

December 7, 2010

## ALLIANCE CITY COUNCIL

REGULAR MEETING, TUESDAY, DECEMBER 7, 2010

STATE OF NEBRASKA            )  
   )  
 COUNTY OF BOX BUTTE        ) §  
   )  
 CITY OF ALLIANCE             )

The Alliance City Council met in a Regular Meeting, December 7, 2010 at 1:00 p.m., in the Board of Education Meeting Room, 1604 Sweetwater Avenue. A notice of meeting was published in the Alliance Times Herald on November 30, 2010. The notice stated the date, hour and place of the meeting, that the meeting was open to the public, and that an agenda of the meeting, kept continuously current, was available for public inspection at the office of the City Clerk in City Hall; provided the Council could modify the agenda at the meeting if it determined an emergency so required. A similar notice, together with a copy of the agenda, also had been delivered to each of the City Council Members. An agenda, kept continuously current, was available for public inspection at the office of the City Clerk during regular business hours from the publication of the notice to the time of the meeting.

Mayor Yeager opened the December 7, 2010 Regular Meeting of the Alliance, Nebraska City Council at 1:00 p.m. Present were Mayor Yeager, Council Members Kusek, Benzel, Feldges and Gonzalez. Also present were Interim City Manager Miller and City Clerk Jines.

- Reorganization of the City Council was the first item to come before the Council.

City Clerk Jines announced she has received the certification from Box Butte County Clerk Cheryl McDuffie on the election results and acknowledged Ralph Yeager, Trent Benzel and Rachel Gonzalez were elected to the Alliance City Council.

The Oath of Office was administered to Councilmember Gonzalez.

Councilman Yeager conducted the election of President (Ex-officio Mayor). Ballots were cast and signed as follows:

Councilman Benzel voted for Councilman Yeager  
 Councilman Feldges voted for Councilman Feldges  
 Councilman Gonzalez voted for Councilman Feldges  
 Councilman Yeager voted for Councilman Yeager  
 Councilman Kusek voted for Councilman Feldges

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Councilman Feldges was selected to serve as President (Ex-officio Mayor) of the City of Alliance.

Mayor Feldges conducted the election of the Vice-Mayor. Ballots were cast and signed as follows:

Councilman Benzel voted for Councilman Yeager  
 Councilman Feldges voted for Councilman Yeager  
 Councilman Gonzalez voted for Councilman Yeager  
 Councilman Yeager voted for Councilman Yeager  
 Councilman Kusek voted for Councilman Yeager

Councilman Yeager was selected to serve as Vice Mayor for the City of Alliance.

- Mayor Yeager read the Open Meetings Act Announcement.
- The next order of business was the Consent Calendar.

Motion by Councilman Benzel, seconded by Councilman Kusek to approve the Consent Calendar which follows in its entirety:

#### **CONSENT CALENDAR – DECEMBER 7, 2010**

1. Approval: Minutes of the Regular Meeting, November 18, 2010.
2. Approval: Payroll and Employer Taxes for the period October 30, 2010 through November 12, 2010 inclusive: \$159,282.91 and \$11,298.77 respectively; and for the period November 13, 2010 through November 26, 2010 inclusive: \$167,168.17 and \$11,827.58.
3. Approval: Claims against the following funds for the period November 15, 2010 through December 3, 2010: General, General Debt Service, Trust and Agency, Street, Electric, Refuse Collection and Disposal, Sanitary Sewer, Water, Golf Course, Downtown Improvement Districts, R.S.V.P., Keno, and Capital Improvement; \$906,921.13.

NOTE: Interim City Manager Miller has reviewed these expenditures and to the best of his knowledge confirms that they are within budgeted appropriations to this point in the fiscal year.

Councilman Kusek questioned a charge for head stone replacement. Cultural and Leisure Services Director Shana Brown advised Council that a mower damaged the foundation of a head stone at the Alliance City Cemetery. He also asked about expenditures to Metal Products Company for the Alliance Public Library. Mrs. Brown explained that a compressor that runs the condenser needed to be repaired. Councilman Gonzalez asked about revenue bond interest. Interim City Manager Miller explained that there are charges for both principal and interest on

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the electric bonds. She also asked about a charge for Civic Plus. City Clerk Jines explained that it is the charge for the City's web page.

Roll call vote with the following results:

Voting Aye: Yeager, Kusek, Benzel, Feldges, Gonzalez.

Voting Nay: None.

Motion carried.

- The first reading of Ordinance No. 2670 implementing the 2009 International Building Codes was the next order of business on Council's agenda.

Motion by Councilman Kusek, seconded by Councilman Yeager to approve Ordinance No. 2670 on first reading. City Clerk Jines read the ordinance by title which follows in its entirety:

### **ORDINANCE NO. 2670**

AN ORDINANCE AMENDING THE ALLIANCE MUNICIPAL CODE BY AMENDING CHAPTER 9, ARTICLES 1 THROUGH 19, RELATING TO BUILDING REGULATIONS; THE ADOPTION OF THE INTERNATIONAL CODES AND REPEALING EXISTING PROVISIONS OF CITY CODE NOT CONSISTENT HEREWITH.

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

SECTION 1. The City of Alliance has adopted Building Regulations in Chapter 9 of the Alliance Municipal Code.

SECTION 2. The International Code Council and the National Fire Protection Association have published new codes.

SECTION 3. The City desires to adopt the new codes as listed herein.

SECTION 4. Alliance Municipal Code at Chapter 9, shall be amended at Articles 1 through 19 to read as follows:

#### ARTICLE 1

#### CODE ADMINISTRATION

##### 9-101. CODE ADMINISTRATION; GENERALLY

The uniform codes adopted by reference in this Chapter delegate the administration and enforcement thereof to Municipal authorities with a variety of titles. It is hereby declared that the administration and enforcement of said codes of the City of Alliance shall be the duty and responsibility of the City Manager by and through such assistants as he/she may appoint for that purpose.

##### 9-102. CODE ADMINISTRATION; ADDITIONAL RULES

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The City Manager is authorized to consult with members of the construction industry and code council engineers for the purpose adopting or clarifying code provisions and municipal rules and regulations to take advantage of the changes in the construction industry and to promote the health, safety and general welfare of the public.

9-103. CODE ADMINISTRATION; AMENDMENTS AND ADDITIONS.

Amendments and Additions to the uniform codes herein adopted by reference shall not automatically become part of the Municipal Code until the City Council, by ordinance, approves said amendment or additions.

ARTICLE 2

BUILDING CODE

9-201. BUILDING CODE; ADOPTED BY REFERENCE.

The *International Building Code*, ~~2006~~ 2009 Edition, and any subsequent editions and amendments, including Appendices B, C, F, G, H, I, and J, as published by the International Code Council, Inc., be and is hereby adopted as the *Building Code* of the City of Alliance, Nebraska; for the control of building and structures as herein provided; and each and all of the regulations, provisions, penalties, conditions and terms of said *Building Code* are hereby referred to, adopted, and made a part hereof, as if fully set out in this ordinance, with the additions, insertions, deletions and changes.

A copy of the *International Building Code*, ~~2006~~ 2009 Edition with the current amendments will be on file in the City of Alliance Community Development Department and open for inspection by the public during normal business hours.

Amendments to the International Building Code are as follows:

1. Section 101.1. Insert: City of Alliance, Nebraska  
Section 1612.3. Insert: City of Alliance, Nebraska  
Section 1612.3. Insert: July 16, 1987
2. Section 105.2. Work exempt from permits. Exemption from permit requirements of this code shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this code or any other laws or ordinances of this jurisdiction. Permits shall not be required for the following:
  1. One-story detached accessory structures used as tool and storage sheds, playhouses and similar uses, provided the floor area does not exceed 150 square feet, and the roof ridge height does not exceed 10 feet.
  2. Sidewalks that are internal to the property and do not connect to the public sidewalk or public right of way.
3. Section 202. Garage, Private. A private garage is a building or a portion of a building which is used primarily for the storage of private or pleasure-type motor vehicles by the tenants of the building or buildings on the premises, where no commercial repair work is allowed, fuel is dispensed, no loud or odiferous nuisances occur, which may disturb neighbor's peaceful enjoyment or which is not otherwise allowed in a residential neighborhood.
4. Section 202. Porch. A roofed open area, which may be screened, usually attached to or part of and with direct access to or from a building. A porch becomes a room when the enclosed space is heated or air-conditioned and when the percentage of window to wall area is less than 50 percent.
5. Section 406.1.1. Buildings or parts of building classed as Group U, Occupancies because of the use or character of occupancy may exceed 1,000 square feet in area or one story in height as regulated by Section 406.1.2 and Alliance Municipal Code, 10-303.02.1 (a) Area and Bulk Regulations.

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6. Section 109.7 Reinspections. A reinspection fee may be assessed for each inspection or reinspection when such portion of work for which inspection is called is not complete or when corrections called for are not made. This section is not to be interpreted as requiring reinspection fees the first time a job is rejected for failure to comply with the requirements of this code, but as controlling the practice of calling for inspections before the job is ready for such inspection or reinspection.

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

#### 9-202. BUILDING CODE; PERMIT FEES

Building permit fees shall be based upon the Building Valuation Data and Regional Modifiers compiled by the International Code Council, which shall be updated from time to time. The Community Development Director or his representative which he may designate in writing is authorized to deviate from the Building Valuation Data and Regional Modifiers if the applicant for the building permit can provide sufficient proof of building costs acceptable to the Community Development Director or representative. Said valuation data will be on file in the Office of the Community Development Department for public inspection during regular business hours.

#### 9-203. BUILDING CODE; LICENSE REQUIRED

It shall be unlawful to engage in business in the municipality or its zoning jurisdiction as a building contractor without first having obtained a license therefore as hereinafter provided. The term "building contractor" shall mean and include anyone engaged in the business of cement or concrete contracting, masonry contractor, carpenter contractor or general building contractor, and any person engaged in the construction, alteration or repair of buildings or other structures, sidewalk or street construction. Engaging in the construction, repair or alteration of any building, structure, or street or sidewalk pavement in the municipality or its zoning jurisdiction for which a permit is required under the ordinances of the municipality shall be construed as doing business as a contractor in the municipality. To be licensed as a General Contractor, the applicant shall submit to an examination and have a minimum of three years of approved construction experience. No examination shall be required of an applicant who is the holder of a similar license issued by any other governmental agency; provided, that the applicant shall have successfully completed an examination conducted by the other governmental agency which is similar in scope and character to the examination required locally. This requirement is in addition to the required insurance certification and appropriate license fee.

#### 9-204. BUILDING CODE; SUBCONTRACTORS.

Any person doing business as a subcontractor shall be construed as engaged in the business of a building contractor for which a license is required by this code.

#### 9-205. BUILDING CODE; REGULATIONS

It shall be the duty of all building contractors to comply with all laws and ordinances relating to the construction of buildings or other structures, and to the construction of streets or sidewalk paving.

#### 9-206. BUILDING CODE; REVOCATION

Any building contractor's license may be revoked by the Mayor and Council for repeated violations of any ordinance relating to the construction of buildings, the use of streets, or the replacing of streets, sidewalks or parkways, or any other ordinance relating to the work performed by such contractor. Such revocation may be in addition to any fine imposed for violating this ordinance.

#### 9-207. BUILDING CODE; ISSUANCE OF LICENSE; LIABILITY INSURANCE.

The Mayor and Council shall issue licenses to all applicants who pay the required fee, furnish acceptable references, have appropriate experience, and pass the required examination. No examination shall be required of an applicant

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who is the holder of a similar license issued by any other governmental agency; provided, that the applicant shall have successfully completed an examination conducted by the other governmental agency which is similar in scope and character to the examination required locally. No such license shall be issued unless the applicant first presents to the City a certificate of insurance, demonstrating that the applicant and his employees are covered by liability insurance with policy limits of no less than \$300,000.00, for the period of the license, and the applicant has the requisite experience. The licensee shall ensure that all of his employees, agents, and subcontractors are covered by liability insurance of no less than \$300,000.00. Each license shall remain in force and effect until its expiration date, April 30th of each year, unless sooner canceled or revoked.

#### 9-208. LICENSE FEES

The annual fee for such license shall be set by resolution of the Mayor and City Council, which resolution may be revised from time to time by further enacted resolution.

#### 9-209. VIOLATIONS AND PENALTIES.

Any person, firm or corporation violating any section of this code shall be deemed guilty of a misdemeanor and be subject to penalty as provided by Municipal Law.

### ARTICLE 3

#### HOUSING CODE

#### 9-301. HOUSING CODE; ADOPTED BY REFERENCE

*The International Existing Building Code, 2006 2009* Edition, and any subsequent editions and amendments as published by the International Code Council; insofar as said code does not conflict with the Statutes of the State of Nebraska is hereby incorporated by this reference as though set forth herein. The application of the International Existing Building Code and any amendments thereto is to provide certain minimum standards, provisions, and requirements for safe and stable design, methods of construction, and uses of materials in houses hereafter erected, constructed, enlarged, altered, repaired, relocated, and converted. The provisions of the *International Existing Building Code* shall be controlling throughout the Municipality and throughout its zoning jurisdiction. A copy of the *International Existing Building Code, 2006 2009* Edition with the current amendments will be on file in the City of Alliance Community Development Department and open for inspection by the public during normal business hours.

### ARTICLE 4

#### MECHANICAL CODE

#### 9-401. MECHANICAL CODE; ADOPTED BY REFERENCE.

The *International Mechanical Code*, including Appendix A, *2006 2009* Edition and any subsequent editions and amendments as published by the International Code Council, is hereby adopted as the mechanical code of the City of Alliance, Nebraska, for regulating the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of mechanical systems in the City of Alliance, Nebraska and providing for the issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, conditions and terms of such *International Mechanical Code, 2006 2009* Edition, and any subsequent editions and amendments are hereby referred to, adopted and made a part hereof as if fully set out in this ordinance. A copy of the *International Mechanical Code, 2006 2009* Edition with the current amendments will be on file in the City of Alliance Community Development Department and open for inspection by the public during normal business hours.

The following sections of the International Mechanical Code are hereby revised and amended as set forth herein:

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1. Section 101.1. Insert: City of Alliance, Nebraska.
2. Section 106.5.2. Insert: The fees for mechanical work shall be those set forth in the current fee schedule adopted by the City of Alliance, and additional fees for special inspection and reinspection, as follows:
3. Section 106.5.3. Fee Refunds. The code official shall authorize the refunding of fees as follows:
  - a. The full amount of any fee paid hereunder which was erroneously paid or collected.
  - b. Not more than 90% of the permit fee paid when no work has been done under a permit issued in accordance with this code.
  - c. Not more than 90% of the plan review fee paid when an application for a permit for which a plan review fee has been paid is withdrawn or canceled before any plan review effort has been expended.
4. Section 108.4. Violation penalties. Persons who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or who shall erect, install, alter, or repair mechanical work in violation of the approved construction documents or directive of the code official, or of a permit or certificate issued under the provisions of this code, shall be guilty of a misdemeanor, punishable by a fine as provided in Chapter 12 Section 12-101 of the City of Alliance Municipal Code. Each date that a violation continues after due notice has been served shall be deemed a separate offense.
5. Section 108.5. Stop Work Orders. Upon notice from the code official that mechanical work is being done contrary to the provisions of this code or in a dangerous or unsafe manner, such work shall immediately cease. Such notice shall be in writing and shall be given to the owner of the property, or to the owner's agent, or to the person doing the work. The notice shall state the conditions under which work is authorized to resume. Where an emergency exists, the code official shall not be required to give a written notice prior to stopping the work. Any person who shall continue any work on the system after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable for a fine as provided in Chapter 12 Section 12-101 of the City of Alliance Municipal Code. Each date that a violation continues after due notice has been served shall be deemed a separate offense.
6. No permanently installed Liquefied Petroleum Gas (LPG) appliance located totally within a building or structure will be allowed on sites or lots less than one acre, when existing natural gas infrastructure and supply is available for use within 100 feet of the property.

#### 9-402. PERMITS REQUIRED

No person shall install, alter, reconstruct, or repair any heating, ventilating, cooling or refrigeration equipment unless a permit therefore has been obtained from the building official, except as otherwise provided in said code. A separate permit shall be obtained for work to be performed in each building or structure. No permit shall be issued to any person to do or cause to be done any heating or comfort cooling work regulated by this code, except to a person who is the holder of a Heating and Cooling Contractor license; provided however, that a permit may be issued to any person to do any heating or comfort cooling work regulated by this code in a single family dwelling used exclusively for living purposes, in the event that such person is the owner of the dwelling and that it is occupied by the owner.

#### 9-403. CONTRACTORS LICENSE REQUIRED

It shall be unlawful for any person to engage in the business of heating and comfort cooling unless that person is the holder of a Heating and Comfort Cooling Contractors License issued by the City Clerk. Each license shall expire on April 30th of each year.

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9-404. JOURNEYMAN LICENSE REQUIRED

It shall be unlawful for any person to labor at the trade of heating and comfort cooling installation or repair as an employee of a licensed contractor unless said person is the holder of a Heating and Cooling Journeyman License issued by the City Clerk. Each license shall expire on April 30th of each year.

