Municipal Clerk and is available for public inspection at the city office during their regular business hours.

The provisions of the Electrical Code shall be controlling throughout the Municipality and throughout its zoning jurisdiction. (*Ref. 17-1001, 18-132, 19-902, 19-922 RS Neb.*)

#### **Article 6. Lighting and Thermal Efficiency Standards**

**§9-601** **LIGHTING AND THERMAL EFFICIENCY STANDARDS; NEED.**

1. This article shall be known as the Minimum Lighting and Thermal Efficiency Standards for Buildings.
2. The City of David City, Nebraska finds that there is a present and continuing need to provide for the development and implementation of minimum lighting and thermal efficiency standards for buildings to insure coordination with federal policy under the Energy Conservation Standards for New Buildings Act of 1976, to promote the conservation of our dwindling energy resources, and to provide for the public health, safety, and welfare.

**§9-602** **TERMS; DEFINED.** As used in this Article, unless the context otherwise requires, the following definitions shall apply:

PRIME CONTRACTOR shall mean the person, persons, entity or entities who has a contract with the owner and is the one responsible for the overall construction of any building or the installation of any component which affects the energy efficiency of the building. Prime Contractor shall also mean a property owner who performs the work of a Prime Contractor.

ARCHITECT or ENGINEER shall mean any person registered pursuant to section 81-847, Reissue Revised Statutes of Nebraska, 1943.

**BUILDING** shall mean any structure which utilizes or will utilize a heating system, cooling system, or domestic hot water system, including new buildings, renovated buildings, and additions, but not including any structure which has a consumption of traditional energy sources for all purposes not exceeding the energy equivalent of one (1) watt per square foot.

**RESIDENTIAL BUILDING** shall mean a building three (3) stories or less that is used primarily as one (1) or more dwelling units.

**RENOVATION** shall mean alterations on an existing building which will cost more than fifty (50%) percent of the replacement cost of such building at the time work is commenced or which was not previously heated or cooled, for which a heating or cooling system is now proposed, except that the restoration of historical buildings shall not be included.

**ADDITION** shall mean any construction added to an existing building which will increase the floor area of that building by five (5%) percent or more.

**FLOOR AREA** shall mean the total area of a building, expressed in square feet, which is within the exterior face of the shell of the structure which is heated or cooled.

**STANDARD** shall mean The Model Energy Code, 1983 Edition, of the Council of American Building Officials.

**TRADITIONAL ENERGY SOURCES** shall mean electricity, petroleum based fuels, uranium, coal, and all nonrenewable forms of energy.

**§9-603** **STANDARD; APPLICABILITY.** The Standard shall apply to all new buildings, or renovations of or additions to any existing buildings, on which construction is initiated on or after the effective date of this Section. (*Amended by Ord. No. 602, 9/14/83*)

**§9-604** **EXEMPTIONS.** The following shall be exempt from this act:

1. Any building which has a peak design rate of energy usage for all purposes of less than one (1) watt, or three and four-tenths (3.4) British Thermal Units per hour, per square foot of floor area.
2. Any building which is neither heated nor cooled.
3. Any building or portion thereof which is owned by the United States of America.
4. Any mobile home as defined by section 71-4603, Reissue Revised Statutes of Nebraska, 1943.
5. Any manufactured housing unit as defined by subsection (1) of section 71-1557, Reissue Revised Statutes of Nebraska, 1943.
6. Any building (i) listed on the National Register of Historic Places, (ii) determined to be eligible for the National Register of Historic Places by the State Historic Preservation Officer, or (iii) designated as an individual landmark or heritage preservation site by a Municipality or located within a designated landmark or heritage preservation district.
7. Any building to be renovated that is located within an area that has been designated blighted by a Municipality.
8. All residential buildings shall be exempt from lighting efficiency standards.

**§9-605** **FEES.** The fees, charges, and expenses for Zoning Permits and Certificates of Zoning Compliance shall be as established by the City Council; such fees, charges, and expenses to be set by Resolution.

The schedule of fees shall be posted in the office of the City Clerk and may be altered or amended only by the City Council. Until all applicable fees, charges, and expenses have been paid in full, no action shall be taken on any application or appeal.

**§9-606** **WHEN ARCHITECT OR ENGINEER IS RETAINED.** If an architect or engineer is retained, the architect or engineer shall place his or her state registration seal on all construction drawings which shall indicate that the design meets the standard. The Prime Contractor shall build or cause to be built in accordance with the construction documents prepared by the architect or engineer.

**§9-607** **VIOLATION; PENALTY; ENFORCEMENT.** Any person violating any provision of this Article shall be subject to a maximum fine of five hundred (\$500.00) dollars. In addition, the City of David City may by an action in the District Court enforce the provisions of this Article through equity and injunctive processes.

**§9-608** **VALIDITY.** If any Section in this Article or any part of any Section shall be declared invalid or unconstitutional such declaration shall not affect the validity or constitutionality of the remaining portions thereof.

#### **Article 7. Property Maintenance Code**

**§9-701** **PROPERTY MAINTENANCE CODE; ADOPTED BY REFERENCE.** To provide certain minimum standards, provisions, and requirements for the control of buildings and structures 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. The International Property Maintenance Code, the most recent editions recommended by International Code Council, Inc. and printed in book or pamphlet form, is hereby incorporated by reference in addition to all amended editions as though printed in full herein insofar as said code does not conflict with the Statutes of the State of Nebraska.

One (1) copy of the Property Maintenance Code is on file at the office of the Municipal Clerk and is available for public inspection at the city office during their regular business hours.

The provisions of the Property Maintenance Code shall be controlling throughout the Municipality and throughout its zoning jurisdiction. (*Ref. 17-1001, 18-132, 19-902, 19-922 RS Neb.*)

**§9-702** **HISTORIC BUILDINGS.** The provisions of this code shall not be mandatory for existing buildings or structures designated by the state or city as historic buildings or structures when such buildings or structures are judged by a code official to be safe and not dangerous to the public health, safety and welfare.

**§9-703** **DECLARATION OF NUISANCE.** It shall be unlawful for a person, firm or corporation to be in conflict with or in violation of any of the provisions of the Property

Maintenance Code and such conflict with or violation of the provisions of the Property Maintenance Code is hereby declared to be a nuisance.

**§9-704 ABATEMENT OF NUISANCE.** The imposition of the penalties prescribed in the Property Maintenance Code shall not preclude the city from instituting appropriate actions to abate such conflict with or violation of the provisions of the Property Maintenance Code as prescribed in §4-402,

#### **Article 8. Penal Provision**

**§9-801 VIOLATION; PENALTY.** Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this Chapter, set forth at full length herein or incorporated by reference shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be fined not more than one hundred (\$100.00) dollars for each offense. A new violation shall be deemed to have been committed every twenty-four (24) hours of such failure to comply.

**SECTION 2.** That any ordinance or section of any ordinance passed and approved prior to or subsequent to the passage, approval, and publication or posting of this ordinance and in conflict with its provisions, is hereby appealed.

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

**PASSED AND APPROVED** this 13<sup>th</sup> day of January, 2010.

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Mayor Dana Trowbridge

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City Clerk Joan E. Kovar

On December 9, 2009, Council member Kroesing introduced Ordinance No. 1120 amending Chapter 1 of the City of David City, Nebraska, Municipal Code Book providing for a Special Building Inspector, and it passed on first reading only. Mayor Trowbridge stated, "To listen to the words it sounds like we would hire a special building inspector, which we will, but it will not be on a full time basis; it will be contracted with a certified building inspector on an as needed basis because we certainly can't afford a full time building inspector in the City of David City." There were no comments from the public, therefore Council member Yindrick made a motion to suspend the statutory rule that requires an Ordinance be read on three separate days. Council member Rogers seconded the motion. Voting AYE: Council members Kroesing, Smith, Scribner, Hein, Rogers, and Yindrick. Voting NAY: None. The motion carried.

Council member Kroesing made a motion to pass Ordinance No. 1120 on the third and final reading. Council member Smith seconded the motion. Voting AYE: Council members Hein, Rogers, Yindrick, Smith, and Kroesing. Voting NAY: Council member Scribner. The motion carried and Ordinance No. 1120 was passed and approved as follows:

**ORDINANCE NO. 1120**

AN ORDINANCE AMENDING CHAPTER 1, ARTICLE 2, OF THE CITY OF DAVID CITY, NEBRASKA, MUNICIPAL CODE BOOK PROVIDING FOR A SPECIAL BUILDING INSPECTOR; PROVIDING AN EFFECTIVE DATE; AND PROVIDING FOR PUBLICATION OF THE ORDINANCE IN PAMPHLET FORM.

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

**SECTION 1.** Chapter 1, Article 2, of the David City Municipal Code Book shall be amended to read:

**Article 2. Appointed Officials**

**§1-201 APPOINTED OFFICIALS; GENERAL AUTHORITY.**

- (A) The Mayor, by and with the consent of the City Council, may appoint a City Administrator, City Clerk, Deputy City Clerk, City Treasurer, City Attorney, City Physician, City Police Chief, City Fire Chief, City Street Commissioner, City Electric Supervisor, City Electric Plant Supervisor, City Water/Sewer Supervisor, City Zoning Administrator, City Engineer, City Park and Auditorium Superintendent, and a Special Building Inspector, who shall hold their offices for one (1) year. The Mayor, with the consent of the City Council, shall appoint such number of regular police officers as may be necessary. The City Council may establish and provide for the appointment of members of a law enforcement reserve force as provided by law. (*Neb. RS 17-107*)
- (B) All police officers and other appointed officials may be removed at any time by the Mayor. A police officer and all other appointed officials, including the chief of police, may appeal such removal or other disciplinary action to the city council. After a hearing, the city council may uphold, reverse, or modify the removal or disciplinary action. (*Neb. RS 17-107*)

**§1-202 APPOINTED OFFICIALS; CITY ADMINISTRATOR ESTABLISHED.** The office of Administrator of the City of David City, Nebraska is hereby established as provided by law. Such officer shall be appointed by the Mayor with the approval of a majority of the City Council and may be removed at any time by the Mayor with the approval of a majority of the City Council. The salary of the Administrator shall be fixed by resolution and shall be payable monthly.

**§1-202.01 APPOINTED OFFICIALS; CITY ADMINISTRATOR; DUTIES AND RESPONSIBILITIES**

The City Administrator shall be appointed by the Mayor, with the approval of a majority of the City Council.

The Administrator directs and supervises all departments of City government, and is responsible for the City's compliance with all statutes, codes, ordinances, and policies.

The Administrator works under legislative direction of the City Council and administrative direction of the Mayor. He/she is to be available to citizens and employees during normal business hours.

**Administrative duties** of the City Administrator include the following:

Attend all meetings of the City Council and report on matters concerning city affairs under his/her supervision and direction. Keep the Council informed regarding operations and problems and recommend solutions.

Direct the preparation of agendas and agenda packets for the Mayor, Council, and other persons requesting such information.

