

Municipal Code of the City of Battle Creek, Nebraska

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CHAPTER 5 – TRAFFIC REGULATIONS

Article 1 – General Provisions

§5-101 DEFINITIONS.

The words and phrases used in this Chapter pertaining to motor vehicles and traffic regulations shall be construed as defined in Neb. Rev. Stat. Chapter 60, Article 6. If not defined in the designated statutes, the word or phrase shall have its common meaning. (Ref. 60-606 through 60-676 RS Neb.) (Am. by Ord. No. 259, 7/11/94)

§5-102 CONGESTED DISTRICT; DEFINED.

The term "congested district" shall mean and include Main Street between the west line of Boyer Street and the east line of Fourth Street.

§5-103 RULES OF THE ROAD; INCORPORATED BY REFERENCE.

The Nebraska Rules of the Road, together with all subsequent amendments thereto, as adopted by the State of Nebraska relating to traffic regulations, are incorporated by reference into this section and made a part of this Article as though spread at large herein, except those provisions in conflict with this Article when the City Council has the authority to alter such regulations. Three copies of the Nebraska Rules of the Road and amendments shall be on file with the City Clerk and shall be available for public inspection during office hours.

Article 2 – Traffic Regulations

§5-201 TRUCK ROUTES.

The City Council may by resolution designate certain streets in the City that trucks shall travel upon and it shall be unlawful for persons operating such trucks to travel on other streets than those designated for trucks, unless to pick up or deliver goods, wares, or merchandise, and in that event, the operator of such truck shall return to such truck routes as soon as possible in traveling through or about the City. The City Council shall cause notices to be posted or shall erect signs indicating the streets so designated as truck routes. (Ref. 60-681 RS Neb.)

§5-202 TRAFFIC LANES; DESIGNATION.

The City Council may by resolution mark lanes for traffic on street pavements at such places as it may deem advisable. (Ref. 60-680 RS Neb.)

§5-203 TURNING; "U" TURNS.

No vehicle shall be turned so as to proceed in the opposite direction except at a street intersection. No vehicle shall be turned so as to proceed in the opposite direction at any intersection where an automatic signal is in operation or where a sign is posted indicating that "U" turns are prohibited. (Ref. 60-680, 60-6,160 RS Neb.)

§5-204 SPEED LIMITS; GENERAL, DESIGNATED.

(1) No person shall operate a motor vehicle upon the streets or alleys of the City at a speed greater than is reasonable and proper, having due regard for traffic, roadway and condition of the streets or at such a speed as to endanger the life, limb or property of any person. Driving in excess of the following speeds shall be unlawful and shall constitute the offense of speeding:

- (A) Twenty (20) miles per hour on all parts of Main Street from its intersection with Boyer Street west to its intersection with Fourth Street in the congested district;
- (B) Thirty (30) miles per hour on Fourth Street (also known as State Highway 121) from the north corporate limits to the south corporate limits;
- (C) Twenty-five (25) miles per hour on all other parts of streets and alleys not hereinbefore designated; provided, however, that the speed limit in the city parks and all alleys shall be fifteen (15) miles per hour.

(2) These limits shall be plainly indicated by appropriate signs or standards on all main traveled highways at or near their approach to the corporate limits.
(Am. by Ord. Nos. 119, 12/12/83; 167, 10/12/87)

§5-205 EMERGENCY REGULATIONS.

The Chief of Police is hereby empowered to make and enforce temporary traffic regulations to cover emergencies. (Ref. 60-435 RS Neb.)

§5-206 TRAFFIC CITATIONS; DISPOSITION AND RECORDS.

The City Police, upon issuing a traffic citation to an alleged violator of any provision of this Chapter, shall deposit a copy of the traffic citation with the City Attorney unless the citation is just a warning. Upon the deposit of the traffic citation with the Attorney, such citation may be disposed of only by trial in court, or other official action by the judge of the court including a forfeiture of bail, or by the deposit of sufficient bail with or payment of a fine to the court by the person to whom such traffic citation has been issued. It shall be unlawful for the City Police to dispose of a traffic citation or copies thereof or of the record of the issuance of the same in a manner other than as required herein. (Ref. 29-422, 29-424 RS Neb.)

§5-207 RACING.

No person shall drive any vehicle on any highway, street or alley in any race, speed competition or contest, drag race or acceleration contest, test of physical endurance, exhibition of speed or acceleration, or for the purpose of making a speed record, and no person shall in any manner participate in any such race, competition, contest, test, or exhibition. (Ref. 60-6,195 RS Neb.) (Ord. No. 104, 4/11/83)

§5-208 CARELESS DRIVING; DEFINED.

Any person who drives any motor vehicle in this state carelessly or without due caution so as to endanger a person or property shall be guilty of careless driving. Every person

convicted of careless driving shall be guilty of an offense. (Ref. 60-6,212 RS Neb.) (Ord. No. 105, 4/11/83)

§5-209 RECKLESS DRIVING.

Any person who drives any motor vehicle in such a manner as to indicate an indifferent or wanton disregard for the safety of persons or property shall be deemed to be guilty of reckless driving. Every person convicted of reckless driving shall be guilty of an offense. (Ref. 60-6,213, 60-6,215 RS Neb.) (Ord. No. 106, 4/11/83)

§5-210 WILLFUL RECKLESS DRIVING.

Any person who drives any motor vehicle in such a manner as to indicate a willful disregard for the safety of persons or property is guilty of willful reckless driving. Every person convicted of willful reckless driving shall be guilty of an offense. (Re. 60-6,214, 60-6,216 RS Neb.) (Ord. No. 107, 4/11/83)

§5-211 CHILD PASSENGERS; USE OF RESTRAINT SYSTEM OR OCCUPANT PROTECTION SYSTEM.

(A) For purposes of this section, "occupant protection system" has the meaning provided in Neb. Rev. Stat. §60-6,265.

(B) (1) Any person who drives any motor vehicle which has or is required to have an occupant protection system shall ensure that:

- (a) All children up to six years of age being transported by such vehicle use a child passenger restraint system of a type which meets Federal Motor Vehicle Safety Standard 213 as developed by the National Highway Traffic Safety Administration, as such standard existed on January 1, 2004, and which is correctly installed in such vehicle; and
- (b) All children six years of age and less than 18 years of age being transported by such vehicle use an occupant protection system.

