

**CHAPTER 2**

**ADMINISTRATION**

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## CHAPTER 2

### ADMINISTRATION

#### ARTICLE I. IN GENERAL

##### SECTION 2-1. MEETINGS GENERALLY - TO BE OPEN; INFORMATION REQUIRED OF ATTENDING PUBLIC.

- (a) All meetings of the city council and all other boards, commissions and agencies of the city shall be open to the public at all times, except as provided in Sections 2-2 and 2-3. No action of such a body shall be taken except during a public meeting.
- (b) A member of the public shall not be required, as a condition of attendance at any meeting, to register his name, to supply information, to complete a questionnaire, or fulfill any other conditions precedent to his attendance except that a person seeking recognition may be required to give his name and affiliation.

##### SECTION 2-2. SAME - EXECUTIVE SESSIONS.

Executive sessions, not open to the public, of the city council and all other boards, commissions and agencies of the city may, upon vote of two-thirds (2/3) of the members present be held:

- (a) With the prosecuting attorney, city attorney, chief of police or their respective deputies, or other officers of the law, on matters posing a threat to the security of public or private property or a threat to the public's right of access;
- (b) To consider the appointment, employment, right to practice or dismissal of a public officer, professional person or employee, or to hear complaints or charges brought against an employee, professional person or officer, unless the employee, professional person or officer requests a public hearing. The city council may exclude from any public or private hearing during the examination of a witness, any or all other witnesses in the matter being investigated. Following the hearing or executive session, the city council may deliberate on its decision in executive sessions;
- (c) On matters concerning litigation to which the city council is a party or proposed litigation to which the city council may be a party;
- (d) When the agency is a licensing agency while preparing, administering or grading examinations;
- (e) To consider the selection of a site or the purchase of real estate when the publicity regarding the consideration would cause a likelihood of an increase in price;

- (f) To consider acceptance of gifts, donations and bequests which the donor has requested in writing be kept confidential;
- (g) To consider or receive any information classified as confidential by law;
- (h) To consider accepting or tendering offers concerning wages, salaries, benefits and terms of employment during all negotiations.

**SECTION 2-3. SAME - DISRUPTION.**

If any public meeting is willfully disrupted by a person or group of persons so as to render the orderly conduct of the meeting unfeasible, and order cannot be restored by the removal of the person or persons who are willfully interrupting the meeting, the removal of such person or group from the meeting room may be ordered and the meeting continued, or the meeting may be recessed to another location. Procedures for re-admitting an individual or individuals not responsible for disturbing the conduct of a meeting shall be established by the body conducting such meeting. Duly accredited members of the press or other news media, except those who participated in a disturbance, shall be allowed to attend any meeting permitted by this section.

**ARTICLE II. CITY COUNCIL**

**DIVISION 1. MEETINGS OF CITY COUNCIL**

**SECTION 2-4. DATE AND TIME OF REGULAR MEETING.**

Regular meetings of the council shall be held on the second (2nd) and fourth (4th) Monday of each month at an hour designated by the council; provided, that in all instances that such day is observed as a legal holiday for municipal offices, the regular meeting of the city council shall be held on the following day; provided, however, the council may change the date of a regular meeting by resolution and giving notice of the date and time of the change to a newspaper of general circulation in the City of Kemmerer not less than one (1) week before such meeting.

**SECTION 2-5. SPECIAL MEETINGS.**

Special meetings of the city council may be called from time to time by the mayor or any two (2) councilmen. The subject for the special meeting shall be submitted to the city council in writing; and the city clerk shall give notice of a special meeting to each member of the governing body and to each newspaper of general circulation, radio or television station requesting such notice. The notice shall specify the time and place of the special meeting and the business to be transacted. The action of the city council at each special session shall be confined to the subject submitted in writing to the city council, and the minutes of the meeting shall be entered upon the journal of the city council by the city clerk.

The governing body of an agency may hold an emergency meeting on matters of serious immediate concern to take temporary action without notice. All action taken at an emergency meeting is of a temporary nature and in order to become permanent shall be reconsidered and acted upon at an open public meeting within forty-eight (48) hours.

**SECTION 2-6. ADJOURNED OR RECESSED MEETINGS.**

Adjourned or recessed meetings may be held at such times as the council may determine.

**SECTION 2-7. PRESIDENT OF GOVERNING BODY; ACTING PRESIDENT; ELECTION, DUTIES, ETC.**

The governing body may elect from their number a president who, in the absence of the mayor, shall preside at all meetings of the governing body. If the office of mayor is vacant, the president shall occupy the office until the vacancy is filled. The governing body may elect one (1) councilman to serve temporarily as acting president in the president's absence. The president and acting president, when occupying the place of the mayor, may exercise all of the powers of that office and have the same privileges as other members of the governing body. All acts of the president or acting president, while so acting, are as binding upon the council and upon the city as if done by the mayor.

The president and acting president of the City Council shall be elected at the first meeting in January in odd numbered years and shall serve a two year term.

**SECTION 2-8. DUTIES OF CLERK AS TO JOURNAL.**

It shall be the duty of the city clerk to keep the journal of the city council. The governing body shall designate a legal newspaper and publish the minutes of all of its meetings and the titles of all ordinances passed therein. The clerk shall, within forty-eight (48) hours after the adjournment of any regular or special meeting of the city council, furnish the legal newspaper a copy of the proceedings of such meeting for publication. Such copy shall include every bill presented to the city council showing the amount of the bill, the amount allowed, what the bill was for and by whom claimed. In addition the clerk shall be responsible for the safekeeping of such journal, and shall show it to the public when so requested.

**DIVISION 2. RULES OF ORDER.**

**SECTION 2-9. CALL TO ORDER; QUORUM.**

At the hour appointed for the meeting, the governing body shall be called to order by the presiding officer.

The city clerk, or some competent person acting for him, shall call the roll. If a quorum is present, the governing body shall proceed to the business which may come before it.

A majority of the governing body shall constitute a quorum for the transaction of business at any meeting.

**SECTION 2-10. ORDER OF BUSINESS.**

The order of business at each regular council meeting shall be as follows, and shall not in any case be altered, except by consent of a majority of the members present voting thereon.

- (a) Call to Order. The mayor, or in his/her absence, the president of the city council, shall call the meeting to order precisely at the appointed hour, and begin meeting with the pledge of allegiance.
- (b) Roll Call. Before proceeding with the order of business, the clerk or his deputy shall call the roll of the members, and the names of those present shall be entered in the minutes.
- (c) Approve Agenda. The mayor shall determine if there are any proposed changes to the agenda. Once approved, business discussed shall be limited to that which is on the agenda.
  - (1) Reports by Officers. City officials and/or committees shall present such reports as may be required by the city council.
  - (2) Presentations. Presentations to the City Council for the education, instruction and proposals of projects, proposals or other items as deemed appropriate for City business.
  - (3) Public Hearings. Unless otherwise provided, public hearing shall be scheduled as the first order of business when scheduled on the same night as a regular city council meeting.
  - (4) Visitors Comments and Petitions. Petitions, remonstrances, communications and comments or suggestions from citizens present, shall be heard by the council. All such remarks shall be addressed to the council as a whole, and not to any member thereof. Such remarks shall be limited to a reasonable time and such determination will be in the discretion of the presiding officer. No other person than the individual speaking shall enter into the discussion without the permission of the presiding officer.
  - (5) Consent Agenda. A consent agenda may be used for bill paying, minutes, and other items as deemed appropriate by the City Council. Unless a reading of the minutes of a council meeting is requested by a member of the council, the minutes of the preceding meeting, which have been furnished by the clerk to each councilman, shall be considered approved if correct, and errors rectified, if any exist. As provided in Section 2-31 of the Kemmerer City Code, no bills or claims against the city shall be allowed except as authorized by written

requisition, except salaries of city officials, until approved by a majority of the council.

- (6) Old Business. The council shall consider any business that has been previously considered and which is still unfinished. Old Business is to include tabled items and the approval of the minutes.
  - (7) New Business. The Council shall consider any business not heretofore considered, including the introduction or readings of ordinances and resolutions.
  - (8) Comments by Councilmembers. Comments, suggestions, questions or reports shall be heard from individual councilmembers to be followed by the Mayor or presiding officer of the meeting. The City Administrator or other officers may give comments by invitation.
- (d) Adjournment. The meeting may be adjourned by the Mayor or presiding member if Adjournment is the next item on the agenda or in the manners prescribed in Kemmerer City Code 2-20.

#### **SECTION 2-11. PRESERVATION OF ORDER.**

The mayor or presiding officer shall preserve order, prevent personal reflections, confine members in debate to the questions, and shall decide who shall be first heard when two (2) members arise at the same time. Any member of the council when called to order by the presiding officer shall at once suspend his remarks.

#### **SECTION 2-12. RECOGNITION BY PRESIDING OFFICER.**

Each councilman before speaking on any question shall address himself to the presiding officer by his proper title, and shall not proceed with his remarks until recognized and named by the presiding officer.

#### **SECTION 2-13. MOTIONS - GENERALLY.**

No question on a motion shall be debated or put to a vote unless the same be seconded. When a motion is seconded it shall be stated by the presiding officer before debate or action thereon. Any motion shall be reduced to writing by the councilman making it, if the presiding officer or councilman shall ask it.

#### **SECTION 2-14. DIVISION OF QUESTION.**

If the question before the council contains more than one (1) distinct proposition, any councilman may have the same divided.

**SECTION 2-15. REASON FOR VOTING.**

Any member of the council may state his reason for voting upon any question either immediately before or immediately after the vote is taken, but he shall confine his remarks to the subject under consideration.

**SECTION 2-16. VOTING OF COUNCILMEN.**

Each member of the council who shall be present when a question is to be voted upon shall vote thereon, unless they wish to abstain.

If the council member has a legal conflict, he shall declare he has a conflict and not vote on the question, unless four legal conflicts exist and will render the governing body short of a quorum to act. If four legal conflicts exist all shall declare their conflict and a vote shall take place with all council members participating.

If no legal conflict exists, and a council member wishes to abstain, he may abstain but shall not participate in the debate.

If the question addresses the passing of an ordinance, such abstention has the effect of a “nay” vote.

If the question addresses the passing of a resolution in written form or a motion, such abstention, the abstaining council member shall not be counted toward the number of voting members, providing that the abstention shall not render the number of voting members less than a quorum.

He may, before the vote is called for, give his reasons for not voting. If he is directly interested in the question he shall not vote. When he is on trial he shall not vote.

**SECTION 2-17. RECORD OF AYES AND NAYS.**

On the question of the passage of an ordinance or resolution the vote of the council shall be taken by ayes and nays and a record of the same shall be made upon the journal, which shall show how each member voted.

**SECTION 2-18. CALL FOR AYES AND NAYS; RECORD; CHANGE OF VOTE.**

The ayes and nays shall be taken at the request of a councilman, and a record of the same, together with the name of the councilman calling for the division, shall be entered upon the journal, which shall show how each member voted. Any member can change his vote previous to the announcement of the vote of the council.

## **SECTION 2-19. PRECEDENCE OF SUBSIDIARY MOTIONS.**

When a question is before the council no motion shall be received, except as herein specified, which motion shall have precedence in the order stated as follows:

- (a) To adjourn.
- (b) The previous question.
- (c) To lay on the table.
- (d) To close debate at specified time.
- (e) To especially assign to a time certain.
- (f) To refer to a committee.
- (g) To amend.
- (h) To postpone indefinitely.

These several motions shall not be applied to each other, except that the motion to assign, refer, amend or to close debate at a specified time, may be amended; and the previous question may be demanded upon the amendment, which motion shall be decided without debate. When one (1) of these motions has been made, none of the other inferior to it in precedence shall be made, and in proceeding to vote motions pending shall be put in the order of their rank as above arranged. No motion or proposition or a subject different from that under consideration shall be admitted under color or amendment.

## **SECTION 2-20. MOTION TO ADJOURN.**

A motion to adjourn the council shall always be in order, except:

- (a) When a member is in possession of the floor.
- (b) While a vote is being taken.
- (c) When adjournment was the last preceding motion.
- (d) When it has been decided that the previously question shall be taken.

A motion simply to adjourn cannot be amended; but a motion to adjourn to a time named may be amended and is open to debate.

The meeting may be adjourned by the Mayor or presiding member if Adjournment is the next item on the agenda, or upon the judgment of the Mayor or presiding officer the meeting conduct and tenor of the meeting participants is interfering in the orderly conduction of City business or if there is an emergency, natural disaster or if it is out of control or other extenuating circumstances exist that would reasonably suggest the meeting should be adjourned, (such determination shall be noticed before adjournment to allow opportunity for a vote by the governing body). Such adjournment is therefore subject to a vote by the City Council upon a Motion and Second to adjourn the meeting.

#### **SECTION 2-21. PREVIOUS QUESTION.**

The previous question shall be in this form:

"Shall the main question now be put?" It shall only be admitted when demanded by a majority of the members present, and its effect shall be to put an end to all debate and bring the council to a direct vote, first upon pending amendments, and then upon the main question.

When the previous question is decided in the negative, it shall leave the main question under debate for the remainder of the meeting unless sooner disposed of by taking the question, or in some other manner.

#### **SECTION 2-22. MOTION TO LAY ON THE TABLE.**

A motion to simply lay a question on the table is not debatable. A motion to take the subject matter from the table may be proposed and carried into effect provided that two-thirds (2/3) of the councilmen present vote in favor thereof.

A motion to lay any particular proposition on the table shall apply to that proposition only.

#### **SECTION 2-23. SPECIAL ORDER OF BUSINESS.**

Any matter before the council may be set down as a special order of business at a certain time if two-thirds (2/3) of the councilmen present vote in the affirmative; but not otherwise.

When such time arrives, if the council is in session, the presiding officer or any councilman may call up such special order, which shall then be considered.

#### **SECTION 2-24. MOTION TO AMEND.**

A motion to amend an amendment shall be in order; but one to amend an amendment to an amendment shall not be entertained.

An amendment modifying the intention of a motion shall be in order; but an amendment relating to a different subject shall not be in order.

**SECTION 2-25. MOTION TO STRIKE OUT AND INSERT.**

On an amendment to "strike out and insert" the paragraph or sentence to be amended shall be first read as it stands, then the words proposed to be struck out, and then those proposed to be inserted and finally the paragraph or sentence as it would stand if so amended.