Attend meetings of departments and officials relevant to city affairs, or as directed by the Mayor and Council.

Evaluate all City business and projects and make recommendations to the Mayor and Council for the adoption of measures and ordinances deemed necessary for the good government of the City.

Continuously monitor and evaluate the efficiency and effectiveness of the City's organization structure, staffing patterns, service levels and administrative systems, and work with the Mayor and Council to implement necessary improvements.

Prepare and present periodic reports on the City's operation.

Initiate, prepare and present studies and research reports.

Supervise contracts and bids.

Maintain contact with State and Federal agencies in all matters regarding the City, analyze the City's position on State and Federal legislation which may impact the City, and communicate the city's position to appropriate individuals and committees of the State and Federal Government.

Obtain information concerning Federal and State funds available to the City. Identify qualifying need areas and implement necessary procedures to obtain such funds if so directed by the Mayor and Council.

Advise citizens, property owners, contractors, and others on questions relating to City code.

Attend authorized meetings and seminars that provide continuing education in matters relating to City administration.

## II.

**Financial duties** of the City Administrator include the following:

Keep the Mayor and Council fully advised on the financial condition of the City.

Prepare annual estimates of revenues and expenditures and submit a proposed budget of a complete financial plan for the City to the Mayor and Council 30 days prior to the consideration and adoption of the annual budget by the Council.

Supervise authorized budget expenditures.

Present monthly reports to the Council regarding current budget and expenditures.

Evaluate all City revenues and make suggestions and recommendations on rates and prices charged for all City services.

Review all employee benefits and recommend changes as needed.  
Prepare insurance specifications for the City and obtain bids.

Assist accountants with questions regarding the yearly audit.

Be responsible for long-range financial planning.

Investigate and report on alternate revenue sources for City projects.

### III.

Duties of the City Administrator regarding **Personnel** include the following:

Plan, coordinate, and supervise personnel matters for all departments of the City.

Keep the City Personnel Handbook up-to-date and accurate according to changing laws and regulations.

Recommend to the Mayor and Council the appointment and dismissal of appointed personnel.

In coordination with appropriate department heads, is responsible for the appointment and dismissal of all subordinate employees in departments over which he/she exercises jurisdiction.

Provide for the transfer of workers between departments to meet varying workload emergencies.

Build good employee relations.  
Hold periodic staff meetings with all department heads and employees.

Supervise the City's annual written employee evaluation process.

Conduct an annual review of the City's class specifications and compensation plan for all employees and recommend changes as needed.

### IV.

**Community Development** duties of the City Administration include the following:

Oversee and assist in the development of long-range and short-range plans for the City, developing goals, objectives, and priorities. Keep department heads involved and informed concerning these plans.

Provide direction and assistance to citizens, community groups and, community promotional organizations to implement community development goals.

Serve as a liaison with outside agencies and organizations encouraging economic development.

**V.**

**Public relations** duties of the City Administrator include the following:

As chief public relations ambassador, the City Administrator is responsible to develop cooperative relationships with citizens, the media, and local business and community groups.

Receive, investigate, and act upon citizen complaints.

**VI.**

**Qualification requirements** for the position of City Administrator include the following:

Graduation from a four-year college/university with a bachelor's degree in public or business administration or related field. A Master's degree is desirable, but not required.

Ability to plan, organize, staff, direct, coordinate, and evaluate city programs.

Ability to communicate clearly and concisely.

Ability to perform related duties as assigned by the Mayor and City Council.

**§1-203** **APPOINTED OFFICIALS; CITY CLERK.**

- (A) The City Clerk shall attend the meetings of the City Council and keep a correct journal of the proceedings of that body. He or she shall keep a record of all outstanding bonds against the city and when any bonds are sold, purchased, paid, or canceled, the record shall show the fact. He or she shall make, at the end of the fiscal year, a report of the business of the city transacted through his or her office for the year. That record shall describe particularly the bonds issued and sold during the year, and the terms of the sale with each, and every item, and expense thereof. He or she shall file all official bonds after the same shall have been properly executed, and approved. He or she shall make the proper certificate of passage which shall be attached to original copies of all bond ordinances hereafter enacted by the City Council.

- (B) The City Clerk shall issue and sign all licenses, permits, and occupation tax receipts authorized by law and required by the city ordinances. He or she shall collect all occupation taxes and license money except where some other city officer is specifically charged with that duty. He or she shall keep a register of all licenses granted in the city and the purpose for which they have been issued.
- (C) The City Clerk shall permit no records, public papers, or other documents of the city kept and preserved in his or her office to be taken there from, except by such officers of the city as may be entitled to the use of the same, but only upon their leaving a receipt therefore. He or she shall keep all records of his or her office, including a record of all licenses issued by him or her in a blank book with a proper index. He or she shall include as part of his or her records all petitions under which the City Council shall order public work to be done at the expense of the property fronting thereon, together with references to all resolutions, and ordinances relating to the same. He or she shall endorse the date, and hour of filing upon every paper, or document so filed in his or her office. All such filings made by him or her shall be properly docketed. Included in his or her records shall be all standard codes, amendments thereto, and other documents incorporated by reference, and arranged in triplicate in a manner convenient for reference. He or she shall keep an accurate and complete account of the appropriation of the several funds, draw, sign, and attest all warrants ordered for the payment of money on the particular fund from which the same is payable. At the end of each month, he or she shall then make a report of the amounts appropriated to the various funds and the amount of the warrants drawn thereon. Nothing herein shall be construed to prevent any citizen, official, or other person from examining any public records at all reasonable times.
- (D) (1) The City Clerk shall deliver all warrants, ordinances, and resolutions under his or her charge to the Mayor for his or her signature. He or she shall also deliver to officers, employees, and committees all resolutions and communications which are directed at said officers, employees, or committees. With the seal of the city, he or she shall duly attest the Mayor's signature to all ordinances, deeds, and papers required to be attested to when ordered to do so by City Council.
- (2) Within 30 days after any meeting of the City Council, the City Clerk shall prepare and publish the official proceedings of the City Council in a legal newspaper of general circulation in the city, and which was duly designated as such by the City Council. This publication shall set forth a statement of the proceedings thereof and shall also include the amount of each claim allowed, the purpose of the claim, and the name of the claimant, except that the aggregate amount of all payroll claims may be included as 1 item. Between July 15 and August 15 of each year, the employee job titles and the current annual, monthly, or hourly salaries corresponding to those job titles shall be published. Each charge for this publication shall not exceed the rates provided by the statutes of the state, Neb. RS 23-122. (*Neb. RS 19-1102*)
- (3) The above-mentioned publication shall be charged against the general fund.
- (4) The City Clerk shall then keep a book with a proper index, copies of all notices required to be published or posted by the City Clerk by order of the City Council, or under the ordinances of the city. To each of the file copies of these notices shall be attached the printers affidavit of publication, if the notices are required

to be published, or the City Clerk's certificate under seal where the same are required to be posted only. (*Neb. RS 19-1102*)

- (E) The City Clerk shall receive all objections to creation of paving districts, and other street improvements. He or she shall receive the claims of any person against the city, and in the event that the claim is disallowed in part, or in whole, the City Clerk shall notify such claimant, or his or her agent, or attorney, by letter within five (5) days after the disallowance, and the City Clerk shall then prepare transcripts on appeals of any disallowance of a claim in all proper cases.
- (F) The City Clerk may charge a reasonable fee for certified copies of any record in his or her office as set by resolution of the City Council. He or she shall destroy Municipal records under the direction of the State Records Board pursuant to Sections 84-1201 thru 84-1227; provided that the City Council shall not have the authority to destroy the minutes of the City Clerk, the permanent ordinances, and resolution books, or any other records classified as permanent by the State Records Board. (*Neb. RS 17-605*)

**§1-203.01** **APPOINTED OFFICIALS; DEPUTY CITY CLERK.** The Deputy City Clerk shall assume the duties of the City Clerk in the City Clerk's absence.

**§1-204** **CITY TREASURER.**

- (A) The City Treasurer shall be the custodian of all money belonging to the City. He or she shall keep a separate account of each fund or appropriation and the debts and credits belonging thereto. He or she shall give every person paying money into the treasury a receipt therefore, specifying the date of payment and on what account paid. He or she shall also file copies of such receipts with his or her monthly reports, and he or she shall, at the end of every month, and as often as may be required, render an account to the City Council, under oath, showing the state of the treasury at the date of such account and the balance of money in the treasury. He or she shall also accompany such accounts with a statement of all receipts and disbursements, together with all warrants redeemed and paid by him or her, which warrants, with any and all vouchers held by him or her, shall be filed with his or her account in the City Clerk's office. If the treasurer fails to render his or her account within twenty days after the end of the month, or by a later date established by the governing body, the mayor in a city of the second class may use this failure as cause to remove the treasurer from office. The office shall be declared vacant, and the City Council shall fill the vacancy by appointment until the next election for municipal officers. (*Neb. RS 17-606*)
- (B)
  - (1) All warrants upon the City Treasurer shall be paid in the order of their presentation therefore and as otherwise provided in Neb. RS 77-2201 through 77-2215. (*Neb. RS 77-2201*)
  - (2) The City Treasurer shall keep a warrant register in the form required by Neb. RS 77-2202.
  - (3) The City Treasurer shall make duplicate receipts for all sums which shall be

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

- (4) The City Treasurer shall daily, as money is received, foot the several columns of the cash book and of the register, and carry the amounts forward, and at the close of each year, in case the amount of money received by the Treasurer is insufficient to pay the warrants registered, he or she shall close the account for that year in the register and shall carry forward the excess. (*Neb. RS 77-2210*)
- (C) (1) The City Treasurer shall prepare and publish annually within 60 days following the close of the municipal fiscal year a statement of the receipts and expenditures by funds of the City for the preceding fiscal year. (*Neb. RS 19-1101*)
- (2) Publication shall be made in one legal newspaper of general circulation in the City. If no legal newspaper is published in the City, then such publication shall be made in one legal newspaper published or of general circulation within the county in which the City is located. (*Neb. RS 19-1103*)
- (D) The City Treasurer shall keep all money belonging to the City separate and distinct from his or her own money. He or she shall invest and collect all money owned by or owed to the City as directed by the City Council. He or she shall maintain depository evidence that all municipal money is, in the name of the City, in a solvent and going financial institution of a type authorized by state law for deposit of municipal funds. He or she shall cancel all bonds, coupons, warrants, and other evidences of debt against the City, whenever paid by him or her, by writing or stamping on the face thereof, "Paid by the City Treasurer," with the date of payment written or stamped thereon. He or she shall collect all special taxes, allocate special assessments to the several owners, and obtain from the County Treasurer a monthly report as to the collection of delinquent taxes.