(2) Division (B) (1) shall apply to every motor vehicle which is equipped with an occupant protection system or is required to be equipped with restraint systems pursuant to Federal Motor Vehicle Safety Standard 208, as such standard existed on January 1, 2004, except taxicabs, mopeds, motorcycles, and any motor vehicle designated by the manufacturer as a 1963 year model or earlier which is not equipped with an occupant protection system.

(C) Whenever any licensed physician determines, through accepted medical procedures, that use of a child passenger restraint system by a particular child would be harmful by reason of the child's weight, physical condition, or other medical reason, the provisions of division (B) shall be waived. The driver of any vehicle transporting such a child shall carry on his or her person or in the vehicle a signed written statement of the physician identifying the child and stating the grounds for such waiver.

(D) The drivers of authorized emergency vehicles shall not be subject to the requirements of division (B) when operating such authorized emergency vehicles pursuant to their employment.

(E) A driver of a motor vehicle shall not be subject to the requirements of division (B) if the motor vehicle is being operated in a parade or exhibition which is being conducted in accordance with applicable state law and local ordinances and resolutions. (Neb. RS 60-6, 267)

(F) (1) A person violating any provision of division (B) is guilty of an offense. The failure to provide a child restraint system for more than one child in the same vehicle at the same time, as required in division (B), shall not be treated as a separate offense.

(2) Enforcement of division (B)(1)(b) shall be accomplished only as a secondary action when an operator of a motor vehicle has been cited or charged with a violation of some other offense, unless the violation involves a person under the age of 18 years riding in or on any portion of the vehicle not designated or intended for the use of passengers when the vehicle is in motion.

(Neb. RS 60-6,268) (Ord. No. 147, 10/14/85) (Am. by Ord. Nos. 213, 2/11/91; 2001-003, 6/11/01; 2003-015, 12/8/03; 2005-003, 5/9/05)

§5-211.01 OCCUPANT PROTECTION SYSTEMS; REQUIREMENTS.

(A) For purposes of this section:

(1) "Motor vehicle" shall mean a vehicle required by Neb. Rev. Stat. §60-6,266 to be equipped with an occupant protection system; and

(2) "Occupant protection system" shall have the meaning provided in Neb. RS 60-6,265.

(B) (1) Except as provided in subdivision (B)(2), no driver shall operate a motor vehicle upon a highway or street unless driver and each front-seat occupant in the vehicle are wearing occupant protection systems and all occupant protection systems worn are properly adjusted and fastened.

(2) The following persons shall not be required to wear an occupant protection system.

(a) A person who possesses written verification from a physician that the person is unable to wear an occupant protection system for medical reasons;

(b) A rural letter carrier of the United States Postal Service while performing his or her duties as a rural letter carrier between the first and last delivery points; and

(c) A member of an emergency medical service while involved in patient care.

(Neb. RS 60-6,267)

(C) All persons being transported in a motor vehicle operated by a holder of a provisional operator's permit or a school permit shall use such motor vehicle's occupant protection system. (Neb. RS 60-6, 267)

(D) Enforcement of divisions (B) and (C) shall be accomplished only as a secondary action when an operator of a motor vehicle has been cited or charged with a violation of some other offense. (Neb. RS 60-6,268, 60-6,271)

(E) Regardless of the number of persons in such vehicle not wearing an occupant protection system pursuant to division (B), only one violation shall be assessed against the driver of such motor vehicle for each time the motor vehicle is stopped and a violation of such section is found. (Neb. RS 60-6,272)

(Ord. No. 2003-015, 12/8/03)

§5-212 SAFETY BELT REQUIRED.

(1) Any driver and front seat passenger of a motor vehicle operated on a street or highway in the City shall wear a safety belt, except that the number of front seat passengers required to wear a safety belt shall not exceed the number of safety belts which were installed in the front seat of such motor vehicle by the manufacturer. Any driver transporting a child who is four years of age or more but is less than 16 years of age shall be responsible for securing such child in a safety belt if the child is riding in the front seat of the motor vehicle. All safety belts so worn shall be properly adjusted and fastened and shall (A) be of a type which meets the requirements of 49 C.F.R. section 571.208 as such regulations currently exist or as the regulation existed when the safety belts were originally installed by the manufacturer or, if the safety belts have been replaced, (B) be of a type which meets the requirements of 49 C.F.R. section 571.208 that applied to the originally installed safety belts or of a more recently issued version of such regulations. Requirements for a child under the age of four are provided in Neb. Rev. Stat. §39-6,103.01 to 39-6,103.03.

(2) Enforcement of this section by state or local law enforcement agencies shall be accomplished only as a secondary action when a driver of a motor vehicle has been detained for a suspected violation or some other offense.

(3) Any person who violates this section shall be guilty of a traffic infraction as defined in Neb. Rev. Stat. §39-602 and shall be fined \$25.00 but no court costs shall be assessed against him or her, nor shall any points be assessed against the driving record of such person.

(4) This section shall not apply to (A) a driver or passenger who possesses written verification from a physician that the driver or passenger is unable to wear a safety belt for medical reasons and (B) a rural letter carrier of the United States Postal Service while performing his or her duties as a rural letter carrier between the first and last delivery points.

(5) Evidence that a person was not wearing a seatbelt at the time he or she was injured shall not be admissible in regard to the issue of liability or proximate cause, but may be admissible as evidence concerning mitigation of damages, except that it shall not reduce recovery for damages by more than 5%.

(Ref. 60-6,212, 60-6,266 RS Neb.) (Ord No. 147, 10/14/85)

§5-213 NO PASSING ZONE; ESTABLISHMENT.

A "no passing" zone shall hereby be established on Main Street from Boyer Street to Fourth Street in Battle Creek, and appropriate signs shall be posted and solid striping of

Main Street shall occur to provide notice to the public of said zone. (Ord. No. 221, 9/9/91)

§5-214 SCHOOL CROSSING ZONES; DESIGNATION.

