

**ORDINANCES OF A  
GENERAL AND PERMANENT NATURE  
of the CITY of  
WAVERLY, NEBRASKA**

**ORDINANCE NO. 83-1**

An ordinance of the City of Waverly, Nebraska, codifying the general ordinances of the Municipality, repealing prior ordinances in conflict herewith.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF WAVERLY, NEBRASKA.

Section 1. Codification. The general ordinances of the Municipality of Waverly, Nebraska, are hereby codified into eleven (11) chapters and the articles, sections, and subsections hereunder, which are adopted and declared to be ordinances of this Municipality.

Section 2. Repeal of Prior Ordinances in Conflict. All ordinances and parts of ordinances of a general or permanent nature passed and approved prior to the passage and approval of this codification ordinance and in conflict with the code hereby adopted or with any of the provisions of this ordinance, are hereby repealed; Provided, however, that in construing the provisions of this ordinance the following ordinances shall not be considered or held to be ordinances of a general or permanent nature, to-wit:

- A. Ordinances vacating streets and alley.
- B. Ordinances authorizing or directing public improvements to be made.
- C. Ordinances levying taxes or special assessments.
- D. Ordinances granting a franchise, or special license to particular persons.
- E. Ordinances providing for the issuance of bonds or other instruments of indebtedness.
- F. Ordinances establishing grades.
- G. Ordinances authorizing Real Estate Transactions.
- H. Any other ordinances which by nature would be considered special and not of a general and permanent nature.

Section 3. Exceptions. The repeal of ordinances as provided in this code shall not affect any rights acquired, fines, penalties, forfeitures, or liabilities incurred thereunder, or actions involving any of the provisions of such ordinances and parts thereof prior to repeal. Such ordinances above repealed are hereby continued in force and effect after the passage, approval and publication of this general codification ordinance for the purpose of all rights, fines, penalties, forfeitures, liabilities, and actions therefor.

Section 4. Defining Chapters, Articles, Sections, and Subsections; Ordinances; Numbering Scheme. The chapters, articles, sections, and subsections as set forth herein shall be and hereby are declared to be the chapters, articles, sections and subsections of this general codification ordinance. All ordinances hereafter passed by the Waverly City Council shall be numbered consecutively, beginning with No. 83-2.

Section 5. Construction of Chapters, Articles and Sections; Municipal Code; How Revised. For purposes of construction, each article contained and arranged in this code as the same is presently constituted or as the same may be amended from time to time and at any time shall be considered as a separate and distinct ordinance. Each section appearing in the several chapters of said code shall be considered a separate and distinct unit of legislation germane to the chapter or article under which it is grouped and each article appearing in said chapters shall be considered as a group of legislative units germane to the chapter wherein it is placed. Any chapter, article section, or subsection duly enacted by the Governing Body and included in this code as the same is presently constituted or as the same may be amended from time to time and at any time, and any other independent ordinance, section, or subsection of any ordinance duly enacted shall be altered, amended, or revised only by the complete nullification and repeal of such ordinance, chapter, article, section, or subsection and by the substitution of a new ordinance, chapter, article, section, or subsection containing the entire ordinance, chapter, article, section, or subsection as amended, altered, or revised; Provided, however, that no ordinance of any general and permanent nature hereafter adopted by the Governing Body shall include subject matter which is or would upon its adoption be included in more than one article of this code; and provided, that no ordinance hereafter adopted shall alter, amend, or revise more than one section of this code unless the same alters, amends, or revises the entire article in which such section appears. The legislative history relating to each chapter, article, section, and subsection of this code shall indicate whether the same has been altered, amended, revised, or repealed and shall include the number of the ordinance which altered, amended, revised or repealed each such article, section, or subsection of this code and the date of adoption, publication, and the effective date of such ordinance.

Section 6. Severability and Savings Clause.

- A. Each section and each subdivision of a section of this code as the same is presently constituted or as the same may be amended from time to time and at any time is hereby declared to be severable and independent of every other section so far as inducement for the passage and adoption of this code or amendments thereto are concerned and invalidity of any section or subdivision of a section of this code shall not invalidate any other section or subdivision of a section thereof.
- B. The adoption of this code by this ordinance and the adoption of any amendments hereto shall in no manner affect pending actions either civil or criminal founded on or growing out of any ordinance or part of any ordinance repealed subsequent to the adoption hereof and the adoption of this code by this ordinance and the adoption of any amendments hereto shall in no manner affect rights or causes of action either civil or criminal not in suit that may have already accrued or may grow out of any ordinance or part of any ordinance repealed subsequent to the adoption of this code or any amendments hereto.