**§1-205**

**APPOINTED OFFICIALS; CITY ATTORNEY.** The City Attorney is the city's legal advisor, and as such he or she shall commence, prosecute, and defend all suits on behalf of the city. When requested by the City Council, he or she shall attend meetings of the City Council, and shall advise any city officials in all matters of law in which the interests of the city may be involved. He or she shall draft such ordinances, bonds, contracts, and other writings as may be required in the administration of the affairs of the city. He or she shall examine all bonds, contracts, and documents on which the City Council will be required to act, and attach thereto a brief statement in writing to all such instruments, and documents as to whether or not the document is in legal and proper form. He or she shall prepare complaints, attend, and prosecute violations of the city ordinances when directed to do so by the City Council. Without direction, he or she shall appear and prosecute all cases for violation of the city ordinances that have been appealed to and are pending in any higher court. He or she shall also examine, when requested to do so by the City Council, the ordinance records and advise and assist the City Clerk as much as may be necessary to the end that each procedural step will be taken in the passage of each ordinance to ensure that they will be

valid, and subsisting local laws in so far as their passage and approval are concerned. The City Council shall have the right to compensate the City Attorney for legal services on such terms as the City Council and The City Attorney may agree, and to employ any additional legal assistance as may be necessary out of the funds of the city. (*Neb. RS 17-610*)

**§1-206**     **APPOINTED OFFICIALS; CITY PHYSICIAN.** The City Physician shall be a member of the Board of Health of the city, and perform the duties devolving upon him or her as the medical advisor of the said board. In all injuries where a liability may be asserted against the city, the City Physician shall immediately investigate the said injuries, the extent thereof, and the circumstances. He or she shall then report the results of his investigation with the name of the party injured, and all other persons who may have personal knowledge of the matter. He or she shall make all physical examinations and necessary laboratory tests incident thereto, and issue such health certificates as are required by ordinance. For the purpose of making examinations of the sanitary conditions of the property, and the state of health of the inhabitants therein, he or she shall have the right at all reasonable hours to go upon, and enter all premises, buildings, or other structures in the city. He or she shall perform such other duties as may be required of him by the laws of the State of Nebraska, and the ordinances of the city. When ordered to do so by the City Council he shall disinfect, or fumigate the premises, or persons in or about the premises, when the premises are quarantined, and to call upon indigent sick persons, and perform other professional services at the direction of the City Council. The City Physician shall receive as compensation for his services such sum as the Governing Body may from time to time set. He or she shall receive no compensation for his or her services as a member of the Municipal Board of Health. (*Neb. RS 17-121*)

**§1-207**     **APPOINTED OFFICIALS; CITY POLICE CHIEF.** The City Police Chief shall direct the police work of the city and shall be responsible for the maintenance of law and order. He or she shall act as Health Inspector, Quarantine Officer and Secretary to the Board of Health. He or she is a working policeman and shall perform all the duties required of such policemen. He or she shall file the necessary complaints in cases arising out of violations of City Ordinances, and shall make all necessary reports required by the City Ordinances, or the laws of the State of Nebraska. (*Neb. RS 17-107, 17-121*)

**§1-208**     **APPOINTED OFFICIALS; CITY POLICE OFFICERS.** The City Police, whether regular, or special shall have the power to arrest all offenders against the laws of the State of Nebraska, or the city, by day or by night, and keep the said offenders in the city jail, or some other place to prevent their escape until trial can be held before the proper official of the State of Nebraska, or the city. They shall have full power, and authority to call on any person whenever necessary to assist them in performing public duties, and failure, neglect, or refusal to render such assistance shall be deemed a misdemeanor punishable upon conviction by a fine. Every city police officer shall be expected to be conversant and knowledgeable with the city and state laws and no law enforcement official shall have any interest in any establishment having a liquor license. City police officers shall have the duty to file such complaints and reports as may be required by the city ordinances, and the laws of the State of Nebraska. Any city police officer who shall willfully fail, neglect, or refuse to make an arrest, or who purposely and willfully fails to make a complaint after an arrest is made shall be deemed guilty of a misdemeanor, and upon

conviction shall be fined. It shall be unlawful for the City Council to retain any City Policeman in that position after he or she shall have been duly convicted of the willful violation of any law of the country, the state, or any ordinance of the city, except minor traffic violations. It shall be the duty of every city police officer making a lawful arrest to search all persons in the presence of some other person, whenever possible, and shall carefully keep, and produce to the proper judicial official upon the trial everything found upon the person of such prisoners. All personal effects so taken from prisoners mentioned above shall be restored to them upon their release. Suitable uniforms and badges shall be furnished to the city police by the city. Any member who shall lose or destroy the same shall be required to pay the replacement costs, and in the event that any member shall leave the force, he or she shall immediately deliver his badge to the Police Chief. The City Council may from time to time provide the city police with such uniforms, equipment, and transportation as may be essential in the performance of their official duties. (*Neb. RS 17-118, 17-124*)

**§1-209**     **APPOINTED OFFICIALS; CITY FIRE CHIEF.** The City Fire Chief shall be elected by the members of the Fire Department. He or she shall enforce all laws and ordinances covering the prevention of fires; the storage and use of explosives and flammable substances; the installation of fire alarm systems; the maintenance of fire extinguishing equipment; the regulation of fire escapes; and the inspection of all premises requiring adequate fire escapes. He or she shall within two (2) days investigate the cause, origin, and circumstances of fires arising within his or her jurisdiction. He or she shall, on or before the first (1<sup>st</sup>) day in April and October of each year, cause the secretary to file with the City Clerk, and the Clerk of the District Court a certified copy of the rolls of all members in good standing in their respective companies in order to obtain the exemptions provided by law. He or she shall have the power during the time of a fire, and for a period of thirty-six (36) hours thereafter to arrest any suspected arsonist, or any person for hindering the department's efforts, conducting himself in a noisy and disorderly manner, or who shall refuse to obey any lawful order by the Fire Chief or Assistant Fire Chief. The Fire Chief or his assistant in charge of operations at a fire may command the services of any person present at any fire in extinguishing the same or in the removal, and protection of property. Failure to obey such an order shall be a misdemeanor punishable by a fine. The Fire Chief shall have the right to enter at all reasonable hours into buildings, and upon all premises within his jurisdiction for the purpose of examining the same for fire hazards, and related dangers. (*Neb. RS 17-147, 81-506*)

**§1-210**     **APPOINTED OFFICIALS; CITY STREET SUPERINTENDENT.** The City Street Superintendent shall have general charge, direction, and control of all work on the streets, sidewalks, culverts, and bridges of the city, and shall perform such other duties as the council may require. It shall be his or her responsibility to see that gutters and drains therein function properly, and that the same are kept in good repair. He or she shall, at least once a year, make a detailed report to the City Council on the condition of the streets, sidewalks, culverts, alleys, and bridges of the city, and shall direct their attention to such improvements, repairs, extensions, and additions as he may believe are needed to maintain a satisfactory street system in the city along with an estimate of the cost thereof. He shall assume such other duties as the City Council may direct. (*Neb. RS 17-119*)

- §1-211 **APPOINTED OFFICIALS; CITY ZONING ADMINISTRATOR.** The City Zoning Administrator shall perform all the duties specified in the Zoning and Sub-division regulations adopted by the Mayor and Council.
- §1-212 **APPOINTED OFFICIALS; CITY PARK AND AUDITORIUM SUPERINTENDENT.** The City Park and Auditorium Superintendent shall be responsible for the management, care and use of the municipal auditorium and of the facilities in the park grounds except for the area used for the golf course and except for the swimming pool. He or she shall carry out his duties within the policies and guidelines set forth by the City Council and shall inform the Council of problems with regard to the operations that the city should address. He or she shall see to the renting of the facilities and make weekly reports to the City Treasurer concerning the amounts due and the parties owing the City. All funds collected by him or her shall be turned over to the Treasurer on a weekly basis together with a complete accounting thereof.
- §1-213 **APPOINTED OFFICIALS; SPECIAL BUILDING INSPECTOR.** The governing body may employ a special building inspector to conduct specific building inspections in accordance with the Property Maintenance Code. The special building inspector shall make a record of his/her inspections and all other work completed on behalf of the city. All records of the special building inspector shall be public records, which shall belong to the city.

**SECTION 2.** That any ordinance or section of any ordinance passed and approved prior to or subsequent to the passage, approval, and publication or posting of this ordinance and in conflict with its provisions, is hereby appealed.

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

**PASSED AND APPROVED** this 13<sup>th</sup> day of January, 2010.

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Mayor Dana Trowbridge

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City Clerk Joan E. Kovar

On December 9, 2009, Ordinance No. 1121 amending Chapter 4, Article 4, of the City of David City, Nebraska, Municipal Code Book providing for any building and structure and other physical things and conditions that are in conflict with or in violation of any provisions of the Property Maintenance Code to be a nuisance, and the City Council of David City be an enforcement body regarding nuisance abatement, was passed on first reading only. Mayor

Trowbridge stated, "The City Council currently can do nuisance abatement. Some cities have taken this process into something similar to the Planning Commission, a group of lay people. It was the feeling as we moved through this for the last, almost year, that sometimes we lean too hard on this group of lay people and there is some controversy and we don't compensate them and it just really is a difficult challenge and the people that you've elected to sit around the table at the city council should be those that step up to the task of nuisance abatement."

Council member Kroesing made a motion to suspend the statutory rule that requires an Ordinance be read on three separate days. Council member Yindrick seconded the motion. Voting AYE: Council members Rogers, Scribner, Hein, Smith, Yindrick, and Kroesing. Voting NAY: None. The motion carried.

Council member Yindrick made a motion to pass Ordinance No. 1121 on the third and final reading. Council member Smith seconded the motion. Voting AYE: Council members Kroesing, Hein, Rogers, Smith, and Yindrick. Voting NAY: Council member Scribner. The motion carried and Ordinance No. 1121 was passed and approved as follows:

### **ORDINANCE NO. 1121**

AN ORDINANCE AMENDING CHAPTER 4, ARTICLE 4, OF THE CITY OF DAVID CITY, NEBRASKA, MUNICIPAL CODE BOOK; PROVIDING FOR ANY BUILDING AND STRUCTURE AND OTHER PHYSICAL THINGS AND CONDITIONS THAT ARE IN CONFLICT WITH OR IN VIOLATION OF ANY PROVISIONS OF THE PROPERTY MAINTENANCE CODE TO BE A NUISANCE; PROVIDING FOR THE CITY COUNCIL OF DAVID CITY TO BE AN ENFORCEMENT BODY REGARDING NUISANCE ABATEMENT; PROVIDING AN EFFECTIVE DATE; AND PROVIDING FOR PUBLICATION OF THE ORDINANCE IN PAMPHLET FORM.