(1) Neb. Rev. Stat. §60-682.01 provides fines for operating a motor vehicle in violation of authorized speed limits and states that the fines are doubled if the violation occurs within a school crossing zone.

(2) Neb. Rev. Stat. §60-6,134.01 makes it unlawful for a person operating a motor vehicle to overtake and pass another vehicle in a school crossing zone in which the roadway has only one lane of traffic in each direction and provides fines for violation of that prohibition.

(3) The City Council may by resolution designate to the public any area of a roadway, other than a freeway, as a school crossing zone through the use of a sign or traffic control device as specified by the City Council in conformity with the *Manual on Uniform Traffic Control Devices*. Any school crossing zone so designated starts at the location of the first sign or traffic control device identifying the school crossing zone and continues until a sign or traffic control device indicates that the school crossing zone has ended.

(Ref. 60-658.01 RS Neb.) (Ord. No. 98-356, 11/9/98)

§5-215 SCHOOL CROSSING ZONES; OVERTAKING AND PASSING.

A person operating a motor vehicle may not overtake and pass another vehicle in any school crossing zone designated by the City Council in which the roadway has only one lane of traffic in each direction. (Ref. 60-6,134.01 RS Neb.) (Ord. No. 98-357, 11/9/98)

§5-216 ACCIDENT; DRIVER'S DUTIES.

(A) (1) Except as provided in subsection (2) of this division, the driver of any vehicle involved in an accident either upon a public highway, private road, or private drive, resulting in damage to property, shall:

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

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

(2) The driver of any vehicle involved in an accident either upon a public highway, private road, or private drive resulting in damage to an unattended vehicle or property shall immediately stop such vehicle and leave in a conspicuous place in or on the unattended vehicle or property a written notice containing the information required by subsection (1) of this division. In addition, such driver shall, without unnecessary delay, report the collision by telephone or otherwise to an appropriate peace officer. (Ref. 60-696 RS Neb.)

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

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

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

(3) Render to any person injured in such accident reasonable assistance, including the carrying of such person to a physician or surgeon for medical or surgical treatment if it is apparent that such treatment is necessary or is requested by the injured person. (Ref. 60-697 RS Neb.)
(Ord. No. 2002-012, 8/12/02)

§5-217 LOADS; SPILLING OR SHIFTING.

(1) No vehicle shall be driven or moved on any highway unless the vehicle is so constructed or loaded as to prevent its contents from dropping, sifting, leaking, or otherwise escaping from the vehicle.

(2) No person shall transport any sand, gravel, rock less than two inches in diameter, or refuse in any vehicle on any hard-surfaced highway if such material protrudes above the sides of that part of the vehicle in which it is being transported unless such material is enclosed or completely covered with canvas or similar covering.

(3) No person shall drive or move a motor vehicle, trailer, or semi-trailer upon any highway unless the cargo or contents carried by the motor vehicle, trailer, or semi-trailer are properly distributed and adequately secured to prevent the falling of cargo or contents from the vehicle. The tailgates, doors, tarpaulins, and any other equipment used in the operation of the motor vehicle, trailer, or semi-trailer or in the distributing or securing of the cargo or contents carried by the motor vehicle, trailer, or semi-trailer shall be secured to prevent cargo or contents falling from the vehicle. The means of securement to the motor vehicle, trailer, or semi-trailer must be either tiedowns and tiedown assemblies of adequate strength or sides, sideboards, or stakes and a rear end-gate, end-board, or stakes strong enough and high enough to assure that cargo or contents will not fall from the vehicle. (Neb. RS 60-6, 304)
(Ord. No. 2003-015, 12/8/03)

Article 3 – Bicycles, Snowmobiles, Mini-Bikes and All-Terrain Vehicles

§5-301 BICYCLES; CONGESTED DISTRICT.

The City Council may by resolution provide for and designate the location of bicycle racks within the congested district in the interest of public safety. No person shall under any circumstances lay a bicycle or bicycles upon the street or sidewalk within the congested district. Such bicycles shall be parked upright or placed in the appropriate racks when not in use.

§5-302 CLINGING TO MOTOR VEHICLE.

No person riding upon any bicycle or roller skates shall attach the same or himself to any moving vehicle upon any roadway, and it shall be unlawful for the driver of any vehicle to suffer or permit any person traveling upon any bicycle or roller skates to cling to

or attach himself or his bicycle or roller skates to such vehicle so driven and operated by him. (Ref. 39-689 RS Neb.)

§5-303 SNOWMOBILES; PUBLIC LANDS.

Snowmobiles shall be prohibited from operation on the public lands owned by the City, except where allowed by resolution of the City Council. (Ref. 60-2016 RS Neb.)

§5-304 MINI-BIKES; TRAFFIC LAWS INAPPLICABLE.

Mini-bikes, their owners, and their operators shall be exempt from the requirements of Neb. Rev. Stat. Chapter 60, Articles 3, 4, and 5. (Ref. 60-6,347 RS Neb.) (Ord. No. 2005-003, 5/9/05)

§5-305 ALL-TERRAIN VEHICLES; DEFINITION.

As used in this Article, unless the context otherwise requires, "all-terrain vehicle" means any motorized off-highway vehicle which (1) is 50 inches or less in width, (2) has a dry weight of 900 pounds or less, (3) travels on three or more low pressure tires, (4) is designed for operator use only with no passengers or is specifically designed by the original manufacturer for the operator and one passenger, (5) has a seat or saddle designed to be straddled by the operator, and (6) has handlebars or any other steering assembly for steering control. (Neb. RS 60-6,355) (Ord. No. 2004-001, 1/12/04)

§5-306 ALL-TERRAIN VEHICLES; OPERATION, REGISTRATION, FEES.

(1) The City of Battle Creek hereby allows the use of all-terrain vehicles (ATVs), utility vehicles and golf carts on public roadways within the city limits. Neb. Rev. Stat. §60-6,355 through 60-6,362 pertaining to the use of ATVs shall apply to all vehicles listed herein and will be enforced by law enforcement personnel. In addition to state laws, the City has established a minimum age requirement of 19 years to operate vehicles approved by this ordinance on public roadways within the corporate limits of the City.