9-405. QUALIFICATIONS FOR LICENSING

It shall be unlawful for any person to engage in any of the occupations of heating, venting and air conditioning (HVAC), unless that person has applied for and received the appropriate license. Applications for a license shall be made to the Community Development Department that shall receive from the applicant the required fee. The applicant shall submit to an examination and/or verification of required field experience to determine his competency in the field of work regulated by this code. Field experience to be licensed as a Master Contractor in Alliance requires three years of experience as a Master Contractor or Journeyman with confirmation. Up to one year of this requirement may be fulfilled by successful completion of a course from an approved trade or technical school. No such license shall be issued unless the applicant first presents to the City a certificate of insurance, demonstrating the applicant and his employees are covered by liability insurance with policy limits of no less than \$300,000.00, for the period of the license. The licensee shall ensure that all of his employees, agents, and subcontractors are covered by liability insurance of no less than \$300,000.00. It shall be the responsibility of the Mayor and Council to grant or deny issuance of said license.

9-406. VIOLATIONS AND PENALTY

Any person, firm, or corporation violating any of the provisions of this code shall be deemed guilty of a misdemeanor, and each such person shall be deemed guilty of a separate offense for every day or portion thereof during which any violation of any of the provisions of this code is committed, continued, or permitted. Each violation shall be subject to penalty as provided in Chapter 12 Section 12-101 of the City of Alliance Municipal Code.

9-407. LICENSE FEES.

The annual fee for such licenses shall be set by resolution of the Mayor and City Council, which resolution may be revised from time to time by further enacted resolution.

9-408. PERMIT FEES.

Any person desiring a permit required by this code, shall, at the time of filing an application therefore, pay a fee as set by resolution of the Mayor and City Council, which resolution may be revised from time to time by further enacted resolution.

ARTICLE 5

ELECTRICAL CODE

9-501. NATIONAL ELECTRICAL CODE, ~~2005~~ 2008 EDITION; ADOPTED BY REFERENCE

The *National Electrical Code*, ~~2005~~ 2008 Edition, and any subsequent editions and amendments as published by the National Fire Protection Association, is hereby adopted as the code of the City of Alliance, Nebraska, for regulating the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of electrical systems and appliances in the City of Alliance, Nebraska and providing for the issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, conditions and terms of such *National Electrical Code*, as amended. A copy of the *National Electrical Code*, ~~2005~~ 2008 Edition with the current amendments will be on file in the City of Alliance Community Development Department and open for inspection by the public during normal business hours.

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Revisions. The following sections of the National Electrical Code, ~~2005~~ 2008, are hereby revised and amended as set forth herein:

1. Article 210.12 (A) & (B) and Article 550.25 (A) & (B) - Arc-Fault Circuit Interrupter Protection. **Notes:** Article 550.25 (A) & (B) - Rule not included in NFPA 501 or HUD part 3280 rules. Article 210.12 (A) & (B) & Article 550.25 (A) & (B) - will be omitted until such time as testing equipment, procedures and performance reviews are available to this municipality.
2. Article 250.26(4) - Conductor to be grounded - alternating current systems. **Insert:** Multi phase system will not have one phase conductor grounded (corner ground) but will have a neutral phase (center tap).
3. 2005 NEC - 338.10 (A) - service entrance (SE) cable may be used for interior use and comply with 338.10(B) (4) (a) all exterior installations will be protected by conduits listed under Article 225.10.
4. 2005 NEC - 310.2 (B) - Conductor material in this article shall be copper unless otherwise specified or with approval of the Electrical Inspector.
5. 2005 NEC - 230.70 (A) - Electrical Code §230-70 (A). Service Equipment - Disconnecting Means - Location. The service disconnecting means shall be installed at a readily accessible location either outside of a building or structure, or inside nearest the point of the entrance of the service conductors, within 18 inches of entrance of the service conductors. If there are extenuating circumstances, then with prior approval of the electric inspector, the disconnecting means may be installed up to 60 inches from the entrance of the service conductors.
6. 2005 NEC - 230.31 (B) enter (exception) - The conductors shall not be smaller than 8 AWG copper or 6 AWG aluminum.

9-501.01. CONDUCTOR TERMINATIONS, LOAD.

All plugs, switches, and light fixtures will have all conductors properly terminated so that the device only carries the load of that device and not that of the circuit when three or more cables or the equivalent enter a box (pigtail). Excepted are number 1 GFCI receptacles.

9-502. ELECTRICAL CODE; PERMITS ISSUANCE.

No permit shall be issued to any person to do or cause to be done any electrical wiring regulated by this code, except to a person holding a valid unexpired License duly registered with the City of Alliance. No permit shall be issued to any person to do or cause to be done any maintenance electrical wiring or maintenance repair including, but not limited to, the installation of heating, cooling, fire alarm, security system or cooking appliances to existing circuits or services except to a person holding a valid unexpired or unrevoked Electrician's License. Any permit required by this Article may be issued to any person to do any electrical wiring regulated by this code in a single family dwelling used exclusively for living purposes, including the usual accessory buildings and quarters in connection with such buildings in the event that any such person is the bona fide owner of any such dwelling and accessory buildings and quarters, and that the same are occupied by or designed to be occupied by said owner; provided, that said owner shall personally purchase all material and shall personally perform all labor in connection therewith.

9-503. ELECTRICAL CODE; ELECTRICIANS, CLASSIFICATION.

Electricians shall be classified in accordance with the Statutes of the State of Nebraska.

9-504. ELECTRICAL CODE; REGISTRATION AND LICENSE APPLICATION.

It shall be unlawful for any person to engage in any of the occupations set out above unless that person has applied for and received the appropriate State of Nebraska License and is duly registered with the City of Alliance. Application for registration of a State of Nebraska Electricians License shall be made to the Building Official who

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shall receive from the applicant a current copy of a State of Nebraska License. It shall be the responsibility of the Mayor and Council to grant such City registration if the insurance requirements have been complied with.

9-505. ELECTRICAL CODE; REGISTRATION AND LICENSE FEE.

Every person applying for City of Alliance registration of State of Nebraska Electrical License shall provide the Building Official with a copy of their current State of Nebraska License pursuant to Section 81-2130 of the Nebraska State Electrical Act. In addition to the above the applicant shall provide a certificate of insurance. No such license shall be registered unless the applicant first presents to the City a certificate of insurance, demonstrating that the applicant and his employees are covered by liability insurance with policy limits of no less that \$300,000.00, for the period of the license. The licensee shall ensure that all of his employees, agents, and subcontractors are covered by liability insurance of no less than \$300,000.00.

9-506. ELECTRICAL CODE; PERMIT AND INSPECTION FEES.

The amount charged and collected by the Municipality as electrical permit and inspection fee shall be set by resolution of the Mayor and City Council, which resolution may be revised from time to time by further enacted resolution.

9-507. ELECTRICAL INSPECTORS DESIGNATED.

There is hereby created the positions of City Electrical Inspectors. Such inspectors shall be certified as inspectors by the City Manager. At such time or times as the City Manager is satisfied that the candidate(s) is sufficiently proficient in his knowledge and understanding of electrical wiring and installation and with the National Electric Code. Such inspector(s) shall work in conjunction with or as employees of the Community Development Department.

9-508. INSPECTION AND TESTING.

The Electrical Inspector(s) shall have the right during reasonable hours to enter any building in the City in the discharge of his official duties, or for the purpose of making an inspection or test of the electrical equipment therein; and he shall have the duty and authority to enforce all the ordinance provisions relating to electric signs, electrical wiring and electrically operated equipment. He shall have the power to cause the current in any wire or conduit to be turned off whenever this is necessary in an emergency for the protection of life or property.

9-509. WIRING APPROVED.

The Electrical Inspector(s) shall make all inspections necessary to the enforcement of the City ordinances; and no electric wiring shall be covered until it has been inspected and approved.

9-510. WORK STOPPAGE.

Whenever the Electrical Inspector(s) shall find electrical work being done in violation of the City ordinances, he shall have the power to order the work stopped until the ordinances are complied with. It shall be unlawful to continue any such work after such a stop order has been issued except upon written permission of the Electrical Inspector; provided that where such a stop order is made orally, it shall be followed by a written stop order within a reasonable time.

ARTICLE 6

PLUMBING CODE

9-601. PLUMBING CODE; ADOPTED BY REFERENCE

The *International Plumbing Code*, ~~2006~~ 2009 Edition including Appendices A, C, D, E, F, and G, and any subsequent editions and amendments as published by the International Code Council, be and is hereby adopted as

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the code of the City of Alliance, Nebraska, and made a part hereof as if fully set out in this ordinance. The *International Plumbing Code* is adopted for regulating the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of plumbing systems in the City of Alliance, Nebraska and providing for the issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, conditions and terms of such *International Plumbing Code, 2006 2009* Edition, and any subsequent editions and amendments. A copy of the *International Plumbing Code, 2006 2009* Edition with the current amendments will be on file in the City of Alliance Community Development Department and open for inspection by the public during normal business hours.

Revisions. The following sections of the International Plumbing Code are hereby revised and amended as set forth herein:

1. Section 101.1. Title. These regulations shall be known as the Plumbing Code of Alliance, NE, hereinafter referred to as this code.
2. Section 106.6.2. Fee Schedule. The fee for all plumbing work shall be as indicated in the current schedule adopted for that purpose by the City of Alliance, together with the fees set forth hereafter for special inspection and reinspection fees.
3. Section 106.6.3. Fee Refunds. The code official shall authorize the refunding of fees as follows:
  - a. Not more than 90% of the permit fee paid when no work has been done under a permit issued in accordance with this code.
  - b. Not more than 90% of the plan review fee paid when an application for a permit for which a plan review fee has been paid is withdrawn or canceled before any plan review effort has been expended.
4. Section 108.4. Violation penalties. Persons who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or who shall erect, install, alter, or repair mechanical work in violation of the approved construction documents or directive of the code official, or of a permit or certificate issued under the provisions of this code, shall be guilty of a misdemeanor, punishable by a fine as provided in Chapter 12 Section 12-101 of the City of Alliance Municipal Code. Each date that a violation continues after due notice has been served shall be deemed a separate offense.
5. Section 108.5. Stop Work Orders. Upon notice from the code official that plumbing work is being done contrary to the provisions of this code or in a dangerous or unsafe manner, such work shall immediately cease. Such notice shall be in writing and shall be given to the owner of the property, or to the owner's agent, or to the person doing the work. The notice shall state the conditions under which work is authorized to resume. Where an emergency exists, the code official shall not be required to give a written notice prior to stopping the work. Any person who shall continue any work on the system after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable for a fine as provided in Chapter 12 of the Alliance Municipal Code. Each date that a violation continues after due notice has been served shall be deemed a separate offense.
6. Delete references to ICC Electrical Code, and replace with National Electrical Code, version currently adopted by the City of Alliance.
7. Section 305.6.1. Sewer Depth. Building sewers that connect to private sewage disposal systems shall be a minimum of 36 inches below finished grade at the point of septic tank connection. Building sewers shall be a minimum of 60 inches below grade.
8. Section 605.3. Added - Copper tube for water piping shall have a rating of not less than Type M copper tubing, which may be used for water piping when piping is above ground in, or on, a building including the basement.

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9. Section 702.3. Delete vitrified clay pipe and asbestos cement pipe.
  10. Section 904.1. Roof Extension. All open vent pipes that extend through a roof shall be terminated at least 12 inches above the roof, except that where a roof is to be used for any purpose other than weather protection, the vent extensions shall be run at least 7 feet above the roof.
  11. Section 402.1. Added - Wooden toilet seats may be used in single or multi-family residences.
- 9-602. PLUMBING CODE; AMENDMENTS.
- 9-603. PLUMBING CODE; PERMIT REQUIRED.

It shall be unlawful for any person to install, remove, alter, repair or replace or cause to be installed, removed, altered, repaired or replaced any plumbing, gas or drainage piping work or any fixture or water heating or treating equipment in a building or premises without first obtaining a permit to do such work from the Administrative Authority. A separate permit shall be obtained for each building or structure. No person shall allow any other person to do or cause to be done any work under a permit secured by that person except by an employee. No permit shall be issued to any person to do or cause to be done any plumbing or drainage work regulated by this code, except to a person holding a valid unexpired and unrevoked plumbing contractors license, except when and as otherwise hereinafter provided by this section. No permit shall be issued to any person to do or cause to be done any plumbing or drainage work in conjunction with the installation or repair of rental water treatment equipment or lawn sprinkling equipment regulated by this code, except to a person holding a Limited or Specialty Contractor's License. No permit shall be issued to any person to do or cause to be done any gas piping work, except reconnection of replacement appliances, except to a person holding a valid unexpired and unrevoked gas fitters license. Any permit required by this code may be issued to any person to do any plumbing or drainage work regulated by this code in a single family dwelling used exclusively for living purposes, including the usual accessory buildings and quarters in connection with such buildings in the event that any such person is the bona fide owner of any such dwelling and accessory buildings and quarters, and that the same are occupied by or designed to be occupied by said owner, provided, that said owner shall personally purchase all material and shall personally perform all labor.

9-604. PLUMBING CODE; PERMIT FEES.

Permit fees shall be charged and collected from the applicant as set by resolution of the Mayor and City Council, which resolution may be changed from time to time by further enacted resolution.

9-605. PLUMBING CODE; QUALIFICATION OF PLUMBERS, LIMITED & SPECIALTY, AND GAS FITTERS.

A plumbing contractor is a person who may engage in any phase of the business of plumbing for which occupation there shall be issued to qualified applicants a Master Plumbing Contractors License. A Journeyman Plumber is a person who labors at the trade of plumbing as an employee of a Plumbing Contractor for which occupation there shall be issued to qualified applicants a Journeyman Plumbers License with a minimum of one years confirmed experience under a licensed contractor. An Apprentice Plumber is a person who labors at the trade of plumbing as an employee under the direct supervision of and in the immediate presence of a Plumbing Contractor or Journeyman Plumber. Field experience to be licensed as a Master Contractor in Alliance requires three years of experience as a Master Contractor or Journeyman with confirmation. Up to one year of this requirement may be fulfilled by successful completion of a course from an approved trade or technical school.

9-606. PLUMBING CODE; LICENSE APPLICATION FEES.

Every person applying for a License shall pay to the Building Official at the time he makes such application, a license fee as set by resolution of the Mayor and City Council, which resolution may be revised from time to time by further enacted resolution. In addition before a Plumbing Contractors License, Limited and Specialty License or Gas Fitters License may be issued the applicant shall provide a certificate of insurance. No such license shall be issued unless the applicant first presents to the City a certificate of insurance, demonstrating that the applicant and

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his employees are covered by liability insurance with policy limits of no less than \$300,000.00, for the period of the license. The licensee shall ensure that all of his employees, agents, and subcontractors are covered by liability insurance of no less than \$300,000.00.

9-607. PLUMBING CODE; ISSUANCE OF LICENSE.

The Mayor and Council shall issue licenses to all applicants who pay the required fee, provide an acceptable certificate of insurance, and has successfully passed the required examination. No examination shall be required of an applicant who is the holder of a similar license issued by any other governmental agency, provided, however, that the applicant shall have successfully completed an examination conducted by the other governmental agency which is similar in scope and character to the examination required locally. Each license shall remain in force and effect until its expiration date, April 30th of each year, unless canceled or revoked.

9-608. PLUMBING CODE; RE-EXAMINATION, CANCELLATION.

An applicant who fails to pass the required examination may apply for re-examination not sooner than 30 days after the result of the original examination is determined. Should the applicant be unsuccessful in a second attempt to pass the examination, he may be refused a third attempt until after the expiration of 6 months from the date the result of the second examination is determined. The Mayor and Council may cancel or revoke any license it issued if the holder displays lack of knowledge of the regulations, if he is incompetent to perform his occupation, or if the license is obtained by fraud.

9-609. PLUMBING CODE; VIOLATION AND PENALTIES.

Any person, firm or Corporation violating any provision of this code shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punishable by a fine as set forth in 12-101 of the Municipal Code. Each separate day or any portion thereof during which any violation of this Code occurs or continues shall be deemed to constitute a separate offense, and upon conviction thereof shall be punishable as herein provided.

ARTICLE 7

NATIONAL FLOOD INSURANCE PROGRAM

9-701. FLOOD ORDINANCE ENFORCEMENT AUTHORIZATION FOR CITY MANAGER.

The City Manager hereby has these added responsibilities and is authorized and directed to enforce all the provisions of this Special Flood Hazard Ordinance and all other Ordinances of the City of Alliance, Nebraska, now in force or hereafter adopted, relating to zoning, subdivision or building codes.

The City Manager is hereby appointed to these additional responsibilities by the City Council and his/her appointment shall continue during good behavior and satisfactory service. During temporary absences or disability of the City Manager, the acting City Manager shall perform these responsibilities.

9-702. FLOOD INSURANCE RATE MAP/FLOOD HAZARD BOUNDARY MAP.

The City Council of the City of Alliance, Nebraska, hereby designates Flood Insurance Rate Map/Flood Hazard Boundary Map, and amendments, as the official map to be used in determining those areas of special flood hazard.

9-703. PERMIT REQUIRED TO CONSTRUCT IN FLOOD ZONES.

No person, firm or corporation shall erect, construct, enlarge or improve any building or structure in the City or cause the same to be done without first obtaining a separate development permit for each such building or structure;

- a. Within zone(s) A on the official map, separate development permits are required for all new construction, substantial improvements and other developments, including the placement of manufactured homes.

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- b. Application: To obtain a permit, the applicant shall first file an application therefore in writing on a form furnished for that purpose. Every such application shall:
1. Identify and describe the work to be covered by the permit for which application is made.
  2. Describe the land on which the proposed work is to be done by lot, block, tract and street address, or similar description that will readily identify and definitely locate the proposed building or work.
  3. Indicate the use or occupancy for which the proposed work is intended.
  4. Be accompanied by plans and specifications for proposed construction.
  5. Be signed by the permittee or his authorized agent who may be required to submit evidence to indicate such authority.
  6. Within designated flood prone areas, to be accompanied by elevations (in relation to mean sea level and City datum) of the lowest floor (including basement) or in the case of flood proofing non-residential structures, the elevation to which it has been flood proofed.  
  