- C. If any section, subsection, sentence, clause, phrase, term, provision, or portion of this code as the same is presently constituted or as the same may be amended from time to time and at any time is for any reason whatsoever held to be invalid or be declared unconstitutional by the decision of any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions of this code as the same is presently constituted or as the same may be amended from time to time and at any time which still remain in full force and effect. The provision of this code as the same is presently constituted or as the same may be amended from time to time and at any time are hereby declared to be severable. The Governing Body hereby declares that it would have adopted this code as the same is presently constituted or as the same may be amended from time to time and at any time, and each chapter, article, section, subsection, sentence, clause, phrase, or other portion of the same, irrespective of the fact that any such portion of the same be declared illegal, unconstitutional, or invalid for any reason and at any time.

Section 7. Blanket Penalty. Any person and his, her, their, or its agents or servants who shall violate any of the provisions of the Waverly Municipal Code unless otherwise specifically provided herein, shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be fined in any sum not less than five (\$5.00) dollars nor exceeding one hundred (\$100.00) dollars, and shall stand committed to jail until such fine and costs of prosecution are paid or otherwise disposed of according to law. Each day that a violation of any chapter, article, section, or subsection of this code as the same is presently constituted or as the same may be amended from time to time and at any time continues shall constitute a separate and distinct offense and shall be punishable as such. The penalties provided in this code as the same is presently constituted or as the same may be amended from time to time and at any time shall be cumulative with and in addition to any penalty or forfeiture elsewhere provided in this code. Whoever aids, abets, encourages, requests, advises, conspires with, procures for, or incites another to commit any act which is an offense under this code as the same is presently constituted or as the same may be amended from time to time and at any time or under any other ordinance of the Municipality may be prosecuted and punished as though he or she were the principal offender.

Section 8. Provisions Relating to Waiver of Appearance and Plea of Guilty. The provisions of this code as the same is presently constituted or as the same may be amended from time to time and at any time which establish fines or procedures relating to waiver of appearance and plea of guilty are included only for the purpose of expressing the desire and intention of the Governing Body with regard to such fines and procedures and are not intended to attempt to bind the Lancaster County Court; but should be construed as a request by the Municipality that said Court review and adopt such fines and procedures, or in the alternative, substitute such fines and procedures as said Court may deem appropriate.

Section 9. Words and Phrases Defined: Unless the context is shown to clearly intend otherwise, words and phrases in the Waverly Municipal Code as the same is presently constituted or as the same may be amended from time to time and at any time hereafter enacted are used in the following sense:

- A. City, Municipal and Municipality. Whenever used in this code, the words City, Municipal, and/or Municipality may be used interchangeably and shall mean the City of Waverly, Nebraska, a Municipal corporation.
- B. City Council and Council. Whenever used in this code, the words City Council and Council may be used interchangeably and shall mean the City Council of Waverly, Nebraska.

- C. Governing Body. Whenever used in this code, the words Governing Body shall mean the Mayor and City Council of the City of Waverly, Nebraska.
- D. Mayor. Whenever used in this code, the word Mayor shall mean the chief executive officer of the City of Waverly, Nebraska.
- E. Person. Whenever used in this code, the word Person whether or not otherwise specifically defined in any ordinance passed and approved prior to the publication of this ordinance, shall include all natural persons and artificial persons, including, but not limited to: firms, partnerships, associations, corporations, companies, bodies politic and corporate, societies, communities, the public generally, individuals, and joint stock companies; and shall include all aggregate organizations of any character whatsoever.
- F. Gender and Number. Unless otherwise specifically provided for herein, whenever used in this code all words implying the masculine gender may be applied to, and include the feminine or neuter gender; all words importing the plural may be applied to, and include the singular; and, all words importing the singular number may be applied to, include the plural.
- G. Wholesale Dealer. Whenever used in this code, the words Wholesale Dealer or Sellers of Said Product at Wholesale shall embrace and include manufacturers of any product who sell such product to other persons for the purpose of future resale to consumers.
- H. Municipal Police, Police, or Law Enforcement Officer. Whenever used in this code, the words Municipal Police, Police, or Law Enforcement Officer may be used interchangeably and shall mean any law enforcement officer of the City of Waverly, Nebraska who is employed and paid by the City of Waverly, Nebraska, either directly or through a contract with the Lancaster County Sheriff's Department or any other law enforcement agency; in addition, the words shall mean any person who volunteers to serve without pay as a law enforcement officer at the request of the Governing Body and pursuant to appointment by the Mayor.
- I. Municipal Code, Code, Ordinance, and Article. Whenever used in this code or in any other ordinance or resolution enacted by the Governing Body, the words Municipal Code and Code may be used interchangeably and shall mean the Waverly Municipal Code as enacted under the General Codification Ordinance Number 83-1 as the same may be amended from time to time and at any time by the Governing Body. The words ordinance and article may be used interchangeably, unless from the context the contrary clearly appears.
- J. Acquire. Whenever used in the code, the word Acquire when used in connection with a grant of power or property right to any person includes the purchase, grant, gift, devise, bequest, and the obtaining by eminent domain.
- K. Action. Whenever used in this code, the word Action shall include any proceeding in any court of the State of Nebraska.
- L. Attorney. Whenever used in this code, the word Attorney shall mean an attorney at law.
- M. Company. Whenever used in this code, the word Company shall include any corporation, partnership, joint stock company, joint venture, or association.