**SECTION 2-26. INDEFINITE POSTPONEMENT.**

When a motion is postponed indefinitely, it shall not be taken up again at the same meeting.

**SECTION 2-27. RECONSIDERATION.**

A vote or question may be considered at any time during the same meeting, or at the first regular meeting held thereafter.

A motion for reconsideration being once made and decided in the negative, shall not be renewed, nor shall a vote to reconsider be reconsidered.

A motion to reconsider must be made and seconded by a member who voted in the majority.

**SECTION 2-28. PETITION, COMMUNICATIONS, ETC.**

Petitions, memorials and all communications and papers addressed to the council, mayor or presiding officer, or presented by a councilman in his place, may be read by the city clerk, city administrator, mayor or mayor's designee at the request of a councilman or the presiding officer.

All petitions, memorials, communications and papers which may be filed with, or delivered to the city clerk prior to the meeting of the council shall be laid upon the desk of the mayor or presiding officer.

**SECTION 2-29. RECORD OF NAMES OF MOVERS OF MOTIONS.**

In all cases where a motion is entered upon the journal of the council, the name of the member moving the same shall also be entered.

**SECTION 2-30. JOURNAL OF PROCEEDINGS.**

The city clerk shall keep a correct journal of the proceedings of the council, and shall cause councilmen and officers of the city to be informed of such duties as they may be charged with by the council, from time to time, and he shall perform such other duties as appertain to him as city clerk. He shall not allow the journal, records, accounts or papers to be taken from his table or out of his custody, except by the regular mode of business of the council, or by an officer authorized so to do; and if any paper in his charge shall be missing he shall report the fact to the presiding officer at once, in order that the loss may be investigated.

The journal of the proceedings shall be open to the public for inspection at all reasonable times.

**SECTION 2-31. ALLOWANCE OF BILLS OR CLAIMS.**

No bills or claims against the city shall be allowed except as authorized by written requisition, except salaries of city officials, and until approved by a majority of the council.

**SECTION 2-32. AMENDMENT OR REPEAL OF RULES.**

The foregoing rules may be amended or repealed at a regular meeting of the council, provided that any proposed amendment or repeal has been proposed in writing at a previous meeting, and provided further that a majority of the council shall agree to the amendment or repeal.

**ARTICLE III. ORDINANCES AND RESOLUTIONS**

**SECTION 2-33. ORDINANCES - MANNER OF ENACTMENT.**

All laws of the city shall be enacted by the passage of ordinances, all of which shall be reviewed by the city attorney. All ordinances hereafter adopted and passed by the city council shall be introduced in writing or typewriting. Every ordinance, except emergency ordinances, shall have public reading on three (3) different days. Public reading may be by title only. At least ten (10) days shall elapse between the introduction and final passage of every ordinance, except emergency ordinances. For an emergency ordinance, the requirements of this section may be suspended by the affirmative vote of three-fourths (3/4) of the qualified members of the governing body. No franchise may be granted by emergency ordinance.

**SECTION 2-34. ORDINANCES - FORM.**

The style of all ordinances shall be "Be it ordained by the Mayor and City council of the City of Kemmerer, Wyoming". No ordinance, except one (1) making appropriations or one (1) for the codification of general revision of ordinances, may contain more than one (1) subject.

**SECTION 2-35. ORDINANCE - VOTE REQUIRED.**

- (a) A majority vote of all the qualified members of the city council shall be required for the passage of any ordinance.
- (b) Passage of an ordinance requires the affirmative vote of the majority of the qualified members of the governing body. Passage of an emergency ordinance requires the affirmative vote of three-fourths (3/4) of the qualified members of the governing body.
- (c) The mayor is entitled to sign or veto any ordinance passed by the governing body and to sign or veto any order, bylaw, resolution, award or vote to enter into any contract, or the allowance of any claim. A veto may be overridden by a vote of two-thirds (2/3) of all the qualified members of the council. If the mayor neglects or refuses to sign any

ordinance and fails to return it with his objections in writing at the next regular meeting of the governing body, it becomes law without his signature. The mayor may veto any item of any appropriation ordinance and approve the remainder thereof. The items vetoed may be passed over the veto as in other cases. The mayor does not have a vote in any matter involving the override of a veto.

**SECTION 2-36. ORDINANCES - PUBLICATION, RECORDATION, EFFECTIVE DATE.**

- (a) Every ordinance before becoming effective shall be published at least once in a newspaper of general circulation in the City of Kemmerer. Except that emergency ordinances shall become effective upon proclamation of the mayor, and as soon thereafter as practicable they shall be published and posted in the manner required of all ordinances.
- (b) Every ordinance shall, within a reasonable time after passage, be signed by the mayor and attested by the clerk and recorded in a book kept for that purpose. The attestation of the clerk shall show that the ordinance was duly published and posted.

**SECTION 2-37. AMENDMENT OR REPEAL OF CODE PROVISIONS.**

The amendment or repeal of existing provisions of this Code or the insertion of additional provisions in this Code shall be done in the following manner:

- (a) Ordinances amending existing sections shall designate, by section number, the sections which are affected and set out in full the entire ordinance or section as amended.
- (b) Ordinances repealing existing sections shall designate, by section number, the sections which are repealed.
- (c) Ordinances adding sections to the code shall designate where such sections are to be inserted.
  - (1) Section which should be placed between existing sections shall be numbered decimally as illustrated in the following example: An ordinance addition three (3) sections which should logically fall between Sections 1-2 and 1-3 would be numbered 1-2. 1, 1-2. 2 and 1-2. 3 respectively.
  - (2) Ordinances adding new material not presently covered by a chapter heading in the code shall be inserted in alphabetical order between existing chapters based on the subject matter of the ordinance. The new chapter shall be numbered decimally as illustrated in the following example: An ordinance adding a new chapter which should be inserted between existing Chapters 2 and 3 would be numbered 2. 1 with the individual sections of such chapter being number 2. 1-1 et seq.

- (3) Nothing in subsection (c) of this section shall be interpreted as prohibiting the rearrangement of such additional materials by the official codifier of the city's ordinances in order to insure the proper codification of such ordinances.

**SECTION 2-38. REPEAL OF REPEALERS.**

The repeal of an ordinance which repeals a former ordinance or provision of this Code shall not revive the former ordinance or provision of this Code unless expressly so provided.

**SECTION 2-39. RESOLUTIONS - REQUIRED.**

Resolutions shall be used in every case where an ordinance is not required. Resolutions shall be appropriate in the following instances:

- (a) Setting fees;
- (b) Adoption of policy concerning employees, utility services or equipment;
- (c) Expressing the will, intent or opinion of the Council;
- (d) Authorizing the issuance of bonds;
- (e) And in every other case where it is deemed in the public interest that a full and permanent record be made and kept of the action of the city council.

**SECTION 2-39. 1. SUSPENSION OF CODE REQUIREMENTS.**

The City Council may by majority vote of its members, approve, by resolution, the temporary suspension of one or more sections of the City Code upon a finding after a public hearing that said action is as a result of an actual emergency or will result in an economic and civic benefit to the citizens of the City of Kemmerer. The following code sections may be suspended for the duration of the emergency or for that period of time designated in the Council's resolution:

Sections 3-1, 3-2, 3-3 Advertising  
Sections 5-6, 5-13 Animals  
Chapter 6 Bicycles  
Section 9-3 Fuel Storage  
Section 9-4 Bonfires  
Section 9-5, 9-6 Waste Materials  
Sections 11-19 thru 11-22 Business Licenses  
Section 12-3 R. V. Parks  
Section 13-69 Snowmobiles  
Section 15-4 Camping  
Sections 17-15, 17-19 Junk Dealers  
Sections 19-1, 19-3 Sidewalks/Obstructions

Sections 21-9 thru 21-17 Transient Merchants  
Section 23-35 Livestock  
Sections 23-42, 23-43 Signs  
Section 23-49 Campers, Trailers, etc.

**SECTION 2-40. RESOLUTIONS - NUMBERING, RECORDATION.**

Resolutions shall be numbered consecutively giving first the calendar year; and shall bear a title which shall set forth in general terms its subject matter; shall contain a resolving clause; and shall bear the date, signature of the mayor, attestation of the city clerk and the city seal. The city clerk shall keep a permanent log book in which the original of each resolution considered, whether adopted or not, shall be kept.

**SECTION 2-41. RESOLUTIONS - STYLE.**

The style of a resolution shall be "Be it resolved by the City Council of the City of Kemmerer, Wyoming".

**ARTICLE IV. PUBLIC CONTRACTS; CONFLICTS OF INTEREST**

**SECTION 2-42. CONTRACTS FOR PUBLIC IMPROVEMENTS - GENERALLY.**

- (a) All contracts, except for professional, medical, legal or engineering services, for purchases of property or for any public improvement, contracts relating to the municipal water supply, public buildings and public places, and any other public work or improvement for the City of Kemmerer shall comply with Wyoming State Statute § 15-1-101 et seq. , and be advertised for bid when the cost exceeds Seventy-Five Thousand Dollars (\$75,000. 00) (or the amount set for in W. S. § 15-1-113, whichever is higher), including following all State of Wyoming preference requirements. If there is an automobile or truck for trade-in, it shall be included as a part of the advertisement and bid. Further the City follows all Wyoming State Statutes requirements on purchasing, including the allowance for Sole-Sourcing purchasing policy, which is set forth by Resolution.
- (b) The advertisement shall be published on two (2) different occasions, at least seven (7) days apart, in a newspaper of general circulation in the City of Kemmerer.
- (c) The published notice shall recite the place, date and time when bids will be received and publicly opened and the place where interested persons may obtain complete specifications of work to be performed.
- (d) The contract shall be let to the lowest bidder who shall be determined qualified and responsible in the sole discretion of the city council, provided, that the city council may reject all bids submitted when it finds that none of them would serve the public interest. In selecting the lowest responsible bidder the council shall comply with the provisions of

Title 16, Chapter 6, Wyoming Statutes (1977 Repub. Ed. ), as the same may from time to time be amended, which statutes afford "resident" Wyoming contractors a preference.

- (e) The successful bidder shall give the city a bond in a penal sum equal to the amount of his bid, with two (2) sureties for the faithful performance of his contract. The sureties shall be residents of the State of Wyoming, who own property in the state amounting in the aggregate to double the amount of the bond upon which they become sureties, however, any surety or guaranty company, duly qualified to act as surety or guarantor in this state upon executing individual bonds, shall be accepted in lieu of such sureties.

**SECTION 2-43. CONTRACTS; OFFICERS NOT TO BE INTERESTED.**

- (a) No qualified member of the city council of the City of Kemmerer or any member of that qualified member's immediate family may receive any monetary or other economic benefit from any contract to which the City of Kemmerer or anyone for its benefit is a party. The obligation on the part of the City of Kemmerer is void in any contract in which a monetary or other economic benefit will be received by a qualified member of the city council or his family who does not comply with subsection (b) of this section. Any money paid on the contract may be recovered by the City of Kemmerer from any persons by an action brought in the name of the City of Kemmerer.
- (b) Subsection (a) of this section does not apply to any qualified member of the city council or any member of that qualified member's immediate family who may receive any monetary or other economic benefit from any contract made by the city council if the qualified member complies with the following:
  - (1) The interested person shall not participate in the consideration or discussion relating to said contract, and
  - (2) The interested person shall not attempt to influence the members of the city council in any way relating to said contract, and
  - (3) The interested person shall reveal the nature and extent of any monetary or other economic benefit he or any member of his immediate family may receive to the other members of the city council prior to considerations on said contract, and
  - (4) The interested person shall not vote on the matter of granting said contract, and
  - (5) The interested person shall absent himself during the consideration, discussion and vote on said contract and provided that the interested person shall not act, directly or indirectly, for the city council in inspection, operation, administration or performance under the contract in which he has such interest.

**SECTION 2-44. WARRANTY AGAINST PROCUREMENT, ETC. OF PUBLIC CONTRACTS, LOANS, BOND ISSUES, AND GRANTS.**

- (a) All public contracts entered into by the City of Kemmerer or coming within this Article shall contain the following warranty:

The City of Kemmerer, its mayor, council, engineer, attorney, and all other elected or appointed officers and agents warrant that none of the aforesaid nor either of them has been employed or retained to secure any public contract, loan, bond issue or grant from any agency whatsoever upon an agreement or understanding that a commission, percentage, brokerage or contingent fee would be paid for securing any of the above, except as provided below.

No contract for the procurement of special engineering, legal, architectural or any other special service shall be let, allowed or approved for a fee other than a reasonable fee based upon time and reasonable charges for labor and services actually done and provided and materials actually furnished.

- (b) For any contract which is in violation of this warranty, the City of Kemmerer shall:
- (1) Annul such contract without liability on its part; or, in its discretion,
  - (2) Deduct from the contract for such services the full amount of such commission, percentage, brokerage or contingent fee.

**SECTION 2-45. CONFLICTS OF INTEREST - DISCLOSURE REQUIRED.**

- (a) Any mayor, councilman, city administrator, city engineer, city attorney or any person holding any appointed power
- (1) who shall, during the time he may occupy such office or hold such appointing power and discharge the duties thereof, be interested directly or indirectly, in any contract for the construction of any city building, or work of any kind, erected or built for the use or benefit of the city in which he exercises any official jurisdiction; or
  - (2) who shall bargain for or receive any percentage, drawback, premiums, or profits, or money whatever on any contract, or for the letting of any contract or making any appointment wherein the city is concerned.

shall be deemed guilty of malfeasance in office and subject to removal in the manner provided by law.

- (b) If any such officer, official or person, as mentioned in subsection (a) hereof, shall be interested as aforesaid in any such contract, but shall disclose the nature and extent thereof to all contracting parties concerned therewith and shall absent himself during the considerations and vote thereon and not attempt to influence any of the contracting parties and not act directly or indirectly for the City of Kemmerer in inspection, operation, administration or performance of any such contract, then the said acts shall not constitute malfeasance. It shall be the duty of the mayor and council to inform the Lincoln County and Prosecuting Attorney of all such facts and disclose all evidence pertaining to such malfeasance of which they have knowledge.
- (c) All contracts executed in contravention of the provisions of this section are void.

**SECTION 2-46. CONTINGENT REVENUE SOURCES AND FINANCIAL OBLIGATIONS.**

No entity legally associated with the City of Kemmerer, Wyoming, including but not limited to, the Kemmerer/Southwest Lincoln County Airport Board, the Kemmerer Downtown Improvement Corporation, the Kemmerer Volunteer Fire Department, or the Kemmerer Zoning Board, shall apply for any federal and/or state grants-in-aid, or other financial assistance, without first (1st) obtaining the consent of the Kemmerer City Council.