Documentation or certification of such elevations will be maintained by the designated Flood Plain.
  7. Give such other information as reasonably may be required by the City Manager.

9-704. REVIEW OF DEVELOPMENT PERMIT APPLICATIONS.

The City Manager, or his designated representative, shall review all development permit applications to determine if the site of the proposed development is reasonably safe from flooding and that all necessary permits have been received as required by Federal or State Law.

The City Manager, or his designated representative, in reviewing all applications for new construction, substantial improvements, prefabricated buildings, placement of manufactured homes and other development(s) (as defined in Section 11 of this Ordinance) will:

- a. Obtain, review, and reasonably utilize, if available, any base flood elevation and flood way data from Federal, State or other sources, until such other data is provided by the Federal Insurance Administration in a Flood Insurance Study; and require within areas designated as Zone A on the official map that the following performance standards be met:
1. New construction and substantial improvements of any residential structure shall have the lowest floor, including basement, elevated to one (1) foot above the base flood elevation.
  2. New construction and substantial improvement of any non-residential structure shall either have the lowest floor, including basement, elevated to one (1) foot above the base flood elevation; or, together with attendant utility and sanitary facilities, shall:
    - (i) be flood proofed so that below the flood base elevation the structure is watertight with walls substantially impermeable to the passage of water;
    - (ii) have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
    - (iii) be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this paragraph.

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- b. Encroachments, including fill, new construction, substantial improvements, and other development shall be prohibited in any flood way unless a technical evaluation demonstrates that the encroachments will not result in any increase in flood levels during the occurrence of the base flood discharge.
- c. Require the use of construction materials and utility equipment that are resistant to flood damage.
- d. Require the use of construction methods and practices that will minimize flood damage.
- e. Be designed or anchored to prevent the flotation, collapse or lateral movement of the structure or portions of the structure due to flooding.
- f. Electrical, heating, ventilation, plumbing and air- conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- g. Assure that all manufactured homes shall be anchored to resist flotation, collapse, or lateral movement. Manufactured homes must be anchored in accordance with State laws, local building codes and FEMA guidelines. In the event that over-the-top frame ties to ground anchors are used, the following specific requirements (or their equivalent) shall be met:
  - 1. Over-the-top ties be provided at each of the four corners of the manufactured home with two additional ties per side at the intermediate locations for homes more than fifty feet in length and one additional tie per side for homes less than fifty feet.
  - 2. Frame ties be provided at each corner of the manufactured home with five additional ties per side at intermediate points for homes over fifty feet in length and four additional ties per side for homes less than fifty feet.
  - 3. All components of the anchoring system shall be capable of carrying a force of 4,800 pounds.
  - 4. Any additions to manufactured homes shall be similarly anchored.
- h. Require that all manufactures homes to be placed within Zones A1-30, AH, and AE on the community's FIRM be elevated on a permanent foundation such that the lowest floor of the manufactured home is one (1) foot above the base flood elevation; and be securely anchored to an adequately anchored foundation system in accordance with the provisions of Section 6-g.

9-705. FLOOD HAZARD ORDINANCE/REVIEW OF SUBDIVISION APPLICATIONS.

The Governing Body of the City shall review all subdivision applications and shall make findings of fact and assure that:

- a. All such proposed developments are consistent with the need to minimize flood damage.
- b. Subdivision (including manufactured home park and subdivision) proposals and other proposed new development greater than five (5) acres or fifty (50) lots, whichever is lesser, include within such proposals base flood elevation data in areas designated Zone A.
- c. Adequate drainage is provided so as to reduce exposure to flood hazards.
- d. All public utilities and facilities are designed and located so as to minimize or eliminate flood damage.

9-706. NEW OR REPLACEMENT WATER AND SEWER SYSTEMS.

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New or replacement water and sewer systems shall be constructed to eliminate or minimize infiltration by, or discharge into flood waters. Moreover, on-site waste disposal systems will be designed to avoid impairment or contamination during flooding.

9-707. FLOOD CARRYING CAPACITY.

The Governing Body of the City will insure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained. The City will notify, in riverine situations, adjacent communities and the State Coordinating Office prior to alteration or relocation of any watercourse, and submit copies of such notifications to the Administrator. Moreover, the City will work with appropriate State and Federal agencies in every way possible in complying with the National Flood Disaster Protection Act of 1973.

9-708. NATIONAL FLOOD DISASTER PROTECTION ACT.

This Ordinance shall take precedence over conflicting ordinances, or parts of ordinances. The City Council of the City of Alliance, Nebraska, may, from time to time, amend this Ordinance to reflect any and all changes in the National Flood Disaster Protection Act of 1973. The regulations of this Ordinance are in compliance with the National Flood Insurance Program Regulations as published in the Federal Register, Volume 41, Number 207, dated October 26, 1976, as amended in Volume 51, Number 164 dated Monday, August 25, 1986.

9-709. DEFINITIONS.

Definitions: Unless specifically defined below, words or phrases used in this Ordinance shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this Ordinance its most reasonable application.

**AREAS OF SPECIAL FLOOD HAZARD:** The land within a community subject to a one percent or greater chance of flooding in any given year. This land is identified as Zone A on the official map.

**DEVELOPMENT:** Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

**FLOOD:** A temporary rise in stream's flow or stage that results in water overflowing its banks and inundating areas adjacent to the channel or an unusual and rapid accumulation of run-off or surface waters from any source.

**FLOOD PROOFING:** Any combination of structural and non-structural additions, changes, or adjustments to structures, including utility and sanitary facilities, which would preclude the entry of water. Structural components shall have the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy.

**LOWEST FLOOR:** The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

**MANUFACTURED HOME:** A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For flood plain management purposes the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes the term "manufactured home" does not include park trailers, travel trailers, and other similar vehicles.

**MANUFACTURED HOME PARK:** A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent.

**MANUFACTURED HOME SUBDIVISION:** A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for sale.

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**REGULATORY FLOOD ELEVATION:** The water surface elevation of the 100-year flood.

**STRUCTURE:** A walled and roofed structure, including a gas or liquid storage tank that is principally above the ground, including but without limitation to buildings, factories, sheds, cabins, manufactured homes and other similar uses.

**SUBSTANTIAL IMPROVEMENT:** Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either (a) before the improvement is started, or (b) if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences whether or not the alteration affects the external dimensions of the structure. The term does not, however, include any alteration to comply with existing State or local health, sanitary, building or safety codes or regulations as well as structures listed in National or State Registers of Historic Places.

**100 YEAR FLOOD:** The condition of flooding having a one percent chance of annual occurrence.

## ARTICLE 8

### DRAINAGE

#### 9-801. MASTER DRAINAGE STUDY.

Alterations or impacts to the City's drainage system as defined by the adopted Master Drainage Study may not occur without following the provisions of the Drainage Criteria Manual. In the event of alterations substantially impacting the drainage system a Drainage Study must be approved by the Community Development Director or his designee prior to the issuance of a building permit. The final drainage report will outline the physical facilities that will be required of the applicant. The Community Development Director or his designee shall require that post construction run off will not exceed preconstruction runoff.

## ARTICLE 9

### ENERGY CONSERVATION CODE

#### 9-901. ENERGY CONSERVATION CODE; ADOPTION.

The *International Energy Conservation Code*, 2006 2009 Edition, and any subsequent editions and amendments as published by the International Code Council, be and is hereby adopted as the code of the City of Alliance, Nebraska, and made a part hereof as if fully set out in this ordinance. The *International Energy Conservation Code* is adopted in order to provide certain minimum standards, provisions and requirements for energy conservation in building construction in the City of Alliance, Nebraska. A copy of the *International Energy Conservation Code*, 2006 2009 Edition with the current amendments will be on file in the City of Alliance Community Development Department and open for inspection by the public during normal business hours.

## ARTICLE 10

### UNIFORM CODE FOR THE ABATEMENT OF DANGEROUS BUILDINGS

#### 9-1001. UNIFORM CODE/ABATEMENT OF DANGEROUS BUILDINGS; ADOPTION.

The *Uniform Code for the Abatement of Dangerous Buildings*, 1998 Edition and any subsequent editions and amendments, published in book or pamphlet form by the International Conference of Building Officials, be and is hereby adopted as the code of the City of Alliance, Nebraska, and made a part hereof as if fully set out in this ordinance. The *Uniform Code for the Abatement of Dangerous Buildings Code* is adopted in order to provide a just, equitable and practicable method, to be cumulative with, and, in addition to, any other remedy provided by the Building Code, Housing Code or otherwise available at law, whereby buildings or structures which from any cause

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endanger the life, limb, health, morals, property, safety or welfare of the general public or their occupants may be required to be repaired, vacated or demolished. A copy of the *Uniform Code for the abatement of Dangerous Building*, 1998 Edition with the current amendments will be on file in the City of Alliance Community Development Department and open for inspection by the public during normal business hours.

The following amendments or additions are hereby made to the Uniform Code for the abatement of dangerous buildings:

- (1) All references to a Board of Appeals contained at Section 205 of the Uniform Code for the Abatement of Dangerous Buildings are hereby deleted, as are any other references within the Uniform Code for the Abatement of Dangerous Buildings to a Board of Appeals.

#### ARTICLE 11

##### INTERNATIONAL EXISTING BUILDING CODE

##### 9-1101. INTERNATIONAL EXISTING BUILDING CODE

The *International Existing Building Code*, 2006 2009 Edition, and any subsequent editions and amendments as published by the International Code Council, be and is hereby adopted as the code of the City of Alliance, Nebraska, and made a part hereof as if fully set out in this ordinance. The *International Existing Building Code* is adopted to provide minimum standards for change of occupancy, alteration or repair of existing buildings and structures to encourage the continued use or re-use of legally existing buildings and structures and shall be applicable to all areas of the City's building and zoning jurisdiction, as such jurisdiction may be altered from time to time.

A copy of the *International Existing Building Code*, 2006 2009 Edition with the current amendments will be on file in the City of Alliance Community Development Department and open for inspection by the public during normal business hours.

#### ARTICLE 12

##### LOCAL VARIANCE

##### 9-1201. LOCAL VARIANCE.

The City Council may from time to time, by proper resolution, for good cause shown, grant special variance permits authorizing the applicant to resort to methods, styles and components of construction at variance with the requirements of the International Codes. Exceptions can likewise be granted for the variant use of locations within the City. Applications for special variance permits shall be made in writing to the City Council.

#### ARTICLE 13

##### MOVING PERMITS

##### 9-1301. MOVING PERMITS

A moving permit shall be required for the moving of buildings on the street and road systems within the city limits and the two-mile zoning jurisdiction of the City of Alliance. Applications for moving permits shall be made with the Community Development Department of the City of Alliance.

The obtaining of this permit shall not relieve the owner from the need for a building permit once the building has been placed on property within the City's jurisdiction.

A deposit to be determined by the Community Development Director with consultation with the various utilities that may be required to assist in the move shall be required to cover expenses incurred by the City in assisting with moving.

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ARTICLE 14

BUILDING PERMITS

9-1401. BUILDING PERMITS.

The Community Development Director or his duly authorized representative shall have the power to enforce the provisions of this Ordinance. No building or other structure shall be erected, constructed, reconstructed, nor shall it be altered without first obtaining a building permit from the Community Development Director to be issued in accordance with the terms of this Ordinance.

9-1402. APPLICATIONS.

Applications for building permits shall be filed with the Community Development Director or his duly authorized representative upon forms prescribed, setting forth among other things, the legal description of the lot, tract or parcel of land, together with a general description of the building or structure to be constructed, erected, or altered thereon including the approximate size and shape, location of the building or structure upon the lot, tract or parcel and the intended use.

No such permit shall be issued for any building, structure or construction unless the same be in conformity in every respect with all the provisions of the Zoning Ordinance and the Building Code of Alliance, Nebraska.

The Community Development Director or his duly authorized representative shall be empowered to act within the provisions of this Ordinance upon all applications for building permits, and the same shall be approved or denied not later than the fifth business day succeeding the day of filing. In the event of refusal to issue a permit upon an application, as herein provided, the applicant may perfect an appeal to the Board of Adjustment.

For each permit issued there shall be charged and collected from the applicant, a fee, in accordance with a schedule approved by the City Council, as provided for in 9-202.

There shall be a separate permit for each building or structure to be constructed, erected or altered, except accessory buildings and appurtenances which may be included in the permit for the main building when construction is simultaneous.

A permit may be revoked by the Community Development Director or his duly authorized representative at any time prior to the completion of the building or structure for which the same was issued, when it shall appear that there is departure from the plans, specifications, or conditions as required under terms of the permit, that the same was procured by false representation or was issued by mistake, or that any of the provisions of the Zoning Ordinance are being violated. Upon the failure, refusal or neglect of any owner, his agent, contractor or duly authorized representative to secure such permit and pay the prescribed fee therefore, as herein provided, the Community Development Director or his duly authorized representative may issue a stop order; provided, however, twenty-four hours written notice of such revocation or order to stop shall be served upon the owner, his agent or contractor, or upon any person employed upon the building or structure for which such permit was issued, and thereafter no such construction shall proceed.

ARTICLE 15

CERTIFICATE OF OCCUPANCY

9-1501. CERTIFICATE OF OCCUPANCY.

Subsequent to the effective date of this article, no change in the character of use or in the occupancy classification of land or of a building shall be made, nor shall any new building be occupied, until a certificate of occupancy has been issued by the Community Development Director or his duly authorized representative. Every certificate of occupancy shall state that the new occupancy complies with all provisions of this article.

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No permit for excavation for, or the erection or alteration of, any building shall be issued before the application has been made and approved for a certificate of occupancy and compliance, and no building or premises shall be occupied until such certificate and permit is issued.

A record of all certificates of occupancy shall be kept on file in the office of the Community Development Department, and copies shall be furnished on request to any person having a proprietary or tenancy interest in land or building affected by such certificate of occupancy.

## ARTICLE 16

### INTERNATIONAL RESIDENTIAL CODE

#### 9-1601. INTERNATIONAL RESIDENTIAL CODE

*The International Residential Code, 2006 2009* Edition, including Appendices A, B, C, D, E, F, G, H, I, J, K, L, M, N, O, P, and Q and any subsequent editions and amendments as published by the International Code Council, be and is hereby adopted as the code of the City of Alliance, Nebraska, and made a part hereof as if fully set out in this ordinance. *The International Residential Code* is adopted for regulating the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of one- and two-family dwellings and townhouses not more than three stories in height in the City of Alliance, Nebraska, and providing for the issuance of permits; and each and all of the regulations, provisions, conditions and terms of such *International Residential Code*, and shall be applicable to all areas of the City's building and zoning jurisdiction, as such jurisdiction may be altered from time to time. A copy of the *International Residential Code, 2006 2009* Edition with the current amendments will be on file in the City of Alliance Community Development Department and open for inspection by the public during normal business hours.

#### 9-1602. REVISIONS

The following sections of the International Residential Code are hereby revised and amended as set forth herein:

##### Section R301.2 (1).

##### Climatic and Geographic Design Criteria

Roof Snow Load:	20 lbs.
Wind Speed (mph):	90
Seismic Design Category:	A
Weathering:	Severe
Frost line depth:	3 feet
Termite:	Slight to moderate
Decay:	None to slight
Winter Design Temperature:	-10°F
Flood Hazards:	1977 adoption of the management of flood hazard areas 1987 current effective FEMA flood hazard map

2. Section R105.2. Work exempt from permits. Exemption from permit requirements of this code shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this code or any other laws or ordinances of this jurisdiction. Permits shall not be required for the following:
  - A. One-story detached accessory structures used as tool and storage sheds, playhouses and similar uses, provided the floor area does not exceed 150 square feet, and the roof ridge height does not exceed 10 feet.
  - B. Sidewalks that are internal to the property and do not connect to the public sidewalk or public right of way.
3. Section R202. Garage, Private. A private garage is a building or a portion of a building which is used primarily for the storage of private or pleasure-type motor vehicles by the tenants of the building or buildings on the premises, where no commercial repair work is allowed, fuel is dispensed, no loud or

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odiferous nuisances occur, which may disturb neighbor's peaceful enjoyment or which is not otherwise allowed in a residential neighborhood.

4. Section 202. Porch. A roofed open area, which may be screened, usually attached to or part of and with direct access to or from a building. A porch becomes a room when the enclosed space is heated or air-conditioned and when the percentage of window to wall area is less than 50 percent.
5. All references to the ICC Electrical Code shall be deleted and shall follow regulations set forth by the electrical code adopted by the City of Alliance.
6. Section R101.1. Insert: City of Alliance, Nebraska
7. Section R108.2. Schedule of Permit Fees. On buildings, structures, electrical, gas, mechanical and plumbing systems or alterations requiring a permit, a fee for each permit shall be paid as required, in accordance with the schedule as established by the City of Alliance.
8. Section R108.6. Added - Reinspections. A reinspection fee may be assessed for each inspection or reinspection when such portion of work for which inspection is called is not complete or when corrections called for are not made. This section is not to be interpreted as requiring reinspection fees the first time a job is rejected for failure to comply with the requirements of this code, but as controlling the practice of calling for inspections before the job is ready for such inspection or reinspection.