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

**SECTION 1.** Chapter 4, Article 4, of the David City Municipal Code Book shall be amended to read:

#### **Article 4. Nuisances**

##### **§4-401 NUISANCE DEFINITION, GENERAL AND SPECIFIC.**

- (A) General Definition. A nuisance consists in doing any unlawful act, or omitting to perform a duty, or suffering or permitting any condition or thing to be or exist, which act, omission, condition or thing either:
- (1) Injures or endangers the comfort, repose, health, or safety of others;
  - (2) Is offensive to the senses;
  - (3) Unlawfully interferes with, obstructs, tends to obstruct, or renders dangerous for passage any stream, public park, parkway, square, street, or highway in the city;
  - (4) In any way renders other persons insecure in life or the use of property; or

- (5) Essentially interferes with the comfortable enjoyment of life and property, or tends to depreciate the value of the property of others.
- (B) Specific Definition. The maintaining, using, placing, depositing, leaving, or permitting of any of the following specific acts, omissions, places, conditions, and things are hereby declared to be nuisances:
- (1) Any odorous, putrid, unsound, or unwholesome grain, meat, hides, skins, feathers, vegetable matter, or the whole or any part of any dead animal, fish, or fowl;
  - (2) Privies, vaults, cesspools, dumps, pits, or like places which are not securely protected from flies or rats, or which are foul or malodorous;
  - (3) Filthy, littered, or trash-covered cellars, house-yards, barnyards, stable-yards, factory-yards, mill yards, vacant areas in rear of stores, granaries, vacant lots, houses, buildings, or premises;
  - (4) Animal manure in any quantity which is not securely protected from flies and the elements, or which is kept or handled in violation of any ordinance of the city;
  - (5) Liquid household waste, human excreta, garbage, butcher's trimmings and offal, parts of fish, or any waste vegetable or animal matter in any quantity, provided that nothing herein contained shall prevent the temporary retention of waste in receptacles in a manner provided by the health officer of the city, nor the dumping of non-putrefying waste in a place and manner approved by the health officer;
  - (6) Tin cans, bottles, glass, cans, ashes, small pieces of scrap iron, wire metal articles, bric-a-brac, broken stone or cement, broken crockery, broken glass, broken plaster, and all trash or abandoned material, unless the same be kept in covered bins or galvanized iron receptacles;
  - (7) Litter, accumulations of barrels, boxes, crates, packing crates, mattresses, bedding, excelsior, packing hay, straw or other packing material, lumber not neatly piled, scrap iron, tin or other metal not neatly piled, old automobiles or parts thereof, or any other waste materials; litter shall include, but not be limited to, the following:
    - a. Trash, rubbish, refuse, garbage, paper, rags, and ashes;
    - b. Wood, plaster, cement, brick, or stone building rubble;
    - c. Grass, leaves, and worthless vegetation;
    - d. Any machine or machines, vehicle or vehicles, or vehicles, or parts of a machine or vehicle which have lost their identity, character, utility, or serviceability as such through deterioration, dismantling, or the ravages of time, are inoperative or unable to perform their intended functions, or are cast off, discarded, or thrown away or

left as waste, wreckage, or junk;

- (8) Any unsightly building, billboard, or other structure, or any old, abandoned or partially destroyed building or structure or any building or structure commenced and left unfinished; which said building, billboards or other structures are either a fire hazard, a menace to the public health or safety, or are so unsightly as to depreciate the value of property in the vicinity thereof;
- (9) All places used or maintained as junk yards, or dumping grounds, or for the wrecking and dissembling of automobiles, trucks, tractors, or machinery of any kind, or for the storing or leaving of worn-out, wrecked or abandoned automobiles, trucks, tractors, or machinery of any kind, or of any of the parts thereof, or for the storing or leaving of any machinery or equipment used by contractors or builders or by other persons;
- (10) Stagnant water permitted or maintained on any lot or piece of ground;
- (11) Stockyards, granaries, mills, pig pens, cattle pens, chicken pens or any other place, building, or enclosure, in which animals or fowls of any kind are confined or on which are stored tankage or any other animal or vegetable matter, or on which any animal or vegetable matter including grain is being processed, when the places in which the animals are confined, or the premises on which the vegetable or animal matter is located are maintained and kept in such a manner that foul and noxious odors are permitted to emanate therefrom;
- (12) Storage, accumulation, keeping, placing, or allowing to remain of trash, garage, scrap and wrecked, worn-out, broken or inoperative, or partially destroyed or disassembled personal or real property of any kind, including any motor vehicles, tractors, trailers, machinery, and equipment;
- (13) The storage, keeping or abandonment of parts, including scrap metals, from machinery, or parts thereof, except in enclosed buildings or garages or where otherwise authorized by the city zoning regulations.
- (14) The permitting of emission of smoke from any source that is polluted. The standards for air pollution established or adopted by the State of Nebraska shall be presumptive evidence as to when the air is deemed to be polluted under this section.
- (15) The obstruction or impeding without legal authority any river or collection of water or to corrupt and render unwholesome or impure any watercourse, stream, or other water within the corporate limits of the city. The standards For water quality established or adopted by the State of Nebraska shall be presumptive evidence as to when the water is deemed to be polluted under this section.
- (16) The abandoning, on public property, of personal property. For purposes of this subsection, "public property" shall mean any public right of way, street, highway, alley, park, or other state, county, or city owned property. For purposes of this subsection, "abandon" shall mean any personal

property left on public property for more than 24 hours, except when the leaving of said personal property on said portion of public property, at that location, is legally permitted. For purposes of this subsection, "personal property" shall not include any motor vehicle for which a registration, from the State of Nebraska, is required to operate said motor vehicle on those portions of public property which constitute a street, highway, or alley.

- (17) **Any building and structure and other physical things and conditions that are in conflict with or in violation of any provision of the Property Maintenance Code.**
- (18) All other things specifically designated as nuisances elsewhere in this code.

**§ 4-402 NUISANCES; ABATEMENT PROCEDURE.**

- (A) Duty. It shall be the duty of every owner, occupant, lessee, trustee and/or mortgagee of real estate in the city to keep such real estate free of public nuisances. All, or any part of said premises found, as provided herein, to constitute a public nuisance shall be abated by rehabilitation, demolition, or repair pursuant to procedures set forth herein.
- (B) Nonexclusive Procedure. The procedure set forth in this subchapter for abatement of a nuisance is nonexclusive and is in addition to the procedure for abatement of litter.
- (C) Enforcement. When the City Council or Board of Health of the City of David City, Nebraska declares or finds that any premises within the jurisdiction for nuisances contained in Section 4-403 of this Code may be maintained contrary to one or more of the provisions of Section 4-401 of the Code, EXCEPT subsection (16) thereof, the City Administrator of the City shall mail a Notice to the owner, occupant, lessee, mortgagee, and/or trustee of the premises. The Notice shall state the conditions which constitute the public nuisance and shall order the abatement of the nuisance within the time period set forth in the Notice, and shall be substantially in the following form:

**NOTICE OF NUISANCE**

TO: (Owner, Occupant, Lessee, Mortgagee, Trustee)  
Addresses)

- (1) Conditions Which Constitute the Public Nuisance:  
(State all applicable conditions from Section 4-401)
- (2) Abatement of the Nuisance Outlined Above SHALL be Completed on or Before: (State day, date, and time)

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City Administrator  
City of David City, Nebraska

- (D) Form of Proper Service of Notice. Service of said Notice shall be by depositing a copy of said Notice in the United States Postal Service enclosed in a sealed envelope and with postage thereon fully prepaid. Said mail shall be registered or certified and addressed to said owner, occupant, lessee, mortgagee, and/or Trustee at the last known address of said parties as disclosed by the current tax rolls, and if there is no known address, then in care of the property address. Service is complete at the time of such deposit. "Owner" as used herein shall mean any person in possession and also any person having or claiming to have any legal or equitable interest in said premises. The failure of any person to receive such Notice shall not affect the validity of the proceedings hereunder.
  
- (E) Affect of Failure to Abate. If the nuisance is not abated within the period given in the Notice, the City Administrator of the City may determine to proceed to abate the nuisance pursuant to the provisions of this Code.
  
- (F) Hearing. If the owner, as defined aforesaid, of the premises upon which the City Administrator of the City has determined that there exists a nuisance, shall, within the time period given to the owner by the City Administrator of the City for the abatement of said nuisance, file a written notice with the City Clerk for a hearing before the City Council concerning such determination, the City Clerk shall fix a date and time to hear the matter. The written Notice shall include the name and address, including mailing address, of the owner. The City Clerk shall then issue a Notice of the hearing date and time by mailing a copy to the petitioner's address no later ten (10) days prior to the date of the hearing.

At the time fixed in the Notice, the City Council, shall hear the testimony of all competent persons desiring to testify respecting the condition constituting the nuisance, including the estimated cost of abatement and other matters which may be pertinent. At the conclusion of the hearing, the City Council shall, by resolution, declare its findings. If the City Council so concludes, it may declare the condition existing to be a nuisance and direct the City Administrator to proceed to abate the nuisance pursuant to the provisions of this Code. Such final determination shall be considered a final order of the City. Said Notice shall be substantially in the following form:

NOTICE OF ADOPTION OF RESOLUTION NO. \_\_\_\_\_

TO: \_\_\_\_\_

YOU ARE HEREBY NOTIFIED THAT ON \_\_\_\_\_, 20\_\_\_\_, the City of David City, Nebraska, by Resolution No. \_\_\_\_\_, after notice and hearing as specified in said Resolution, did determine that the following constitute a public nuisance, to-wit:

Upon the following described real estate, to-wit: \_\_\_\_\_

You are granted \_\_\_\_\_ days from the date of this Notice to abate said nuisance. Failure to abate said nuisance shall result in said nuisance being abated by the City of David City, Nebraska, and the cost of abatement shall be assessed upon said premises and constitute a lien upon said premises until paid.

Dated: \_\_\_\_\_

CITY OF DAVID CITY, NEBRASKA

By: \_\_\_\_\_  
City Clerk

- (G) Extension of Time. The City Administrator may grant an extension of time to abate the nuisance if, in the City Administrator's opinion, good cause for an extension exists.
- (H) Abatement by City. If the person fails to abate the nuisance within the time set forth, the City Administrator may order the abatement of the nuisance.
- (I) Record of Expenses. The City Clerk shall keep an itemized account of the expenses involved in abating the nuisance. The City Clerk shall post conspicuously on the property and shall also mail to the owner of the property a statement showing the expenses of the abatement, together with a Notice of the time and place when the statement will be submitted to the City Council for approval and confirmation and at which time the City Council may consider the objections and protests to the cost of the work. Said notice shall be substantially in the following form:

NOTICE OF HEARING ON EXPENSE  
OF ABATEMENT OF NUISANCE

TO: \_\_\_\_\_

Pursuant to Section 4-402(l) of the Municipal Code of the City of David City, Nebraska, you are hereby notified that the following is a statement showing the expense incurred by the City of David City in abating a nuisance upon the following described real estate, to wit:

Said expenses are as follows:

You are further notified that said Statement of Expenses shall be submitted to the City Council for consideration on the \_\_\_ day of \_\_\_\_\_, 20\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_M., David City, Nebraska, at which time you may appear to object or protest the expenses incurred in the abatement of said nuisance.