**ARTICLE V. OFFICERS AND DUTIES**

**DIVISION 1. ELECTIVE OFFICERS**

**SECTION 2-47. OFFICES, TERMS AND SALARIES.**

- (a) The elective officers of the city are one (1) mayor and six (6) at-large council members. The term of office of mayor is four (4) years and the term of office of council members is four (4) years, and until his successor is qualified.
- (b) The city council, consistent with the city's ability to pay, shall fix the salaries for mayor and councilmembers . The salary for mayor shall be paid in twelve (12) or more installments and may not be less than Six Hundred Dollars (\$600. 00) nor more than Six Thousand Dollars (\$6,000. 00) per year. The salary for a council member shall not be less than Ten Dollars (\$10. 00) for actual attendance at each regular meeting, special meeting, or committee meeting. The salaries shall be set by Ordinance.
- (c) The Mayor's salary shall be Four Hundred and Fifty Dollars (\$450. 00) per month.
- (d) The Council Member's salary shall be Twenty Five Dollars (\$25. 00) for actual attendance per meeting.

**SECTION 2-48. MAYOR - DUTIES AND POWERS, GENERALLY.**

Unless otherwise provided the mayor shall:

- (a) Preside at all meetings of the city council; the president will preside in the mayor's absence as provided in Section 2-7;
- (b) Have superintending control of all officers and affairs of the city;
- (c) Take care that the ordinances and laws are complied with;
- (d) Administer oaths;
- (e) Sign commissions and appointments;
- (f) Sign all bonds, contracts and other obligations required to be signed in the name of the city.

**DIVISION 2. OTHER OFFICERS**

**SECTION 2-49. APPOINTIVE OFFICERS - GENERALLY.**

- (a) The selection and appointment of officers and employees of the City of Kemmerer shall be made in conformance with the Charter Ordinance approved and adopted by the City of Kemmerer in accordance with law on the 12th day of April, 1982, as the same may from time to time be amended; and the personnel policies of the City of Kemmerer, as the same may from time to time be amended.
- (b) The city council, by ordinance or resolution, may specify conditions for any office or position to which a person is appointed under this section including:
  - (1) Level or range of salary;
  - (2) A description of the duties and responsibilities of the position;
  - (3) Term of appointment;
  - (4) Requirements for:
    - (A) Promotions
    - (B) Suspension; and

- (C) Hearing of appeals from decisions of the mayor to remove or discharge an appointee other than members of a board or commission, after which the governing body may affirm, modify or reverse the decision of the mayor; and
- (5) Other matters which are part of the personnel policies of the city.

**SECTION 2-50. CITY TREASURER - DUTIES.**

The duties of the city treasurer shall be as follows:

- (a) Receive all money derived for the benefit of the city, from any and every source, in each instance giving his official receipt therefor.
- (b) Disburse the same only on proper orders signed by the mayor, attested by the city clerk, and having affixed thereto the corporate seal. Such orders shall be paid in the order of their issue. All orders and warrants on the city treasurer shall have specified therein the services or indebtedness for which same are drawn.
- (c) Keep permanent, accurate and complete accounts and records of all receipts, orders and warrants.
- (d) If, at any time, any orders and warrants are not paid for lack of funds, the city treasurer shall endorse the date of presentation across the back thereof, and the reason for nonpayment; and the holder of such order or warrant shall be entitled to receive interest thereon, at the lawful rate from such date until paid.
- (e) The city treasurer shall endorse upon or attach to every bond or other evidence issued by the city pursuant to law, a certificate that the same is within the lawful debt limit of the city and is issued pursuant to law. He shall sign such certificates in his official character.
- (f) The city treasurer shall at the end of each and every quarter and as often as required, render an account to the city council, under oath, showing the state of the treasury at the date of such account, amount of money remaining in each fund, amount paid therefrom, and the balance of the money in the treasury; he shall also accompany such accounts with a statement of all receipts and disbursements, together with all warrants redeemed and paid by him.
- (g) The city treasurer shall prepare and compile with the assistance of the mayor and city council and city officers, the annual budget as required by state law.
- (h) The city treasurer shall allow examination of his books, accounts, and vouchers by the city council or any elector of the city.
- (i) He shall also perform such other duties as may be required of him by the mayor or city council, or by law.

**SECTION 2-51. CITY CLERK - DUTIES.**

The duties of the city clerk shall be as follows:

- (a) Safely keep the corporate seal, papers, records and books belonging to the city.

- (b) Attend the meetings of the city council, recording the minutes thereof, which minutes, after approval of each meeting, shall be signed by the mayor, attested by the city clerk and have the city seal affixed.
- (c) Preserve consecutive record of all resolutions and ordinances passed by the council, promptly filing with each city department copies of any ordinance which may be of concern to such department; he shall also promptly file with the mayor a complete record of the titles of all ordinances, when the same are passed, and an exact copy of each governing ordinance, or ordinance requiring law enforcement.
- (d) Attest the signature of the mayor and affix the seal of the city to: All minutes of council proceedings, all resolutions and new ordinances passed, all bonds and business licenses issued, and such other documents as shall be required.
- (e) Attest all orders and warrants upon the city treasurer keeping an accurate and permanent record thereof.
- (f) Keep a record of all outstanding bonds against the city, showing the number and amount of each, for and to whom such bonds were issued, and when any bonds are purchased, or paid, or cancelled, such record shall show the fact, and in his annual report he shall describe particularly the bonds issued and sold during the year, and the terms of sale, with each and every item of expense thereof.
- (g) Issue business licenses in accordance with this Code and the city ordinances.
- (h) Perform such other duties as may be required of him by the mayor or the city council, or by law.

#### **SECTION 2-52. CITY ATTORNEY - DUTIES.**

The duties of the city attorney shall be as follows:

- (a) He shall commence, prosecute and defend all suits to which the city is a party, in all courts of the city and state.
- (b) Prosecute all suits for the violation of any provision of this Code or other city ordinance.
- (c) Give his advice to the mayor and any member of the city council on legal questions arising that relate to the business of the city.
- (d) Draw contracts to which the city is a party as directed by the mayor, council or city administrator.
- (e) Revise, when necessary, all ordinances prior to their final passage by the council.

- (f) Draft and prepare all ordinances when so requested by the mayor or any member of the city council or city administrator.
- (g) Attend the meetings of the council when directed by the mayor, council or city administrator.
- (h) Do all legal work relating to the city's business and perform such other duties as may be required of him by the mayor or the city council, or by law.

**SECTION 2-53. CITY ENGINEER - DUTIES.**

The duties of the city engineer shall be as follows:

- (a) He shall prepare maps, estimates, etc. , when needed, or at the request of the mayor or council.
- (b) He shall make all surveys and establish grades for streets, sidewalks, curb and gutter and sewer installation.
- (c) He shall inspect the materials and workmanship of all curb and gutter and similar installations, supervise all such construction, and require the same to conform with certain specifications to be furnished by his office.
- (d) He shall issue such permits, when applied for, as may be authorized under this Code or other ordinances, or with the approval of the council in accordance with the provisions thereof.
- (e) He shall perform such other duties as may be required of him by the mayor or city council, or by law.

The city engineer may delegate such of his powers or duties to any of his assistants, as will render the maximum of service and efficiency in his department.

**SECTION 2-54. DUTIES OF OTHER OFFICERS.**

The duties of other appointive officers shall be as set forth under this Code or other ordinances pertaining to their respective departments.

**SECTION 2-55. CITY ADMINISTRATOR - POWERS AND DUTIES.**

- (a) The city council shall employ a city administrator, and fix compensation by contract or otherwise. The city administrator shall receive no other or additional salary for the performance of any of the duties required of him as city administrator. The city administrator is an employee and serves at the pleasure of the Governing Body, subject to

the superintending control of the mayor. His salary may be changed from year to year, and he may be discharged and his employment terminated at any time by a majority vote of the city council.

- (b) The city administrator shall give a least thirty (30) days notice in writing to the city council before resigning his position. If the position becomes vacant for any reason, the city council shall immediately proceed to employ another person. If there is a delay in securing a new city administrator, the mayor shall act as city administrator at no additional compensation. He shall be vested with the authority and charged with the duties and responsibilities of the city administrator until a replacement is hired and qualified.
- (c) The city council may employ experts to perform unusual or special services upon the recommendation of the city administrator or otherwise.
- (d) The city administrator shall appoint a city clerk, city treasurer, police chief, and such other employees as he deems necessary for the health, safety and welfare of the city, subject to the review and approval of the governing body. All employees employed by the city administrator shall be selected on merit. He shall fix their salaries, by and with the consent of the city council consistent with the city's ability to pay. Said employees shall be terminated only for cause or on account of lack of funding or lack of work.
- (e) The city administrator shall attend all meetings of the city council and may recommend necessary and expedient measures. He shall prepare and submit to the city council reports required by it, or that he considers advisable. He shall keep the city council fully advised of the financial condition and its future needs. He shall prepare the budget annually, submit it to the city council and be responsible for its administration after adoption. He shall perform all duties imposed on him by the city council, not inconsistent with state law or city ordinances. The city administrator shall be the purchasing agent for the city.
- (f) The city administrator shall manage any utility owned and operated by the city. The city council shall fix all rates and compensation to be paid by consumers of water, sewer, sanitation, electric current or any service furnished by any other public utility owned or operated by the city. The city administrator shall make and enforce their collection, or for the protection of the property and rights pertaining to such public utilities.

**ARTICLE VI. RULES OF PRACTICE AND  
PROCEDURE FOR ADMINISTRATIVE HEARINGS**

**SECTION 2-56. DEFINITIONS.**

The following definitions shall prevail in the construction of these rules.

Agency means all boards, commissions, authorities, departments, bureaus and officers of the city except the city council and the municipal court judge.

Contested Case means a proceeding including but not restricted to rate-makings, price fixing and licensing, in which legal rights, duties or privileges of a party are required by law to be determined by an agency after an opportunity for hearing.

License includes the whole or part of an agency permit, certificate, approval, registration, franchise, charter or similar form of permission required by law, but does not include a license required solely for the purpose of raising revenue for the city.

Licensing includes the agency process respecting the grant, denial, renewal, modification, revocation, suspension, annulment, withdrawal or amendment of a license.

Party means each person or agency named or admitted as a party, or properly seeking and entitled as of right to be admitted as a party.

Person means any individual, partnership, corporation, association, municipality, governmental subdivision or private or public organization of a character not an agency.

Rule means each agency statement of general applicability that implements, interprets and prescribes law, policy or ordinances of cities and towns, or describes the organization, procedures, or practice requirements of any agency. The term includes the amendment or repeal of a prior rule, but does not include:

- (a) Statements concerning only the internal management of an agency and not affecting private rights or procedures available to the public; or
- (b) Intraagency memoranda; or
- (c) Agency decisions and findings in contested cases; or
- (d) Rules concerning the use of public roads or facilities which are indicated to the public by means of signs and signals; or
- (e) Ordinances of cities and towns.

## **SECTION 2-57. INITIATION OF CONTEST.**

All contested cases to which these rules of practice and procedure apply shall be initiated either by the city council, agency, or by a contestee, upon a written verified petition wherein shall be alleged the acts or omissions from which the contestee is aggrieved or adversely affected. The petition shall be filed within ten (10) days of the act or omission, or discovery of the same, from which the petitioner is aggrieved or adversely affected.

**SECTION 2-58. PETITIONS.**

The verified petition shall be filed with the city clerk and shall set forth:

- (a) The name of the agency to which the petition is directed.
- (b) The name and address of each contestee and his attorney, if any.
- (c) The legal description and a plat plan of real property involved in the contest, if any.
- (d) A statement in ordinary and concise language, of the facts upon which the petition is based including reference of statutory law, ordinances, rules, regulations and orders, and including any instruments or regulations and orders, and including any instruments or documents, involved in the allegations therein contained.
- (e) A concise request or prayer for the specific relief desired.
- (f) Such other information as may be required from time to time by the city council or by any commission, board or agency of the city.

**SECTION 2-59. SERVICE OF PETITION.**

The petitioner shall cause to be served upon all agencies and persons named in the petition a full, true and correct copy thereof. Service shall be made personally or by registered or certified mail with return receipt thereof in accordance with the provisions of Rule 4, Wyoming Rules of Civil Procedure, provided, however, that personal service made within the City of Kemmerer may be made by a member of the Kemmerer police department. In the case of the agency service shall be made upon the mayor of the city council or the chairman of the board or commission involved. Proof of service shall be made in accordance with the provisions of said Rule 4.

**SECTION 2-60. ANSWER.**

The agencies or persons against whom the petition has been filed shall be allowed twenty (20) days from and after the date of service of the petition within which the file with the city clerk his, her or its answer or other appearance. A copy of such answer or other appearance shall be served upon the petitioner in accordance with the provisions of Rule 5, Wyoming Rules of Civil Procedure.

**SECTION 2-61. DOCKET.**

When a proceeding is instituted by the filing of a petition as herein provided, the city clerk shall assign it a number and enter it with the date of its filing on a separate page of a docket provided for that purpose. The city clerk shall keep separate dockets for all agencies and shall establish

a separate file for each docketed case, in which shall be placed all pleadings, documents, papers, transcripts, evidence and exhibits pertaining thereto, and all such items shall have noted thereon, the docket number assigned, and the date of filing. There shall be a filing fee in the amount of Five Dollars (\$5. 00) which shall be paid to the city clerk at the time of filing of the verified petition.

**SECTION 2-62. DEFAULT.**

In the event of failure of either the council, commission, board or agency as the case may be, or any contestee to answer or otherwise appear within the time allowed by these rules, and provided that Section 2-57 hereof has been complied with, said agency or contestee so failing to answer or otherwise appear, shall not be allowed to answer or otherwise appear thereafter and after written notice to the petitioner, the proceeding will be brought before the agency to which it was presented for consideration and appropriate action.

**SECTION 2-63. DISPOSITION WITHOUT HEARING.**

Any proceeding initiated hereunder may be concluded by stipulation, agreed settlement, consent order or default of the parties or motion and order of dismissal if such disposition is approved by the agency before which it was initiated. If a proceeding is so disposed of, an appropriate order shall be entered and included in the case record.