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

#### ARTICLE 17

##### INTERNATIONAL PROPERTY MAINTENANCE CODE

##### 9-1701. INTERNATIONAL PROPERTY MAINTENANCE CODE

*The International Property Maintenance Code, 2006 2009 Edition, including Appendices A* and any subsequent editions and amendments as published by the International Code Council, be and is hereby adopted as the code of the City of Alliance, Nebraska, and made a part hereof as if fully set out in this ordinance. *The International Property Maintenance Code* is adopted for the control of building and structures as herein provided; and each and all of the regulations, provisions, penalties, conditions and terms of said *International Property Maintenance Code* are hereby referred to, adopted, and made a part hereof, as if fully set out in this ordinance, with the additions, insertions, deletions and changes, if any, prescribed in this ordinance. Each and all of the regulations, provisions, conditions and terms of such *International Property Maintenance Code* shall be applicable to all areas of the City's building and zoning jurisdiction, as such jurisdiction may be altered from time to time.

A copy of the *International Property Maintenance Code, 2006 2009 Edition* with the current amendments will be on file in the City of Alliance Community Development Department and open for inspection by the public during normal business hours.

##### 9-1702. AMENDMENTS, REVISIONS, AND ADDITIONS

Section 101.1 Title. These regulations shall be known as the *Property Maintenance Code* of Alliance, NE, hereinafter referred to as this code.

Section 103.5 Fees. The fees for activities and services performed by the department in carrying out its responsibilities under this code shall be indicated in the following schedule.

Section 304.14 Insect screens. During the period from January 1<sup>st</sup> to December 31<sup>st</sup>, every door, window and other opening required for ventilation of habitable rooms, food preparation areas, food service areas, or any areas where products to be included or utilized in food for human consumption are processed,

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manufactured, packaged or stored, shall be supplied with approved tightly fitting screens of not less than 16 mesh per inch (16 mesh per 25 mm) and every swinging door shall have a self-closing device in good working condition.

Exception: Screen doors will not be required where other approved means, such as air curtains or insect repellent fans, are employed.

Section 602.3 Heat supply. Every owner and operator of any building who rents, leases or lets one or more dwelling unit, rooming unit, dormitory or guestroom on terms, either expressed or implied, to furnish heat to the occupants thereof shall supply heat during the period of January 1<sup>st</sup> to December 31<sup>st</sup> to maintain temperature of not less than 68° F (20°C) in all habitable rooms, bathrooms, and toilet rooms.

The exception is deleted.

Section 602.4 Occupiable work spaces. Indoor occupiable work spaces shall be supplied with heat during the period from January 1<sup>st</sup> to December 31<sup>st</sup> to maintain a temperature of not less than 65°F (18°C) during the period the spaces are occupied.

Exceptions:

1. Processing, storage and operation areas that require cooling or special temperature conditions.
2. Areas in which persons are primarily engaged in vigorous physical activities.

All references to the ICC Electrical Code shall be deleted and shall follow regulations set forth by the electrical code adopted by the City of Alliance.

## ARTICLE 18

### FUEL GAS CODE

#### 9-1801 FUEL GAS CODE; ADOPTED BY REFERENCE

*The International Fuel Gas Code, 2006 2009 Edition, including Appendices A, B, C, C, and E,* and any subsequent editions and amendments as published by the International Code Council, be and is hereby adopted as the code of the City of Alliance, Nebraska, and made a part hereof as if fully set out in this ordinance. *The International Fuel Gas Code* is adopted for the control of building and structures as herein provided; and each and all of the regulations, provisions, penalties, conditions and terms of said *Fuel Gas Code* are hereby referred to, adopted, and made a part hereof, as if fully set out in this ordinance, with the additions, insertions, deletions and changes, if any, prescribed in this ordinance. Each and all of the regulations, provisions, conditions and terms of such *International Fuel Gas Code* shall be applicable to all areas of the City's building and zoning jurisdiction, as such jurisdiction may be altered from time to time. A copy of the *International Fuel Gas Code, 2006 2009 Edition* with the current amendments will be on file in the City of Alliance Community Development Department and open for inspection by the public during normal business hours.

The following sections are hereby revised:

Section 101.1. Insert: City of Alliance  
 Section 106.5.2. Insert: Current Mechanical Fee Schedule

## ARTICLE 19

### INTERNATIONAL FIRE CODE

#### 9-1901 INTERNATIONAL FIRE CODE; ADOPTED BY REFERENCE

*The International Fire Code, 2006 2009 Edition, including Appendices A, B, C, D, E, F, and G, H and J,* as published by the International Code Council, Inc., and any subsequent editions and amendments as published by the

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International Code Council, be and is hereby adopted as the code of the City of Alliance, Nebraska, and made a part hereof as if fully set out in this ordinance. The *International Fire Code* is adopted for regulating and governing the safeguarding of life and property from fire and explosion hazards arising from the storage, handling and use of hazardous substances, materials and devices, and from conditions hazardous to life or property in the occupancy of buildings and premises in the City of Alliance, Nebraska, and each and all of the regulations, provisions, conditions and terms of such *International Fire Code*. Each and all of the regulations, provisions, conditions and terms of such *International Fire Code* shall be applicable to all areas of the City's building and zoning jurisdiction, as such jurisdiction may be altered from time to time.

A copy of the *International Fire Code*, 2006 2009 Edition with the current amendments will be on file in the City of Alliance Community Development Department and open for inspection by the public during normal business hours.

The following sections of the International Fire Code are hereby revised:

- |                    |  |
|--------------------|--|
| Section 101.1.     | Insert: City of Alliance, Nebraska   |
| Section 111.4.     | Insert: One dollar or more than two hundred dollars.   |
| Section 3204.3.1.1 | Insert: These limits shall be as provided by the zoning regulations of the City of Alliance, and any other code regulation which has been adopted by the City of Alliance, or regulations which are enforced by the State of Nebraska within the jurisdiction of the City of Alliance, and also any applicable portions of NFPA30 Chapter 2. |
| Section 3406.2.4.4 | Insert: These limits shall be as provided by the zoning regulations of the City of Alliance, and any other code regulation which has been adopted by the City of Alliance, or regulations which are enforced by the State of Nebraska within the jurisdiction of the City of Alliance, and also any applicable portions of NFPA30 Chapter 2. |
| Section 3804.2     | Insert: The limits of the Alliance Municipal Codes at Section 9-401(10) are applicable to this section, as are any applicable limitations found at NFPA30 Chapter 2.   |

SECTION 5. That current applicable City Codes of the City of Alliance, Nebraska, and all other ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 6. That if any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The Mayor and City Council hereby declare that it would have passed this ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

SECTION 7. That the Office of the Municipal Clerk is hereby ordered and directed to cause this ordinance to be published.

SECTION 8. That this ordinance and the rules, regulations, provisions, requirements, orders and matters established and adopted hereby shall take effect and be in full force and effect January 1, 2011, or the effective date of this ordinance, whichever is later.

Fire Chief Troy Shoemaker advised Council that Quick Response Residential Sprinklers are designed to release .05 gallons of water per minute at 7 psi for a minimum of 10 minutes. A typical response from the Fire Department is approximately 10 minutes. If they respond quicker than 10 minutes, the Fire Department can shut the sprinkler system off. The sprinkler systems are designed so only the heads above or around the fire are activated. Sprinkler heads can be

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either a wet system or a dry system so that there is only water in the pipes when the sensor calls for water.

Motion by Councilman Kusek, seconded by Councilman Benzel to have an amendment prepared to exempt the section requiring residential sprinklers in single and two family dwellings for further consideration for second reading. The motion also requests the second reading be postponed to the January 6, 2011 regular Council meeting.

Roll call vote with the following results:

Voting Aye: Yeager, Kusek, Benzel, Feldges, Gonzalez.

Voting Nay: None.

Motion carried.

Roll call vote on the first reading of Ordinance No. 2670 with the following results:

Voting Aye: Yeager, Kusek, Benzel, Feldges, Gonzalez.

Voting Nay: None.

Motion carried.

- The next item for Council's consideration was Ordinance No. 2671 authorizing the issuance and sale of Water Revenue Refunding Bonds in an amount not to exceed \$2,050,000.00.

Motion by Councilman Benzel, seconded by Councilman Kusek to approve Ordinance No. 2671 on first reading. City Clerk Jines read the ordinance by title which follows in its entirety:

### **ORDINANCE NO. 2671**

AN ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF WATER REVENUE REFUNDING BONDS, SERIES 2011, OF THE CITY OF ALLIANCE, NEBRASKA, IN A PRINCIPAL AMOUNT NOT TO EXCEED TWO MILLION FIFTY THOUSAND DOLLARS (\$2,050,000) FOR THE PURPOSE OF REFUNDING \$2,120,000 OF THE CITY'S OUTSTANDING WATER REVENUE REFUNDING BONDS, SERIES 2003; PRESCRIBING THE FORM AND CERTAIN TERMS AND DETAILS OF SAID BONDS AND DELEGATING, AUTHORIZING AND DIRECTING THE MAYOR TO EXERCISE HIS INDEPENDENT DISCRETION AND JUDGMENT IN DETERMINING AND FINALIZING CERTAIN TERMS AND PROVISIONS OF THE BONDS NOT SPECIFIED HEREIN; PLEDGING AND HYPOTHECATING THE REVENUE AND EARNINGS OF THE WATER SYSTEM OF THE CITY FOR THE PAYMENT OF SUCH BONDS AND INTEREST THEREON AND PROVIDING FOR THE COLLECTION, SEGREGATION AND APPLICATION OF THE REVENUE OF THE WATER SYSTEM; ENTERING INTO A CONTRACT WITH THE REGISTERED OWNERS OF SUCH BONDS; PROVIDING FOR THE SALE OF SUCH BONDS; PROVIDING FOR THE APPLICATION OF THE PROCEEDS OF SUCH BONDS; AUTHORIZING THE DELIVERY OF SUCH BONDS TO THE PURCHASER AND PROVIDING FOR THE PUBLICATION OF THE ORDINANCE IN PAMPHLET FORM

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

Section 1. The Mayor and Council of the City of Alliance, Nebraska (the "City") hereby find and determine:

(a) The City owns and operates a waterworks plant and system (which plant and system, together with any additions, extensions and improvements thereto hereafter made is hereinafter referred to as the "Water System") which represents a revenue-producing undertaking of the City.

(b) The City has previously issued \$3,595,000 principal amount of its Water Revenue Refunding Bonds, Series 2003, dated July 10, 2003 (the "Outstanding Bonds"), pursuant to Ordinance No. 2467, duly passed by the Council and approved by the Mayor on June 5, 2003 (the "2003 Ordinance"); which are a lien upon and secured by a pledge of the revenue and earnings of the Water System, bearing interest and maturing as follows:

<u>Maturity</u> <u>(April 15)</u>	<u>Principal</u> <u>Amount</u>	<u>Interest</u> <u>Rate</u>
2011	\$240,000	3.25%
2012	245,000	3.40
2013	250,000	3.50
2014	265,000	3.65
2015	275,000	3.80
2016	285,000	3.90
2017	295,000	4.00
2018	265,000	4.10

(c) The Outstanding 2003 Bonds constitute the only presently outstanding indebtedness of the City payable from the revenues of the Water System and are redeemable at the option of the City at any time on or after July 10, 2008 at a redemption price equal to 100% of the principal amount being redeemed, plus accrued interest to the date fixed for redemption.

(d) All of the Outstanding Bonds are unpaid and a legal liability against the City, provision for the payment of which may be made by the lawful issuance and sale of water revenue refunding bonds of the City pursuant to Sections 10-142, and 18-1803 to 18-1805, inclusive, Reissue Revised Statutes of Nebraska, as amended.

(e) In order to effect a savings in interest costs, it is necessary and advisable for the City to provide for payment in full of the Outstanding Bonds as called for redemption on the date determined by the Mayor, through the issuance of water revenue refunding bonds in a principal amount not to exceed \$2,050,000.

(f) All conditions, acts and things required by law to exist or to be done precedent to the issuance of water revenue refunding bonds (the "Series 2011 Bonds") payable from the revenues of the Water System as provided for in this ordinance (the "Ordinance") do exist and have been done and performed in regular and due time and form as required by law.

Section 2. In addition to the words and terms defined elsewhere in this Ordinance, the following definitions shall apply, unless the context shall clearly indicate otherwise:

"Additional Bonds" shall mean any and all bonds hereafter issued by the City pursuant to the terms of this Ordinance which are equal in lien to the Series 2011 Bonds.

"Average Annual Debt Service Requirements" shall mean that number computed by adding all of the principal and interest due when computed to the absolute maturity of the bonds for which such computation is required and dividing by the number of years remaining that the longest bond of any issue for which such computation is required has to run to maturity. In making such computation, the principal of any bonds for which

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mandatory redemptions are scheduled shall be treated as maturing in accordance with such schedule of mandatory redemptions.

“Bond” or “Bonds,” or “bond” or “bonds” shall mean the bonds issued under this Ordinance, as the same may from time to time be amended and supplemented.

“Bondholder” (whether or not such word shall begin with a capital letter or a lower case letter) or “holder of a Bond” or “owner of a Bond” shall mean any person who shall be the registered owner of any bonds or his duly authorized attorney in fact representative or assign.

“Bond Fund” shall mean the City of Alliance, Nebraska, Water Revenue Bond Fund created and established by the City pursuant to Section 12(c) of this Ordinance.

“City” shall mean the City of Alliance, Nebraska, or any successor thereto.

“Fiscal Year” shall mean the fiscal year of the City as established from time to time.

“Net Revenues” shall mean the gross revenues derived by the City from the ownership or operation of the Water System, including investment income, but not including any income from sale or disposition of any property belonging to or forming a part of the Water System, less the ordinary expenses to the City of operating and maintaining the Water System payable from the Operation and Maintenance Fund as previously established. Operation and maintenance expenses for purposes of determining Net Revenues shall not include depreciation, amortization or interest on any bonds or other indebtedness. Net Revenues for all purposes of this Ordinance shall be shown by an audit for the Fiscal Year in question as conducted by independent certified public accountants.

“Operation and Maintenance Fund” shall mean the City of Alliance, Nebraska, Water Revenue Operation and Maintenance Fund created and established by the City pursuant to Section 12(b) of this Ordinance.

“Ordinance” shall mean this ordinance as the same may be amended and supplemented from time to time.

“Outstanding” when used with reference to Bonds and whether such word when used shall begin with a capital or lower case letter, shall mean, as of any date, Bonds theretofore or thereupon issued pursuant to the Ordinance except:

- (a) Any Bonds canceled by a trustee or a paying agent and registrar or paid at or prior to such date;
- (b) Bonds in lieu of or in substitution for which other Bonds shall have been delivered pursuant to the Ordinance; and
- (c) Bonds deemed to be no longer outstanding hereunder as provided in Section 23 hereof.

“Paying Agent” shall mean The Fremont National Bank and Trust Company, Fremont, Nebraska, as appointed to act as the paying agent and registrar for the Series 2011 Bonds pursuant to Section 4 hereof.

“Reserve Fund” shall mean the City of Alliance, Nebraska, Water Revenue Bond Reserve Fund created and established by the City pursuant to Section 12(d) of this Ordinance, in which there shall be established an account appropriately designated for each series of Bonds issued pursuant to this Ordinance.

“Reserve Requirement” shall mean, with respect to a series of Bonds, be the least of (i) the maximum annual debt service for such series of Bonds, or (ii) 125% of average annual debt service for such series of Bonds, but in any event, the amount required to be maintained in the bond Reserve Fund shall not at any time exceed the maximum amount permitted to be invested without yield restriction under Sections 103(b) and 148 of the Internal Revenue Code of 1986, as amended, and applicable regulation of the United States Treasury Department.

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“Series 2003 Bonds” shall mean the City’s \$3,595,000 original principal amount of Water Revenue Refunding Bonds, Series 2003, authorized pursuant to Ordinance No. 2467 of the City, of which \$2,120,000 are presently outstanding and unpaid.

“Series 2011 Bonds” shall mean the City’s not to exceed \$2,050,000 principal amount of Water Revenue Refunding Bonds, Series 2011, authorized pursuant to Section 3 of this Ordinance.

“Tax Certificate” means the Federal Tax Certificate executed and delivered by the City in connection with the issuance of the Series 2011 Bonds, as the same may be amended or supplemented in accordance with the provisions thereof.

“Water System” shall mean and include the entire plant and system used by the City for the pumping, transmission, treatment and distribution of water, including all appurtenances and facilities connected therewith or relating thereto, together with all extensions, improvements, betterments, and additions thereto hereafter made or acquired by the City, whether now or hereafter acquired, and whether located within or without the corporate boundaries of the City.

Section 3. (a) For the purposes described in Section 1 hereof, there shall be and there are hereby ordered issued the negotiable bonds of the City of Alliance, Nebraska, to be known as “Water Revenue Refunding Bonds, Series 2011” (the “Series 2011 Bonds”), in a principal amount not to exceed Two Million Fifty Thousand Dollars (\$2,050,000), with such Series 2011 Bonds bearing interest at the rates per annum and maturing on April 15 of the years shown in the principal amounts as determined by the Mayor in accordance with the provisions of Section 3(c).