- N. Domestic. Whenever used in this code, the word Domestic when applied to corporations shall mean all those corporations created by the authority of the State of Nebraska.
- O. Federal. Whenever used in this code, the word Federal shall refer to the Government of the United States of America.
- P. Foreign. Whenever used in this code, the word Foreign when applied to corporations shall include all those corporations created by authority other than that of the State of Nebraska.
- Q. Grantee. Whenever used in this code, the word Grantee shall include every person to whom any estate or interest passes in or by any conveyance.
- R. Grantor. Whenever used in this code, the word Grantor shall include every person from or by whom any estate or interest passes in or by any conveyance.
- S. Inhabitant. Whenever used in this code, the word Inhabitant shall be construed to mean a resident in the particular locality in reference to which that word is used.
- T. Land or Real Estate. Whenever used in this code, the words Land or Real Estate may be used interchangeably and shall include lands, tenements, and hereditaments, and all rights thereto and interest therein, other than a chattel interest.
- U. Month. Whenever used in this code, the word Month shall mean a calendar month.
- V. Oath. Whenever used in this code, the word Oath includes affirmation in all cases in which an affirmation may be substituted for an oath.
- W. Process. Whenever used in this code, the word Process shall mean a summons, subpoena, or notice to appear issued out of a court in the course of judicial proceedings.
- X. State. Whenever used in this code, the word State when applied to different States of the United States of America shall be construed to extend to and include the District of Columbia and the several territories organized by the Congress of the United States.
- Y. Sworn. Whenever used in this code, the word Sworn shall include affirmed in all cases in which an affirmation may be substituted for an oath.
- Z. United States or United States of America. Whenever used in this code, the words United States or United States of America may be used interchangeably and shall include territories, outlying possessions, and the District of Columbia.
- AA. Violate. Whenever used in this code, the word Violate shall include the failure to comply with.
- BB. Writ. Whenever used in this code, the word Writ shall signify an order or citation in writing issued in the name of the State of Nebraska out of court or by a judicial officer.
- CC. Dog. When ever used in this code, the word Dog shall mean an animal of Canine or Canidae family, regardless of sex.