**SECTION 2-64. MOTIONS.**

The agency before which the proceeding was initiated may, after ten (10) days notice given in accordance with Section 2-65 hereof, hear any motion filed in connection with any proceeding initiated pursuant to these rules.

**SECTION 2-65. DISPOSITIONS AND DISCOVERY.**

Any party to a proceeding initiated pursuant to these rules may take depositions and discovery in accordance with Section 16-3-107 (g), (h), Wyoming Statutes annotated (1977 Repub. Ed. ), as the same may be from time to time amended or modified.

**SECTION 2-66. PRE-HEARING CONFERENCE.**

Prior to the day of hearing, the agency before which the proceeding was initiated may direct the parties to the proceeding or their attorneys to appear before the agency for a pre-hearing conference.

**SECTION 2-67. HEARING.**

After the issues of the case have been jointed the agency before which the proceeding was initiated shall set a date, time and place for hearing. The agency shall give notice of hearing to all parties to the proceeding in accordance with the provisions of Section 16-3-102, Wyoming

Statutes annotated (1977 Repub. Ed. ) as the same may from time to time be amended or modified. Such notice shall be given personally or by certified or registered mail with return receipt thereof not less than fifteen (15) days prior to the date of the hearing. If notice of hearing is given by mail, the computation of time shall begin to run on the date the notice is deposited in the United States mail. All issues and matters involved in a proceeding shall be presented on behalf of the council, commission, board or agency, as the case may be, by an officer or agent of such council, commission, board or agency as designated by it. Any contestee may be represented personally or by counsel subject to the provisions of Section 2-70 hereof.

#### **SECTION 2-68. SUBPOENAS.**

The presiding officer of the agency before which a proceeding is initiated pursuant to these rules shall, upon written request of any party to the proceeding, issue subpoenas for appearance or to produce books, papers, or other documents or subpoenas duces tecum in accordance with the provisions of Section 16-3-107 (c), (d), (e), (f), Wyoming Statutes annotated (1977 Repub. Ed. ), as may from time to time be amended or modified.

#### **SECTION 2-69. ORDER OF PROCEDURE AT HEARING.**

As nearly as may be, hearings shall be conducted in accordance with the following order of procedure:

- (a) The presiding officer of the agency before which the hearing is being conducted shall announce that the hearing is convened upon the call of the docket number and title of the matter to be heard and shall direct the reading into the record of the formal notice of hearing given by the agency, and shall note for the record all subpoenas issued and all appearances of record including contestees and their counsels of record.
- (b) The petitioner or his or its agent or attorney shall be allowed to make an opening statement to briefly explain his position to the agency and to outline the evidence he proposes to offer.
- (c) The petitioner or his or its agent or attorney shall thereupon proceed to present his evidence. Witnesses may be cross-examined by the other parties and may be examined by members of the agency. All exhibits offered by and on behalf of the Petitioner shall be marked by letters of the alphabet beginning with "A".
- (d) The other party or parties shall, in the order of answers or appearances made, be heard in the same manner as the petitioner.
  - (1) They shall be allowed to make an opening statement in the same manner and for the same purpose as the petitioner.

- (2) Their evidence, witnesses and exhibits shall be presented and heard in the same manner as allowed the petitioner and their exhibits shall be marked by numbers beginning with "1".
- (e) The agency may, in its discretion, allow evidence to be offered out of order.
- (f) At the conclusion of the presentation of the other party's evidence, the petitioner may present rebuttal evidence.
- (g) At the conclusion of the petitioner's rebuttal evidence, or if there is no rebuttal evidence, at the conclusion of the other party's evidence, the chairman of the agency shall declare the evidence closed.
- (h) Closing statements will be made in the following sequence:
  - (1) Petitioner.
  - (2) Other party or parties.
  - (3) Petitioner in rebuttal.

The time for oral argument or closing statement may be limited by the agency.

- (i) After all the proceedings have been concluded, the agency shall declare the hearing closed. Any party may tender briefs of law to the agency and the agency may call for reasonable time within which to prepare and submit briefs to aid the agency in arriving at a decision. The agency shall take the case under advisement and shall declare that its decision will be announced within a reasonable time, not to exceed twenty (20) days, following consideration of all the matters presented at the hearing.

#### **SECTION 2-70. WITNESSES TO BE SWORN.**

All persons testifying at any hearing pursuant to these rules shall stand and be administered the following oath by either the presiding officer or secretary of the agency:

"Do you swear (or affirm) to tell the truth, the whole truth and nothing but the truth in this hearing now before the (name of agency)?"

#### **SECTION 2-71. APPLICABLE RULES OF CIVIL PROCEDURE TO APPLY.**

- (a) The following rules of practice and procedure contained in the Rules of Civil Procedure of the State of Wyoming insofar as the same may be applicable and not inconsistent with the laws of the State of Wyoming in matters before an agency and applicable to the rules, orders and regulations promulgated by an agency under such laws, shall apply: 4(c) (d) (m) (1) (2) (i, ii, iii, v) (n); 5; 6; 10; 11; 17(a); 20; 26; 28 through 37 (excepting Rule 37

(b) (1) and 37 (b) (2) (iv) therefrom); 45; and Rule 12 Wyoming Rules of Appellate Procedure, all as the same may be from time to time amended or modified.

- (b) Such other Rules of Civil Procedure of the State of Wyoming as may be applicable and not inconsistent with the laws of the State of Wyoming in matters before the agency shall also apply.

**SECTION 2-72. ATTORNEYS.**

The filing of an answer or other appearance by an attorney constitutes his appearance for the party for whom the pleading is filed. The agency before which the proceeding is initiated shall be notified in writing of his withdrawal from any hearing. Any person appearing before an agency at a hearing in a representative capacity shall be precluded from examining or cross-examining any witness unless such person shall be an attorney licensed to practice law in the State of Wyoming, or a non-resident attorney associated with a Wyoming attorney qualified to practice law in the State of Wyoming. This rule shall not be construed to prohibit any person from representing himself in any hearing before an agency.

**SECTION 2-73. RECORD OF PROCEEDINGS - REPORTERS.**

When oral testimony of witnesses is taken in contested cases before an agency, the proceedings, including all testimony, shall be reported verbatim by a competent reporter or by other reliable and appropriate means. The compensation of such reporter shall be paid by the unsuccessful party or as otherwise ordered by the agency. If a transcript of testimony is required in the subsequent agency deliberations, the cost thereof shall be furnished to the agency by the unsuccessful party.

**SECTION 2-74. DECISIONS, FINDINGS OF FACT AND CONCLUSIONS OF LAW AND ORDER.**

The agency before which the hearing is conducted shall, following the full and complete hearing, make and enter a written decision and order in all contested cases, in accordance with the provisions of Section 16-3-110, Wyoming Statutes annotated (1977 Repub. Ed. ), as amended. Such decisions and orders shall be filed with the agency and will, without further action, become the decision and order as a result of the hearing. Forthwith upon entry and filing, the agency shall send a copy by prepaid mail to each party or their attorneys of record.

**SECTION 2-75. RATE MAKING, PRICE FIXING AND LICENSING.**

In all contested cases conducted in accordance with these rules of practice and procedure, the subject of which is rate making, price fixing or licensing, the decision of the agency before which the proceeding is initiated shall be final and shall not be subject to review or re-hearing by such agency. Subsequent petitions requesting the same or similar relief shall not be accepted by the city clerk or considered by an agency subject to these rules for a period of six (6) months

following the entry of the decision of the agency before which the original proceeding was initiated.

**SECTION 2-76. APPEALS TO DISTRICT COURT.**

Appeals to the District Court from decisions of an agency are governed by Section 16-3-114, Wyoming Statutes annotated (1977 Repub. Ed. ), and Rule 12 of the Rules of Appellate Procedure promulgated by the Supreme Court of the State of Wyoming, as the same may from time to time be amended or modified.

**SECTION 2-77. TRANSCRIPT IN CASE OF APPEAL.**

In case of an appeal to the District Court, the party appealing shall secure and file a transcript of the testimony and all other evidence offered at the hearing which transcript must be verified by the oath of the reporter who took the testimony as a true and correct transcript of the testimony and other evidence in the case. The compensation of the reporter for making the transcript of the testimony and all other costs involved in such appeal shall be borne by the party prosecuting such appeal.

**SECTION 2-78. WYOMING ADMINISTRATIVE PROCEDURE ACT.**

In all proceedings before an agency pursuant to these rules, the Wyoming Administrative Procedure Act (16-3-101 through 16-3-115, Wyoming Statutes annotated [1977 Repub. Ed. ], as the same may from time to time be amended or modified) shall apply. If a conflict arises between said Act and these rules, the Act shall supersede these rules.

**SECTION 2-79. SEVERABILITY.**

If any provision of these rules or the application thereof to any persons or circumstance is held invalid, such invalidity shall not affect other provisions or applications of these rules which can be given effect without the invalid provision or application and to this end the provisions of these rules are severable.

**SECTION 2-80. AMENDMENTS.**

Amendments to these rules shall be promulgated and become effective as provided in Section 16-3-103, Wyoming Statutes (1977 Repub. Ed. ), as the same may from time to time be amended or modified.

**ARTICLE VII**

**SECTION 2-81. SCOPE.**

- (a) Whenever an appeal to the city administrator is provided in this Code or by ordinance, the procedure set out hereinafter shall be followed.

- (b) Appeals from decisions of the city engineer under the Building, Plumbing and Fire Codes and the Plumbing Licensing Code shall be governed by this Article.
- (c) Hearings before the city administrator pursuant to proposed suspension or revocation of a license, except for a liquor license, shall be governed by this Article.

**SECTION 2-82. TIME.**

Requests for hearings and notices of appeal must be made in the time allowed by code section or ordinance providing for the hearing or appeal.

**SECTION 2-83. NOTICE OF APPEAL; REQUEST FOR HEARING.**

- (a) The notice of appeal or request for hearing shall include the following, in the following order:
  - (1) The decision being appealed or contested and the date thereof.
  - (2) The basis and reasons for appeal or contest.
  - (3) The facts supporting the appeal or contest.
  - (4) A summary of argument(s) supporting the appeal or contest.
  - (5) The relief requested.
- (b) Upon written request and for good cause the city administrator may allow up to an additional twenty (20) days in which to submit the information required in the notice of appeal or request for hearing.
- (c) The city administrator shall, upon receipt, provide a copy of the notice of appeal or request for hearing to the person whose decision is being appealed or contested. Such person shall submit a written position paper to the city administrator within seven (7) days, setting forth all facts supporting his/her decision, the basis for such decision and a summary of argument(s) supporting the decision. Upon written request and for good cause the city administrator may allow up to an additional ten (10) days for submittal of the position paper.

**SECTION 2-84. HEARINGS.**

- (a) The city administrator shall set hearings as soon as practicable, but will attempt to set such hearings no later than two (2) weeks from the receipt of the notice of appeal or request for hearing; provided, however, in the event the aggrieved party requests time to

conduct discovery, the hearing shall be scheduled in a manner to reasonably accommodate such requests.

- (b) If the parties to the contest agree, hearing may be waived and decision rendered upon the written submittals. Such decision shall be in writing and shall set forth the city administrator's findings and ruling; the aggrieved party shall be notified of the decision by certified mail, return receipt requested. Appeal of the decision may be made as provided hereinafter.

**SECTION 2-85. HEARINGS - GENERAL PROCEDURE.**

- (a) If hearing is not waived, the city administrator shall, after receipt of the written submittals, serve the aggrieved parties personally or by mail with notice of the hearing, which shall set forth:
  - (1) time, place and nature of hearing;
  - (2) the legal authority and jurisdiction under which the hearing is to be held; and
  - (3) the statutes, code section(s), ordinance(s) or rules involved.
- (b) Discovery may be had in accordance with 16-3-107, W. S.
- (c) Upon application by a party to the proceeding, the city administrator is hereby empowered to, and shall, issue a subpoena requiring the appearance of a witness for purposes of deposition and/or hearing. Subpoenas may be enforced as provided by W. S. , 16-3-107(f).
- (d) All parties shall be afforded the opportunity to respond, present evidence and argument on all issues involved.
- (e) Any aggrieved party, or witness, may be represented by an attorney, at such party's, or witness's, own cost.
- (f) Hearings before the city administrator shall be tape recorded; the proceedings may be transcribed at the cost of the party requesting such transcription.

**SECTION 2-86. HEARINGS - EVIDENCE.**

- (a) The city administrator shall exclude all irrelevant, immaterial or unduly repetitious evidence.
- (b) The city administrator shall give effect to the rules of privilege as recognized by law.

- (c) Documentary evidence may not be received in the form of copies or excerpt, if the original is not available. Upon request, parties shall be given the opportunity to compare the copy with the original.
- (d) A party, or his attorney, may conduct cross-examination as required for a full and fair disclosure of the facts.
- (e) A party is entitled to confront all opposing witnesses.
- (f) Notice may be taken of all judicially recognizable facts. The parties shall be notified either before, during or after the hearing, but before decision and ruling, of any material facts so noticed and they shall be given a reasonable opportunity to respond.

**SECTION 2-87. HEARINGS - BRIEFS AND ARGUMENT.**

- (a) The city administrator shall consider the whole record or any portion stipulated to by the parties.
- (b) Upon request, a party shall be given the opportunity to file a brief referencing the evidence presented, applicable law and concise argument.
- (c) The city administrator in his sole discretion may allow oral argument at the close of the evidence.

**SECTION 2-88. HEARINGS - POWERS OF CITY ADMINISTRATOR.**

The city administrator at hearings provided for herein shall have the power to:

- (a) administer oaths and affirmatives;
- (b) issue subpoenas;
- (c) rule upon offers of proof and receipt of evidence;
- (d) regulate the course of the hearing;
- (e) hold conference(s) for settlement or simplification of issues;
- (f) dispose of procedural requests of similar matters; and
- (g) examine or cross examine witnesses, subject to the opportunity of the parties to cross examine.

**SECTION 2-89. APPEAL OF FINAL DECISION.**

The final decision and ruling of the city administrator may be appealed to the mayor and council. Such appeal must be filed in the office of the city clerk no later than ten (10) days from service of the final decision and ruling.

**ARTICLE VIII. SALE OF PROPERTY FOR DELINQUENCY, SPECIAL  
ASSESSMENT.**

**SECTION 2-90. SALE OF PROPERTY**

If an assessment or any installment thereof is delinquent, the City may sell said property as described in the assessment roll as provided by ' 15-6-410 W. S. or any other applicable law.