(2) All such vehicles must be registered prior to use within the city limits and have a city-issued registration slip and plate with a current date sticker attached in the lower right-hand corner of the plate, which must be attached in such a manner that it is readily visible from the rear of the vehicle. Registration slip, plate and sticker will be issued from the city office at the time of original registration of the vehicle.

(3) The initial registration fee for such vehicles named herein shall be set by the City Council and placed on file in the office of the City Clerk for public inspection during office hours. Information required at the time of registration: name, address, proof of insurance, VIN, year, make, model, vehicle color and engine size.

(4) All vehicle registrations must be renewed annually. The renewal registration fee for such vehicles shall be set by the City Council and placed on file in the office of the City Clerk for public inspection during office hours.. At the time of renewal, the City will issue a current date sticker for that year and a current vehicle registration slip. The current registration slip and proof of liability insurance must be kept with the vehicle at all times for review by any law enforcement officer upon request.

(5) If a vehicle is sold or will no longer be used on public roadways within the city limits, a refund as set by the City Council will be issued when the plate is returned to the City. A vehicle purchased in trade for another vehicle may utilize the same plate, but the new vehicle information must be provided to the city office within 15 days of acquisition. (Ord. No. 2009-004, 3/9/09)

§5-307 ALL-TERRAIN VEHICLES; VIOLATIONS.

All sections listed in Article 5 herein (Violations Bureau) will apply to all vehicles and fines encompassed within this ordinance. Violations and fines specific to vehicles within this ordinance which are not listed in Article 5 are as follows:

Offense	
1.	Failure to display a flag as per state law for ATVs
2.	Driving during times other than allowed by state law for ATVs (exception for snow removal)
3.	Failure to have vehicle equipped as per state law for ATVs

Such fines shall be set from time to time by the City Council and placed on file in the office of the City Clerk for public inspection during office hours. (Ord. No. 2009-004, 3/9/09)

Article 4 – Parking

§5-401 GENERALLY.

No person shall park any vehicle, or approach the curb with a vehicle except when headed in the direction of the traffic. Vehicles, when parked, shall stand parallel with and adjacent to the curb or edge of the roadway in such manner as to have both right wheels within 12 inches of the curb or edge of the roadway and so as to leave at least 4 feet between the vehicle so parked and any other parked vehicles, except where the City Council designates that vehicles shall be parked at an angle so as to have the front right wheel at the curb or edge of the roadway. Where stalls are designated either on the curb or pavement, vehicles shall be parked within such stalls. (Ref. 39-673, 39-697 RS Neb.)

§5-402 DESIGNATION.

The City Council may by resolution designate any street or portion thereof where vehicles shall be parked parallel with and adjacent to the curb or at an angle so as to have the right front wheel at the curb. (Ref. 39-673, 39-697 RS Neb.)

§5-403 AREAS.

The City Council may by resolution set aside any street, alley, public way, or portion thereof where the parking of a particular kind or class of vehicle shall be prohibited or where the parking of any vehicle shall be prohibited. No vehicle prohibited from parking thereon shall stand or be parked adjacent to the curb of said street, alley, public way or portion thereof longer than a period of time necessary to load and unload freight or passengers. (Ref. 39-697 RS Neb.)

§5-404 OBSTRUCTING ALLEY.

No vehicle while parked shall have any portion thereof projecting into any alley entrance. (Ref. 39-697 RS Neb.)

§5-405 ALLEYS.

No vehicle shall be parked in any alley except for the purpose of loading or unloading during the time necessary to load or unload, which shall not exceed the maximum limit of one-half hour. Every vehicle while loading or unloading in any alley shall be parked in such manner as will cause the least obstruction possible to traffic in such alley. (Ref. 39-697 RS Neb.)

§5-406 UNLOADING; FREIGHT VEHICLES.

Vehicles of an overall length of less than 15 feet, including load, while discharging or loading freight may back to the curb but shall occupy as little of the street as possible. (Ref. 39-697 RS Neb.)

§5-407 FIRE HYDRANTS AND STATIONS.

No vehicle shall be parked within 15 feet in either direction of any fire hydrant nor within 20 feet of the driveway entrance to any fire station. The curb space within such area of 15 feet in either direction of such fire hydrant shall be painted yellow to indicate such prohibition. (Ref. 39-672 RS Neb.)

§5-408 SCHOOLS, THEATERS.

The City Council may by resolution prohibit the parking or stopping of vehicles at the curb, except for loading or unloading of passengers or freight, on streets directly in front of any entrance to a school house, school building, or theater, and such curbs adjacent to the entrance of said buildings shall be painted yellow to indicate such prohibition. (Ref. 39-697 RS Neb.)

§5-409 STREET INTERSECTIONS.

Except in compliance with traffic control devices, no vehicle shall be parked or left standing for any purpose, except momentarily to load or discharge passengers, within 25 feet of the intersection of curb lines or, if none, then within 15 feet of the intersection of property lines, nor where said curb lines are painted yellow to indicate such prohibition. (Ref. 39-672 RS Neb.)

§5-410 PARKING; OBSTRUCTING TRAFFIC.

No person shall, except in case of an accident or emergency, stop any vehicle in any location where such stopping will obstruct any street, intersection, or entrance to an alley or public or private drive. (Ref. 39-697 RS Neb.)

§5-411 CURB.

No vehicle shall park on any street with its left side to the curb. Vehicles must not be

parked at any curb in such a position as to prevent another vehicle already parked at the curb from moving away. (Ref. 39-673 RS Neb.)

§5-412 CURBS, PAINTED.

It shall be the duty of the Street Superintendent to cause the curb space to be painted and keep the same painted as provided in this Article. No person, firm, or corporation shall paint the curb of any street or in any manner set aside or attempt to prevent the parking of vehicles in any street or part thereof except at such places where the parking of vehicles is prohibited by the provisions of this Article. The marking or designating of portions of streets or alleys where the parking of vehicles is prohibited or limited shall be done only by the City through its proper officers at the direction of the City Council. (Ref. 39-697 RS Neb.)

§5-413 REPAIR.