CITY OF DAVID CITY, NEBRASKA

By: \_\_\_\_\_  
City Clerk

- (J) Hearing on Statement of Expenses. At the time fixed for hearing on the statement of expense, the City Council shall consider the statement and protest or objections raised by the persons liable to be assessed for the costs of the abatement. The City Council may revise, correct, or modify the statement as it considers just and thereafter shall confirm the statement by motion or resolution.

The decision of the City Council on all protests and objections which may be and shall be final and conclusive. The procedure governing the hearing shall be provided by Section 4-402(F).

- (K) Expenses as a Special Assessment Against the Property- If the property owner does not pay the expense of abating the nuisance within five (5) days after the City Council confirms the cost of abatement, the costs shall become a special assessment against the real estate upon which the nuisance was abated. The assessment shall continue until it is paid, together with interest applicable per statutes of the State of Nebraska.
- (L) Notice of Special Assessment. The City shall file in the offices of the County Clerk and County Treasurer of Butler County, Nebraska a certificate substantially in the following form:

#### NOTICE OF SPECIAL ASSESSMENT

Under the authority of the David City Municipal Code, the City did on \_\_\_\_\_, 20\_\_\_\_\_, abate a nuisance upon the real estate hereinafter described and then on \_\_\_\_\_, 20\_\_\_\_\_, did assess the cost of the abatement upon the real estate. The City of David City claims a special assessment on the real estate for the expense of doing the work in the amount of \$\_\_\_\_\_. This amount is a special assessment against the real estate until it is paid, with interest as set by the applicable statutes of the State of Nebraska, until discharged of record. The real estate referred to above, and upon which the special assessment is claimed is that certain parcel of land situated within the jurisdiction of the City of David City, County of Butler, State of Nebraska and \_\_\_\_\_ more particularly described as follows:

DATED: \_\_\_\_\_

CITY OF DAVID CITY, NEBRASKA

By: \_\_\_\_\_  
City Clerk

- (M) Alternatives. Nothing in the foregoing sections shall be deemed to prevent the City Administrator from directing the City Attorney to commence a civil and/or criminal proceeding to abate a public nuisance under applicable civil or penal code provisions as an alternative to the proceedings set forth herein.
- (N) Procedure in Case of Emergency. When the conditions which constitute the nuisance pose an immediate threat to the public peace, health, or safety, the City Administrator may order the nuisance abated immediately.
- (O) Expenses Collected by Civil Action. If the property owner does not pay the expense of abating the nuisance within five (5) days after the City Council confirms the cost of abatement, the City may collect the costs associated with

said abatement from the property owner and enforce the collection by civil action of any court of competent jurisdiction. (Ordinance No. 1050 6-13-07)

**§4-403 NUISANCES; JURISDICTION.** The Mayor and Chief of Police of the Municipality are directed to enforce this Municipal Code against all nuisances. The jurisdiction of the Mayor, Chief of Police, and court shall extend to, and the territorial application of this Chapter shall include, all territory adjacent to the limits of the Municipality within two (2) miles thereof and all territory within the corporate limits. (Ref. 18-1720 RS Neb.)

**SECTION 2.** That any ordinance or section of any ordinance passed and approved prior to or subsequent to the passage, approval, and publication or posting of this ordinance and in conflict with its provisions, is hereby appealed.

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

**PASSED AND APPROVED** this 13<sup>th</sup> day of January, 2010.

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Mayor Dana Trowbridge

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City Clerk Joan E. Kovar

At the December 9, 2009, council meeting, Council member Scribner made a motion to table consideration of making it unlawful for any person to discharge an arrow, bolt, broadhead and any other projectile weapon or devise within the corporate limits. At the December 15, Government Subcommittee meeting, the proposed ordinance was discussed. Mayor Trowbridge stated, "A number of people came and testified. It's been revised that: *any person discharging an arrow, bolt, broad head, or other projectile weapon or devise within the corporate limits have a 6' x 8' plywood backstop, three-quarters inch (3/4") thick*, for safety purposes, and that seemed to be compatible with most people that attended that particular hearing. Gary (Kroesing) are you comfortable with that?"

Council member Kroesing stated, "Not really. I was approached by three of the people that were at the meeting and they read this. I think we can clean up the wording of this a little bit; I would really like to table this for one month. This *discharging an arrow, bolt, broad head or*

*any projectile weapons* can be lumped into archery equipment and cross bow equipment and the *6' x 8' plywood backstop* or suitable/adequate/comparable backstop. They read it and said it needs to be cleaned up.”

Council member Kroesing made a motion to table consideration of amending Chapter 6, Article 4, of the City of David City, Nebraska, Municipal Code Book, concerning any person discharging an arrow, bolt, broad head and any other projectile weapon or devise within the corporate limits. Council member Hein seconded the motion. Voting AYE: Council members Rogers, Scribner, Smith, Yindrick, Hein, and Kroesing. Voting NAY: None. The motion carried.

#### **ORDINANCE NO. 1122**

AN ORDINANCE AMENDING CHAPTER 6, ARTICLE 4, OF THE CITY OF DAVID CITY, NEBRASKA, MUNICIPAL CODE BOOK REQUIRING ANY PERSON DISCHARGING AN ARROW, BOLT, BROADHEAD AND/OR ANY OTHER PROJECTILE WEAPON OR DEVISE WITHIN THE CORPORATE LIMITS TO HAVE A 6' x 8' PLYWOOD BACKSTOP, THREE-QUARTERS INCH (3/4") THICK; PROVIDING AN EFFECTIVE DATE; AND PROVIDING FOR PUBLICATION OF THE ORDINANCE IN PAMPHLET FORM.

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

**SECTION 1.** Chapter 6, Article 4, of the David City Municipal Code Book shall be amended to read:

#### **Article 4. Miscellaneous Misdemeanors**

**§6-401** **MISDEMEANORS; IMPERSONATING AN OFFICER.** It shall be unlawful for any person other than a Municipal or State Police Officer to wear an official badge or uniform, or to falsely and willfully impersonate the said officials. (*Ref. 28-608, 28-609, 28-610 RS Neb.*)

**§6-402** **MISDEMEANORS; RESISTING OFFICER.** It shall be unlawful for any person to resist any Municipal Officer when lawfully requested to do so by him. Any person who refuses to assist an officer when lawfully requested to do so shall be fined in any amount not exceeding fifty (\$50.00) dollars. (*Ref. 28-904 to 28-906 RS Neb.*)

**§6-403** **MISDEMEANORS; ABUSING OFFICER.** It shall be unlawful for any person to abuse a police officer or Municipal official in the execution of his office. (*Ref. 28-929, 28-931, 28-931.01 RS Neb.*)

**§6-404** **MISDEMEANORS; TRESPASSING.** It shall be unlawful for any person to trespass upon any private grounds within the Municipality, or to break, cut, or injure any tree, shrub, plant, flower, or grass growing thereon, or without the consent of the owner or occupant to enter upon an improved lot or grounds occupied for residence purposes and to loiter about the same. (*Ref. 28-550 to 28-522 RS Neb.*)

**§6-405** **MISDEMEANORS; MALICIOUS DESTRUCTION OF PROPERTY.** It shall be unlawful for any person within the corporate limits to purposely, willfully, or maliciously injure in any manner, or destroy real or personal property of any description belonging to another. (*Ref. 28-519 RS Neb.*)

- §6-406 **MISDEMEANORS; LARCENY.** It shall be unlawful for any person within the corporate limits to steal any money, goods, or chattels of any kind whatever. Any person who shall steal property of any kind, whether the same be entirely in money or entirely property of the value of two hundred (\$200.00) dollars or less shall be deemed to be guilty of a misdemeanor. (Ref. 28-512, 28-514 RS Neb.)
- §6-407 **MISDEMEANORS; INJURY TO TREES.** It shall be unlawful for any person to purposely or carelessly, and without lawful authority, cut down, carry away, injure, break down, or destroy the fruit of any trees planted or growing in the corporate limits. Any public service company desiring to trim or cut down any tree, except on property owned and controlled by them, shall make an application to the Governing Body to do so, and the written permit of the Governing Body in accordance with their decision to allow such an action shall constitute the only lawful authority on the part of the company to do so.
- §6-408 **MISDEMEANORS; FIRE EQUIPMENT.** It shall be unlawful for any person who is not an active member of the Fire Department to deface, destroy, handle, or loiter about the equipment and property of the Fire Department.
- §6-409 **MISDEMEANORS; FIRE HOSE.** It shall be unlawful for any person, without the consent of the Fire Chief, or the Assistant Fire Chief to drive any vehicle over the unprotected hose of the Fire Department at any time.
- §6-410 **MISDEMEANORS; DRINKING IN PUBLIC.** It shall be unlawful for any person to consume alcoholic beverages in the public streets, alleys, roads, highways, or upon any property owned by the Municipality or other governmental subdivision thereof, or inside vehicles while upon the public streets, alleys, roads, or highways, except when said consumption is in accordance with the provisions of the Nebraska Liquor Control Act and the licensing requirements of the State of Nebraska (Ref. 53-186, 53-186.01 RS Neb.)
- §6-411 **MISDEMEANORS; MINOR IN POSSESSION.**  
Except as provided in Section 53-168.06, no minor may sell, dispense, consume, or have in his or her possession or physical control any alcoholic liquor in any tavern or in any other place, including public streets, alleys, roads, or highways, upon property owned by the State of Nebraska or any subdivision thereof, or inside any vehicle while in or on any other place, including, but not limited to, the public streets, alleys, roads, or highways, or upon property owned by the State of Nebraska or any subdivision thereof, except that a minor may consume, possess, or have physical control of alcoholic liquor in his or her permanent place of residence or on the premises of a place of religious worship on which premises alcoholic liquor is consumed as a part of a religious rite, ritual, or ceremony
- The governing body shall have the power to, and may by applicable resolution or ordinance, regulate, suppress, and control the transportation, consumption, or knowing possession of or having under his or her control beer or other alcoholic liquor in or transported by any motor vehicle, by any person under twenty-one years of age, and may provide penalties for violations of such resolution or ordinance.
- §6-412 **MISDEMEANORS; POSTED ADVERTISEMENTS.** It shall be unlawful for any person to wrongfully and maliciously tear, deface, remove, or cover up the posted advertisement or bill of any person, firm, or corporation when said bill or advertisement is rightfully and lawfully posted, and the same remains of value.
- §6-413 **MISDEMEANORS; POSTING.** It shall be unlawful for any person to post, paste, or paint any sign, advertisement, or other writing of any nature upon a fence, pole, building, or other property without the written permission of the owner of the said property.