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## CHAPTER 2

### ADMINISTRATION

#### ARTICLE I. IN GENERAL

##### SECTION 2-1. MEETINGS GENERALLY - TO BE OPEN; INFORMATION REQUIRED OF ATTENDING PUBLIC.

- (a) All meetings of the city council and all other boards, commissions and agencies of the city shall be open to the public at all times, except as provided in Sections 2-2 and 2-3. No action of such a body shall be taken except during a public meeting.
- (b) A member of the public shall not be required, as a condition of attendance at any meeting, to register his name, to supply information, to complete a questionnaire, or fulfill any other conditions precedent to his attendance except that a person seeking recognition may be required to give his name and affiliation.

##### SECTION 2-2. SAME - EXECUTIVE SESSIONS.

Executive sessions, not open to the public, of the city council and all other boards, commissions and agencies of the city may, upon vote of two-thirds (2/3) of the members present be held:

- (a) With the prosecuting attorney, city attorney, chief of police or their respective deputies, or other officers of the law, on matters posing a threat to the security of public or private property or a threat to the public's right of access;
- (b) To consider the appointment, employment, right to practice or dismissal of a public officer, professional person or employee, or to hear complaints or charges brought against an employee, professional person or officer, unless the employee, professional person or officer requests a public hearing. The city council may exclude from any public or private hearing during the examination of a witness, any or all other witnesses in the matter being investigated. Following the hearing or executive session, the city council may deliberate on its decision in executive sessions;
- (c) On matters concerning litigation to which the city council is a party or proposed litigation to which the city council may be a party;
- (d) When the agency is a licensing agency while preparing, administering or grading examinations;
- (e) To consider the selection of a site or the purchase of real estate when the publicity regarding the consideration would cause a likelihood of an increase in price;

- (f) To consider acceptance of gifts, donations and bequests which the donor has requested in writing be kept confidential;
- (g) To consider or receive any information classified as confidential by law;
- (h) To consider accepting or tendering offers concerning wages, salaries, benefits and terms of employment during all negotiations.

**SECTION 2-3. SAME - DISRUPTION.**

If any public meeting is willfully disrupted by a person or group of persons so as to render the orderly conduct of the meeting unfeasible, and order cannot be restored by the removal of the person or persons who are willfully interrupting the meeting, the removal of such person or group from the meeting room may be ordered and the meeting continued, or the meeting may be recessed to another location. Procedures for re-admitting an individual or individuals not responsible for disturbing the conduct of a meeting shall be established by the body conducting such meeting. Duly accredited members of the press or other news media, except those who participated in a disturbance, shall be allowed to attend any meeting permitted by this section.

**ARTICLE II. CITY COUNCIL**

**DIVISION 1. MEETINGS OF CITY COUNCIL**

**SECTION 2-4. DATE AND TIME OF REGULAR MEETING.**

Regular meetings of the council shall be held on the second (2nd) and fourth (4th) Monday of each month at an hour designated by the council; provided, that in all instances that such day is observed as a legal holiday for municipal offices, the regular meeting of the city council shall be held on the following day; provided, however, the council may change the date of a regular meeting by resolution and giving notice of the date and time of the change to a newspaper of general circulation in the City of Kemmerer not less than one (1) week before such meeting.

**SECTION 2-5. SPECIAL MEETINGS.**

Special meetings of the city council may be called from time to time by the mayor or any two (2) councilmen. The subject for the special meeting shall be submitted to the city council in writing; and the city clerk shall give notice of a special meeting to each member of the governing body and to each newspaper of general circulation, radio or television station requesting such notice. The notice shall specify the time and place of the special meeting and the business to be transacted. The action of the city council at each special session shall be confined to the subject submitted in writing to the city council, and the minutes of the meeting shall be entered upon the journal of the city council by the city clerk.

The governing body of an agency may hold an emergency meeting on matters of serious immediate concern to take temporary action without notice. All action taken at an emergency meeting is of a temporary nature and in order to become permanent shall be reconsidered and acted upon at an open public meeting within forty-eight (48) hours.

**SECTION 2-6. ADJOURNED OR RECESSED MEETINGS.**

Adjourned or recessed meetings may be held at such times as the council may determine.

**SECTION 2-7. PRESIDENT OF GOVERNING BODY; ACTING PRESIDENT; ELECTION, DUTIES, ETC.**

The governing body may elect from their number a president who, in the absence of the mayor, shall preside at all meetings of the governing body. If the office of mayor is vacant, the president shall occupy the office until the vacancy is filled. The governing body may elect one (1) councilman to serve temporarily as acting president in the president's absence. The president and acting president, when occupying the place of the mayor, may exercise all of the powers of that office and have the same privileges as other members of the governing body. All acts of the president or acting president, while so acting, are as binding upon the council and upon the city as if done by the mayor.

The president and acting president of the City Council shall be elected at the first meeting in January in odd numbered years and shall serve a two year term.

**SECTION 2-8. DUTIES OF CLERK AS TO JOURNAL.**

It shall be the duty of the city clerk to keep the journal of the city council. The governing body shall designate a legal newspaper and publish the minutes of all of its meetings and the titles of all ordinances passed therein. The clerk shall, within forty-eight (48) hours after the adjournment of any regular or special meeting of the city council, furnish the legal newspaper a copy of the proceedings of such meeting for publication. Such copy shall include every bill presented to the city council showing the amount of the bill, the amount allowed, what the bill was for and by whom claimed. In addition the clerk shall be responsible for the safekeeping of such journal, and shall show it to the public when so requested.

**DIVISION 2. RULES OF ORDER.**

**SECTION 2-9. CALL TO ORDER; QUORUM.**

At the hour appointed for the meeting, the governing body shall be called to order by the presiding officer.

The city clerk, or some competent person acting for him, shall call the roll. If a quorum is present, the governing body shall proceed to the business which may come before it.

A majority of the governing body shall constitute a quorum for the transaction of business at any meeting.

**SECTION 2-10. ORDER OF BUSINESS.**

The order of business at each regular council meeting shall be as follows, and shall not in any case be altered, except by consent of a majority of the members present voting thereon.

- (a) Call to Order. The mayor, or in his/her absence, the president of the city council, shall call the meeting to order precisely at the appointed hour, and begin meeting with the pledge of allegiance.
- (b) Roll Call. Before proceeding with the order of business, the clerk or his deputy shall call the roll of the members, and the names of those present shall be entered in the minutes.
- (c) Approve Agenda. The mayor shall determine if there are any proposed changes to the agenda. Once approved, business discussed shall be limited to that which is on the agenda.
  - (1) Reports by Officers. City officials and/or committees shall present such reports as may be required by the city council.
  - (2) Presentations. Presentations to the City Council for the education, instruction and proposals of projects, proposals or other items as deemed appropriate for City business.
  - (3) Public Hearings. Unless otherwise provided, public hearing shall be scheduled as the first order of business when scheduled on the same night as a regular city council meeting.
  - (4) Visitors Comments and Petitions. Petitions, remonstrances, communications and comments or suggestions from citizens present, shall be heard by the council. All such remarks shall be addressed to the council as a whole, and not to any member thereof. Such remarks shall be limited to a reasonable time and such determination will be in the discretion of the presiding officer. No other person than the individual speaking shall enter into the discussion without the permission of the presiding officer.
  - (5) Consent Agenda. A consent agenda may be used for bill paying, minutes, and other items as deemed appropriate by the City Council. Unless a reading of the minutes of a council meeting is requested by a member of the council, the minutes of the preceding meeting, which have been furnished by the clerk to each councilman, shall be considered approved if correct, and errors rectified, if any exist. As provided in Section 2-31 of the Kemmerer City Code, no bills or claims against the city shall be allowed except as authorized by written

requisition, except salaries of city officials, until approved by a majority of the council.

- (6) Old Business. The council shall consider any business that has been previously considered and which is still unfinished. Old Business is to include tabled items and the approval of the minutes.
  - (7) New Business. The Council shall consider any business not heretofore considered, including the introduction or readings of ordinances and resolutions.
  - (8) Comments by Councilmembers. Comments, suggestions, questions or reports shall be heard from individual councilmembers to be followed by the Mayor or presiding officer of the meeting. The City Administrator or other officers may give comments by invitation.
- (d) Adjournment. The meeting may be adjourned by the Mayor or presiding member if Adjournment is the next item on the agenda or in the manners prescribed in Kemmerer City Code 2-20.

#### **SECTION 2-11. PRESERVATION OF ORDER.**

The mayor or presiding officer shall preserve order, prevent personal reflections, confine members in debate to the questions, and shall decide who shall be first heard when two (2) members arise at the same time. Any member of the council when called to order by the presiding officer shall at once suspend his remarks.

#### **SECTION 2-12. RECOGNITION BY PRESIDING OFFICER.**

Each councilman before speaking on any question shall address himself to the presiding officer by his proper title, and shall not proceed with his remarks until recognized and named by the presiding officer.

#### **SECTION 2-13. MOTIONS - GENERALLY.**

No question on a motion shall be debated or put to a vote unless the same be seconded. When a motion is seconded it shall be stated by the presiding officer before debate or action thereon. Any motion shall be reduced to writing by the councilman making it, if the presiding officer or councilman shall ask it.

#### **SECTION 2-14. DIVISION OF QUESTION.**

If the question before the council contains more than one (1) distinct proposition, any councilman may have the same divided.

**SECTION 2-15. REASON FOR VOTING.**

Any member of the council may state his reason for voting upon any question either immediately before or immediately after the vote is taken, but he shall confine his remarks to the subject under consideration.

**SECTION 2-16. VOTING OF COUNCILMEN.**

Each member of the council who shall be present when a question is to be voted upon shall vote thereon, unless they wish to abstain.

If the council member has a legal conflict, he shall declare he has a conflict and not vote on the question, unless four legal conflicts exist and will render the governing body short of a quorum to act. If four legal conflicts exist all shall declare their conflict and a vote shall take place with all council members participating.

If no legal conflict exists, and a council member wishes to abstain, he may abstain but shall not participate in the debate.

If the question addresses the passing of an ordinance, such abstention has the effect of a “nay” vote.

If the question addresses the passing of a resolution in written form or a motion, such abstention, the abstaining council member shall not be counted toward the number of voting members, providing that the abstention shall not render the number of voting members less than a quorum.

He may, before the vote is called for, give his reasons for not voting. If he is directly interested in the question he shall not vote. When he is on trial he shall not vote.

**SECTION 2-17. RECORD OF AYES AND NAYS.**

On the question of the passage of an ordinance or resolution the vote of the council shall be taken by ayes and nays and a record of the same shall be made upon the journal, which shall show how each member voted.

**SECTION 2-18. CALL FOR AYES AND NAYS; RECORD; CHANGE OF VOTE.**

The ayes and nays shall be taken at the request of a councilman, and a record of the same, together with the name of the councilman calling for the division, shall be entered upon the journal, which shall show how each member voted. Any member can change his vote previous to the announcement of the vote of the council.

## **SECTION 2-19. PRECEDENCE OF SUBSIDIARY MOTIONS.**

When a question is before the council no motion shall be received, except as herein specified, which motion shall have precedence in the order stated as follows:

- (a) To adjourn.
- (b) The previous question.
- (c) To lay on the table.
- (d) To close debate at specified time.
- (e) To especially assign to a time certain.
- (f) To refer to a committee.
- (g) To amend.
- (h) To postpone indefinitely.

These several motions shall not be applied to each other, except that the motion to assign, refer, amend or to close debate at a specified time, may be amended; and the previous question may be demanded upon the amendment, which motion shall be decided without debate. When one (1) of these motions has been made, none of the other inferior to it in precedence shall be made, and in proceeding to vote motions pending shall be put in the order of their rank as above arranged. No motion or proposition or a subject different from that under consideration shall be admitted under color or amendment.

## **SECTION 2-20. MOTION TO ADJOURN.**

A motion to adjourn the council shall always be in order, except:

- (a) When a member is in possession of the floor.
- (b) While a vote is being taken.
- (c) When adjournment was the last preceding motion.
- (d) When it has been decided that the previously question shall be taken.

A motion simply to adjourn cannot be amended; but a motion to adjourn to a time named may be amended and is open to debate.

The meeting may be adjourned by the Mayor or presiding member if Adjournment is the next item on the agenda, or upon the judgment of the Mayor or presiding officer the meeting conduct and tenor of the meeting participants is interfering in the orderly conduction of City business or if there is an emergency, natural disaster or if it is out of control or other extenuating circumstances exist that would reasonably suggest the meeting should be adjourned, (such determination shall be noticed before adjournment to allow opportunity for a vote by the governing body). Such adjournment is therefore subject to a vote by the City Council upon a Motion and Second to adjourn the meeting.

#### **SECTION 2-21. PREVIOUS QUESTION.**

The previous question shall be in this form:

"Shall the main question now be put?" It shall only be admitted when demanded by a majority of the members present, and its effect shall be to put an end to all debate and bring the council to a direct vote, first upon pending amendments, and then upon the main question.

When the previous question is decided in the negative, it shall leave the main question under debate for the remainder of the meeting unless sooner disposed of by taking the question, or in some other manner.

#### **SECTION 2-22. MOTION TO LAY ON THE TABLE.**

A motion to simply lay a question on the table is not debatable. A motion to take the subject matter from the table may be proposed and carried into effect provided that two-thirds (2/3) of the councilmen present vote in favor thereof.

A motion to lay any particular proposition on the table shall apply to that proposition only.

#### **SECTION 2-23. SPECIAL ORDER OF BUSINESS.**

Any matter before the council may be set down as a special order of business at a certain time if two-thirds (2/3) of the councilmen present vote in the affirmative; but not otherwise.

When such time arrives, if the council is in session, the presiding officer or any councilman may call up such special order, which shall then be considered.

#### **SECTION 2-24. MOTION TO AMEND.**

A motion to amend an amendment shall be in order; but one to amend an amendment to an amendment shall not be entertained.

An amendment modifying the intention of a motion shall be in order; but an amendment relating to a different subject shall not be in order.

**SECTION 2-25. MOTION TO STRIKE OUT AND INSERT.**

On an amendment to "strike out and insert" the paragraph or sentence to be amended shall be first read as it stands, then the words proposed to be struck out, and then those proposed to be inserted and finally the paragraph or sentence as it would stand if so amended.

**SECTION 2-26. INDEFINITE POSTPONEMENT.**

When a motion is postponed indefinitely, it shall not be taken up again at the same meeting.