No person shall adjust or repair any automobile or motorcycle or race the motor of same while it stands on the public streets or alleys of this City, excepting in case of breakdown or other emergency requiring same. No person or employee connected with a garage or repair shop shall use sidewalks, streets, or alleys in the vicinity of such garage or shop for the purpose of working on automobiles or vehicles of any description. (Ref. 39-697 RS Neb.)

§5-414 MAXIMUM TIME LIMIT.

(1) The parking of a motor vehicle on a public street for over 24 consecutive hours is unlawful; provided further, it is unlawful for any operator or owner of a motor vehicle to allow such vehicle to remain parked on the streets or alleys within the congested district during the hours from 2:00 A.M. to 6:00 A.M.

(2) If any vehicle is found parked in violation of this section and the identity of the operator cannot be readily determined, the owner or person in whose name such vehicle is registered shall be held prima facie responsible for such violation. Any person in violation of the provisions of this section shall be deemed guilty of a misdemeanor. (Ref. 60-680 RS Neb.)

§5-415 EMERGENCY VEHICLES.

The provisions of this Article regulating the movement, parking, and standing of vehicles shall not apply to authorized emergency vehicles, as defined in this Article, while the driver of such vehicle is operating the same in an emergency in the necessary performance of public duties. (Ref. 60-6,114 RS Neb.)

§5-416 PROHIBITED ON STATE HIGHWAY N-121.

It shall be an offense, punishable in accordance with section 5-701 of the Municipal Code, for any person to park a motor vehicle along either side of State Highway N-121 within the corporate limits of the City. (Ref. 60-680 RS Neb.) (Ord. No. 129, 7/16/84)

§5-416.01 TRAILERS, TRUCKS, ETC.

(1) It shall be unlawful for the owner or operator of a semi-tractor truck with trailer

attached or unattached, or any trailer unattached, or other motor vehicle with trailer unattached, or other motor vehicle with trailer, bed or boxes attached, exceeding 12 feet in length, except emergency vehicles, to park on the maintained streets within the City, except when being used for the purpose of delivering or collecting goods, wares, merchandise or materials or obtaining repairs from or dealing with regularly established business firms on new or used trucks, or equipment related thereto, and then only for a period of time no longer than is necessary for the expeditious delivery or collecting of goods, wares merchandise or materials.

(a) Subsection (1) shall not apply to trucks or motor vehicles being used within the city in connection with building, repair, service, or moving operations.

(b) Subsection (1) shall not apply to law enforcement parking a speed monitoring trailer for the purpose of monitoring the speed of motorists for traffic studies or education of the motoring public.

(2) Trailers, campers, or mobile homes of any sort may not be parked on any city street, road, or alley except for the purpose of loading or unloading, and for a period not to exceed 48 hours.

(3) No part of any motor vehicle, trailer, camper, or other vehicle may be parked on or over any portion of a sidewalk.

(Ord. Nos. 2008-006, 5/12/08; 2009-001, 1/12/09)

§5-416.02 TERRACES.

(1) As used in this section, the term "terrace" shall mean that area between the property line and the curb line of the street.

(2) It shall be unlawful except as herein provided to regularly park any trailer, machinery or equipment upon the terrace. Motor vehicles may continue to park on the terraces unless it is determined by the Mayor and Council that such parking constitutes a traffic hazard, at which time such parking shall be prohibited.

(3) Subsection (2) shall not apply to law enforcement parking a speed monitoring trailer for the purpose of monitoring the speed of motorists for traffic studies or education of the motoring public.

(4) Trailers, campers, or mobile homes of any sort may not be parked on any terrace, unpaved, paved or graveled, except for the purpose of loading, unloading, and cleaning, for a period not to exceed 48 hours.

(5) No person shall park any vehicle or approach the terrace with a vehicle except when headed in the direction of the traffic.

(Ord. No. 2008-006, 5/12/08; 2009-003, 2/9/09)

§5-417 HANDICAPPED OR DISABLED PERSONS; DESIGNATION OF OFFSTREET PARKING STALLS, SPACES AND ACCESS AISLES.

The City and any person in lawful possession of any offstreet parking facility may designate stalls or spaces, including access aisles, in such facility owned or operated by the City or person for the exclusive use of:

(1) Handicapped or disabled persons whose motor vehicles display the distinguishing license plates issued to such individuals pursuant to section 60-311.14 RS Neb.,

(2) Such other handicapped or disabled persons or temporarily handicapped or disabled persons, as certified by the City , whose motor vehicles display the permit specified in Neb. Rev. Stat. §18-1739, and

(3) Such other motor vehicles, as certified by the City, which display such permit. Such designation shall be made by posting aboveground and immediately adjacent to and visible from each stall or space, including access aisles, a sign which is in conformance with the requirements in Neb. Rev. Stat. §18-1737. (Ref. 18-1737 RS Neb.) (Ord. No. 261, 7/11/94) (Am. by Ord. Nos. 97-340, 7/14/97; 2002-015, 8/12/02)

§5-418 HANDICAPPED OR DISABLED PERSONS; DESIGNATION OF ONSTREET PARKING SPACES AND ACCESS AISLES; DISPLAY OF PERMITS.

(A) The City Council may designate parking spaces, including access aisles, for the exclusive use of:

(1) Handicapped or disabled persons whose motor vehicles display the distinguishing license plates issued to handicapped or disabled persons pursuant to Neb. Rev. Stat. §60-311.14,

(2) Handicapped or disabled persons whose motor vehicles display a distinguishing license plate issued to a handicapped or disabled person by another state,

(3) Such other handicapped or disabled persons or temporarily handicapped or disabled persons, as certified by the City , whose motor vehicles display the permit specified in Neb. Rev. Stat. §18-1739, and

(4) Such other motor vehicles, as certified by the City, which display such permit.

All such permits shall be displayed by hanging the permit from the motor vehicle's rearview mirror so as to be clearly visible through the front windshield. The permit shall be displayed on the dashboard only when there is no rearview mirror.

(B) If the City Council so designates a parking space or access aisle, it shall be indicated by posting aboveground and immediately adjacent to and visible from each space or access aisle a sign as described in Neb. Rev. Stat. §18-1737. In addition to such sign, the space or access aisle may also be indicated by blue paint on the curb or edge of the paved portion of the street adjacent to the space or access aisle. (Ref. 18-1736 RS Neb.) (Ord. No. 260, 7/11/94) (Am. by Ord. Nos. 97-340, 7/14/97; 2002-014, 8/12/02)

§5-419 HANDICAPPED OR DISABLED PERSONS; DEFINITIONS.