- §6-414 **MISDEMEANORS; DISCHARGE OF FIREARMS.** It shall be unlawful for any person, except an officer of the law in the discharge of his official duty, to fire or discharge any gun, pistol, or other fowling piece within the Municipality; provided, nothing herein shall be construed to apply to officially sanctioned public celebrations if the persons so discharging firearms have written permission from the Governing Body. (Ref. 17-556, 28-1239.01, 28-1252 RS Neb.)
- §6-415 **MISDEMEANORS; CONCEALED WEAPONS.** It shall be unlawful for any person or persons to carry about their person any concealed pistol, revolver, knife, billy club, sling-shot, metal knuckles, or other dangerous weapon of any kind. Nothing herein shall be construed to apply to the Municipal Police. (Ref. 28-1202, 28-1204 RS Neb.)
- §6-416 **MISDEMEANORS; SLINGSHOTS, AIR GUNS, BB GUNS, ARROW, BOLT, BROADHEAD & ANY OTHER PROJECTILE WEAPONS OR DEVICES.** It shall be unlawful for any person to discharge a slingshot, air gun, BB gun, paint ball gun, arrow, bolt, broadhead and/or any other projectile weapon or device at any time or under any circumstance within the Corporate Limits of the Municipality without having at least a 6' x 8' plywood backstop, three-quarter inch (3/4") thick.
- §6-417 **MISDEMEANORS; FIRECRACKERS.** It shall be unlawful for any person to ignite or cause to be exploded fireworks or firecrackers of any description whatsoever, except sparklers, Vesuvius fountains, spray fountains, torches, color fire cones, star and comet type color aerial shells without explosive charges for the purpose of making a noise, color wheels, lady fingers, not exceeding seven-eighths inch (7/8") in length or one-eighth inch (1/8") in diameter, and which do not contain more than one-half (1/2) grain each in weight of explosive material. (Ref. 28-1242 to 28-1250 RS Neb.)
- §6-418 **MISDEMEANORS; ASSAULTS.** It shall be unlawful for any person to assault or threaten any other person or persons. Any person who assaults another person or persons shall be deemed to be guilty of a misdemeanor.
- §6-419 **MISDEMEANORS; PROVOKING ASSAULT.** It shall be unlawful for any person or persons within the Municipality to intentionally provoke or attempt to provoke an assault upon himself or another by the uttering of insulting words, cursing and swearing, or to use slander against any other person. Upon conviction a fine not to exceed ten dollars (\$10.00) shall be assessed.
- §6-420 **MISDEMEANORS; MENACING THREATS.** It is hereby declared unlawful for any person within the corporate limits of this Municipality to assault or threaten another in a menacing manner or strike or injure another.
- §6-421 **MISDEMEANORS; ASSAULT AND BATTERY.** It shall be unlawful for any person to assault, threaten, strike, or injure any other person or persons. Any person who assaults or batters another person or persons shall be deemed to be guilty of a misdemeanor. (Ref. 28-309, 28-310, 28-393 RS Neb.)
- §6-422 **MISDEMEANORS; DISTURBING THE PEACE.** It shall be unlawful for any person or persons to assemble or gather within the Municipality with the intent to do an unlawful or disorderly act or acts, by force or violence against the Municipality, or resident therein, or who shall disturb the public peace, quiet, security, repose, or sense of morality. Any person or persons so assembled or gathered shall be deemed to be guilty of a misdemeanor. (Ref. 28-1322, 55-474 RS Neb.)
- §6-423 **MISDEMEANORS; DISORDERLY CONDUCT.** Any person who shall knowingly start a fight, fight, commit assault or battery, make unnecessary noise, or otherwise conduct

themselves in such a way as to breach the peace shall be deemed to be guilty of a misdemeanor. (Ref. 17-129, 17-556 RS Neb.)

- §6-424 **MISDEMEANORS; LITTERING.** It shall be unlawful for any person to drop, or cause to be left, upon any municipal highway, street, or alley, except at places designated by the Governing Body, any rubbish, debris, grass, leaves, or waste, and any person so doing shall be guilty of littering. (Ref. 39-683, 28-523 RS Neb.)
- §6-425 **MISDEMEANORS; PROHIBITED FENCES.** It shall be unlawful for any person to erect, or cause to be erected, and maintain any barbed wire or electric fence within the corporate limits.
- §6-426 **MISDEMEANORS; APPLIANCES IN YARD.** (1) It shall be unlawful for any person to permit a refrigerator, icebox, freezer, stove, range, clothes washing machine, clothes dryer, dish washing machine, or any other dangerous appliance to be in the open and accessible to children whether on private or public property and possession of the same shall be deemed a nuisance.  
(2) Upon the report being received by a City employee of a refrigerator, icebox, freezer or any other dangerous appliance being in the open and accessible to children, whether on private or public property, or, upon observation by a police officer of a refrigerator, icebox, freezer, stove, range, clothes washing machine, clothes dryer, dish washing machine, or any other dangerous appliance being in the open and accessible to children, whether on private or public property, the police Department shall serve notice to the owner of said refrigerator, icebox, freezer, or any other dangerous appliance to remove same within five (5) days. In the event that the refrigerator, icebox, freezer, stove, range, clothes washing machine, clothes dryer, dish washing machine, or other dangerous appliance is not removed within the five (5) days, the City will remove or cause to be removed said appliance(s) and assess the expense of the removal to the owner of said appliance(s). (Ref. 17-563, 18-1720 RS Neb.)
- §6-427 **MISDEMEANORS; OBSTRUCTION OF PUBLIC.** It shall be unlawful for any person to erect, maintain, park, or suffer to remain on any street, alley, or public sidewalk a stand, wagon, display, or other obstruction inconvenient to, or inconsistent with, the public use of the same.
- §6-428 **MISDEMEANORS; OBSTRUCTING WATER FLOW.** It shall be unlawful for any person to stop or obstruct the passage of water in a street gutter, culvert, water pipe, or hydrant.
- §6-429 **MISDEMEANORS; REMOVING DIRT.** It is hereby declare unlawful for any person to remove, disturb, or take away from any street, alley, or public grounds any dirt, earth, stones, or other materials forming a part of such street, alley, or public grounds without first having obtained written permission to do so from the Governing Body.
- §6-430 **MISDEMEANORS; WEED REMOVAL.**
- (1) It shall be a nuisance to permit or maintain any growth of twelve inches or more in height of weeds, grasses, or worthless vegetation. It shall the duty of each owner or owner's duly authorized agent or occupant of real estate in the Municipality to cut and clear such real estate, together with one-half (½) of the streets and alleys abutting thereon, of all weeds, grasses or worthless vegetation that are noxious, obstruct travel on public ways, or create a fire or health hazard. Such weeds, grasses and worthless vegetation shall be cut so as not to extend more than twelve inches (12") in height above the ground. Subsequent to the cutting of the said weeds, grasses and worthless vegetation, all loose vegetation shall be immediately removed. Upon the failure of the owner or owner's duly authorized agent or occupant having control of any real estate to cut and clear the said weeds, grasses and worthless vegetation as set forth hereinbefore, the Municipal Police

shall give notice to abate and remove such nuisance to each owner or owner's duly authorized agent or occupant, if any, by personal service or certified mail. If notice by personal service or certified mail is unsuccessful after three (3) days, notice shall be given by publication in a newspaper of general circulation in the city or by conspicuously posting the notice on the lot or ground upon which the nuisance is to be abated and removed. In the event that the weeds grasses, and vegetation have not been removed after a period of five (5) days from personal service or certified mail or after a period of five (5) days from publication in a newspaper of general circulation in the city or by conspicuously posting the notice on the lot or ground, the City Administrator shall have the nuisance abated and removed by directing the Street Department to have such work done, and the cost thereof shall be paid by the owner. (Ref. 17-563 RS Neb.)

- (2) The cost and expenses of any such work shall be paid by the property owner. If unpaid for two months after such work is done, the Municipality may either (a) levy and assess the costs and expenses of the work upon the lot or piece of ground so benefited in the same manner as other special taxes for improvements are levied and assessed or (b) recover in a civil action the costs and expenses of the work upon the lot or piece of ground. (Ref. 17-563 RS Neb.)
- (3) If, within the same calendar year, the city has, pursuant to subsection (1) of this section, acted to remove grass, weeds or worthless vegetation exceeding twelve (12) inches in height on the same lot or piece of ground, it shall be declared a nuisance to permit or maintain any growth of eight (8) inches or more in height of grass, weeds or worthless vegetation. (Ref. 17-563 RS Neb.) (Ordinance No. 1109 8-12-09)

**§6-431** **MISDEMEANORS; ABANDONED AUTOMOBILES.** It shall be unlawful to abandon any automobile on the Municipal Streets, highways, alleys, parks or other property. An automobile shall be deemed to be abandoned if left unattended for more than six (6) hours on any public property without current license plates; for more than twenty-four (24) hours on any public property, except where parking is legally permitted, for more than forty-eight (48) hours after the parking of such vehicle shall have become illegal; and for more than seven (7) days on private property if left initially without the permission of the owner, or after the permission of the owner shall have been terminated. Any automobile so abandoned shall immediately become the property of the Municipality if the automobile is unlicensed and if, in the estimation of the Municipal Police, the said automobile is of a wholesale value of one hundred dollars (\$100.00) or less. In the event the automobile is licensed or is of an estimated value of over one hundred dollars (\$100.00), the Municipal Police shall make a reasonable effort to contact the owner of the said automobile by sending a notice to the registered owner, if known; by sending an inquiry to the County it is registered in, if the owner is unknown; or by contacting the Director of Motor Vehicles, if the car is without license plates and the owner is unknown. If the owner is known, and does not claim the automobile within five (5) days after the date when the notice was mailed, or upon receiving word from the Director of Motor Vehicles that the owner is unknown, title will immediately vest in the Municipality and the automobile may be sold. Any proceeds from the sale of the automobile less any expenses incurred by the Municipality in such sale shall be held without interest for the benefit of the owner of such vehicle for a period of two (2) years. If not claimed within such period of time, the proceeds shall then be paid into the General Fund. Any person who abandons an automobile as hereinbefore defined shall be deemed to be guilty of a misdemeanor. (Ref. 50-1901 through 60-1911 RS Neb.)

**§6-432** **MISDEMEANORS; UNLICENSED OR INOPERABLE VEHICLES.** It shall be unlawful for any person in charge or control of any property within the Municipality, other than Municipal property, whether as owner, tenant, occupant, lessee, or otherwise, shall allow any unlicensed, partially dismantled, wrecked, junked, inoperable or discarded vehicle to remain

on property longer than seven (7) days; sixty (60) days for businesses; provided this section shall not apply to a vehicle in an enclosed building; a vehicle legally in transit; or to a vehicle in an appropriate storage place or depository maintained in a lawful place and manner by the Municipality. Licensed car dealers are exempt from licensing new or used vehicles being held for resale. Any vehicle allowed to remain on property in violation of this section shall constitute a nuisance and shall be abated, and any person violating this section shall be guilty of a misdemeanor.

**§6-433 MISDEMEANORS; DISCHARGING PROJECTILES.** It shall be unlawful for any person to discharge or release any instrument which propels a projectile across or into any public place or in the private property of another person.

**SECTION 2.** That any ordinance or section of any ordinance passed and approved prior to or subsequent to the passage, approval, and publication or posting of this ordinance and in conflict with its provisions, is hereby appealed.