**SECTION 2-27. RECONSIDERATION.**

A vote or question may be considered at any time during the same meeting, or at the first regular meeting held thereafter.

A motion for reconsideration being once made and decided in the negative, shall not be renewed, nor shall a vote to reconsider be reconsidered.

A motion to reconsider must be made and seconded by a member who voted in the majority.

**SECTION 2-28. PETITION, COMMUNICATIONS, ETC.**

Petitions, memorials and all communications and papers addressed to the council, mayor or presiding officer, or presented by a councilman in his place, may be read by the city clerk, city administrator, mayor or mayor's designee at the request of a councilman or the presiding officer.

All petitions, memorials, communications and papers which may be filed with, or delivered to the city clerk prior to the meeting of the council shall be laid upon the desk of the mayor or presiding officer.

**SECTION 2-29. RECORD OF NAMES OF MOVERS OF MOTIONS.**

In all cases where a motion is entered upon the journal of the council, the name of the member moving the same shall also be entered.

**SECTION 2-30. JOURNAL OF PROCEEDINGS.**

The city clerk shall keep a correct journal of the proceedings of the council, and shall cause councilmen and officers of the city to be informed of such duties as they may be charged with by the council, from time to time, and he shall perform such other duties as appertain to him as city clerk. He shall not allow the journal, records, accounts or papers to be taken from his table or out of his custody, except by the regular mode of business of the council, or by an officer authorized so to do; and if any paper in his charge shall be missing he shall report the fact to the presiding officer at once, in order that the loss may be investigated.

The journal of the proceedings shall be open to the public for inspection at all reasonable times.

**SECTION 2-31. ALLOWANCE OF BILLS OR CLAIMS.**

No bills or claims against the city shall be allowed except as authorized by written requisition, except salaries of city officials, and until approved by a majority of the council.

**SECTION 2-32. AMENDMENT OR REPEAL OF RULES.**

The foregoing rules may be amended or repealed at a regular meeting of the council, provided that any proposed amendment or repeal has been proposed in writing at a previous meeting, and provided further that a majority of the council shall agree to the amendment or repeal.

**ARTICLE III. ORDINANCES AND RESOLUTIONS**

**SECTION 2-33. ORDINANCES - MANNER OF ENACTMENT.**

All laws of the city shall be enacted by the passage of ordinances, all of which shall be reviewed by the city attorney. All ordinances hereafter adopted and passed by the city council shall be introduced in writing or typewriting. Every ordinance, except emergency ordinances, shall have public reading on three (3) different days. Public reading may be by title only. At least ten (10) days shall elapse between the introduction and final passage of every ordinance, except emergency ordinances. For an emergency ordinance, the requirements of this section may be suspended by the affirmative vote of three-fourths (3/4) of the qualified members of the governing body. No franchise may be granted by emergency ordinance.

**SECTION 2-34. ORDINANCES - FORM.**

The style of all ordinances shall be "Be it ordained by the Mayor and City council of the City of Kemmerer, Wyoming". No ordinance, except one (1) making appropriations or one (1) for the codification of general revision of ordinances, may contain more than one (1) subject.

**SECTION 2-35. ORDINANCE - VOTE REQUIRED.**

- (a) A majority vote of all the qualified members of the city council shall be required for the passage of any ordinance.
- (b) Passage of an ordinance requires the affirmative vote of the majority of the qualified members of the governing body. Passage of an emergency ordinance requires the affirmative vote of three-fourths (3/4) of the qualified members of the governing body.
- (c) The mayor is entitled to sign or veto any ordinance passed by the governing body and to sign or veto any order, bylaw, resolution, award or vote to enter into any contract, or the allowance of any claim. A veto may be overridden by a vote of two-thirds (2/3) of all the qualified members of the council. If the mayor neglects or refuses to sign any

ordinance and fails to return it with his objections in writing at the next regular meeting of the governing body, it becomes law without his signature. The mayor may veto any item of any appropriation ordinance and approve the remainder thereof. The items vetoed may be passed over the veto as in other cases. The mayor does not have a vote in any matter involving the override of a veto.

**SECTION 2-36. ORDINANCES - PUBLICATION, RECORDATION, EFFECTIVE DATE.**

- (a) Every ordinance before becoming effective shall be published at least once in a newspaper of general circulation in the City of Kemmerer. Except that emergency ordinances shall become effective upon proclamation of the mayor, and as soon thereafter as practicable they shall be published and posted in the manner required of all ordinances.
- (b) Every ordinance shall, within a reasonable time after passage, be signed by the mayor and attested by the clerk and recorded in a book kept for that purpose. The attestation of the clerk shall show that the ordinance was duly published and posted.

**SECTION 2-37. AMENDMENT OR REPEAL OF CODE PROVISIONS.**

The amendment or repeal of existing provisions of this Code or the insertion of additional provisions in this Code shall be done in the following manner:

- (a) Ordinances amending existing sections shall designate, by section number, the sections which are affected and set out in full the entire ordinance or section as amended.
- (b) Ordinances repealing existing sections shall designate, by section number, the sections which are repealed.
- (c) Ordinances adding sections to the code shall designate where such sections are to be inserted.
  - (1) Section which should be placed between existing sections shall be numbered decimally as illustrated in the following example: An ordinance addition three (3) sections which should logically fall between Sections 1-2 and 1-3 would be numbered 1-2. 1, 1-2. 2 and 1-2. 3 respectively.
  - (2) Ordinances adding new material not presently covered by a chapter heading in the code shall be inserted in alphabetical order between existing chapters based on the subject matter of the ordinance. The new chapter shall be numbered decimally as illustrated in the following example: An ordinance adding a new chapter which should be inserted between existing Chapters 2 and 3 would be numbered 2. 1 with the individual sections of such chapter being number 2. 1-1 et seq.

- (3) Nothing in subsection (c) of this section shall be interpreted as prohibiting the rearrangement of such additional materials by the official codifier of the city's ordinances in order to insure the proper codification of such ordinances.

**SECTION 2-38. REPEAL OF REPEALERS.**

The repeal of an ordinance which repeals a former ordinance or provision of this Code shall not revive the former ordinance or provision of this Code unless expressly so provided.

**SECTION 2-39. RESOLUTIONS - REQUIRED.**

Resolutions shall be used in every case where an ordinance is not required. Resolutions shall be appropriate in the following instances:

- (a) Setting fees;
- (b) Adoption of policy concerning employees, utility services or equipment;
- (c) Expressing the will, intent or opinion of the Council;
- (d) Authorizing the issuance of bonds;
- (e) And in every other case where it is deemed in the public interest that a full and permanent record be made and kept of the action of the city council.

**SECTION 2-39. 1. SUSPENSION OF CODE REQUIREMENTS.**

The City Council may by majority vote of its members, approve, by resolution, the temporary suspension of one or more sections of the City Code upon a finding after a public hearing that said action is as a result of an actual emergency or will result in an economic and civic benefit to the citizens of the City of Kemmerer. The following code sections may be suspended for the duration of the emergency or for that period of time designated in the Council's resolution:

Sections 3-1, 3-2, 3-3 Advertising  
Sections 5-6, 5-13 Animals  
Chapter 6 Bicycles  
Section 9-3 Fuel Storage  
Section 9-4 Bonfires  
Section 9-5, 9-6 Waste Materials  
Sections 11-19 thru 11-22 Business Licenses  
Section 12-3 R. V. Parks  
Section 13-69 Snowmobiles  
Section 15-4 Camping  
Sections 17-15, 17-19 Junk Dealers  
Sections 19-1, 19-3 Sidewalks/Obstructions

Sections 21-9 thru 21-17 Transient Merchants  
Section 23-35 Livestock  
Sections 23-42, 23-43 Signs  
Section 23-49 Campers, Trailers, etc.

**SECTION 2-40. RESOLUTIONS - NUMBERING, RECORDATION.**

Resolutions shall be numbered consecutively giving first the calendar year; and shall bear a title which shall set forth in general terms its subject matter; shall contain a resolving clause; and shall bear the date, signature of the mayor, attestation of the city clerk and the city seal. The city clerk shall keep a permanent log book in which the original of each resolution considered, whether adopted or not, shall be kept.

**SECTION 2-41. RESOLUTIONS - STYLE.**

The style of a resolution shall be "Be it resolved by the City Council of the City of Kemmerer, Wyoming".

**ARTICLE IV. PUBLIC CONTRACTS; CONFLICTS OF INTEREST**

**SECTION 2-42. CONTRACTS FOR PUBLIC IMPROVEMENTS - GENERALLY.**

- (a) All contracts, except for professional, medical, legal or engineering services, for purchases of property or for any public improvement, contracts relating to the municipal water supply, public buildings and public places, and any other public work or improvement for the City of Kemmerer shall comply with Wyoming State Statute § 15-1-101 et seq. , and be advertised for bid when the cost exceeds Seventy-Five Thousand Dollars (\$75,000. 00) (or the amount set for in W. S. § 15-1-113, whichever is higher), including following all State of Wyoming preference requirements. If there is an automobile or truck for trade-in, it shall be included as a part of the advertisement and bid. Further the City follows all Wyoming State Statutes requirements on purchasing, including the allowance for Sole-Sourcing purchasing policy, which is set forth by Resolution.
- (b) The advertisement shall be published on two (2) different occasions, at least seven (7) days apart, in a newspaper of general circulation in the City of Kemmerer.
- (c) The published notice shall recite the place, date and time when bids will be received and publicly opened and the place where interested persons may obtain complete specifications of work to be performed.
- (d) The contract shall be let to the lowest bidder who shall be determined qualified and responsible in the sole discretion of the city council, provided, that the city council may reject all bids submitted when it finds that none of them would serve the public interest. In selecting the lowest responsible bidder the council shall comply with the provisions of

Title 16, Chapter 6, Wyoming Statutes (1977 Repub. Ed. ), as the same may from time to time be amended, which statutes afford "resident" Wyoming contractors a preference.

- (e) The successful bidder shall give the city a bond in a penal sum equal to the amount of his bid, with two (2) sureties for the faithful performance of his contract. The sureties shall be residents of the State of Wyoming, who own property in the state amounting in the aggregate to double the amount of the bond upon which they become sureties, however, any surety or guaranty company, duly qualified to act as surety or guarantor in this state upon executing individual bonds, shall be accepted in lieu of such sureties.

**SECTION 2-43. CONTRACTS; OFFICERS NOT TO BE INTERESTED.**

- (a) No qualified member of the city council of the City of Kemmerer or any member of that qualified member's immediate family may receive any monetary or other economic benefit from any contract to which the City of Kemmerer or anyone for its benefit is a party. The obligation on the part of the City of Kemmerer is void in any contract in which a monetary or other economic benefit will be received by a qualified member of the city council or his family who does not comply with subsection (b) of this section. Any money paid on the contract may be recovered by the City of Kemmerer from any persons by an action brought in the name of the City of Kemmerer.
- (b) Subsection (a) of this section does not apply to any qualified member of the city council or any member of that qualified member's immediate family who may receive any monetary or other economic benefit from any contract made by the city council if the qualified member complies with the following:
  - (1) The interested person shall not participate in the consideration or discussion relating to said contract, and
  - (2) The interested person shall not attempt to influence the members of the city council in any way relating to said contract, and
  - (3) The interested person shall reveal the nature and extent of any monetary or other economic benefit he or any member of his immediate family may receive to the other members of the city council prior to considerations on said contract, and
  - (4) The interested person shall not vote on the matter of granting said contract, and
  - (5) The interested person shall absent himself during the consideration, discussion and vote on said contract and provided that the interested person shall not act, directly or indirectly, for the city council in inspection, operation, administration or performance under the contract in which he has such interest.

**SECTION 2-44. WARRANTY AGAINST PROCUREMENT, ETC. OF PUBLIC CONTRACTS, LOANS, BOND ISSUES, AND GRANTS.**

- (a) All public contracts entered into by the City of Kemmerer or coming within this Article shall contain the following warranty:

The City of Kemmerer, its mayor, council, engineer, attorney, and all other elected or appointed officers and agents warrant that none of the aforesaid nor either of them has been employed or retained to secure any public contract, loan, bond issue or grant from any agency whatsoever upon an agreement or understanding that a commission, percentage, brokerage or contingent fee would be paid for securing any of the above, except as provided below.

No contract for the procurement of special engineering, legal, architectural or any other special service shall be let, allowed or approved for a fee other than a reasonable fee based upon time and reasonable charges for labor and services actually done and provided and materials actually furnished.

- (b) For any contract which is in violation of this warranty, the City of Kemmerer shall:
- (1) Annul such contract without liability on its part; or, in its discretion,
  - (2) Deduct from the contract for such services the full amount of such commission, percentage, brokerage or contingent fee.

**SECTION 2-45. CONFLICTS OF INTEREST - DISCLOSURE REQUIRED.**

- (a) Any mayor, councilman, city administrator, city engineer, city attorney or any person holding any appointed power
- (1) who shall, during the time he may occupy such office or hold such appointing power and discharge the duties thereof, be interested directly or indirectly, in any contract for the construction of any city building, or work of any kind, erected or built for the use or benefit of the city in which he exercises any official jurisdiction; or
  - (2) who shall bargain for or receive any percentage, drawback, premiums, or profits, or money whatever on any contract, or for the letting of any contract or making any appointment wherein the city is concerned.

shall be deemed guilty of malfeasance in office and subject to removal in the manner provided by law.

- (b) If any such officer, official or person, as mentioned in subsection (a) hereof, shall be interested as aforesaid in any such contract, but shall disclose the nature and extent thereof to all contracting parties concerned therewith and shall absent himself during the considerations and vote thereon and not attempt to influence any of the contracting parties and not act directly or indirectly for the City of Kemmerer in inspection, operation, administration or performance of any such contract, then the said acts shall not constitute malfeasance. It shall be the duty of the mayor and council to inform the Lincoln County and Prosecuting Attorney of all such facts and disclose all evidence pertaining to such malfeasance of which they have knowledge.
- (c) All contracts executed in contravention of the provisions of this section are void.

**SECTION 2-46. CONTINGENT REVENUE SOURCES AND FINANCIAL OBLIGATIONS.**

No entity legally associated with the City of Kemmerer, Wyoming, including but not limited to, the Kemmerer/Southwest Lincoln County Airport Board, the Kemmerer Downtown Improvement Corporation, the Kemmerer Volunteer Fire Department, or the Kemmerer Zoning Board, shall apply for any federal and/or state grants-in-aid, or other financial assistance, without first (1st) obtaining the consent of the Kemmerer City Council.