For purposes of this Article:

“Access aisle” means a space adjacent to a handicapped parking space or passenger

loading zone which is constructed and designed in compliance with the federal Americans with Disabilities Act of 1990 and the federal rules and regulations adopted and promulgated in response to the Act. (Ref. 18-1736 RS Neb.)

“Handicapped or disabled person” means any individual with a severe visual or physical impairment which limits personal mobility and results in an inability to travel unassisted more than 200 feet without the use of a wheelchair, crutch, walker, or prosthetic, orthotic, or other assistant device, any individual whose personal mobility is limited as a result of respiratory problems, any individual who has a cardiac condition to the extent that his or her functional limitations are classified in severity as being Class III or Class IV, according to standards set by the American Heart Association, and any individual who has permanently lost all or substantially all the use of one or more limbs. (Ref. 18-1738 RS Neb.)

“Temporarily handicapped or disabled person” means any handicapped or disabled person whose personal mobility is expected to be limited in such manner for no longer than one year. (Ref. 18-1738 RS Neb.)

“Handicapped parking infraction” means the violation of any section of this Article regulating (1) the use of parking spaces, including access aisles, designated for use by handicapped or disabled persons, (2) the unauthorized possession, use, or display of handicapped or disabled parking permits, or (3) the obstruction of any wheelchair ramps constructed or created in accordance and in conformity with the federal Americans with Disabilities Act of 1990. (Ref. 18-1741.01 RS Neb.)
(Ord. No. 262, 7/11/94) (Am. by Ord. Nos. 97-340, 7/14/97; 2002-013, 8/12/02)

§5-420 HANDICAPPED OR DISABLED PERSONS; PERMITS; PERIOD VALID; RENEWAL; FEE.

(1) All permits authorized under this Article for handicapped or disabled parking prior to September 10, 1993, shall be issued for a period ending January 1 of the fourth year following the date of issuance. All permits authorized under this Article for handicapped or disabled parking after September 9, 1993, and before September 10, 1995, shall be issued for a period of three years. Upon the expiration of a permanent permit, it may be renewed pursuant to the provisions of this section and section 5-423 or 5-424. After September 9, 1995, all permanently issued permits authorized by this Article shall be issued for a period ending September 30 of the third year following the date of issuance and shall expire on that date, except that an application for the renewal of a permit filed with the City Clerk within thirty (30) days of the date after its expiration shall be deemed to have been filed prior to the date of its expiration. The possession of an expired but otherwise valid handicapped parking permit within thirty (30) days following the date of its expiration shall serve as a full and complete defense in any action for a handicapped parking infraction resulting from the absence of a handicapped parking permit arising during that thirty-day period.

(2) All permits authorized under this Article after September 9, 1995, for temporarily handicapped or disabled parking shall be issued for a period ending not more than six (6) months after the date of issuance but may be renewed for a one-time period not to exceed six months. For the renewal period, there shall be submitted an additional application with proof of a handicap or disability and the required permit fee.

(3) A permit fee shall be charged for each permit, a portion of which shall be re-

tained by the City Clerk, and the rest of the fee shall be forwarded on a quarterly basis to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund. Such fee shall be set by the City Council and placed on file in the office of the City Clerk for public inspection during office hours. (Ref. 18-1740 RS Neb.) (Ord. No. 263, 7/11/94) (Am. by Ord No. 97-340, 7/14/97)

§5-421 HANDICAPPED OR DISABLED PERSONS; CITATION, ISSUANCE; COMPLAINT; DISMISSAL.

(1) For any offense classified as a handicapped parking infraction, a handicapped parking citation may be issued by any peace officer or by any person designated by ordinance by the City Council to exercise the authority to issue a citation for any handicapped parking infraction.

(2) When a handicapped parking citation is issued for a handicapped parking infraction, the person issuing the citation shall enter thereon all required information, including the name and address of the cited person or, if not known, the license number and description of the offending motor vehicle, the offense charged, and the time and place the person cited is to appear in court. Unless the person cited requests an earlier date, the time of appearance shall be at least three days after the issuance of the handicapped parking citation. One copy of the handicapped parking citation shall be delivered to the person cited or attached to the offending motor vehicle.

(3) At least 24 hours before the time set for the appearance of the cited person, either the City Attorney or other person authorized by law to issue a complaint for the particular offense shall issue and file a complaint charging such person with a handicapped parking infraction or such person shall be released from the obligation to appear as specified.

(4) The trial of any person for a handicapped parking infraction shall be by the court without a jury. A person cited for a handicapped parking violation may waive his or her right to trial.

(5) For any handicapped parking citation issued for a handicapped parking infraction by reason of the failure of a vehicle to display a handicapped parking permit issued pursuant to Neb. Rev. Stat. §18-1738 or 18-1738.01, the complaint shall be dismissed if, within seven business days after the date of issuance of the citation, the person cited files with the court the affidavit included on the citation, signed by a peace officer certifying that the recipient is the lawful possessor in his or her own right of a handicapped parking permit issued under Neb. Rev. Stat. §18-1738 or 18-1738.01 and that the peace officer has personally viewed the permit.

(Ref. 18-1741.01, 18-1741.04, 18-1741.06 RS Neb.) (Ord. No. 264, 7/11/94) (Am. by Ord. No. 97-340, 7/14/97)

§5-422 HANDICAPPED OR DISABLED PERSONS; REMOVAL OF UNAUTHORIZED VEHICLE; PENALTY.

(A) The owner or person in lawful possession of an offstreet parking facility, after notifying the City Police, and the City, if it provides onstreet parking or owns, operates, or provides an offstreet parking facility, may cause the removal from a stall or space, including access aisles, designated exclusively for handicapped or disabled persons or temporarily handicapped or disabled persons or motor vehicles for the transportation of

handicapped or disabled persons or temporarily handicapped or disabled persons, of any vehicle not displaying the proper permit or the distinguishing license plates specified in this Article if there is posted aboveground and immediately adjacent to and visible from such stall or space, including access aisles, a sign which clearly and conspicuously states the area so designated as a tow-in zone.

