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## **CHAPTER 3 – DEPARTMENTS**

### **Article 1 – Water Department**

#### **§3-101 OPERATION AND FUNDING.**

The City owns and operates the Water Department through the Utilities Superintendent. The City Council, for the purpose of defraying the cost of the care, management, and maintenance of the Water Department, may each year levy a tax not exceeding the maximum limit prescribed by state law on the actual valuation of all real estate and personal property within the corporate limits that is subject to taxation. The revenue from the said tax shall be known as the Water Fund and shall remain in the custody of the City Treasurer. The Utilities Superintendent shall have the direct management and control of the Water Department and shall faithfully carry out the duties of his office. The Utilities Superintendent shall have the authority to adopt rules and regulations for the sanitary and efficient management of the Water Department, subject to the supervision and review of the City Council. The Council shall set the rates to be charged for services rendered by resolution and shall file a copy of the rates in the office of the City Clerk for public inspection during office hours. (Neb. Rev. Stat. §17-531, 17-534, 19-1305)

#### **§3-102 DEFINITIONS.**

The following definitions shall be applied throughout this Article. Where no definition is specified, the normal dictionary usage of the word shall apply.

"Main" is hereby defined to be any pipe other than a supply or service pipe that is used for the purpose of carrying water to and dispersing the same in the City.

"Separate premises" is hereby defined to be more than one consumer procuring water from the same service or supply pipe. The second premises may be a separate dwelling, apartment, building, or structure used for a separate business.

"Service pipe" is hereby defined to be any pipe extending from the shut-off, stop box, or curb cock at or near the lot line to and beyond the property line of the consumer to the location on the premises where the water is to be dispersed.

"Supply pipe" is hereby defined to be any pipe tapped into a main and extending from there to a point at or near the lot line of the consumer's premises where the shut-off, stop box, or curb cock is located.

#### **§3-103 CUSTOMER'S APPLICATION.**

Every person or persons desiring a supply of water must make application to the City Clerk, who may require any applicant to make a service deposit in such amount as has been set by resolution of the City Council and placed on file at the Clerk's office. Water may not be supplied to any house or private service pipe except upon the order of the Superintendent. (Neb. Rev. Stat. §17-537)

#### **§3-104 SERVICE TO NONRESIDENTS.**

The Department shall not supply water service to any person outside the corporate limits without special permission from the City Council; provided, the entire cost of laying mains, service pipe, and supply pipe shall be paid by the consumer. Nothing herein shall be construed to obligate the

City to provide water service to nonresidents. (Neb. Rev. Stat. §19-2701)

### **§3-105 WATER CONTRACT.**

(A) The City through its Water Department shall furnish water to persons within its corporate limits whose premises abut a street or alley in which a commercial main now is or may hereafter be laid. The City may furnish water to persons within its corporate limits whose premises do not abut a street or alley in which a city commercial main is now or may hereafter be laid and may also furnish water to persons whose premises are situated outside the corporate limits of the City, as and when, according to law, the City Council may see fit to do so. The rules, regulations, and water rates hereinafter named in this Article shall be considered a part of every application hereafter made for water service and shall be considered a part of the contract between every consumer now or hereafter served.

(B) Without further formality, the making of application on the part of any applicant or the use or consumption of water service by present consumers thereof and the furnishing of water service to said consumer shall constitute a contract between the consumer and the City, to which said contract both parties are bound. If the consumer shall violate any of the provisions of said contract or any reasonable rules and regulations that the City Council may hereafter adopt, the Utilities Superintendent or his agent may cut off or disconnect the water service from the building or premises or place of such violation. No further connection for water service to said building, premises, or place shall again be made save or except by order of said Superintendent or his agent.

### **§3-106 INSTALLATION PROCEDURE.**

(A) In making excavations in streets, alleys, or sidewalks for the purpose of installing pipe or making repairs, the paving, stones, and earth must be removed and deposited in a manner that will occasion the least inconvenience to the public and provide for adequate drainage. No person shall leave an excavation made in the street, alley, or sidewalk open at any time without a barricade and, during the night, warning lights. After service pipes are laid, the streets, alleys, and sidewalks shall be restored to good condition. If the excavation in any street, alley, or sidewalk is left open or unfinished for a period of 24 hours or more, the Utilities Superintendent shall have the duty to finish or correct the work and all expenses so incurred shall be charged to the consumer.