- DD. Kennel. Whenever used in this code, the word Kennel shall be deemed to mean the house, store, yard, enclosure, or place where more than three (3) dogs over the age of six (6) months, are harbored or kept.
- EE. Spayed Female Dog. Whenever used in this code, the words Spayed Female Dog shall be construed to include any female dog which has been spayed or otherwise rendered incapable of reproduction.
- FF. Neutered Male Dog. Whenever used in this code, the words Neutered Male Dog shall be construed to include any male dog which has been neutered or otherwise rendered incapable of reproduction.
- GG. Garbage. Whenever used in this code, the word Garbage shall mean all animal, fruit, or vegetable waste residue which attends the preparation, dressing, use, cooking, dealing, and/or storage of meats, fish, fowl, fruits, vegetable, cereals, or grains for human consumption, corn husks or cobs, coffee or tea grounds, except oyster or clam shells.
- HH. Ashes. Whenever used in this code, the word Ashes shall mean ashes from houses, hotels, mercantile establishments, factories, and any other business, commercial, or industrial establishments, or used to produce heat for boilers, or machinery, for business, commercial, or industrial establishments.
- II. Refuse. Whenever used in this code, the word Refuse shall mean and include garbage and ashes as hereinbefore defined and all sweepings, spittoon cleanings, paper, cardboard, feathers, rags, glass, dishes, bottles, crockery, pans, utensils of every kind and nature, pasteboard boxes, lye, poison, food containers, tin cans, grass cuttings, leaves, tree limbs and branches, discarded automobile bodies, machinery and parts of machinery, and any other waste matter or material not herein designated as garbage or ashes which accumulates in the conduct of a household, business establishment, shop, or factory of any kind or nature.
- JJ. Cat. Whenever used in this code, the word Cat shall mean any cat except feral cats and shall apply to all non-feral cats, whether male or female.
- KK. Cattery. Whenever used in this code, the word Cattery shall be deemed to mean the house, store, yard, enclosure, or place where three (3) or more weaned female cats over the age of six (6) months, are continuously confined; Provided, however, that this definition shall not apply to spayed female cats, to any animal shelter, nor to the place of business of licensed veterinarians.
- LL. Spayed Female Cat. Whenever used in this code, the words Spayed Female Cat shall be construed to include any female cat which has been spayed or otherwise rendered incapable of reproduction.
- MM. Neutered Male Cat. Whenever used in this code, the words Neutered Male Cat shall be construed to include any male cat which has been neutered or otherwise rendered incapable of reproduction.
- NN. Pet Shop. Whenever used in this code, the words Pet Shop shall mean any commercial retail establishment or premises or part thereof maintained for the purchase, sale, or breeding of animals of any type, and shall also include any places where cleaning, caring, and grooming services are provided for animals; Provided, however that the term shall not include livestock

auction houses, the place of business of licensed veterinarians, boarding kennels, or animal shelters.

OO. Animal. Whenever used in this code, the word Animal shall mean any vertebrate member of the animal kingdom, excluding humans.

PP. Unusual Animal. Whenever used in this code, the words Unusual Animal shall mean any poisonous or potentially dangerous animal not normally considered domesticated and shall include animals prohibited by the Municipality, State of Nebraska, or by Federal requirements and also:

1. Class Mammalia; Order Carnivora, Family Felidae, (such as lions, tigers, jaguars, leopards, and cougars), except commonly accepted domesticated cats and hybrids involving same; Family Canidae (such as wolves, coyotes, and fox), except domesticated dogs and hybrids involving same; Family Mustelidae, (such as weasels, martins, fishers, skunks, wolverines, mink, and badgers); Family Procyonidae, (such as bears); Order Primata, (such as monkeys and chimpanzees); and Order Chiroptera (such as bats).
2. Poisonous reptiles, cobras, and their allies (Elapidae, Hydrophiidae); vipers and their allies (Crotalidae, Viperidae); boomslang and kirtland's tree snake; and gila monster (Heleodermatidae).

QQ. Year. Whenever used in this code, the word Year shall mean a calendar year.

Section 10. Ordinances; General Rules of Construction. Unless such construction would be inconsistent with the manifest intent of the Governing Body, rules for construction of all ordinances and resolutions of the Municipality as the same are presently constituted or as the same may be amended from time to time and at any time shall be as follows:

- A. When the word May appears, permissive or discretionary action is presumed. When the word Shall appears, mandatory or ministerial action is presumed.
- B. The present tense of any verb includes the future, when applicable.
- C. The phrase Shall Have Been includes past and future cases.
- D. Gender when referring to masculine also includes feminine and neuter.
- E. Words and phrases shall be construed and understood according to the common and approved usage of the language; but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in the law shall be construed and understood according to such peculiar and appropriate meaning.
- F. Singular words may extend and be applied to several persons or things as well as to one person or thing.
- G. Plural words may extend and be applied to one person or thing as well as to several persons or things.

- H. Chapter heads, article heads, section, and subsection heads or titles, and explanatory notes and cross references, in the Waverly Municipal Code, supplied in compilation, do not constitute any part of the law.
- I. Whenever, in the ordinances and resolutions of the Municipality, a reference is made to two or more sections and the section numbers given in the reference are connected by the word to, the reference includes both the sections whose numbers are given and all intervening sections.
- J. No law repealed by subsequent act of the Governing Body is revived or affected by the repeal of such repealing act.
- K. The repeal of a curative or validating law does not impair or affect any cure or validation previously perfected thereunder.