(b) The Series 2011 Bonds shall be issued in fully registered form in the denomination of \$5,000 or any integral multiple thereof. The date of original issue for the Series 2011 Bonds shall be the date of delivery thereof and payment therefor. Interest on the Series 2011 Bonds, at the respective rates for each maturity, shall be payable semiannually on April 15 and October 15 of each year beginning April 15, 2011 (each of such dates an “Interest Payment Date”) and the Series 2011 Bonds shall bear such interest from the date of original issue or the most recent Interest Payment Date, whichever is later. Interest shall be computed on the basis of a 360-day year consisting of twelve 30-day months. The interest due on each Interest Payment Date shall be payable to the registered owners of record as of the close of business on the last business day of the month immediately preceding the month in which each Interest Payment Date occurs (the “Record Date”), subject to the provisions of Section 5 hereof. The Series 2011 Bonds shall be numbered from 1 upwards in the order of their issuance. No Series 2011 Bond shall be issued originally or upon transfer or partial redemption having more than one principal maturity. The initial bond numbering and principal amounts for each of the Series 2011 Bonds issued shall be designated by the City’s Treasurer as directed by the initial purchaser thereof. Payments of interest due prior to maturity or earlier redemption on the Series 2011 Bonds shall be made by the Paying Agent, as designated pursuant to Section 4 hereof, by mailing a check or draft in the amount due for such interest on each Interest Payment Date to the registered owner of each Series 2011 Bond, as of the Record Date for such Interest Payment Date, to such owner’s registered address as shown on the books of registration as required to be maintained in Section 4 hereof. Payments of principal and unpaid accrued interest thereon due at maturity or at any date fixed for redemption prior to maturity shall be made by the Paying Agent to the registered owners upon presentation and surrender of the Series 2011 Bonds to the Paying Agent. The City and the Paying Agent may treat the registered owner of any Series 2011 Bond as the absolute owner of such bond for the purpose of making payments thereon and for all other purposes and neither the City nor the Paying Agent shall be affected by any notice or knowledge to the contrary, whether such bond or any installment of interest due thereon shall be overdue or not. All payments on account of interest or principal made to the registered owner of any Series 2011 Bond in accordance with the terms of this Ordinance shall be valid and effectual and shall be a discharge of the City and the Paying Agent, in respect of the liability upon the Series 2011 Bonds or claims for interest to the extent of the sum or sums so paid.

(c) The Mayor is hereby authorized and directed, in the exercise of his own independent judgment and absolute discretion, to hereafter, from time to time, specify, set, designate, determine, establish and appoint, as the case may be, and in each case in accordance with and subject to the provisions of this Ordinance: (1) the date of original issue of the Series 2011 Bonds, (2) the aggregate principal amount of Series 2011 Bonds to be issued, which shall in no event exceed \$2,050,000, (3) the years in which a principal maturity of the Bonds shall occur and the principal amount of Bonds to mature April 15 of each of such years, (4) the date of final maturity of the Bonds, which shall in no event

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be later than April 15, 2018, (5) the date or dates upon which the Series 2011 Bonds shall be sold, (6) the rate or rates of interest to be carried by each maturity of the Series 2011 Bonds such that the average interest rate on the Series 2011 Bonds shall not exceed 2.80%, (7) all of the other terms of the Bonds not otherwise determined or fixed by the provisions of this Ordinance, (8) the underwriting discount, not to exceed 1.00% and the price, not less than 99.00% of the principal amount thereof, at which the Series 2011 Bonds shall be sold pursuant to the Purchase Agreement (herein defined), (9) the form and contents of any preliminary and final official statements or other offering materials of the City utilized in connection with any offering or sale of the Series 2011 Bonds to the public, (10) the form, content, terms and provisions of any published and/or mailed notice of redemption with respect to redemption and retirement of any of the Outstanding Bonds, and (11) the form, content, terms, and provisions of any closing and other documentation executed and delivered by the City in connection with authorization, issuance, sale and delivery of the Series 2011 Bonds.

Section 4. The Fremont National Bank and Trust Company, Fremont, Nebraska, is hereby designated as Paying Agent for the Series 2011 Bonds. The Paying Agent shall serve in such capacities under the terms of an agreement entitled "Paying Agent Agreement" between the City and the Paying Agent, the form of which is hereby approved. The Mayor and Clerk are hereby authorized to execute said agreement in substantially the form presented but with such changes as they shall deem appropriate or necessary. The Paying Agent shall keep and maintain for the City books for the registration and transfer of the Series 2011 Bonds at its principal corporate trust office. The names and registered addresses of the registered owner or owners of the Series 2011 Bonds shall at all times be recorded in such books. Any Series 2011 Bond may be transferred pursuant to its provisions at the principal corporate trust office of the Paying Agent by surrender of such bond for cancellation, accompanied by a written instrument of transfer, in form satisfactory to the Paying Agent, duly executed by the registered owner in person or by such owner's duly authorized agent, and thereupon the Paying Agent on behalf of the City will deliver at its office (or send by registered mail to the transferee owner or owners thereof at such transferee owner's or owners' risk and expense), registered in the name of such transferee owner or owners, a new Series 2011 Bond or Series 2011 Bonds of the same interest rate, aggregate principal amount and maturity. To the extent of the denominations authorized for the Series 2011 Bonds by this Ordinance, one such bond may be transferred for several such bonds of the same interest rate and maturity, and for a like aggregate principal amount, and several such bonds may be transferred for one or several such bonds, respectively, of the same interest rate and maturity and for a like aggregate principal amount. In every case of transfer of a Series 2011 Bond, the surrendered Series 2011 Bond or Bonds shall be canceled and destroyed. All Series 2011 Bonds issued upon transfer of the Series 2011 Bonds so surrendered shall be valid obligations of the City evidencing the same obligations as the Series 2011 Bonds surrendered and shall be entitled to all the benefits and protection of this Ordinance to the same extent as the Series 2011 Bonds upon transfer of which they were delivered. The City and the Paying Agent shall not be required to transfer any Series 2011 Bond during any period from any Record Date until its immediately following Interest Payment Date or to transfer any Series 2011 Bond called for redemption for a period of 30 days next preceding the date fixed for redemption.

Section 5. In the event that payments of interest due on the Series 2011 Bonds on an Interest Payment Date are not timely made, such interest shall cease to be payable to the registered owners as of the Record Date for such Interest Payment Date and shall be payable to the registered owners of the Series 2011 Bonds as of a special date of record for payment of such defaulted interest as shall be designated by the Paying Agent whenever money for the purpose of paying such defaulted interest become available.

Section 6. If the date for payment of the principal of or interest on the Series 2011 Bonds shall be a Saturday, Sunday, legal holiday or a day on which banking institutions in the City where the principal corporate trust office of the Paying Agent is located are authorized by law or executive order to close, then the date for such payment shall be the next succeeding day which is not a Saturday, Sunday, legal holiday or a day on which such banking institutions are authorized to close, and payment on such day shall have the same force and effect as if made on the nominal date of payment.

Section 7. Series 2011 Bonds maturing on or after April 15, 2011 shall be subject to redemption, in whole or in part, prior to maturity at any time on or after the fifth anniversary of the date of original issuance of the Series 2011 Bonds at a redemption price equal to 100% of the principal amount thereof plus accrued interest on the principal amount redeemed to the date fixed for redemption. The City may select the Series 2011 Bonds to be redeemed in its sole discretion, but the Series 2011 Bonds shall be redeemed only in amounts of \$5,000 or integral

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multiples thereof. Any Series 2011 Bond redeemed in part only shall be surrendered to the Paying Agent in exchange for a new Series 2011 Bond evidencing the unredeemed principal thereof. Notice of redemption of any Series 2011 Bond called for redemption shall be given at the direction of the City by the Paying Agent by mail not less than 30 days prior to the date fixed for redemption, first class, postage prepaid, sent to the registered owner of such Series 2011 Bond at said owner's registered address. Such notice shall designate the Series 2011 Bond or Bonds to be redeemed by maturity or otherwise, the date of original issue and the date fixed for redemption and shall state that such bond or bonds are to be presented for prepayment at the principal corporate trust office of the Paying Agent. In case of any Series 2011 Bond partially redeemed, such notice shall specify the portion of the principal amount of such bond to be redeemed. No defect in the mailing of notice for any Series 2011 Bond shall affect the sufficiency of the proceedings of the City designating the Series 2011 Bonds called for redemption or the effectiveness of such call for Series 2011 Bonds for which notice by mail has been properly given and the City shall have the right to further direct notice of redemption for any such bond for which defective notice has been given.

Section 8. The Series 2011 Bonds shall be in substantially the following form:

UNITED STATES OF AMERICA  
STATE OF NEBRASKA  
COUNTY OF BOX BUTTE  
CITY OF ALLIANCE  
WATER REVENUE REFUNDING BOND, SERIES 2011

No. \_\_\_\_\_ \$ \_\_\_\_\_

<u>Interest Rate</u>	<u>Maturity Date</u>	<u>Date of Original Issue</u>	<u>CUSIP No.</u>
	April 15, 20__	_____, 2010	

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT: \_\_\_\_\_ Thousand Dollars (\$ \_\_\_\_\_)

The CITY OF ALLIANCE, NEBRASKA (the "City"), hereby acknowledges itself to owe and for value received promises to pay, but only from the special sources hereinafter described, to the registered owner specified above, or registered assigns, the principal amount specified above in lawful money of the United States of America on the date of maturity specified above with interest thereon to maturity (or earlier redemption) from the date of original issue or most recent Interest Payment Date, whichever is later, at the rate per annum specified above (said interest to be computed on the basis of a 360-day year consisting of twelve 30-day months), payable semiannually on April 15 and October 15 of each year beginning April 15, 2011 (each of such dates an "Interest Payment Date"). Such interest shall be computed on the basis of a 360-day year consisting of twelve 30-day months. The principal hereof and unpaid accrued interest hereon due at maturity or upon earlier redemption are payable upon presentation and surrender of this bond at the principal corporate trust office of The Fremont National Bank and Trust Company, the Bond Registrar Paying Agent (the "Paying Agent"), in Fremont, Nebraska. Interest on this bond due prior to maturity or earlier redemption will be paid on each Interest Payment Date by a check or draft mailed by the Paying Agent to the registered owner of this bond, as shown on the books of record maintained by the Paying Agent, at the close of business on the last business day of the month immediately preceding the month in which the Interest Payment Date occurs, to such owner's address as shown on such books and records. Any interest not so timely paid shall cease to be payable to the person entitled thereto as of the record date such interest was payable, and shall be payable to the person who is the registered owner of this bond (or of one or more predecessor bonds hereto) on such special record date for payment of such defaulted interest as shall be fixed by the Paying Agent whenever money for such purpose become available.

This bond is one of an issue of fully registered bonds of the total principal amount of \_\_\_\_\_  
\_\_\_\_\_ Thousand Dollars (\$ \_\_\_\_\_), of even date and like tenor except as to date of maturity, rate of interest and denomination which were issued by the City for the purpose of providing for the payment and redemption of \$2,120,000 aggregate principal amount of the City's Water Revenue Refunding Bonds, Series 2003, date of original issue – July 10, 2003 in pursuance of Sections 10-142 and 18-1803 to 18-1805, inclusive, Reissue Revised Statutes of Nebraska, as amended, and has been duly

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authorized by Ordinance No. \_\_\_\_\_ (the "Ordinance") legally passed, approved and published and by proceedings duly had by the Mayor and Council of said City.

Any or all of the bonds of such issue maturing on or after April 15, 2016, are subject to redemption at the option of the City, in whole or in part, at any time on or after the fifth anniversary of the Date of Original Issue, at a redemption price equal to 100% of the principal amount thereof plus interest accrued on such principal amount to the date fixed for redemption. Notice of redemption shall be given by first-class mail, postage prepaid, to the registered owner of any bond to be redeemed at said registered owner's address in the manner specified in the ordinance authorizing said issue of bonds. Individual bonds may be redeemed in part but only in \$5,000 amounts or integral multiples thereof.

This bond is transferable by the registered owner or such owner's attorney duly authorized in writing at the principal corporate trust office of the Paying Agent upon surrender and cancellation of this bond, and thereupon a new bond or bonds of the same aggregate principal amount, interest rate and maturity will be issued to the transferee as provided in the Ordinance authorizing said issue of bonds, subject to the limitations therein prescribed. The City, the Paying Agent and any other person may treat the person in whose name this bond is registered as the absolute owner hereof for the purpose of receiving payment due hereunder and for all purposes and shall not be affected by any notice to the contrary, whether this bond be overdue or not.

If the date for payment of the principal of or interest on this bond shall be a Saturday, Sunday, legal holiday or a day on which banking institutions in the city where the principal corporate trust office of the Paying Agent is located are authorized by law or executive order to close, then the date for such payment shall be the next succeeding day which is not a Saturday, Sunday, legal holiday or a day on which such banking institutions are authorized to close, and payment on such day shall have the same force and effect as if made on the nominal date of payment.

The revenue and earnings of the water system of the City of Alliance, as now owned or hereafter acquired, including all improvements, enlargements, extensions and betterments thereof (the "Water System") are pledged and hypothecated for the payment of this bond and the other bonds of this issue and for any additional bonds of equal priority issued in accordance with the Ordinance.

The Ordinance sets forth the covenants and obligations of the City with respect to the Water System and the application of the revenues to be derived therefrom, which revenues are by the terms of the Ordinance to be deposited into the "Water System Revenue Fund" of the City, which fund shall be used only (a) to pay the reasonable expenses of operating, maintaining and repairing the Water System, (b) to set aside and pay into the City of Alliance, Nebraska, Water Revenue Bond Fund (the "Bond Fund"), amounts sufficient to pay as and when the same severally become due, the principal of and interest on the bonds of this issue, and on any additional bonds or notes of the City that are hereafter issued under the authority of the laws of the State of Nebraska and ordinances of the City which are payable by their terms from the revenues of the Water System, (c) to set aside and pay into the City of Alliance, Nebraska Water Revenue Bond Reserve Fund (the "Reserve Fund"), reasonable reserves for the payment of the principal of and interest on bonds as provided in the Ordinance, (d) to make replacements, improvements, enlargements, extensions and betterments of and to the Water System, and (e) otherwise as specified in the Ordinance. This bond does not constitute a general obligation of the City or an indebtedness of the City within any constitutional or statutory limitation.

The City hereby covenants with the owner of this bond that it will keep and perform all covenants and agreements contained in the Ordinance authorizing this issue of Water Revenue Refunding Bonds and will fix, establish, maintain and collect rates, fees or charges for the use of or services rendered by the Water System including all improvements, extensions, enlargements and betterments thereof which will provide revenue sufficient to pay the cost of operating, maintaining and repairing the Water System, pay the principal of and interest on this bond and on the series of which it is a part, the principal of and interest on any additional bonds of the City hereafter issued in accordance with the provision of the Ordinance and payable from said revenues, and provide adequate reserves therefor. In accordance with the provisions of Sections 18-1803 through 18-1805, inclusive, Reissue Revised Statutes of Nebraska, as amended, this bond and the series of which it is a part shall be a lien only upon the revenue and earnings of the Water System and for the payment of the principal of and interest on said bonds, including this bond, a sufficient portion of the revenues and earnings of the Water System is hereby irrevocably

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pledged. This bond and the series of which it is a part have been authorized and issued under the provisions of the Ordinance, to which Ordinance reference is made for a description of the covenants of the City with respect to the collection, segregation and application of the revenue and the earnings of the Water System, the nature and extent of the security for such bonds, the rights, duties and obligations of the City with respect thereto and the rights of the owners thereof. Under the terms of the Ordinance, the City has the right to issue additional parity bonds payable from the same sources and secured by the same revenues and earnings as this bond and the series of which it is a part provided, however, that such additional bonds may be so issued only in accordance with and subject to the covenants, conditions and restrictions relating thereto set forth in the Ordinance. The holder of this bond shall have no right to enforce the provision of the Ordinance or to institute action to enforce the covenants therein, or to take any action with respect to any event of default under the Ordinance or to institute, appear in or defend any suit or other proceedings with respect thereto, except as provided in the Ordinance.

The City has, in the Ordinance, designated the Bonds as "qualified tax-exempt obligations" pursuant to Section 265(b)(3)(B)(i)(III) of the Internal Revenue Code of 1986, as amended.

This bond shall not be valid and binding on the City until authenticated by the Paying Agent.

IT IS HEREBY CERTIFIED AND WARRANTED that all conditions, acts and things required by law to exist or to be done precedent to and in the issuance of this bond and the series of which it is a part did exist, did happen and were done and performed in regular and due form and time as required by law.

IN WITNESS WHEREOF, the Mayor and Council of the City of Alliance, Nebraska, have caused this bond to be executed on behalf of the City with the facsimile signatures of the Mayor and the Clerk and by causing the official seal of the City to be imprinted hereon, all as of the date of original issue specified above.

CITY OF ALLIANCE, NEBRASKA

ATTEST:

(facsimile signature)

\_\_\_\_\_  
Mayor

(facsimile signature)

\_\_\_\_\_  
Clerk

(SEAL)

## CERTIFICATE OF AUTHENTICATION

This bond is one of the bonds authorized by ordinance of the Mayor and Council of the City of Alliance, Nebraska, described in the foregoing bond.

THE FREMONT NATIONAL BANK AND TRUST  
COMPANY, Fremont, NebraskaBy: \_\_\_\_\_  
Authorized Signature*[The remainder of this page intentionally left blank]*

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## ASSIGNMENT

FOR VALUE RECEIVED, the undersigned hereby sells, assigns and transfers unto

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 Print or Type Name, Address and Social Security Number  
 or other Taxpayer Identification Number of Transferee

the within Bond and all rights thereunder, and hereby irrevocably constitutes and appoints \_\_\_\_\_ agent to transfer the within Bond on the books kept by the Paying Agent for the registration thereof, with full power of substitution in the premises.

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

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 NOTICE: The signature to this assignment must correspond with the name of the Registered Owner as it appears upon the face of the within Bond in every particular.