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

**PASSED AND APPROVED** this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Tabled 12/09/09 and 1/13/10  
Mayor Dana Trowbridge

\_\_\_\_\_  
Tabled 12/09/09 and 1/13/10  
City Clerk Joan E. Kovar

Mayor Trowbridge opened the Public Hearing at 7:47 p.m. to consider amending the zoning regulations by adding "campgrounds" as a conditional use in R-1 Single Family Residential. Mayor Trowbridge stated, "A Public Hearing is an attempt to bring information to the council. Information can come in several forms and I would hope that you would identify which form you are bringing. Some of it is opinion, qualified or unqualified; some of it is factual and it is supported by data to make it factual. So if you would share that with us as your bringing information to the council you certainly are welcome to comment upon this proposed change in zoning."

Teresa Birkel stated, "I actually live across the street from the proposed location. I would like to produce some information, pictures, and research that I have done from my neighborhood stand point and from my own standpoint, and I am here to represent many people in my neighborhood." Teresa spoke as the representative and spokesman for her neighborhood. She presented pictures of RV parks in Columbus, Nebraska; a testimonial as written by Vicky Benson. Teresa stated, "Please understand we are for positive, progressive, and economic development for David City, however, putting in an RV park or a campground in an existing residential neighborhood we don't feel is positive progress. First off campgrounds and RV parking are already appropriately listed under conditional uses, C1 Highway Commercial and Flexible Space. The city's zoning maps and future use maps shows that there is plenty of land already designated as C1 Highway Commercial and Flexible Space. The davidcityne.com website under economic development lists several properties, including properties for lease from the city, and properties for sale by private owners that would better suite an RV Parking Campground and are located in C1 Highway Commercial and Flexible

Space both on the north and the south end of town. The City of David City already has several places that currently allow RV parking. We have campgrounds and 12 RV spaces down at the City Park, there are 12 spaces available for rent at the David City Fairgrounds and this is listed under the NE Department of Economic Development website from June thru September, and I also spoke with the owner of the trailer park south of town Lakeside Estates and he also has space that allows RV parking. If the City felt we were in a strong need of an RV Park and feels this is a good thing for David City and would be an asset for Economic Development why have they not considered upgrading the facilities they have down at the park where there is a lake, swimming pool, park, recreational facilities, and golfing. If you amend the zoning regulations by adding campgrounds as a conditional use in R-1 Single Family Residential, you are essentially saying that you want to have campgrounds and an RV park in your neighborhood possibly next door to you or in your backyard. You need to consider what you may be bringing into your neighborhood, which if it is like ours, it includes many families with school aged children and younger, empty nesters with visiting children and grandchildren, our dear elderly, and daycares. While we would like to believe that the tenants would be mostly vacationing RV'ers with no existing lake, swimming pool, park, or recreational facilities nearby, it will also attract traveling construction workers, transient residents and those who choose an RV as their residence. I know that there are conditions that can be put on that, but it is possible. We also have to consider some of the clientele that includes sex offenders, alcohol and drug abusers, traveling crack shots, local meth labs, and undesirable tenants. Do you want these people next door to your children and grandchildren? What about your grandparents? Would you feel safe? What about your personal property? Adding campgrounds as a conditional use in R-1 Single Family Residential will endanger the public health, safety, morale, comfort, or general welfare of the neighborhood. It is one thing to have an existing RV park and people choose to build their homes around it and up to it; it is another thing to have an existing established neighborhood and someone build an RV park next door or in your backyard. This property also has drainage issues. These pictures are showing June 13, 1982; we had a 5¼" rain within a short period of time and that property, along with the property along the fairgrounds; all that water was running south and into this property; well I guess I can say we did have a lake there momentarily. That needs to be considered. Can you imagine if 32 RV's are parked there trying to gather their belongings and get out of the way. What happens if an RV owner is at work or this comes in the middle of the night? Is it possible that the City could be liable, knowing this is a flood plain and they allow for the development of an RV park in this location?" Teresa presented the following signed "notices of opposition" and ended by asking, "Mr. Mayor, Councilmen, would you approve this if it was next door to your house, in your backyard, in your neighborhood?"

#### NOTICE OF OPPOSITION

##### Property Description:

Property located between Oak Street and M Rd (vacant property on northwest corner of Oak St and 5<sup>th</sup> St where the city currently has put some of the excess snow).

Legal Description: Outlot 2 in part of the W ½ SW ¼ containing 4.86 acres more or less, and the West Addition, Section 19-15-3, part of the W ½ SW ¼ containing 1.5 acres more or less in the West Addition.

##### Proposed Zoning Changes to above described property include:

- Allow "Campground Use" on property zoned for Single Family Residential (r-1)
- Amend the Future Land Use Map by changing the property legally described above from Medium Density Residential to Low Density Residential

- Amend the Official Zoning Map by changing the property legally described above from Two Family Residential to (R2) to Single Family Residential (R1)

And conditional use permit request:

- To allow recreational vehicle parking in Single Family Residential (R1) on the property legally described above.

I/We, the undersigned, oppose the proposed zoning change and conditional use permit request for one or more of the following reasons:

1. An established residential neighborhood already exists and surrounds this property. These changes and allowances will be detrimental to the health, safety, morals, and general welfare of the area. The neighborhood has many families with school aged children and younger, a Day Care facility and elderly.
2. The substantial reduction in property values to surrounding property owners and the neighborhood.
3. The Two Family Residential zoning is a better fit for the property's location. Residents and residential neighborhoods are located on 3 sides of this property. It fulfills the need of land for development of permanent housing for the city of David City which can only provide value to the City and it's residents.
4. The development of an RV Park in residential area will cause an unsightly blight not only in our neighborhood, but eh city as well, and will be for many yuears to come, destroying the progress the neighborhood and city has shown in recent years. The developer has proposed a 24 Stall RV Park on this property. This will be a significant number of rigs stacked closely together in an unattractive parking lot. The RV Park will likely attract clientele that will use these as "residences", not vacationing. There are no lakes, parks, swimming pools nearby this property to support the "vacationing/recreational" RV'er. Will most likely be transient residents, traveling construction workers, and those who determine an RV will be their permanent residences. The developer will gain; the neighborhood residents, property owners and city taxpayers will lose.
5. The substantial increase in traffic and congestion to the area at all hours of the day and night.
6. The substantial increase in costs to the city and taxpayers for the increase in police (alcohol and drug offenders, tracking pedophiles) and fire protection needed (up to 24 more units closely parked together can catch fire rather quickly, creating fire hazard to nearby residents). Also costs associated with enforcing compliance with zoning ordinance restrictions (large dogs barking, trash removal after the RV'er has moved on, unsightly trash and appliances at RV residence site, loud music and parties).

"Notices of Opposition" were signed by the following neighbors and residents:

Robert Birkel, Teresa Birkel, Jeremy Smith, Vicky Benson, Earl Benson, Eva Homan, Margaret Nicolas, Dolores Y. Novell, John D. Smith, Connie R. Smith, Miles J. Andel, Arlene Andel, Walter W. Goesch, Patricia M. Meister, Ed Hutchinson, Sandra K. Hutchinson, Dean F. Kilgore, Cynthia A. Dix, Chris Bales, Christoria Biles, Gail A. Chapek, Sheila M. Czarnick, Margaret Kloke, Kevin Kloke, Roger Kloke, Kate Kloke, Rose M. Pflum, William D. Sanley, Larry & Jan DeWispelare, Chad Forney, Yenni Forney, Vic Palik, Carol Palik, Bea Wilson, Dan R. Petrik, Barbara J. Petrik, Marjorie Hernandez, William J. Kreitman, Deb Sypal, Brian R. Small, Crystal L. Small, Trisha M. Steager, Bill Steager, Thomas J. Kobus, Debbie Kobus, Bryon Forney, Mary M. Forney, Sandra M. Litchfield, Terry L. Litchfield, Don Birkel,

Ian J. Anderson, Pat Montag, David J. Montag, Mike Draper, Duane J. Smith, Kathy Truksa, Donald L. Malovec, Barbara J. Svoboda, Mark Rerucha, Kathy Hoefler, and Mari S. Hill.

Additional comments were made from other neighboring property owners, all expressing their concerns of adding "campgrounds" as a conditional use in R-1 Single Family Residential. They were concerned about possible sex offenders moving into the neighborhood. They like the nice, close-knit, quiet, clean neighborhood that they currently have. Brian Small stated, "I live in the neighborhood too. The main thing here is, I am not worried about the sex offenders, sorry, and the molesters and everybody else, but there are already areas zoned in the city for this to go to. We don't need a conditional use permit to allow it in a residential neighborhood; there are already areas to put it. If Jerry wants to put it somewhere, he is an investor, he wants to make money, put it where it is already zoned, plain and simple.

Jerry Roh, the proposed developer stated, "Everybody uses these emotionally charged words, we've got meth labs, we've got sex offenders. We have sex offenders in David City whether you know it or not and they're not always registered in the registry. I have personally dealt with five or six of them to be quite honest with you through the motel and rentals. Yes, they live with their girlfriends; they're not on the address. They are moving through town all the time. What concerns me is that this has been on the table for six weeks or a month already; I have not had one single phone call, not one, and I'm available. I mean my phone is in the phone book. You can go to the motel they'll give you my cell phone if you want to and nobody has even come to contact me, so I'm thinking well maybe this is ok and so I proceeded with it. Now, obviously you have some very justifiable concerns. I can go out and take pictures of twenty-five campgrounds that will look immaculate and show you a totally different picture. The city of Columbus doesn't control their campgrounds quite right; I don't know who owns them and what that situation is. It all comes down to who owns it and who runs it. I'll take you down to Auburn, Nebraska, I'll take you to Beatrice, I'll take you to Nebraska City; they are fine, fine campgrounds; they are controlled. The proposal is for twenty-four campsites. It doesn't have to be that. Because of the variance they can limit me to eight, they can limit me to ten, or four. I don't care; I have to know. The whole reason I proposed this, was I need to know if I can proceed with a feasibility study, a business plan, surveying, what all needs to be done; this will cost me about \$5,000. So I figure, well if there is no chance of this ever being in there, why waste my money. That is the whole reason this is coming before the Council. If they don't want it, that's fine, it's no skin off my back. This property was out there, it hasn't been used for anything except for sale, as far as I know all of my lifetime. I thought it might be something that could be worked, and run the proper way it could be a very nice facility. In regards to David City Park facilities for most campers these days they are totally inadequate. They are hard to get into, they don't have 50 amp service, they don't have permanent sewer hook-ups, the water is so-so; and this park here would be what they call a pull through park which is actually concrete pads spaced 25' apart; they are not going to look anything like these pictures that you see, I haven't seen the pictures, but I have been in Columbus and those are all packed in every which way and these would be very orderly, they sit on pads, each one has it's own water, sewer and electric hook-ups and because of the variance they can restrict it to one week, one day, one year, that is what I need to know before I can do a feasibility study and see if this thing is viable because quite honestly it is about \$10,000 per pad to put one in. If it works, it does. If it doesn't, it doesn't. For an example, if I could have ten people stay in there for 6 months out of the year, which is very feasible from people that I have talked to so far, they would spend probably \$50/day minimum between camp ground fees, food, gas, and everything else they spend money on. Take that times the six months and it would come up to about \$92,500. There is tremendous data that I get from the tourist department. Every tourist dollar deposited

in the city, multiplies roughly 6 to 7 times. So multiply the \$92,500 you come up with about \$550,000 of added revenue to the City of David City and surrounding areas. Sales tax alone on something like that would be \$5,500.00 just on the 1% city sales tax. I am not here to shove something down your throat. In regard to other property that is zoned for it, yes it is, but it is way out of the sewer/utilities. It would take a tremendous amount of money to do it and there is absolutely no way that it would be feasible, I have looked at this. My first proposal was to talk to the fair board into doing something over there because they have the sites already, and quite frankly they passed up about \$25,000 they could have made this year. I even came forward, talked to the fair board, and said I would manage it or whatever and they wanted no part of it." I am hear just to see if this is feasible. I've checked other sites, Airport. I've worked with Joe Johnson a little bit there is an area out there that possibly could be; same thing, there's about a quarter mile of utility lines to run and it's a matter of economics at that point. I am looking to save myself \$5,000 if this is not a feasible deal, and otherwise I will proceed with it. I'll turn it over to the Zoning Board and they can write the variances any way they want. They can require a 12' high fence, if they want guard dogs, if it's economically feasible for the project, I'll do it. It will be owned privately by my wife and myself."