**ARTICLE V. OFFICERS AND DUTIES**

**DIVISION 1. ELECTIVE OFFICERS**

**SECTION 2-47. OFFICES, TERMS AND SALARIES.**

- (a) The elective officers of the city are one (1) mayor and six (6) at-large council members. The term of office of mayor is four (4) years and the term of office of council members is four (4) years, and until his successor is qualified.
- (b) The city council, consistent with the city's ability to pay, shall fix the salaries for mayor and councilmembers . The salary for mayor shall be paid in twelve (12) or more installments and may not be less than Six Hundred Dollars (\$600. 00) nor more than Six Thousand Dollars (\$6,000. 00) per year. The salary for a council member shall not be less than Ten Dollars (\$10. 00) for actual attendance at each regular meeting, special meeting, or committee meeting. The salaries shall be set by Ordinance.
- (c) The Mayor's salary shall be Four Hundred and Fifty Dollars (\$450. 00) per month.
- (d) The Council Member's salary shall be Twenty Five Dollars (\$25. 00) for actual attendance per meeting.

**SECTION 2-48. MAYOR - DUTIES AND POWERS, GENERALLY.**

Unless otherwise provided the mayor shall:

- (a) Preside at all meetings of the city council; the president will preside in the mayor's absence as provided in Section 2-7;
- (b) Have superintending control of all officers and affairs of the city;
- (c) Take care that the ordinances and laws are complied with;
- (d) Administer oaths;
- (e) Sign commissions and appointments;
- (f) Sign all bonds, contracts and other obligations required to be signed in the name of the city.

**DIVISION 2. OTHER OFFICERS**

**SECTION 2-49. APPOINTIVE OFFICERS - GENERALLY.**

- (a) The selection and appointment of officers and employees of the City of Kemmerer shall be made in conformance with the Charter Ordinance approved and adopted by the City of Kemmerer in accordance with law on the 12th day of April, 1982, as the same may from time to time be amended; and the personnel policies of the City of Kemmerer, as the same may from time to time be amended.
- (b) The city council, by ordinance or resolution, may specify conditions for any office or position to which a person is appointed under this section including:
  - (1) Level or range of salary;
  - (2) A description of the duties and responsibilities of the position;
  - (3) Term of appointment;
  - (4) Requirements for:
    - (A) Promotions
    - (B) Suspension; and

- (C) Hearing of appeals from decisions of the mayor to remove or discharge an appointee other than members of a board or commission, after which the governing body may affirm, modify or reverse the decision of the mayor; and
- (5) Other matters which are part of the personnel policies of the city.

**SECTION 2-50. CITY TREASURER - DUTIES.**

The duties of the city treasurer shall be as follows:

- (a) Receive all money derived for the benefit of the city, from any and every source, in each instance giving his official receipt therefor.
- (b) Disburse the same only on proper orders signed by the mayor, attested by the city clerk, and having affixed thereto the corporate seal. Such orders shall be paid in the order of their issue. All orders and warrants on the city treasurer shall have specified therein the services or indebtedness for which same are drawn.
- (c) Keep permanent, accurate and complete accounts and records of all receipts, orders and warrants.
- (d) If, at any time, any orders and warrants are not paid for lack of funds, the city treasurer shall endorse the date of presentation across the back thereof, and the reason for nonpayment; and the holder of such order or warrant shall be entitled to receive interest thereon, at the lawful rate from such date until paid.
- (e) The city treasurer shall endorse upon or attach to every bond or other evidence issued by the city pursuant to law, a certificate that the same is within the lawful debt limit of the city and is issued pursuant to law. He shall sign such certificates in his official character.
- (f) The city treasurer shall at the end of each and every quarter and as often as required, render an account to the city council, under oath, showing the state of the treasury at the date of such account, amount of money remaining in each fund, amount paid therefrom, and the balance of the money in the treasury; he shall also accompany such accounts with a statement of all receipts and disbursements, together with all warrants redeemed and paid by him.
- (g) The city treasurer shall prepare and compile with the assistance of the mayor and city council and city officers, the annual budget as required by state law.
- (h) The city treasurer shall allow examination of his books, accounts, and vouchers by the city council or any elector of the city.
- (i) He shall also perform such other duties as may be required of him by the mayor or city council, or by law.

**SECTION 2-51. CITY CLERK - DUTIES.**

The duties of the city clerk shall be as follows:

- (a) Safely keep the corporate seal, papers, records and books belonging to the city.

- (b) Attend the meetings of the city council, recording the minutes thereof, which minutes, after approval of each meeting, shall be signed by the mayor, attested by the city clerk and have the city seal affixed.
- (c) Preserve consecutive record of all resolutions and ordinances passed by the council, promptly filing with each city department copies of any ordinance which may be of concern to such department; he shall also promptly file with the mayor a complete record of the titles of all ordinances, when the same are passed, and an exact copy of each governing ordinance, or ordinance requiring law enforcement.
- (d) Attest the signature of the mayor and affix the seal of the city to: All minutes of council proceedings, all resolutions and new ordinances passed, all bonds and business licenses issued, and such other documents as shall be required.
- (e) Attest all orders and warrants upon the city treasurer keeping an accurate and permanent record thereof.
- (f) Keep a record of all outstanding bonds against the city, showing the number and amount of each, for and to whom such bonds were issued, and when any bonds are purchased, or paid, or cancelled, such record shall show the fact, and in his annual report he shall describe particularly the bonds issued and sold during the year, and the terms of sale, with each and every item of expense thereof.
- (g) Issue business licenses in accordance with this Code and the city ordinances.
- (h) Perform such other duties as may be required of him by the mayor or the city council, or by law.

#### **SECTION 2-52. CITY ATTORNEY - DUTIES.**

The duties of the city attorney shall be as follows:

- (a) He shall commence, prosecute and defend all suits to which the city is a party, in all courts of the city and state.
- (b) Prosecute all suits for the violation of any provision of this Code or other city ordinance.
- (c) Give his advice to the mayor and any member of the city council on legal questions arising that relate to the business of the city.
- (d) Draw contracts to which the city is a party as directed by the mayor, council or city administrator.
- (e) Revise, when necessary, all ordinances prior to their final passage by the council.

- (f) Draft and prepare all ordinances when so requested by the mayor or any member of the city council or city administrator.
- (g) Attend the meetings of the council when directed by the mayor, council or city administrator.
- (h) Do all legal work relating to the city's business and perform such other duties as may be required of him by the mayor or the city council, or by law.

**SECTION 2-53. CITY ENGINEER - DUTIES.**

The duties of the city engineer shall be as follows:

- (a) He shall prepare maps, estimates, etc. , when needed, or at the request of the mayor or council.
- (b) He shall make all surveys and establish grades for streets, sidewalks, curb and gutter and sewer installation.
- (c) He shall inspect the materials and workmanship of all curb and gutter and similar installations, supervise all such construction, and require the same to conform with certain specifications to be furnished by his office.
- (d) He shall issue such permits, when applied for, as may be authorized under this Code or other ordinances, or with the approval of the council in accordance with the provisions thereof.
- (e) He shall perform such other duties as may be required of him by the mayor or city council, or by law.

The city engineer may delegate such of his powers or duties to any of his assistants, as will render the maximum of service and efficiency in his department.

**SECTION 2-54. DUTIES OF OTHER OFFICERS.**

The duties of other appointive officers shall be as set forth under this Code or other ordinances pertaining to their respective departments.

**SECTION 2-55. CITY ADMINISTRATOR - POWERS AND DUTIES.**

- (a) The city council shall employ a city administrator, and fix compensation by contract or otherwise. The city administrator shall receive no other or additional salary for the performance of any of the duties required of him as city administrator. The city administrator is an employee and serves at the pleasure of the Governing Body, subject to

the superintending control of the mayor. His salary may be changed from year to year, and he may be discharged and his employment terminated at any time by a majority vote of the city council.

- (b) The city administrator shall give a least thirty (30) days notice in writing to the city council before resigning his position. If the position becomes vacant for any reason, the city council shall immediately proceed to employ another person. If there is a delay in securing a new city administrator, the mayor shall act as city administrator at no additional compensation. He shall be vested with the authority and charged with the duties and responsibilities of the city administrator until a replacement is hired and qualified.
- (c) The city council may employ experts to perform unusual or special services upon the recommendation of the city administrator or otherwise.
- (d) The city administrator shall appoint a city clerk, city treasurer, police chief, and such other employees as he deems necessary for the health, safety and welfare of the city, subject to the review and approval of the governing body. All employees employed by the city administrator shall be selected on merit. He shall fix their salaries, by and with the consent of the city council consistent with the city's ability to pay. Said employees shall be terminated only for cause or on account of lack of funding or lack of work.
- (e) The city administrator shall attend all meetings of the city council and may recommend necessary and expedient measures. He shall prepare and submit to the city council reports required by it, or that he considers advisable. He shall keep the city council fully advised of the financial condition and its future needs. He shall prepare the budget annually, submit it to the city council and be responsible for its administration after adoption. He shall perform all duties imposed on him by the city council, not inconsistent with state law or city ordinances. The city administrator shall be the purchasing agent for the city.
- (f) The city administrator shall manage any utility owned and operated by the city. The city council shall fix all rates and compensation to be paid by consumers of water, sewer, sanitation, electric current or any service furnished by any other public utility owned or operated by the city. The city administrator shall make and enforce their collection, or for the protection of the property and rights pertaining to such public utilities.

**ARTICLE VI. RULES OF PRACTICE AND  
PROCEDURE FOR ADMINISTRATIVE HEARINGS**

**SECTION 2-56. DEFINITIONS.**

The following definitions shall prevail in the construction of these rules.

Agency means all boards, commissions, authorities, departments, bureaus and officers of the city except the city council and the municipal court judge.

Contested Case means a proceeding including but not restricted to rate-makings, price fixing and licensing, in which legal rights, duties or privileges of a party are required by law to be determined by an agency after an opportunity for hearing.

License includes the whole or part of an agency permit, certificate, approval, registration, franchise, charter or similar form of permission required by law, but does not include a license required solely for the purpose of raising revenue for the city.

Licensing includes the agency process respecting the grant, denial, renewal, modification, revocation, suspension, annulment, withdrawal or amendment of a license.

Party means each person or agency named or admitted as a party, or properly seeking and entitled as of right to be admitted as a party.

Person means any individual, partnership, corporation, association, municipality, governmental subdivision or private or public organization of a character not an agency.

Rule means each agency statement of general applicability that implements, interprets and prescribes law, policy or ordinances of cities and towns, or describes the organization, procedures, or practice requirements of any agency. The term includes the amendment or repeal of a prior rule, but does not include:

- (a) Statements concerning only the internal management of an agency and not affecting private rights or procedures available to the public; or
- (b) Intraagency memoranda; or
- (c) Agency decisions and findings in contested cases; or
- (d) Rules concerning the use of public roads or facilities which are indicated to the public by means of signs and signals; or
- (e) Ordinances of cities and towns.

## **SECTION 2-57. INITIATION OF CONTEST.**

All contested cases to which these rules of practice and procedure apply shall be initiated either by the city council, agency, or by a contestee, upon a written verified petition wherein shall be alleged the acts or omissions from which the contestee is aggrieved or adversely affected. The petition shall be filed within ten (10) days of the act or omission, or discovery of the same, from which the petitioner is aggrieved or adversely affected.

**SECTION 2-58. PETITIONS.**

The verified petition shall be filed with the city clerk and shall set forth:

- (a) The name of the agency to which the petition is directed.
- (b) The name and address of each contestee and his attorney, if any.
- (c) The legal description and a plat plan of real property involved in the contest, if any.
- (d) A statement in ordinary and concise language, of the facts upon which the petition is based including reference of statutory law, ordinances, rules, regulations and orders, and including any instruments or regulations and orders, and including any instruments or documents, involved in the allegations therein contained.
- (e) A concise request or prayer for the specific relief desired.
- (f) Such other information as may be required from time to time by the city council or by any commission, board or agency of the city.

**SECTION 2-59. SERVICE OF PETITION.**

The petitioner shall cause to be served upon all agencies and persons named in the petition a full, true and correct copy thereof. Service shall be made personally or by registered or certified mail with return receipt thereof in accordance with the provisions of Rule 4, Wyoming Rules of Civil Procedure, provided, however, that personal service made within the City of Kemmerer may be made by a member of the Kemmerer police department. In the case of the agency service shall be made upon the mayor of the city council or the chairman of the board or commission involved. Proof of service shall be made in accordance with the provisions of said Rule 4.

**SECTION 2-60. ANSWER.**

The agencies or persons against whom the petition has been filed shall be allowed twenty (20) days from and after the date of service of the petition within which the file with the city clerk his, her or its answer or other appearance. A copy of such answer or other appearance shall be served upon the petitioner in accordance with the provisions of Rule 5, Wyoming Rules of Civil Procedure.

**SECTION 2-61. DOCKET.**

When a proceeding is instituted by the filing of a petition as herein provided, the city clerk shall assign it a number and enter it with the date of its filing on a separate page of a docket provided for that purpose. The city clerk shall keep separate dockets for all agencies and shall establish

a separate file for each docketed case, in which shall be placed all pleadings, documents, papers, transcripts, evidence and exhibits pertaining thereto, and all such items shall have noted thereon, the docket number assigned, and the date of filing. There shall be a filing fee in the amount of Five Dollars (\$5. 00) which shall be paid to the city clerk at the time of filing of the verified petition.

**SECTION 2-62. DEFAULT.**

In the event of failure of either the council, commission, board or agency as the case may be, or any contestee to answer or otherwise appear within the time allowed by these rules, and provided that Section 2-57 hereof has been complied with, said agency or contestee so failing to answer or otherwise appear, shall not be allowed to answer or otherwise appear thereafter and after written notice to the petitioner, the proceeding will be brought before the agency to which it was presented for consideration and appropriate action.

**SECTION 2-63. DISPOSITION WITHOUT HEARING.**

Any proceeding initiated hereunder may be concluded by stipulation, agreed settlement, consent order or default of the parties or motion and order of dismissal if such disposition is approved by the agency before which it was initiated. If a proceeding is so disposed of, an appropriate order shall be entered and included in the case record.