Signature Guaranteed By:

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 (Name of Eligible Guarantor Institution as defined by  
 SEC Rule 17 Ad-15 (17 CFR 240.17 Ad-15))

 By: \_\_\_\_\_  
 Title: \_\_\_\_\_

Section 9. Each of the Series 2011 Bonds shall be executed on behalf of the City with the facsimile signatures of the Mayor and the Clerk and shall have imprinted thereon the City's seal. The Series 2011 Bonds shall be issued initially as "book-entry-only" bonds under the services of The Depository Trust Company (the "Depository"), with one typewritten bond per maturity being issued to the Depository. In such connection said officers are authorized to execute and deliver a Letter of Representations (the "Letter of Representations") in the form required by the Depository, for and on behalf of the City, which shall thereafter govern matters with respect to registration, transfer, payment and redemption of the Series 2011 Bonds. In the event of issuance of the Series 2011 Bonds as "book-entry-only" bonds, the following provisions shall apply:

(a) The City and the Paying Agent shall have no responsibility or obligation to any broker-dealer, bank or other financial institution for which the Depository holds Series 2011 Bonds as securities depository (each, a "Bond Participant") or to any person who is an actual purchaser of a Series 2011 Bond from a Bond Participant while the Series 2011 Bonds are in book-entry form (each, a "Beneficial Owner") with respect to the following:

(i) the accuracy of the records of the Depository, any nominees of the Depository or any Bond Participant with respect to any ownership interest in the Series 2011 Bonds,

(ii) the delivery to any Bond Participant, any Beneficial Owner or any other person, other than the Depository, of any notice with respect to the Series 2011 Bonds, including any notice of redemption, or

(iii) the payment to any Bond Participant, any Beneficial Owner or any other person, other than the Depository, of any amount with respect to the Series 2011 Bonds. The Paying Agent shall make payments with respect to the Series 2011 Bonds only to or upon the order of the Depository or its nominee, and all such payments shall be valid and effective fully to satisfy and discharge the obligations with respect to such Series 2011 Bonds to the extent of the sum or sums

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so paid. No person other than the Depository shall receive an authenticated Bond, except as provided in (e) below.

(b) Upon receipt by the Paying Agent of written notice from the Depository to the effect that the Depository is unable or unwilling to discharge its responsibilities, the Paying Agent shall issue, transfer and exchange Series 2011 Bonds requested by the Depository in appropriate amounts. Whenever the Depository requests the Paying Agent to do so, the Paying Agent will cooperate with the Depository in taking appropriate action after reasonable notice (i) to arrange, with the prior written consent of the City, for a substitute depository willing and able upon reasonable and customary terms to maintain custody of the Series 2011 Bonds or (ii) to make available Series 2011 Bonds registered in whatever name or names as the Beneficial Owners transferring or exchanging such Series 2011 Bonds shall designate.

(c) If the City determines that it is desirable that certificates representing the Series 2011 Bonds be delivered to the ultimate beneficial owners of the Series 2011 Bonds and so notifies the Paying Agent in writing, the Paying Agent shall so notify the Depository, whereupon the Depository will notify the Bond Participants of the availability through the Depository of bond certificates representing the Series 2011 Bonds. In such event, the Paying Agent shall issue, transfer and exchange bond certificates representing the Series 2011 Bonds as requested by the Depository in appropriate amounts and in authorized denominations.

(d) Notwithstanding any other provision of this Ordinance to the contrary, so long as any Series 2011 Bond is registered in the name of the Depository or any nominee thereof, all payments with respect to such Series 2011 Bond and all notices with respect to such Series 2011 Bond shall be made and given, respectively, to the Depository as provided in the Letter of Representations.

(e) Registered ownership of the Series 2011 Bonds may be transferred on the books of registration maintained by the Paying Agent, and the Series 2011 Bonds may be delivered in physical form to the following:

(i) any successor securities depository or its nominee;

(ii) any person, upon (A) the resignation of the Depository from its functions as depository or (B) termination of the use of the Depository pursuant to this Section and the terms of the Paying Agent Agreement.

(f) In the event of any partial redemption of a Series 2011 Bond unless and until such partially redeemed bond has been replaced in accordance with the provisions of this Ordinance, the books and records of the Paying Agent shall govern and establish the principal amount of such bond as is then outstanding and all of the Series 2011 Bonds issued to the Depository or its nominee shall contain a legend to such effect.

If for any reason the Depository resigns and is not replaced, the City shall immediately provide a supply of printed bond certificates, duly executed by manual or facsimile signatures of the Mayor and Clerk and sealed with the City's seal, for issuance upon the transfers from the Depository and subsequent transfers or in the event of partial redemption. In the event that such supply of certificates shall be insufficient to meet the requirements of the Paying Agent for issuance of replacement certificates upon transfer or partial redemption, the City agrees to order printed an additional supply of such certificates and to direct their execution by manual or facsimile signatures of its then duly qualified and acting Mayor and Clerk and by imprinting thereon or affixing thereto the City's seal. In case any officer whose signature or facsimile thereof shall appear on any Series 2011 Bond shall cease to be such officer before the delivery of such bond (including such certificates delivered to the Paying Agent for issuance upon transfer or partial redemption), such signature or such facsimile signature shall nevertheless be valid and sufficient for all purposes the same as if such officer or officers had remained in office until the delivery of such bond. The Series 2011 Bonds shall not be valid and binding on the City until authenticated by the Paying Agent. The City Treasurer shall cause the Series 2011 Bonds to be registered in the office of the Auditor of Public Accounts of the State of Nebraska and in the office of the City Treasurer as finance officer of the City. Thereafter the Series 2011 Bonds shall be delivered to the Paying Agent for registration and authentication. Upon execution, registration, and

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authentication of the Series 2011 Bonds, they shall be delivered to the City Treasurer, who is authorized to deliver them to D.A. Davidson & Co., as underwriter thereof (the "Underwriter"), upon receipt of the purchase price determined by the Mayor in accordance with the provisions of Section 3(c). The Underwriter shall have the right to direct the registration of the Series 2011 Bonds and the denominations thereof within each maturity, subject to the restrictions of this Ordinance.

Section 10. The Clerk shall make and certify duplicate transcripts of the proceedings of the Mayor and Council with respect to the Series 2011 Bonds, one of which shall be delivered to the Underwriter.

Section 11. The proceeds of the Series 2011 Bonds herein authorized, together with all amounts held by the City with respect to the Outstanding Bonds, shall be applied as follows:

(a) Accrued interest, if any, received upon closing of the Series 2011 Bonds shall be applied to interest falling due on the Series 2011 Bonds on April 15, 2011.

(b) An amount equal to the Reserve Requirement with respect to the Series 2011 Bonds shall be deposited into the 2010 Account in the Reserve Fund from amounts held in the 2003 Account in the Reserve Fund established with respect to the Outstanding Bonds.

(c) The following amounts shall be transferred to the Paying Agent for the Outstanding Bonds and used and applied on the Redemption Date for the payment and redemption of the Outstanding Bonds:

(i) All amount held in the Bond Fund with respect to the Outstanding Bonds;

(ii) Any balance remaining in the 2003 Account of the Reserve Fund established with respect to the Outstanding Bonds after the deposit required by paragraph (b) above has been made; and

(iii) Such amount from the proceeds of the Series 2011 Bonds as shall be necessary when added to the amounts set forth in (i) and (ii) above to provide for the payment and redemption in full of the Outstanding Bonds on the Redemption Date.

(d) Any proceeds of the Series 2011 Bonds remaining after the deposits required by (a), (b) and (c) above have been made shall be used by the City to pay the costs of issuance of the Series 2011 Bonds.

Section 12. The revenues and earnings of the Water System, as now existing or hereafter acquired, are hereby pledged and hypothecated for the payment of the Series 2011 and any Additional Bonds of equal priority issued as authorized by this Ordinance and interest on such Series 2011 Bonds and any such Additional Bonds. The City does hereby agree with the holders of said Series 2011 Bonds and Additional Bonds as follows:

(a) **WATER REVENUE FUND** - The entire gross revenues and income derived from the operation of the Water System shall be set aside as collected and deposited in a separate fund previously established and designated as the "Water Revenue Fund." For purposes of allocating the money in the Water Revenue Fund, the City shall maintain the following funds: (1) "City of Alliance, Nebraska, Water Revenue Operation and Maintenance Fund" (the "Operation and Maintenance Fund"), (2) "City of Alliance, Nebraska, Water Revenue Bond Fund" (the "Bond Fund"), and (3) "City of Alliance, Nebraska, Water Revenue Bond Reserve Fund" (the "Reserve Fund").

(b) **OPERATION AND MAINTENANCE FUND** - There shall first be deposited to said Operation and Maintenance Fund an amount sufficient to pay the reasonable cost of operating and maintaining the Water System. All amounts credited to said Operation and Maintenance Fund shall be expended and used by the City for the sole purpose of paying the reasonable and proper expenses of operating and maintaining the Water System, and keeping the same in good repair and working order, including, without limiting the generality of the foregoing, salaries, wages, cost of materials, supplies, insurance and provisions for employees' retirement plans, if any, and cost of electricity.

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(c) BOND FUND - After depositing each month in the Operation and Maintenance Fund the amount required to pay the reasonable cost of operating and maintaining the Water System, the City shall next pay and deposit on the first day of each month from said Water Revenue Fund to the Bond Fund, to the extent necessary to meet the respective due dates of all interest on and the principal of the Bonds herein authorized, starting with the month of February, 2011, the following amounts:

(1) Beginning February 1, 2011 and on the first day of each month thereafter, so long as the Series 2011 Bonds remain outstanding, an amount such that if the same amount is deposited in the Bond Fund each month there shall be on deposit in the Bond Fund on each Interest Payment Date an amount equal to the interest becoming due on the Series 2011 Bonds on such Interest Payment Date;

(2) Beginning February 1, 2011 and on the first day of each month thereafter, so long as the Series 2011 Bonds remain outstanding, an amount such that if the same amount is deposited in the Bond Fund each month there shall be on deposit in the Bond Fund on the maturity date of any Series 2011 Bonds an amount equal to the principal becoming due on the Series 2011 Bonds on such maturity date;

The City Treasurer is hereby authorized and directed, without further authorization, to withdraw money credited to the Bond Fund, or if the money in such Fund is insufficient, then from the Reserve Fund, an amount sufficient to pay, when due, the principal of and interest on the Series 2011 Bonds or any Additional Bonds and to transfer the appropriate amounts due to the Paying Agent (or the designated paying agent for any Additional Bonds), on or before each principal and interest payment date. Upon the issuance of any Additional Bonds pursuant to this Ordinance, appropriate additional credits to the Bond Fund shall be provided for sufficient to pay principal and interest on said Additional Bonds.

(d) RESERVE FUND - Upon the issuance of the Series 2011 Bonds, the City shall deposit into the 2011 Account which is hereby established in the Reserve Fund from amounts held in the 2003 Account in the reserve fund established with respect to the Refunded Bonds an amount equal to the Reserve Requirement for the Series 2011 Bonds. In the event that Additional Bonds are issued pursuant to Section 15 of this Ordinance, the ordinance authorizing such Additional Bonds shall provide for the establishment of an Account in the Reserve Fund, appropriately designated, for such series of Additional Bonds and for the deposit into such Account in the Reserve Fund of an amount that will cause the amount on deposit in such Account in the Reserve Fund to equal the Reserve Requirement for such Additional Bonds. All sums credited to and deposited in any Account in said Reserve Fund shall be used and expended by the City solely and only to prevent any default in the payment of the principal of or interest on the series of Bonds for which such Account was established, if the money in the Bond Fund is insufficient to pay the principal of or interest on such series of Bonds as and when they become due, and if no other funds are available to pay said principal or interest, or both. Balances in any Account in the Reserve Fund may be used to pay the principal of, redemption premium, if any, and interest on Bonds of any series only if all of the Outstanding Bonds, including Series 2011 Bonds and all Additional Bonds issued pursuant to Section 15 of this Ordinance, shall be called for payment or payment provided for in accordance with the provisions of this Ordinance and funds are available for the same. So long as the sums in each Account in the Reserve Fund aggregate the respective Reserve Requirement for such Account, no further payments or credits to the Reserve Fund shall be required, but if at any time the City shall be compelled to use and expend any part of any Account in the Reserve Fund for the purpose of paying the principal of or interest on the series of Bonds for which such Account was established and such expenditures shall reduce the amount of said Account below the Reserve Requirement for such series of Bonds, then after making all payments and credits at the time required to be made by the City under the provisions of subsections (a) and (b) of this Section 12 there shall be necessary until such time as there shall again be accumulated in such Account in the Reserve Fund a sum equal to the Reserve Requirement for the series of Bonds for which such Account was established.

So long as the amount in the Reserve Fund is equal to the aggregate of the Reserve Requirement for each Series of Bonds issued pursuant to this Ordinance, any of which remain outstanding at any time, no further payments or credits to the Reserve Fund shall be required.

Money in any Account in the Reserve Fund may be used to pay and retire the last of the Series 2011 Bonds or Outstanding Bonds herein authorized unless said bonds and all interest thereupon be otherwise paid.

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(e) After making all allocations, credits and deposits at the time required to be made by the City under the provisions of paragraphs (b), (c) and (d) of this Section, all remaining moneys in and accruing to the Water Revenue Fund shall be allocated and credited to the General Fund of the City and may be used by the City for any corporate purposes of the City.

Section 13. Money in any of the accounts may be invested in securities eligible for investment of other City funds. Income from or profit realized from any such investment shall be credited to the respective account from which such investment was made until such account contains the maximum amount required to be therein, and thereafter such income or profit shall be transferred to the Bond Fund and used to pay the principal of and interest on Bonds.

Section 14. The City covenants with each of the purchasers and owners of the Series 2011 Bonds and any Additional Bonds that so long as any of the Series 2011 Bonds and any Additional Bonds remain outstanding and unpaid:

(a) The City will fix, establish, maintain and collect rates, fees or charges for the use of or services rendered by the Water System of the City, including all improvements, extensions and betterments thereof, which rates, fees or charges shall be sufficient to pay the cost of operating, maintaining and repairing the Water System, pay the principal of and interest on the Series 2011 Bonds and any other bonds or notes of said City hereafter issued in accordance with the provisions of this Ordinance and payable from said revenue, and provide adequate reserves for the payment of the principal of and interest on the Series 2011 Bonds and any Additional Bonds, including the payments required to be made by the City into the Bond Fund and the Reserve Fund. The City covenants and agrees that it will at all times maintain and collect rates, fees and charges for the Water System which will be sufficient to enable the City to have in each Fiscal Year net earnings, as calculated in Section 15(a) hereof, in an amount that will be at least one hundred twenty-five percent (125%) of the amount that will be required to be paid by the City on account of both principal and interest on the Series 2011 Bonds and any Additional Bonds during any succeeding year.

(b) The City will carry and maintain a reasonable amount of all-risk insurance upon the properties forming a part of the Water System insofar as they are of an insurable nature, the amount of such insurance being such amount as would normally be insured by a private corporation engaged in a similar type of business. In the event of loss of damage, the City with all reasonable dispatch will use the proceeds of such insurance in reconstructing and replacing the property damaged or destroyed or, if such reconstruction or replacement be unnecessary, then in redeeming or purchasing outstanding bonds of the City payable from the revenues of the Water System, including the Series 2011 Bonds or other water revenue bonds hereafter issued under the provisions of this Ordinance and standing on a parity with the Series 2011 Bonds. The City in operating the Water System will carry and maintain public liability and workers' compensation insurance in such amounts as would normally be maintained by a private corporation engaged in a similar type of business. The proceeds derived from any such policies shall be used in paying the claims on account of which such proceeds were received. The cost of all insurance referred to in this paragraph shall be paid as an operating cost out of the revenues of the Water System.

(c) The City will keep and maintain proper books, records and accounts in which complete and correct entries will be made of all dealings and transactions of or in relation to the properties, business and affairs of the Water System. Such accounts shall show the amount of revenue received from said Water System, the application of said revenue, and all financial transactions in connection therewith. Said books shall be kept by the City according to standard accounting practices as applicable to the operation of utilities of a similar nature. Annually, within ninety (90) days following the close of each Fiscal Year, the City will cause an audit to be made by a certified public accountant or accountants of the accounts of such system for the preceding fiscal year. Within thirty (30) days after the completion of each such audit, a copy of the same shall be filed in the office of the Clerk where it shall be open to public inspection, and a duplicate copy of each such audit shall be mailed by said Clerk to the Paying Agent and to D.A. Davidson & Co.

If an audit shall disclose that proper provision has not been made for all the requirements of the law under which the Bonds are issued and of this Ordinance, the City covenants and agrees that it will promptly cure such deficiency and that it will promptly proceed to cause to be charged for the services rendered by the Water System rates which shall adequately provide for such requirements.

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(d) The City will punctually perform all duties and obligations with respect to the operation and maintenance of the Water System now or hereafter imposed upon the City by the laws of the State of Nebraska, and by the provisions of this Ordinance.

(e) The City will not grant any other franchise or right to any person, firm or corporation to own or operate a water system in competition with that owned by the City. The City shall not sell, lease, loan, mortgage or otherwise encumber the Water System or any component thereof, or in any manner dispose of all or any part of the Water System, except for property which has become obsolete, non-productive or otherwise unusable to the advantage of the City. The City shall cause the Water system and each component thereof to be maintained in good condition and continuously operated and will not permit or allow franchises, permits, privileges, easements or other rights necessary or desirable in the operation of the properties of the Water System to lapse or to be forfeited so long as the same shall be necessary or desirable for said purposes, and will from time to time take all reasonable steps to secure renewals of all such franchises, permits, easements and rights at the expiration thereof, if the same shall expire prior to the maturity of the Series 2011 Bonds and all Bonds issued hereunder.