(B) A person who parks a vehicle in any onstreet parking space or access aisle which has been designated exclusively for handicapped or disabled persons or temporarily handicapped or disabled persons or motor vehicles for the transportation of handicapped or disabled persons or temporarily handicapped or disabled persons, or in any so exclusively designated parking space or access aisle in any offstreet parking facility, without properly displaying the proper permit or when the handicapped or disabled person to whom or for whom, as the case may be, the license plate or permit is issued will not enter or exit the vehicle while it is parked in the designated space or access aisle shall be guilty of a handicapped parking infraction and shall be subject to the penalties and procedures set forth in section 5-701 (Violation; Penalty). The display on a motor vehicle of a distinguishing license plate or permit issued to a handicapped or disabled person by and under the duly constituted authority of another state shall constitute a full and complete defense in any action for a handicapped parking infraction. If the identity of the person who parked the vehicle in violation of this section cannot be readily determined, the owner or person in whose name the vehicle is registered shall be held prima facie responsible for such violation and shall be guilty and subject to the penalties and procedures described in this section.

(C) In the case of a privately owned offstreet parking facility, the City shall not require the owner or person in lawful possession of such facility to inform the City of a violation of this section prior to the issuance of a handicapped parking infraction citation to the violator.

(Ref. 18-1737 RS Neb.) (Ord. No. 265, 7/11/94) (Am. by Ord Nos. 97-340, 7/14/97; 2002-023, 10/1 6/02)

§5-423 HANDICAPPED OR DISABLED PERSONS; PERSONAL PERMIT; ISSUANCE; RENEWAL.

(A) The City Clerk shall take an application on a form provided by the Department of Motor Vehicles from a handicapped or disabled person or temporarily handicapped or disabled person or his or her parent, legal guardian, or foster parent for a permit which will entitle the holder thereof or a person driving a motor vehicle for the purpose of transporting such holder to park in those spaces or access aisles provided for by this Article when the holder of the permit will enter or exit the motor vehicle while it is parked in such spaces or access aisles. For purposes of this section, the handicapped or disabled person or temporarily handicapped or disabled person shall be considered the holder of the permit.

(B) A person applying for a permit or for the renewal of a permit shall complete an application, shall provide proof of identity, and shall submit a completed medical form containing the statutory criteria for qualification and signed by a physician, physician assistant, or advanced practice registered nurse certifying that the person who will be the holder meets the definition of handicapped or disabled person or temporarily handicapped or disabled person. No applicant shall be required to provide his or her social security number. In the case of a temporarily handicapped or disabled person, the certifying physician, physician assistant, or advanced practice registered nurse shall indicate the estimated date of recovery or that the temporary handicap or disability will continue

for a period of six months, whichever is less.

(C) A person may hold only one permit and may hold either a permit under this section or a permit under section 5-424, but not both.

(D) A copy of the completed application form shall be given to each applicant. The City Clerk shall submit to the Department of Motor Vehicles the name, address, and license number of all persons applying for a permit pursuant to this section.

(E) All permanently issued permits for handicapped or disabled parking issued on or after August 1, 2005, shall be valid for a period ending on the last day of the month of the applicant's birthday in the third year after issuance and shall expire on that day. All permits issued thereafter shall expire on the last day of the month of the applicant's birthday and every three years thereafter. (Neb. Rev. Stat. §18-1740)

(F) An application for the renewal of a permit under this section may be filed within 30 days prior to the expiration of the permit. The existing permit shall be invalid upon receipt of the new permit. (Ref. 18-1738 RS Neb.)

(G) The City Clerk shall not accept the application for a permit of any person making application contrary to the provisions of Neb. Rev. Stat. §18-1738.02. (Ref. 18-1738.02 RS Neb.)
(Ord. No. 97-340, 7/14/97) (Am. by Ord Nos. 2001-007, 6/11/01; 2002-016, 8/12/02; 2009-007, 6/8/09)

§5-424 HANDICAPPED OR DISABLED PERSONS; MOTOR VEHICLE PERMIT; ISSUANCE, RENEWAL.

(A) The City Clerk shall take an application from any person for a motor vehicle permit which will entitle the holder thereof or a person driving the motor vehicle for the purpose of transporting handicapped or disabled persons or temporarily handicapped or disabled persons to park in those spaces or access aisles provided for by this Article if the motor vehicle is used primarily for the transportation of handicapped or disabled persons or temporarily handicapped or disabled persons. Such parking permit shall be used only when the motor vehicle for which it was issued is being used for the transportation of a handicapped or disabled person or temporarily handicapped or disabled person and such person will enter or exit the motor vehicle while it is parked in such designated spaces or access aisles.

(B) A person applying for a permit or for the renewal of a permit pursuant to this section shall apply for a permit for each motor vehicle used for the transportation of handicapped or disabled persons or temporarily handicapped or disabled persons, shall complete such forms as are provided to the City Clerk by the Department of Motor Vehicles, and shall demonstrate to the Clerk that each such motor vehicle is used primarily for the transportation of handicapped or disabled persons or temporarily handicapped or disabled persons. A copy of the completed application form shall be given to each applicant.

(C) No more than one permit shall be issued for each motor vehicle. A person may hold either a permit under this section or a permit under section 5-423, but not both.

(D) An application for the renewal of a permit under this section may be filed

within 30 days prior to the expiration of the permit. The existing permit shall be invalid upon receipt of the new permit.

(E) The City Clerk shall submit to the Department of Motor Vehicles the name, address, and license number of all persons applying for a permit pursuant to this section. (Ref. 18-1738.01 RS Neb.)

(F) The City Clerk shall not accept the application for a permit of any person making application contrary to Neb. Rev. Stat. §18-1738.02. (Ref. 18-1738.02 RS Neb.) (Ord. No. 97-340, 7/14/97) (Am. by Ord. No. 2002-017, 8/12/02)

§5-425 HANDICAPPED OR DISABLED PERSONS; PERMITS; PROHIBITED ISSUANCE; DUPLICATE PERMITS.