**SECTION 2-64. MOTIONS.**

The agency before which the proceeding was initiated may, after ten (10) days notice given in accordance with Section 2-65 hereof, hear any motion filed in connection with any proceeding initiated pursuant to these rules.

**SECTION 2-65. DISPOSITIONS AND DISCOVERY.**

Any party to a proceeding initiated pursuant to these rules may take depositions and discovery in accordance with Section 16-3-107 (g), (h), Wyoming Statutes annotated (1977 Repub. Ed. ), as the same may be from time to time amended or modified.

**SECTION 2-66. PRE-HEARING CONFERENCE.**

Prior to the day of hearing, the agency before which the proceeding was initiated may direct the parties to the proceeding or their attorneys to appear before the agency for a pre-hearing conference.

**SECTION 2-67. HEARING.**

After the issues of the case have been jointed the agency before which the proceeding was initiated shall set a date, time and place for hearing. The agency shall give notice of hearing to all parties to the proceeding in accordance with the provisions of Section 16-3-102, Wyoming

Statutes annotated (1977 Repub. Ed. ) as the same may from time to time be amended or modified. Such notice shall be given personally or by certified or registered mail with return receipt thereof not less than fifteen (15) days prior to the date of the hearing. If notice of hearing is given by mail, the computation of time shall begin to run on the date the notice is deposited in the United States mail. All issues and matters involved in a proceeding shall be presented on behalf of the council, commission, board or agency, as the case may be, by an officer or agent of such council, commission, board or agency as designated by it. Any contestee may be represented personally or by counsel subject to the provisions of Section 2-70 hereof.

#### **SECTION 2-68. SUBPOENAS.**

The presiding officer of the agency before which a proceeding is initiated pursuant to these rules shall, upon written request of any party to the proceeding, issue subpoenas for appearance or to produce books, papers, or other documents or subpoenas duces tecum in accordance with the provisions of Section 16-3-107 (c), (d), (e), (f), Wyoming Statutes annotated (1977 Repub. Ed. ), as may from time to time be amended or modified.

#### **SECTION 2-69. ORDER OF PROCEDURE AT HEARING.**

As nearly as may be, hearings shall be conducted in accordance with the following order of procedure:

- (a) The presiding officer of the agency before which the hearing is being conducted shall announce that the hearing is convened upon the call of the docket number and title of the matter to be heard and shall direct the reading into the record of the formal notice of hearing given by the agency, and shall note for the record all subpoenas issued and all appearances of record including contestees and their counsels of record.
- (b) The petitioner or his or its agent or attorney shall be allowed to make an opening statement to briefly explain his position to the agency and to outline the evidence he proposes to offer.
- (c) The petitioner or his or its agent or attorney shall thereupon proceed to present his evidence. Witnesses may be cross-examined by the other parties and may be examined by members of the agency. All exhibits offered by and on behalf of the Petitioner shall be marked by letters of the alphabet beginning with "A".
- (d) The other party or parties shall, in the order of answers or appearances made, be heard in the same manner as the petitioner.
  - (1) They shall be allowed to make an opening statement in the same manner and for the same purpose as the petitioner.

- (2) Their evidence, witnesses and exhibits shall be presented and heard in the same manner as allowed the petitioner and their exhibits shall be marked by numbers beginning with "1".
- (e) The agency may, in its discretion, allow evidence to be offered out of order.
- (f) At the conclusion of the presentation of the other party's evidence, the petitioner may present rebuttal evidence.
- (g) At the conclusion of the petitioner's rebuttal evidence, or if there is no rebuttal evidence, at the conclusion of the other party's evidence, the chairman of the agency shall declare the evidence closed.
- (h) Closing statements will be made in the following sequence:
  - (1) Petitioner.
  - (2) Other party or parties.
  - (3) Petitioner in rebuttal.

The time for oral argument or closing statement may be limited by the agency.

- (i) After all the proceedings have been concluded, the agency shall declare the hearing closed. Any party may tender briefs of law to the agency and the agency may call for reasonable time within which to prepare and submit briefs to aid the agency in arriving at a decision. The agency shall take the case under advisement and shall declare that its decision will be announced within a reasonable time, not to exceed twenty (20) days, following consideration of all the matters presented at the hearing.

#### **SECTION 2-70. WITNESSES TO BE SWORN.**

All persons testifying at any hearing pursuant to these rules shall stand and be administered the following oath by either the presiding officer or secretary of the agency:

"Do you swear (or affirm) to tell the truth, the whole truth and nothing but the truth in this hearing now before the (name of agency)?"

#### **SECTION 2-71. APPLICABLE RULES OF CIVIL PROCEDURE TO APPLY.**

- (a) The following rules of practice and procedure contained in the Rules of Civil Procedure of the State of Wyoming insofar as the same may be applicable and not inconsistent with the laws of the State of Wyoming in matters before an agency and applicable to the rules, orders and regulations promulgated by an agency under such laws, shall apply: 4(c) (d) (m) (1) (2) (i, ii, iii, v) (n); 5; 6; 10; 11; 17(a); 20; 26; 28 through 37 (excepting Rule 37

(b) (1) and 37 (b) (2) (iv) therefrom); 45; and Rule 12 Wyoming Rules of Appellate Procedure, all as the same may be from time to time amended or modified.

- (b) Such other Rules of Civil Procedure of the State of Wyoming as may be applicable and not inconsistent with the laws of the State of Wyoming in matters before the agency shall also apply.

**SECTION 2-72. ATTORNEYS.**

The filing of an answer or other appearance by an attorney constitutes his appearance for the party for whom the pleading is filed. The agency before which the proceeding is initiated shall be notified in writing of his withdrawal from any hearing. Any person appearing before an agency at a hearing in a representative capacity shall be precluded from examining or cross-examining any witness unless such person shall be an attorney licensed to practice law in the State of Wyoming, or a non-resident attorney associated with a Wyoming attorney qualified to practice law in the State of Wyoming. This rule shall not be construed to prohibit any person from representing himself in any hearing before an agency.

**SECTION 2-73. RECORD OF PROCEEDINGS - REPORTERS.**

When oral testimony of witnesses is taken in contested cases before an agency, the proceedings, including all testimony, shall be reported verbatim by a competent reporter or by other reliable and appropriate means. The compensation of such reporter shall be paid by the unsuccessful party or as otherwise ordered by the agency. If a transcript of testimony is required in the subsequent agency deliberations, the cost thereof shall be furnished to the agency by the unsuccessful party.

**SECTION 2-74. DECISIONS, FINDINGS OF FACT AND CONCLUSIONS OF LAW AND ORDER.**

The agency before which the hearing is conducted shall, following the full and complete hearing, make and enter a written decision and order in all contested cases, in accordance with the provisions of Section 16-3-110, Wyoming Statutes annotated (1977 Repub. Ed. ), as amended. Such decisions and orders shall be filed with the agency and will, without further action, become the decision and order as a result of the hearing. Forthwith upon entry and filing, the agency shall send a copy by prepaid mail to each party or their attorneys of record.

**SECTION 2-75. RATE MAKING, PRICE FIXING AND LICENSING.**

In all contested cases conducted in accordance with these rules of practice and procedure, the subject of which is rate making, price fixing or licensing, the decision of the agency before which the proceeding is initiated shall be final and shall not be subject to review or re-hearing by such agency. Subsequent petitions requesting the same or similar relief shall not be accepted by the city clerk or considered by an agency subject to these rules for a period of six (6) months

following the entry of the decision of the agency before which the original proceeding was initiated.

**SECTION 2-76. APPEALS TO DISTRICT COURT.**

Appeals to the District Court from decisions of an agency are governed by Section 16-3-114, Wyoming Statutes annotated (1977 Repub. Ed. ), and Rule 12 of the Rules of Appellate Procedure promulgated by the Supreme Court of the State of Wyoming, as the same may from time to time be amended or modified.

**SECTION 2-77. TRANSCRIPT IN CASE OF APPEAL.**

In case of an appeal to the District Court, the party appealing shall secure and file a transcript of the testimony and all other evidence offered at the hearing which transcript must be verified by the oath of the reporter who took the testimony as a true and correct transcript of the testimony and other evidence in the case. The compensation of the reporter for making the transcript of the testimony and all other costs involved in such appeal shall be borne by the party prosecuting such appeal.

**SECTION 2-78. WYOMING ADMINISTRATIVE PROCEDURE ACT.**

In all proceedings before an agency pursuant to these rules, the Wyoming Administrative Procedure Act (16-3-101 through 16-3-115, Wyoming Statutes annotated [1977 Repub. Ed. ], as the same may from time to time be amended or modified) shall apply. If a conflict arises between said Act and these rules, the Act shall supersede these rules.

**SECTION 2-79. SEVERABILITY.**

If any provision of these rules or the application thereof to any persons or circumstance is held invalid, such invalidity shall not affect other provisions or applications of these rules which can be given effect without the invalid provision or application and to this end the provisions of these rules are severable.

**SECTION 2-80. AMENDMENTS.**

Amendments to these rules shall be promulgated and become effective as provided in Section 16-3-103, Wyoming Statutes (1977 Repub. Ed. ), as the same may from time to time be amended or modified.

**ARTICLE VII**

**SECTION 2-81. SCOPE.**

- (a) Whenever an appeal to the city administrator is provided in this Code or by ordinance, the procedure set out hereinafter shall be followed.

- (b) Appeals from decisions of the city engineer under the Building, Plumbing and Fire Codes and the Plumbing Licensing Code shall be governed by this Article.
- (c) Hearings before the city administrator pursuant to proposed suspension or revocation of a license, except for a liquor license, shall be governed by this Article.

**SECTION 2-82. TIME.**

Requests for hearings and notices of appeal must be made in the time allowed by code section or ordinance providing for the hearing or appeal.

**SECTION 2-83. NOTICE OF APPEAL; REQUEST FOR HEARING.**

- (a) The notice of appeal or request for hearing shall include the following, in the following order:
  - (1) The decision being appealed or contested and the date thereof.
  - (2) The basis and reasons for appeal or contest.
  - (3) The facts supporting the appeal or contest.
  - (4) A summary of argument(s) supporting the appeal or contest.
  - (5) The relief requested.
- (b) Upon written request and for good cause the city administrator may allow up to an additional twenty (20) days in which to submit the information required in the notice of appeal or request for hearing.
- (c) The city administrator shall, upon receipt, provide a copy of the notice of appeal or request for hearing to the person whose decision is being appealed or contested. Such person shall submit a written position paper to the city administrator within seven (7) days, setting forth all facts supporting his/her decision, the basis for such decision and a summary of argument(s) supporting the decision. Upon written request and for good cause the city administrator may allow up to an additional ten (10) days for submittal of the position paper.

**SECTION 2-84. HEARINGS.**

- (a) The city administrator shall set hearings as soon as practicable, but will attempt to set such hearings no later than two (2) weeks from the receipt of the notice of appeal or request for hearing; provided, however, in the event the aggrieved party requests time to

conduct discovery, the hearing shall be scheduled in a manner to reasonably accommodate such requests.

- (b) If the parties to the contest agree, hearing may be waived and decision rendered upon the written submittals. Such decision shall be in writing and shall set forth the city administrator's findings and ruling; the aggrieved party shall be notified of the decision by certified mail, return receipt requested. Appeal of the decision may be made as provided hereinafter.

**SECTION 2-85. HEARINGS - GENERAL PROCEDURE.**

- (a) If hearing is not waived, the city administrator shall, after receipt of the written submittals, serve the aggrieved parties personally or by mail with notice of the hearing, which shall set forth:
  - (1) time, place and nature of hearing;
  - (2) the legal authority and jurisdiction under which the hearing is to be held; and
  - (3) the statutes, code section(s), ordinance(s) or rules involved.
- (b) Discovery may be had in accordance with 16-3-107, W. S.
- (c) Upon application by a party to the proceeding, the city administrator is hereby empowered to, and shall, issue a subpoena requiring the appearance of a witness for purposes of deposition and/or hearing. Subpoenas may be enforced as provided by W. S. , 16-3-107(f).
- (d) All parties shall be afforded the opportunity to respond, present evidence and argument on all issues involved.
- (e) Any aggrieved party, or witness, may be represented by an attorney, at such party's, or witness's, own cost.
- (f) Hearings before the city administrator shall be tape recorded; the proceedings may be transcribed at the cost of the party requesting such transcription.

**SECTION 2-86. HEARINGS - EVIDENCE.**

- (a) The city administrator shall exclude all irrelevant, immaterial or unduly repetitious evidence.
- (b) The city administrator shall give effect to the rules of privilege as recognized by law.

- (c) Documentary evidence may not be received in the form of copies or excerpt, if the original is not available. Upon request, parties shall be given the opportunity to compare the copy with the original.
- (d) A party, or his attorney, may conduct cross-examination as required for a full and fair disclosure of the facts.
- (e) A party is entitled to confront all opposing witnesses.
- (f) Notice may be taken of all judicially recognizable facts. The parties shall be notified either before, during or after the hearing, but before decision and ruling, of any material facts so noticed and they shall be given a reasonable opportunity to respond.

**SECTION 2-87. HEARINGS - BRIEFS AND ARGUMENT.**

- (a) The city administrator shall consider the whole record or any portion stipulated to by the parties.
- (b) Upon request, a party shall be given the opportunity to file a brief referencing the evidence presented, applicable law and concise argument.
- (c) The city administrator in his sole discretion may allow oral argument at the close of the evidence.

**SECTION 2-88. HEARINGS - POWERS OF CITY ADMINISTRATOR.**

The city administrator at hearings provided for herein shall have the power to:

- (a) administer oaths and affirmatives;
- (b) issue subpoenas;
- (c) rule upon offers of proof and receipt of evidence;
- (d) regulate the course of the hearing;
- (e) hold conference(s) for settlement or simplification of issues;
- (f) dispose of procedural requests of similar matters; and
- (g) examine or cross examine witnesses, subject to the opportunity of the parties to cross examine.

**SECTION 2-89. APPEAL OF FINAL DECISION.**

The final decision and ruling of the city administrator may be appealed to the mayor and council. Such appeal must be filed in the office of the city clerk no later than ten (10) days from service of the final decision and ruling.

**ARTICLE VIII. SALE OF PROPERTY FOR DELINQUENCY, SPECIAL  
ASSESSMENT.**

**SECTION 2-90. SALE OF PROPERTY**

If an assessment or any installment thereof is delinquent, the City may sell said property as described in the assessment roll as provided by ' 15-6-410 W. S. or any other applicable law.