The enumeration of the rules of construction set out in this section is not intended to be exclusive; but is intended to set forth the common situations which arise in the preparation of ordinances and resolutions where a general statement by the Governing Body of its purpose may aid and assist in ascertaining the legislative intent.

Section 11. Time. Whenever words fixing or importing time or the hour of the day are used in this code, as the same is presently constituted or as the same may be amended from time to time and at any time, they shall be construed to mean Central Standard Time or Central Daylight Savings Time whichever is applicable.

Section 12. Municipal Code Book; Form; Updating; Publication and Distribution; Subscription Fees; Legislative History; Cross References; Statutory References. All ordinances contained within the Waverly Municipal Code of a general and permanent nature shall be maintained within the official code book of the Municipality.

- A. Updating. The Waverly Municipal Code shall be kept continuously current and new pages together with supplementation instructions shall be supplied to each person to whom code books are issued and to each subscriber upon payment of the annual subscription fee. Supplementary pages shall be issued to such person within fourteen (14) days of the date of receipt of the updated pages for each new ordinance enacted by the Governing Body.
- B. Issuance of Copies to City Officers, Employees, and Consultants; Subscription Fees. Copies of the Waverly Municipal Code together with continuous supplementations shall be provided without charge in quantities indicated to the following persons; Provided, however, that each such person shall surrender to the Municipality any code books issued to them at the time of resignation, expiration of term of office, termination of their services to the Municipality, or upon request of the Mayor.

<u>Person</u>	<u>Number of Copies</u>
Mayor .....	1
Council Member, (each) .....	1
City Office.....	3
Municipal Attorney.....	2
Chairperson, Planning Commission.....	1
Chairperson, Park Committee.....	1
Lancaster County Sheriff's Office .....	2
Lancaster County Clerk.....	1
Zoning Administrator.....	1
Emergency Services.....	1

This code was printed in book form under the direction of the Governing Body and may be provided free of charge to such other officers and employees of and consultants to the Municipality as the Mayor shall deem necessary and appropriate.

The Municipal Clerk shall maintain one (1) current bound copy of the Waverly Municipal Code solely for the use of the public which copy may be checked out on an overnight basis only. The Municipal Clerk shall issue a written request by Certified United States Mail to persons who or which fail to make timely return of such code book. Such request shall require return of such code book within five (5) business days of the date of the mailing of such notice. Persons who or which fail to return such code book within said time period may be deemed to have agreed to purchase such code book at the prevailing rates and may be billed accordingly.

Persons may obtain copies of the Waverly Municipal Code from the Municipal Clerk and annual supplementation thereto, upon payment of the following fees:

Waverly Municipal Code, without cover .....	\$200.00
Code Book Cover.....	\$25.00
Annual supplementation, including postage .....	\$100.00

Code Books which have not been supplemented for two (2) years or more shall be deemed to have lapsed and may be updated upon payment of the same fee applicable to new code books. (Ref. 17-613, 17-614 RS Neb.)

Section 13. Ordinances; Maintenance of Original Records; Preservation of Legislative History.

The original sealed and executed copies of all ordinances of the Municipality whether the same are in effect or are repealed on the effective date of this codification ordinance, and whether adopted prior to or subsequent to the effective date of this codification ordinance, shall, within three (3) months of the effective date of this codification ordinance be assembled by the Municipal Clerk into one (1) volume which shall be filed in ascending chronological order by ordinance number together with proof of publication following adoption which shall include the date of publication and the effective date of such ordinance. In the case of such ordinances which have been repealed, the Municipal Clerk shall indicate on the face of each such document, the number of the repealing ordinance, the date of adoption of each such repealing ordinance, and the effective date of each such repealing ordinance. All ordinances adopted by the Municipality subsequent to the effective date of this codification ordinance shall be reproduced in the same format adopted hereunder for the Waverly Municipal Code. An exact duplicate of such original ordinance record shall be maintained in the office of the Municipal Attorney, shall at all times be kept continuously current; Provided, however, that both the original and the copy of said record shall never be kept within the same structure. Each such record shall be maintained for reference purposes only and shall never be allowed to pass from the custody and control of said officials until their successors have been appointed and ratified.

Section 14. Publication in Pamphlet Form: Effective Date. This Ordinance shall be published in pamphlet form, shall be in full force and shall take effect from and after its passage, approval and publication according to law.

Passed and approved this 18th day of April, 1983.

Dean Burcham  
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Mayor

ATTEST

SEAL

Shirley Bruhl  
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City Clerk