Section 15. The City hereby covenants and agrees that, so long as any of the Series 2011 Bonds remain outstanding and unpaid, the City will not issue any Additional Bonds or other obligations payable out of the revenues of the Water System, or any part thereof, which are superior to the Series 2011 Bonds. The City further covenants and agrees that it will not issue any such Additional Bonds or other obligations on a parity or equality with the Series 2011 Bonds unless all of the following conditions are met:

(a) The annual net income derived by the City from the operation of the Water System for the Fiscal Year next preceding the issuance of Additional Bonds, after deduction from gross income of the reasonable expenses of operation, maintenance and repair of the Water System, but before depreciation, amortization and interest payable on outstanding Series 2011 Bonds or other debt, must have been equal to one hundred twenty-five percent (125%) of the maximum amount required to be paid out of said income in any succeeding Fiscal Year on account of both principal and interest becoming due with respect to all outstanding bonds of the City, including the Additional Bonds proposed to be issued; provided, that in calculating such annual net income for the purpose of this Section 15(a), there shall be included such additional net income which the certified public accountant or accountants employed by the City to make the annual audit of the accounts of the Water System of the City shall certify that they estimate would have been generated on a pro forma basis for such Fiscal Year as a result of any adjustment in rates which may have been implemented prior to the issuance of the Additional Bonds proposed to be issued.

(b) There shall be no default in any of the payments required to be made into the respective fund and accounts described in Section 12.

(c) The amount required to be paid into the Bond Fund shall be proportionately increased to the extent necessary to pay installments of interest and principal as they become due.

(d) The amount required to be maintained and/or the payments required to be made into an account established for such Additional Bonds in the Reserve Fund shall be so that the ultimate balance accumulated and maintained in such account shall be equal to the Reserve Requirement on the Additional Bonds proposed to be issued.

Additional Bonds of the City issued under the conditions set forth above shall stand on a parity with the Series 2011 Bonds and shall enjoy complete equality of lien on the revenue of the Water System with the Series 2011 Bonds and the City may make equal provision for paying the Additional Bonds and the interest thereon out of the Water Revenue Fund and may likewise provide for the creation of reasonable principal and interest and bond reserve accounts for the payment of the Additional Bonds and interest thereon out of the money in said Water Revenue Fund. Any Additional Bonds shall mature serially with the principal and interest amortized over a period not shorter than the remaining life of any bonds then outstanding.

Section 16. Bonds may be issued at any time for the purpose of refunding (including by purchase) Series 2011 Bonds, including amounts to pay principal, redemption premium and interest to the date of redemption (or purchase) and the expenses of issuing the refunding bonds and effecting such refunding; provided that (a) the debt

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service on all bonds to be outstanding after the issuance of the refunding bonds shall not be greater in any Fiscal Year in which bonds not refunded shall remain Outstanding than would have been the debt service on bonds for such Fiscal Year were such refunding not to occur, and (b) the sum of the annual debt service payments on all bonds to be outstanding after the issuance of the refunding bonds shall not be greater for all Fiscal Years prior to any Fiscal Year in which bonds not refunded shall remain outstanding than would have been the sum of the annual debt service payments on bonds for all Fiscal Years prior to such Fiscal Year were such refunding not to occur. This paragraph shall not apply to refunding bonds which would refund all of the bonds outstanding under this Ordinance.

Section 17. Nothing herein contained shall prevent the City from issuing bonds, warrants, or other forms of indebtedness, the payment of the principal and interest of which is a charge upon all or a portion of the revenues of the Water System, or any component thereof, junior or inferior to the Series 2011 Bonds herein authorized and to the payments to be made into the Operation and Maintenance Fund, the Bond Fund and the Reserve Fund as previously created, and the City shall have the right to pay interest thereon and the principal thereof as long as no deficiency exists in the payments into such Funds.

Section 18. The City covenants and agrees that in the event that default shall be made by it in the payment of interest on or principal of any Series 2011 Bonds or Additional Bonds after such interest or principal shall become due, or in the event default shall be made by it in the payment of any Series 2011 Bonds or Additional Bonds when such bonds shall be called for redemption and payment, or in the event default shall be made by the City in the performance of any other covenant or agreement made by it contained herein and such default shall continue for a period of thirty (30) days, then at any time thereafter and while such default shall continue, the holders of twenty-five percent (25%) in aggregate principal amount of Series 2011 Bonds and Additional Bonds then outstanding may, by written notice to the City filed in the Office of Clerk, declare the principal of all the bonds then outstanding to be due and payable immediately, and upon any such declaration given as aforesaid, all of the bonds shall become and be immediately due and payable, anything in this Ordinance or in the Series 2011 Bonds contained to the contrary notwithstanding. This provision, however, is subject to the condition that if at any time after the principal of the Series 2011 Bonds shall have been so declared to be due and payable, all arrears of interest upon all of the bonds outstanding, except interest accrued but not yet due on the outstanding bonds, and all arrears of principal upon all of the outstanding bonds shall have been paid in full, and all other defaults, if any, by the City under the provisions of this Ordinance and under the statutes of the State of Nebraska, shall have been cured, then and in every such case, the holders of a majority in aggregate principal amount of Series 2011 Bonds and Additional Bonds then outstanding, by written notice to the City given as hereinbefore specified, may rescind and annul such declaration and its consequences but no such rescission or annulment shall extend to or affect any subsequent default or impair any rights consequent thereon.

Section 19. The provisions of the Bonds authorized by this Ordinance and the provisions of this Ordinance may be modified or amended at any time by the City with the written consent of the owners of not less than two-thirds (2/3) in aggregate principal amount of the Bonds at the time Outstanding; provided, however, that no such modification or amendment shall permit or be construed as permitting (a) the extension of the maturity of the principal of any of the Bonds, or (b) a reduction in the principal amount of any Bonds or the rate of interest thereon, or (c) a reduction in the aggregate principal amount of Bonds the consent of the owners of which is required for any such amendment or modification. Any provision of the Bonds or of this Ordinance may, however, be modified or amended in any respect with the written consent of the owners of all of the Bonds then Outstanding. Every amendment or modification of a provision of the Bonds or of this Ordinance to which the written consent of the bondholders is given as above provided shall be expressed in an ordinance of the City amending or supplementing the provisions of this Ordinance and shall be deemed to be a part of this Ordinance. It shall not be necessary to note on any of the Outstanding Bonds any reference to such amendment or modification, if any. A certified copy of every such amendatory or supplemental ordinance, if any, and a certified copy of this Ordinance shall always be kept on file in the office of the Clerk and shall be made available for inspection by the owners of any Bond or prospective purchaser or owner of any Bond, and upon payment of the reasonable cost of preparing the same, a certified copy of any such amendatory or supplemental ordinance or of this Ordinance will be sent by the Clerk to any such Owner or prospective Owner.

Section 20. The provisions of this Ordinance, including the covenants and agreements hereinbefore contained, shall constitute a contract by and between the City and the Owners of the Bonds and the Owner of any

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one or more of the Bonds shall have the right, for the equal benefit and protection of all Owners of Bonds similarly situated:

(a) By mandamus or other suit, action or proceeding at law or in equity to enforce his rights against the City and its officers, agents and employees, and to require and compel the City and its officers, agents and employees to perform all duties and obligations required by the provisions of this Ordinance, or by the Constitution and laws of the State of Nebraska.

(b) By suit, action or other proceedings in equity or at law to require the City, its officers, agents and employees to account as if they were the trustees of any express trust.

(c) By suit, action or other proceeding in equity or at law to enjoin any acts or things which may be unlawful or in violation of the rights of the Owners of the Bonds.

Nothing contained in this Ordinance, however, shall be construed as imposing on the City any duty or obligation to levy any taxes either to meet any obligation incurred herein or to pay the principal of or interest on the Bonds herein authorized.

No remedy conferred hereby upon any Owner of the Bonds is intended to be exclusive of any other remedy, but each such remedy is cumulative and in addition to every other remedy and may be exercised without exhausting and without regard to any other remedy conferred hereby. No waiver of any default or breach of duty or contract by the Owner of any Bond shall extend to or affect any subsequent default or breach of duty or contract or shall impair any such right or power or shall be construed to be a waiver of any such default or acquiescence therein. Every substantive right and every remedy conferred upon the Owners of the Bonds may be enforced and exercised from time to time and as often as may be deemed expedient. In case any suit, action or proceeding to enforce any right or exercise any remedy shall be brought or taken and then discontinued or abandoned, or shall be determined adversely to the Owners of the Bonds, then, and in every such case, the City and the Owners of the Bonds shall be restored to their former positions and rights and remedies as if no such suit, action or other proceeding had been brought or taken.

Section 21. The Mayor and Clerk of the City are hereby authorized to do all things and execute all such documents as may by them be deemed necessary and proper to complete the issuance and sale of the Series 2011 Bonds as contemplated by this Ordinance.

Section 22. (a) The City covenants and agrees that (1) it will comply with all applicable provisions of the Code, including Sections 103 and 141 through 150, necessary to maintain the exclusion from gross income for federal income tax purposes of the interest on the Bonds and (2) it will not use or permit the use of any proceeds of Series 2011 Bonds or any other funds of the City nor take or permit any other action, or fail to take any action, if any such action or failure to take action would adversely affect the exclusion from gross income of the interest on the Series 2011 Bonds. The City will, in addition, adopt such other ordinances or resolutions and take such other actions as may be necessary to comply with the Code and with all other applicable future laws, regulations, published rulings and judicial decisions, in order to ensure that the interest on the Series 2011 Bonds will remain excluded from federal gross income, to the extent any such actions can be taken by the City.

(b) The City covenants and agrees that (1) it will comply with all requirements of Section 148 of the Code to the extent applicable to the Series 2011 Bonds, (2) it will use the proceeds of the Series 2011 Bonds as soon as practicable and with all reasonable dispatch for the purposes for which the Series 2011 Bonds are issued, and (3) it will not invest or directly or indirectly use or permit the use of any proceeds of the Series 2011 Bonds or any other funds of the City in any manner, or take or omit to take any action, that would cause the Series 2011 Bonds to be "arbitrage bonds" within the meaning of Section 148(a) of the Code.

(c) The City covenants and agrees that it will pay or provide for the payment from time to time of all amounts required to be rebated to the United States pursuant to Section 148(f) of the Code and any Treasury Regulations applicable to the Bonds from time to time. This covenant shall survive payment in full or defeasance of the Bonds. The City specifically covenants to pay or cause to be paid to the United States, the required amounts of rebatable arbitrage at the times and in the amounts as determined by the Tax Certificate. Notwithstanding anything

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to the contrary contained herein, the Tax Certificate may be amended or replaced if, in the opinion of counsel nationally recognized on the subject of municipal bonds, such amendment or replacement will not adversely affect the exclusion from gross income for federal income tax purposes of interest on the Bonds.

(d) The City covenants and agrees that it will not use any portion of the proceeds of the Series 2011 Bonds, including any investment income earned on such proceeds, directly or indirectly, (1) in a manner that would cause any Series 2011 Bond to be a “private activity bond.”

(e) The City makes the following representations in connection with the exception for small governmental units from the arbitrage rebate requirements under Section 148(f)(4)(C) of the Code:

- (1) the City is a governmental unit under Nebraska law with general taxing powers;
- (2) none of the Series 2011 Bonds is a private activity bond as defined in Section 141 of the Code;
- (3) 95 percent or more of the net proceeds of the Series 2011 Bonds are to be used for local governmental activities of the City;
- (4) the aggregate face amount of all tax-exempt bonds (other than private activity bonds) issued by the City (and all subordinate entities thereof) during the calendar year 2010 is not reasonably expected to exceed \$5,000,000; and
- (5) the City (including all subordinate entities thereof) will not issue in excess of \$5,000,000 of tax-exempt bonds (including the Series 2011 Bonds but excluding private activity bonds) during the calendar year 2010 without first obtaining an opinion of nationally recognized counsel in the area of municipal finance that the excludability of the interest on the Series 2011 Bonds from gross income for federal tax purposes will not be adversely affected thereby.

(f) The City hereby designates the Series 2011 Bonds as “qualified tax-exempt obligations” as defined in Section 265(b)(3) of the Code. In addition, the City hereby represents that:

- (1) the aggregate face amount of all tax-exempt obligations (other than private activity bonds which are not “qualified 501(c)(3) bonds”) which will be issued by the City (and all subordinate entities thereof) during calendar year 2011 is not reasonably expected to exceed \$10,000,000; and
- (2) the City (including all subordinate entities thereof) will not issue an aggregate principal amount of tax-exempt obligations (other than private activity bonds that are not “qualified 501(c)(3) bonds”) during calendar year 2011, including the Series 2011 Bonds, in excess of \$10,000,000, without first obtaining an opinion of nationally recognized counsel in the area of municipal finance that the designation of the Series 2011 Bonds as “qualified tax-exempt obligations” will not be adversely affected.

The Mayor is hereby authorized to take such other action as may be necessary to make effective the designation in this subsection (f).

(g) The foregoing covenants shall remain in full force and effect notwithstanding the defeasance of the Series 2011 Bonds pursuant to Section 23 of this Ordinance or any other provision of this Ordinance, until the final maturity date of all Series 2011 Bonds Outstanding.

Section 23. The City’s obligations under this Ordinance with respect to any or all of the Series 2011 Bonds herein authorized shall be fully discharged and satisfied as to any or all of such Series 2011 Bonds and any such Series 2011 Bond shall no longer be deemed to be outstanding hereunder if such Series 2011 Bond has been purchased by the City and canceled or when the payment of the principal of and interest thereon to the respective date of maturity or redemption (a) shall have been made or caused to be made in accordance with the terms thereof or (b) shall have been provided for by depositing with the Paying Agent for the Series 2011 Bonds, or with a national or state bank having trust powers, or trust company, in trust, solely for such payment (i) sufficient money to

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make such payment of (ii) direct general obligations (including obligations issued or held in book entry form on the books of the Department of Treasury of the United States of America) of or obligations the principal and interest of which are unconditionally guaranteed by the United States of America (herein referred to as "U.S. Government Obligations") in such amount and bearing interest payable and maturing or redeemable at stated fixed prices at the option of the holder as to principal, at such time or times, as will ensure the availability of sufficient money to make such payment; provided, however, that with respect to any Series 2011 Bond to be paid prior to maturity, the City shall have duly called such Series 2011 Bond for redemption and given notice of such redemption as provided by law or made irrevocable provision for the giving of such notice. Any money so deposited with such bank or trust company or with the Paying Agent may be invested or reinvested in U.S. Government Obligations at the direction of the City, and all interest and income from U.S. Government Obligations in the hands of such bank or trust company or Paying Agent in excess of the amount required to pay principal of and interest on the Series 2011 Bonds for which such money or U.S. Government Obligations were deposited shall be paid over to the City as and when collected.

Section 24. The City hereby (1) authorizes and directs that its Mayor execute and deliver, on date of issue of the Series 2011 Bonds, a Continuing Disclosure Certificate in such form as shall be satisfactory to bond counsel for the City, and (2) covenants and agrees that it will comply with and carry out all of the provisions of the Continuing Disclosure Certificate. Notwithstanding any other provision of this Ordinance, failure of the City to comply with the Continuing Disclosure Certificate shall not be considered an event of default hereunder; however, any Participating Underwriter (as such term is defined in the Continuing Disclosure Certificate) or any Beneficial Owner or any other owner of a Bond may take such actions as may be necessary and appropriate, including seeking mandate or specific performance by court order, to cause the City to comply with its obligations under this Section 24. For purposes of this Section 24, "Beneficial Owner" means any person which (a) has the power, directly or indirectly, to vote or consent with respect to, or to dispose of ownership of, any Series 2011 Bonds (including persons holding Series 2011 Bonds through nominees, depositories or other intermediaries), or (b) is treated as the owner of any Series 2011 Bonds for federal income tax purposes.

Section 25. If any section, paragraph, clause or provisions of this Ordinance shall be held invalid, the invalidity of such section, paragraph, clause or provisions shall not affect any of the other provisions of this Ordinance.

Section 26. The use of a Preliminary Official Statement for the Series 2011 Bonds is hereby approved and the Mayor and Clerk are hereby authorized to review and approve on behalf of the City a final Official Statement providing information with respect to the Series 2011 Bonds.

Section 27. This ordinance shall be published in pamphlet form and shall be in force and take effect from and after its passage and approval according to law.

Craig Jones, 1111 N. 102<sup>nd</sup> Court, Omaha, NE representative of D.A. Davidson addressed Council briefly explaining the bond process.

Motion by Councilman Kusek, seconded by Councilman Benzel to suspend the statutory rule requiring three separate readings of Ordinance No. 2671.

Roll call vote with the following results:

Voting Aye: Yeager, Kusek, Benzel, Feldges, Gonzalez.

Voting Nay: None.

Motion carried.

Roll call vote to approve Ordinance No. 2671 on final reading with the following results:

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Voting Aye: Yeager, Kusek, Benzel, Feldges, Gonzalez.

Voting Nay: None.

Motion carried.

Mayor Feldges stated, “the passage and adoption of Ordinance No. 2671 has been concurred by a majority of all members elected to the Council, I declare it passed, adopted and order it published.”

- Resolution No. 10-143 authorizing the City to call the Series 2003 Water Revenue Refunding Bonds was the next item to be voted on by Council.