(A) No permit shall be issued to any person or for any motor vehicle if any parking permit has been issued to such person or for such motor vehicle and such permit has been suspended pursuant to section 5-426. At the expiration of such suspension, a permit may be renewed in the manner provided for renewal in this Article.

(B) A duplicate permit may be provided without cost if the original permit is destroyed, lost, or stolen. Such duplicate permit shall be issued in the same manner as the original permit, except that a newly completed medical form need not be provided if a completed medical form submitted at the time of the most recent application for a permit or its renewal is on file with the City Clerk or the Department of Motor Vehicles. A duplicate permit shall be valid for the remainder of the period for which the original permit was issued. (Ref. 18-1739 RS Neb.) (Ord. No. 97-340, 7/14/97) (Am. by Ord. No. 2002-018, 8/12/02)

§5-426 HANDICAPPED OR DISABLED PERSONS; PERMITS NONTRANSFERABLE; VIOLATIONS; SUSPENSION.

Permits issued under this Article shall not be transferable and shall be used only by the party to whom issued or for the motor vehicle for which issued and only for the purpose for which it is issued. No person shall alter or reproduce in any manner a permit issued pursuant to this Article. No person shall knowingly hold more than one permit or knowingly provide false information on an application for a permit. Any violation of this section shall be cause for suspension of such permit for a period of six months. At the expiration of such period, a suspended permit may be renewed upon payment of the permit fee. (Ref. 18-1741 RS Neb.) (Ord. No. 97-340, 7/14/97)

Article 5 – Violations Bureau

(Article adopted by Ord. No. 2009-002, 2/12/09)

§5-501 ESTABLISHED.

For the purposes hereinafter provided, there is hereby established a Violations Bureau which shall be under the direction and supervision of the City Clerk. (Ref. 18-1729 RS Neb.)

§5-502 RULES, COLLECTIONS AND ACCOUNTING.

The Violations Bureau shall collect and account for all monies paid in accordance with the provisions of this chapter and shall issue receipt therefor, remit all monies collected under the provisions of this title to the City Treasurer; and keep records of all violators, showing the name, time, and date of violation and disposition.

§5-503 ISSUING CITATIONS.

It shall be the duty of any authorized law enforcement officer to issue a citation which shall be processed originally through the Violations Bureau upon finding:

(1) Any motor vehicle in violation of a motor vehicle parking ordinance or of a duly established parking regulation of the City;

(2) Any motor vehicle stopped or parking in such a manner as to interfere with the lawful use of the street:

(3) Any motor vehicle stopped or parked in violation of this chapter.

§5-504 PAYMENT OF FINES AND COSTS.

(1) Any person accused of any of the following violations of the City Code may appear before the Violations Bureau and waive arraignment and the right to a hearing by payment of the fine which has been set for his or her offense:

A.	Violation of a motor vehicle parking ordinance or duly established parking regulation not otherwise hereinafter specified
B.	Parking or stopping a motor vehicle in such a manner as to interfere with the lawful use of a street, street intersection, sidewalk, alley, or private drive
C.	Parking or stopping of a motor vehicle too close to a fire hydrant or entrance to fire station
D.	Parking in handicap reserved area without sticker/tag in view
E.	No registration certificate
F.	No proof of financial responsibility
G.	Failure to have motor vehicle registered and displaying proper plates
H.	Parking a motor vehicle, camper, trailer, or other oversized vehicles on maintained streets or alleys adjacent to residentially-zoned property
I.	For all-terrain vehicle violations, see section 5-307

Such fines shall be set from time to time by the City Council and placed on file in the office of the City Clerk for public inspection during office hours.

(2) In each instance of such waiver of arraignment and right to a hearing, the person charged in the complaint shall pay, in addition to the amount specified above, the administrative costs which have been set by the City Council and placed on file in the office of the City Clerk. (Ref. 29-423 RS Neb.)

(3) The amount remaining after the administrative fee has been deducted will be turned over to the Battle Creek Public School District quarterly. Administrative fees collected by the City will go into the General Fund to offset the City's costs in the issuance, collection and record keeping of such offenses.

§5-505 MAILING NOTICE OF COMPLAINT.

In the event that a person accused of a violation does not appear before the Violations Bureau within seven days after the date of the issuance of the citation, notice shall be mailed to the last known address of the registered owner of the vehicle found to be in violation of the ordinance or regulation, setting forth the date and the nature of the alleged offense, the disposition that can be made of the matter by appearing at the Violations Bureau within 15 days of the issuance of the citation, and that upon the expiration of the 15-day period such vehicle may be impounded pursuant to section 5-507 and a complaint may be filed pursuant to section 5-508.

§5-506 IMPOUNDMENT.

Impounded vehicles will be towed by a wrecker service. The cost of impoundment will constitute a lien against the vehicle, with the owner held liable for costs of towing and storage. Vehicles impounded will be held until all penalties are paid, including any citation for violation at the time the vehicle is secured for towing. However, in the event such citation is dismissed by the county court, a full refund will be made for the cost of the impoundment for that citation only.

§5-507 FILING OF COMPLAINT FOR NON-PAYMENT.

When directed to do so by the City Council, and where in his or her judgment there is sufficient evidence to warrant the belief that a person is guilty and can be convicted of a violation of the parking ordinances, the City Attorney shall prepare a complaint, file it with the Madison County Court, attend and prosecute the violation.

Article 6 – Failure to Appear in Court

§5-601 PENALTY.

Whoever is charged with violation of a city ordinance, conviction of which would carry a jail sentence or require the payment of a fine, or either, and who shall fail to appear in court therefor following the communication to the defendant of a date for appearance as provided by law, upon conviction for willful failure to so appear shall be guilty of an offense and be punished in the manner provided in section 5-701 of this Code. (Ord. No. 2004-006, 6/14/04)

Article 7 – Penal Provision

§5-701 VIOLATION; PENALTY.

Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this Chapter, set forth at full length herein or incorporated by reference shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be fined not

more than \$500.00 for each offense. A new violation shall be deemed to have been committed every 24 hours of such failure to comply. (Am. by Ord. No. 2009-007, 6/8/09)