A neighbor stated, "Don't take this offensively, it all sounds good but it boils down to the dollar again. The thing that you don't understand that we are trying to get across is: this is our neighborhood, and so in order for all of us to live there it needs to be safe and I think that should be looked at, and as far as the ground out there at the Airport I think that would be perfect for an RV Park. If a person wants it bad enough they'll spend the money to get it.

There being no further comments from the public, Mayor Trowbridge declared the Public Hearing closed at 8:45 p.m.

Council member Kroesing introduced Ordinance No. 1123 amending Zoning Ordinance No. 1060 by amending Section 5.07 R-1 Single Family Residential, by adding #6 - Campgrounds, to Section 5.07.03 Conditional Uses.

Council Scribner made a motion to pass Ordinance No. 1123 on the first reading only. Council member Kroesing seconded the motion. Council member Hein stated, "Mrs. Birkel eluded to loud music coming from a camp ground; loud music coming from our swimming pool which is in very close proximity to our camp ground is one darn good reason never to park an RV in our campground. I don't park an RV in a campground to put up with that nonsense and I don't park in a campground to put up with barking dogs either. If there is a problem with barking dogs in a campground in David City you call the cops the same as you call the cops for a barking dog in your neighborhood. It would be a real stretch of the imagination for a passerby to look to the west down "E" Street and see an unsightly camp ground from the highway, believe me I've driven down that street enough times to know that's a factual statement. There is not an abundance or a sufficient amount of RV spaces in David City, I take an exception to that." Voting AYE: Council members Hein. Voting NAY: Council member Rogers, Smith, Yindrick, Kroesing, and Scribner. The motion failed.

**ORDINANCE NO. 1123**

**AN ORDINANCE AMENDING THE ZONING ORDINANCE NO. 1060 BY AMENDING SECTION 5.07.03 CONDITIONAL USES IN R-1 SINGLE FAMILY RESIDENTIAL, BY ADDING #6 - "CAMPGROUND" AS A CONDITIONAL USE; PROVIDING FOR AN EFFECTIVE DATE; AND PROVIDING FOR PUBLICATION OF THE ORDINANCE IN PAMPHLET FORM.**

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

Section 1. That Article 5: Zoning Districts, Section 5.07 R-1 Single-Family Residential District, Section 5.07.03 Conditional Uses, of the Zoning Ordinance of David City, Nebraska, be amended to include the following as a Conditional Use:

6. Campground

Section 2. That any ordinance or section of any ordinance passed and approved prior to the passage, approval, and publication or posting of this ordinance and in conflict with the provisions is hereby repealed.

Section 3. This ordinance shall be published in pamphlet form and shall be in full force and effect from and after its passage, approval, and publication as provided by law and city ordinance.

Passed and approved this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Failed  
City Clerk Joan E. Kovar

Failed  
Mayor Dana Trowbridge

As Ordinance No. 1123 failed, it was not necessary to hold the public hearings and consider amending the Land Use Plan Map and the Official Zoning Map. City Attorney Egr stated that those just die.

**ORDINANCE NO. 1124**

AN ORDINANCE TO AMEND THE LAND USE PLAN BY CHANGING THE ZONING CLASSIFICATION OF REAL ESTATE DESCRIBED FROM MEDIUM DENSITY RESIDENTIAL (MDR) TO LOW DENSITY RESIDENTIAL (LDR); REPEAL ANY ORDINANCES IN CONFLICT HEREWITH; DESCRIBE THE TIME WHEN THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT, AND PROVIDE FOR PUBLICATION OF THE ORDINANCE IN PAMPHLET FORM.

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

Section 1. A request was received from Rick Grubaugh to re-zone the following property from Medium Density Residential (MDR) to Low Density Residential (LDR);

Section 2. That the land use plan be amended as follows:

- a. To amend the following property from Medium Density Residential (MDR) to Low Density Residential (LDR):

Property described as Outlot 2 in part of the W½ SW¼ containing 4.86 acres more or less, and the West Addition, Section 19-15-3, part of the W½ SW¼ containing 1.5 acres more or less in the West Addition.

Section 3. That any ordinance or section of any ordinance passed and approved prior to the passage, approval, and publication or posting of this ordinance and in conflict with its provisions, is hereby repealed.

Section 4. This ordinance shall be published in pamphlet form and shall be in full force and effect from and after its passage, approval, and publication as provided by law.

Passed and adopted this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

(Campground as a conditional use fails; so this dies)  
Mayor Dana Trowbridge

(Campground as a conditional use fails; so this dies)  
City Clerk Joan E. Kovar

**ORDINANCE NO. 1125**

AN ORDINANCE TO AMEND THE OFFICIAL ZONING MAP BY CHANGING THE ZONING CLASSIFICATION OF REAL ESTATE DESCRIBED FROM R2 (TWO FAMILY RESIDENTIAL) TO R-1 (SINGLE FAMILY RESIDENTIAL); REPEAL ANY ORDINANCES IN CONFLICT HEREWITH; DESCRIBE THE TIME WHEN THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT, AND PROVIDE FOR PUBLICATION OF THE ORDINANCE IN PAMPHLET FORM.

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

Section 1. That the Official Zoning Map be amended as follows:

- a. To amend the following property from R-2 (Two Family Residential) to R-1 (Single Family Residential):

Outlot 2 in part of the W½ SW¼ containing 4.86 acres more or less, and the West Addition, Section 19-15-3, part of the W½ SW¼ containing 1.5 acres more or less in the West Addition.

Section 2. That any ordinance or section of any ordinance passed and approved prior to the passage, approval, and publication or posting of this ordinance and in conflict with its provisions, is hereby repealed.

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

Passed and adopted this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_.

(Campground as a Conditional Use failed: so this dies)  
Mayor Dana Trowbridge

(Campground as a Conditional Use failed: so this dies)  
City Clerk Joan E. Kovar

Council member Hein made a motion to approve Change Order No. 1 for the "Alternate H-1 Bid Section" which finalizes quantities for the project, eliminates Oak Street reconstruction from "C" to "D" Street, and extends the completion date of the contract, and authorizes Mayor Trowbridge to execute all documents regarding the same. Council member Yindrick seconded the motion. Voting AYE: Council members Scribner, Smith, Hein, Rogers, Kroesing, and Yindrick. Voting NAY: None. The motion carried.

Mayor Trowbridge stated, "Joan and her crew are doing a good job of getting through this and we commend you for that, you are going above and beyond. We need a committee and I think the committee needs to come from the six people around this table to begin a search for a city administrator. We haven't taken a moment to discuss that and we have a moment on today's agenda to do so."

Council member Gary Smith volunteered stating that he has the last three times and he might as well keep it up. Gary Kroesing also volunteered to serve on the committee, stating that Joan was on the committee also. Mike Rogers also volunteered. Carolyn Yates asked if citizens were wanted on the committee. Mayor Trowbridge stated that was up to the committee. Carolyn stated that she would be very willing to serve on that committee.

Mayor Trowbridge stated, "We need to get this going; each month that we go without, we don't make a lot of progress, we just don't. There are people to fill this job, this capacity; we need to find people with vision. With that, let's do the three people that volunteered from the Council, and see if you can recruit Joan and a couple other department heads, and three people from the community and make up ten as a group and move forward with it."

Mayor Trowbridge stated that city council assignments were needed for ongoing projects. Bill Yindrick volunteered to work on the possible purchase of the Southern XV property located at 315 So. 4<sup>th</sup> Street; Nick Hein volunteered to work on the operation of a reciprocating internal combustion engine to utilize treated landfill gas fuel, and also to work on the Northwest Drainage Project

The City Sales Tax Committee currently includes: Janis Cameron, Carolyn Yates, Deb Dinkelman, Council members Nick Hein and Gary Kroesing, Keith Marvin, and Jim Egr. Others have expressed an interest.

Council member Hein made a motion to go into executive session to discuss salary / payroll issues. Council member Yindrick seconded the motion. Voting AYE: Council members Scribner, Smith, Kroesing, Rogers, Yindrick, and Hein. Voting NAY: None. The motion carried.

Mayor Trowbridge stated: "We are now going into executive session at 9:22 p.m. to discuss salary / payroll issues."

Mayor Trowbridge, Council members Kroesing, Yindrick, Smith, Scribner, Hein, and Rogers, City Attorney Jim Egr, and City Clerk Kovar went into executive session at 9:22 p.m.

City Attorney Jim Egr stated that a motion and second was not needed to come out of executive session. Therefore, Mayor Trowbridge declared the City Council out of executive session at 9:51 p.m.

There being no further business to come before the Council, Council member Hein made a motion to adjourn. Council member Smith seconded the motion. Voting AYE: Council members Kroesing, Yindrick, Scribner, Rogers, Hein, and Smith. Voting NAY: None. The motion carried and Mayor Trowbridge declared the meeting adjourned at 9:55 p.m.

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Mayor Dana Trowbridge

ATTEST:

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City Clerk Joan E. Kovar



CERTIFICATION OF MINUTES  
January 13, 2010

I, Joan E. Kovar, duly qualified and acting City Clerk for the City of David City, Nebraska, do hereby certify with regard to all proceedings of January 13, 2010; 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 the minutes of the meeting of the City Council of the City of David City, Nebraska, 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 with advance notification of the time and place of said meeting and the subjects to be discussed at said meeting.

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Joan E. Kovar, City Clerk