Motion by Councilman Benzel, seconded by Councilman Yeager to approve Resolution No. 10-143 which follows in its entirety:

CITY OF ALLIANCE, NEBRASKA

**RESOLUTION NO. 10-143**

A RESOLUTION OF THE CITY OF ALLIANCE, NEBRASKA CALLING \$2,120,000 PRINCIPAL AMOUNT OF WATER REVENUE REFUNDING BONDS, SERIES 2003, DATED JULY 10, 2003, FOR PAYMENT AND REDEMPTION PRIOR TO MATURITY.

BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF ALLIANCE, NEBRASKA:

**Section 1.** The Mayor and Council of the City of Alliance, Nebraska (the “City”) hereby finds and determines as follows:

(a) The City has previously issued \$3,595,000 principal amount of its Water Revenue Refunding Bonds, Series 2003, dated July 10, 2003 (the “**Outstanding Bonds**”), pursuant to Ordinance No. 2467, duly passed by the Council and approved by the Mayor on June 5, 2003 (collectively, the “**Ordinance**”); bearing interest and maturing as follows:

<b><u>Maturity (April 15)</u></b>	<b><u>Principal Amount</u></b>	<b><u>Interest Rate</u></b>
2011	\$240,000	3.25%
2012	245,000	3.40
2013	250,000	3.50
2014	265,000	3.65
2015	275,000	3.80
2016	285,000	3.90
2017	295,000	4.00
2018	265,000	4.10

The Outstanding Bonds are redeemable at the option of the City at any time on or after July 10, 2008 at a redemption price equal to 100% of the principal amount being redeemed, plus accrued interest to the date fixed for redemption.

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All of the Outstanding Bonds are unpaid and a legal liability against the City, provision for the payment of which may be made by the lawful issuance and sale of water revenue refunding bonds of the City pursuant to Sections 10-142, and 18-1803 to 18-1805, inclusive, Reissue Revised Statutes of Nebraska, as amended.

**Section 2.** All of the Refunded Bonds are hereby irrevocably called for redemption and payment on the date established by the Mayor (the "**Redemption Date**") pursuant to this Resolution at a redemption price equal to the principal amount thereof plus accrued interest thereon to the Redemption Date.

Notice of the call for redemption, identifying the Refunded Bonds to be redeemed, shall be given by the Paying Agent for the Refunded Bonds, The Fremont National Bank and Trust Company, Fremont, Nebraska (the "**Paying Agent**"), upon mailing a copy of the redemption notice by first-class mail, postage prepaid, at least thirty days prior to the date fixed for redemption to the registered owner of each Refunded Bond to be redeemed at the address shown on the registration books; provided, however, that failure to give such notice by mailing, or any defect therein, shall not affect the validity of any proceedings for the redemption of any Bond with respect to which no such failure has occurred. Any notice mailed as provided in the Ordinance shall be conclusively presumed to have been duly given, whether or not the registered owner of such Outstanding Bond receives the notice.

Holders of the Outstanding Bonds shall present the same for payment and redemption on the Redemption Date at the office of the Paying Agent for the Refunded Bonds, The Fremont National Bank and Trust Company, the place of payment thereof, and interest on the Refunded Bonds shall cease on and after the Redemption Date.

**Section 3.** At such time as the City is assured of having funds for the payment and redemption of the Refunded Bonds, the Mayor is authorized and directed to establish the Redemption Date in accordance with the provisions of this Resolution.

**Section 4.** A true copy of this resolution shall be filed with the Paying Agent at least thirty (30) days prior to Redemption Date.

Roll call vote with the following results:

Voting Aye: Yeager, Kusek, Benzel, Feldges, Gonzalez.

Voting Nay: None.

Motion carried.

- The next item to be considered by Council was Resolution No. 10-144 declaring the City's intent to issue tax exempt bonds for the repairs and improvements to the Electric Substation at 3<sup>rd</sup> Street and Cody Avenue.

Motion by Councilman Yeager, seconded by Councilman Benzel to approve Resolution No. 10-144 which follows in its entirety:

#### **RESOLUTION NO. 10-144**

*WHEREAS*, The City of Alliance electrical substation at Third and Cody requires major repair including the purchase of a new transformer; and

*WHEREAS*, The City has considered the options available to finance the repairs at the substation and determined that issuing bonds is the best financing option for the City; and

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*WHEREAS*, The City will incur expenses which need to be paid prior to the bond issue being completed; and

*WHEREAS*, The City intends to expend money from the City's financial reserves and to reimburse those expenses from the proceeds from the issuance of the Bonds.

NOW THEREFORE BE IT RESOLVED by the Mayor and Council of the City of Alliance, Nebraska (the "City"), as follows:

Section 1: The Mayor and Council of the City hereby find and determine that it is necessary and appropriate to declare their official intent to issue tax-exempt bonds on behalf of the City and in addition, the City's reasonable expectations to reimburse certain expenditures with the proceeds of such bonds as proposed to be issued by the City in connection with the proposed project as described below.

Section 2: This resolution shall stand as a statement of the City's official intent under Regulation Section 1.150-2 of the regulations of the United States Treasury and for such purpose the following information is hereby given:

1. A general functional description of the project for which expenditures may be made and reimbursement from bond proceeds provided is as follows:
 

Purchase and installation of a transformer and replacement of switching gear at the Substation located at Third and Cody including purchase, installation, testing and associated engineering, development and implementation costs of the improvements to the Electrical Substation located at Third Street and Cody Avenue.
2. The maximum principal amount of debt expected to be issued for such project is one million six hundred thousand (1,600,000.00) dollars.

Roll call vote with the following results:

Voting Aye: Yeager, Kusek, Benzel, Feldges, Gonzalez.

Voting Nay: None.

Motion carried.

- Resolution No. 10-145 authorizing the waiver of \$18,900.00 in building permit fees for the construction of a Performing Arts Center by the Alliance Board of Education and providing assistance to the Alliance Board of Education with the use of Community Betterment Funds as an alternate way of showing support to the project without waiving building permit fees were now before Council for consideration.

Motion by Councilman Gonzalez, seconded by Councilman Benzel to approve Resolution No. 10-145 which follows in its entirety:

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**RESOLUTION NO. 10-145**

WHEREAS, The Alliance Board of Education has decided to build a new Performing Arts Center; and

WHEREAS, The Alliance Board of Education has requested that the City of Alliance waive the building permit fees for the Performing Arts Center; and

WHEREAS, Staff has calculated the building permit fees at Eighteen Thousand Nine Hundred and no/100ths Dollars (\$18,900.00).

WHEREAS, City Council desires to support the Alliance Board of Education in their construction of the new Performing Arts Center as Council believes it is in the best interest of the citizens of Alliance and the surrounding area.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the City of Alliance, Nebraska, that staff is directed to waive the building permit fees for the Alliance Board of Education on the Performing Arts Center.

Roll call vote with the following results:

Voting Aye: None.

Voting Nay: Yeager, Kusek, Benzel, Feldges, Gonzalez.

Motion failed.

Motion by Councilman Gonzalez, seconded by Councilman Benzel to approve Resolution No. 10-146 which follows in its entirety:

**RESOLUTION NO. 10-146**

*WHEREAS*, The Alliance Board of Education has decided to build a new Performing Arts Center; and

*WHEREAS*, The Alliance Board of Education has requested that the City of Alliance waive the building permit fees for the Performing Arts Center; and

*WHEREAS*, City Council determined that it was not in the best interest of the City of Alliance to waive building permit fees; and

*WHEREAS*, City Council desires to support the Alliance Board of Education in their construction of the new Performing Arts Center as Council believes it is in the best interest of the citizens of Alliance and the surrounding area.

*NOW, THEREFORE, BE IT RESOLVED* by the Mayor and Council of the City of Alliance, Nebraska, that Twenty Thousand Dollars & 00/100 (\$20,000.00) shall be paid from Community Betterment Funds to the Alliance Board of Education.

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Motion by Councilman Kusek, seconded by Councilman Gonzalez to amend Resolution No. 10-146 to insert the amount of \$20,000.00 within the resolution.

Roll call vote with the following results:

Voting Aye: Kusek, Benzel, Feldges, Gonzalez.

Voting Nay: Yeager.

Motion carried.

Motion by Mayor Feldges to amend Resolution No. 10-146 to require the \$20,000.00 be held by the City until it was determined what the exact use of the funds would be contributed towards. The motion died for lack of second.

Roll call vote on the resolution as amended with the following results:

Voting Aye: Kusek, Benzel.

Voting Nay: Yeager, Gonzalez, Feldges.

Motion failed.

- The next item for Council's consideration was Resolution No. 10-147 authorizing additional concrete crushing service by Paul Reed Construction with the use of contingency funds from the Electric, Water and Street Departments.

Motion by Mayor Feldges, seconded by Councilman Benzel to approve Resolution No. 10-147 which follows in its entirety:

#### **RESOLUTION NO. 10-147**

*WHEREAS*, The City of Alliance owns and operates a solid waste disposal facility; and

*WHEREAS*, The solid waste disposal receives concrete; and

*WHEREAS*, Crushing of concrete can provide clean dirt for covering as is required in the landfill and concrete aggregate which can be used by the City of Alliance; and

*WHEREAS*, Paul Reed Construction was the lowest responsible and responsive bidder at Seven Dollars and No/100 (\$7.00) per ton for labor, material and equipment to crush and screen a sized product and One Dollar and No/100 (\$1.00) per ton for dirt separated from the concrete material and Four Thousand Nine Hundred Seventy-five Dollars and No/100 (\$4975.00) for mobilization cost; and

*WHEREAS*, The concrete crushing contract was awarded to Paul Reed Construction; and

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*WHEREAS*, The City has funds in additional line items and contingencies which staff is requesting to use for additional concrete crushing:

\$16,000.00	Utility Facility and New Storage Building contingency
\$ 3,000.00	Water Contingency Fund
\$ 7,000.00	Street Contingency (additional)

*WHEREAS*, The Council believes that it is in the best interest for the City to reduce the concrete at the landfill and to provide usable aggregate for the City's use.

*NOW, THEREFORE, BE IT RESOLVED*, by the Mayor and City Council of Alliance, Nebraska that staff is authorized to use the following funds for contracting the services of Paul Reed Construction and Supply Company for the services stated above:

\$10,000.00	Existing stone and gravel budget line item
\$25,000.00	Street Contingency Fund
\$ 3,000.00	Water Contingency Fund
\$16,000.00	Utility Facility and New Storage Building contingency
\$ 5,000.00	CNTSVC Other Budget Line Item
\$ 6,000.00	Refuse Disposal Contingency Fund

Motion by Councilman Kusek, seconded by Councilman Yeager to amend Resolution No. 10-147 to appropriate \$25,000.00 from City Council Contingency Fund to add to the amount of funds available for additional concrete crushing.

Roll call vote on the amendment with the following results:

Voting Aye: Yeager, Kusek, Benzel, Feldges, Gonzalez.

Voting Nay: None.

Motion carried.

Roll call vote on Resolution No. 10-147 as amended with the following results:

Voting Aye: Yeager, Kusek, Benzel, Feldges, Gonzalez.

Voting Nay: None.

Motion carried.

- Resolution No. 10-148 approving an Agreement with the Nebraska Department of Roads to establish uniform bridge inspection and load rating guidelines in accordance with the National Bridge Inspection Standards was the next item to be discussed by Council.

Motion by Councilman Benzel, seconded by Councilman Kusek to approve Resolution No. 10-148 which follows in its entirety:

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**RESOLUTION NO. 10-148**

*WHEREAS*, The City of Alliance owns and inspects bridges in the City of Alliance and

*WHEREAS*, The State of Nebraska Department of Roads has prepared an Agreement delegating the duties and responsibilities or the City of Alliance and the State of Nebraska; and

*WHEREAS*, The City Council believes that it is in the best interest of the City to adopt a Resolution Adopting and Approving the Execution of an Agreement with the State of Nebraska, Department of Roads Regarding the National Bridge Inspection Standards Responsibilities.

*NOW, THEREFORE, BE IT RESOLVED*, by the Mayor and City Council of Alliance, Nebraska that the City shall enter into an Agreement with the Nebraska Department of Roads for the purpose of defining responsibilities in meeting the National Bridge Inspection Standards.

*BE IT FURTHER RESOLVED* that the Mayor is authorized and directed to execute said Agreement for and on behalf of the City of Alliance, and the City Clerk is authorized to attest said execution.

*BE IT FURTHER RESOLVED* that this resolution will be marked Exhibit "A" and a copy attached to each original Agreement.

Public Facilities Director Eric Lenz advised Council that the City spends \$500.00 or less each year on the inspection.

Roll call vote with the following results:

Voting Aye: Yeager, Kusek, Benzel, Feldges, Gonzalez.

Voting Nay: None.

Motion carried.

- The next item to be presented to Council was Resolution No. 10-149 altering the hours of operation for the Alliance Public Library.

Motion by Councilman Kusek, seconded by Councilman Benzel to approve Resolution No. 10-149 which follows in its entirety:

**RESOLUTION NO. 10-149**

*WHEREAS*, The City of Alliance operates a Public Library; and

*WHEREAS*, Members of Council have received citizen concerns regarding the Library hours of operation; and

*WHEREAS*, Staff is recommending that Council reconsider the library hours of operation, as follows;

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HOURS OF OPERATION:

Monday, Tuesday, Wednesday	8:00 a.m. - 6:00 p.m.
Thursday	8:00 a.m. - 8:00 p.m.
Friday	8:00 a.m. - 5:00 p.m.
Saturday	10:00 a.m. - 2:00 p.m.
Sunday	Closed

and

*WHEREAS*, The City Council finds the foregoing hours of operation to be appropriate.

*NOW, THEREFORE, BE IT RESOLVED*, by the Mayor and City Council of Alliance, Nebraska, that the Alliance Public Library shall operate on the days and between the hours set forth herein except for Holidays observed by the City of Alliance.

*BE IT FURTHER RESOLVED*, that these hours shall be effective January 1, 2011.

Library Director Stephanie O'Connor advised Council that the library will lose 12 hours of operational hours however, the ability to move the staff from under utilized hours to more popular hours will be beneficial.

Roll call vote with the following results:

Voting Aye: Yeager, Kusek, Benzel, Feldges, Gonzalez.

Voting Nay: None.

Motion carried.

- Resolution No. 10-150 authorizing the purchase of a new Police Service Dog with the use of Grant Contingency Funds was the next item for Council's consideration.

Motion by Mayor Feldges, seconded by Councilman Gonzalez to approve Resolution No. 10-150 which follows in its entirety:

**RESOLUTION NO. 10-150**

*WHEREAS*, The Alliance Police Department received the American Recovery and Reinvestment Act of 2009 Justice Assistance Grant in the amount of Twenty Six Thousand Three Hundred Seventy One and No/100ths Dollars (\$26,371.00); and

*WHEREAS*, The total Grant included the match required by the City of Five Thousand Ninety-Five and No/100ths Dollars (\$5,095.00)

*WHEREAS*, The Alliance Police Department still has Four Thousand Thirty Seven and 74/100ths Dollars (\$4,037.74) which has not been expended from the original grant; and

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*WHEREAS*, The Alliance Police Department has made inquiries and informal bids for the purchase of a new police service dog including training for the dog and the dog handler and believes that the bid from North Iowa K-9 is the lowest, responsive and responsible bidder; and

*WHEREAS*, The provider requires a Six Thousand Dollar down payment with the balance to be paid when the dog is delivered before the training of the dog handler; and

*WHEREAS*, Staff is requesting to purchase a trained service dog from North Iowa K-9 for the total amount of Ten Thousand and No/100ths Dollars (\$10,000.00); and

*WHEREAS*, Staff is requesting to expend the funds from the Police Department's Grant Contingency line item (01-31-32-47-792) which includes the balance of the grant and the match required by the City of Alliance.

*NOW, THEREFORE, BE IT RESOLVED* by the Mayor and Council of the City of Alliance, Nebraska, that the City Manager is authorized to enter into an agreement for the purchase of a Service Dog from North Iowa K-9.

BE IT FURTHER RESOLVED that staff is authorized to purchase the service dog with the funds in the Police Department Grant Contingency line item.

Roll call vote with the following results:

Voting Aye: Yeager, Kusek, Benzel, Feldges, Gonzalez.

Voting Nay: None.

Motion carried.

- The last agenda item was a board resignation and two board appointments.

Motion by Councilman Yeager, seconded by Councilman Kusek to accept the resignation of Rachel Gonzalez from the Alliance Planning Commission.

Roll call vote with the following results:

Voting Aye: Yeager, Kusek, Benzel, Feldges.

Voting Nay: None.

Abstaining: Gonzalez.

Motion carried.

Motion by Councilman Yeager, seconded by Councilman Kusek to appoint Wayne L. Davis to serve on the Alliance Planning Commission for a term ending December 31, 2012.

Roll call vote with the following results:

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Voting Aye: Yeager, Kusek, Benzel, Feldges, Gonzalez.

Voting Nay: None.

Motion carried.

Motion by Councilman Yeager, seconded by Councilman Kusek to appoint Kristi Corey to serve on the A-1 Downtown Improvement Board for a term ending October, 2013.

Roll call vote with the following results:

Voting Aye: Yeager, Kusek, Benzel, Feldges, Gonzalez.

Voting Nay: None.

Motion carried.

- Mayor Feldges stated, “there being no further business to come before the Alliance City Council, the meeting is adjourned at 2:33 p.m.”

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Fred Feldges, Mayor

(SEAL)

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Linda S. Jines, City Clerk