(B) All installations or repairs of pipes require inspection and approval by the Utilities Superintendent or his representative. Said inspection shall be made when connections or repairs are complete and before pipes are covered. It is the responsibility of the consumer to notify the Superintendent at the time the work is ready for inspection. All installation shall be done under the supervision and strictly in accordance with the rules, regulations, and specifications prescribed for such installation by the Utilities Superintendent; provided, the said rules, regulations, and specifications have been reviewed and approved by the City Council. (Neb. Rev. Stat. §17-537)

### **§3-107 INSTALLATION; EXPENSE.**

(A) The City shall pay the cost of tapping the main and installing the meter. No person other than the Utilities Superintendent or his duly authorized agent shall tap the water main. The customer shall pay a tap fee in such sum as the Utilities Superintendent shall require in each case; provided, a tap for a three-quarter inch pipe shall be deemed to be the minimum or base tap fee. The customer shall at his own expense bring water service from the stop box and upon his own premises and shall employ a licensed plumber, who shall install water service to the place of

dispersement. Non-residents shall pay such tap fees and installation charges in such sums as the Utilities Superintendent, pursuant to resolution of the City Council, shall in each case fix. The extension of commercial mains into unsupplied territory within the corporate limits may be made by means of water extension districts. (Neb. Rev. Stat. §17-542)

(B) The customer shall at his own expense bring water service from the main to the place of dispersement. The customer shall provide a stop box and all other necessary fixtures and pipe and shall employ a licensed plumber, who shall install the water service and meter. The customer may request an increase in meter size by paying the City the difference between the initial water meter purchased and the larger water meter requested. The Utilities Superintendent shall provide the water meter and the remote read-out device at customer expense. The Superintendent shall tap the water main at city expense; provided, however, the City may charge a tap fee to cover the cost of such labor and in such amount as the City Council shall set by resolution. (Am. by Ord. No. 482, 3/1/93)

### **§3-108 (Reserved for Future Use)**

### **§3-109 REPAIRS AND MAINTENANCE.**

(A) The customer shall repair or replace, as the case may be, all supply and service pipe between the commercial main and the place of dispersement. When leaks occur in the service or supply pipe, the Utilities Superintendent shall shut off water service until the leak is repaired at the expense of the customer to the satisfaction of the Superintendent. All water meters shall be kept in repair by the City at its expense. When meters are worn out, they shall be replaced and reset by the City at its own expense; provided, if the customer allows a water meter to be damaged, injured, or destroyed through his own recklessness, carelessness, or neglect so that the meter must be repaired or replaced, the Utilities Superintendent shall bill and collect from the customer the cost of such meter repair or replacement in the same manner as water rent is collected. Permitting a water meter to be damaged or destroyed by freezing shall always be considered negligence on the part of the customer.

(B) All meters shall be tested at the customer's request at his/her expense any reasonable number of times; provided, if the test shows the water meter to be running two percent or more fast, the expense of such test shall be borne by the City. The City reserves the right to test any water service meter at any time, and if said meter is found to be beyond repair the City shall always have the right to place a new meter on the customer's water service fixtures at city expense. Should a consumer's meter fail to register properly, the customer shall be charged for water during the time the meter is out of repair on the basis of the quarterly consumption during the same quarter of the preceding year; provided, if no such basis for comparison exists, the customer shall be charged such amount as may be reasonably fixed by the Utilities Superintendent.  
(Neb. Rev. Stat. §17-537) (Am. by Ord. No. 482, 3/1/93)

### **§3-110 MINIMUM RATES.**

All water consumers shall be liable for the minimum rate provided by resolution unless and until the consumer shall, by written order, direct the Utilities Superintendent to shut off the water at the stop box, in which case he shall not be liable thereafter for water rental until the water is turned on again. (Neb. Rev. Stat. §17-542)

### **§3-111 WATER BILLS.**

(A) Water bills shall be due and payable quarterly at the office of the City Clerk. The

Utilities Superintendent shall read or cause to be read water meters quarterly by the last day of the quarter during which service is used. The Utilities Superintendent shall direct the City Clerk to charge and collect from each customer for the amount of water consumed since the last examination, together with any other charges, properly itemized, due the Water Department. Bills shall be paid by the 14th day of the month following end of the quarter. Bills not paid by the 14th day of the month following the quarter shall be deemed to be delinquent. If the bill is not paid by the 60th day following the end of the quarter, the City Clerk shall give a written notice to the customer of such delinquency and shall demand payment immediately.

(B) In the event that the bill is not paid within seven days after the sending of said notice, it shall be discretionary with the Superintendent to cut off service at any time; provided, if the delinquent customer is a known welfare recipient, it shall be the duty of the City Clerk to notify the customer and Social Services by certified mail of the proposed termination.

(C) The Utilities Superintendent shall assess an additional fee set by resolution of the City Council and on file at the office of the City Clerk in the event that water is shut off for non-payment of any water bill, to compensate the City for the additional hookup necessary to again provide water service to the delinquent customer.

(Am. by Ord. Nos. 463, 5/6/91; 595, 7/6/98)

### **§3-112 LIEN.**

In addition to all other remedies, if a customer shall for any reason remain indebted to the City for water service furnished, such amount due, together with any rents and charges in arrears, shall be considered a delinquent water rent which is hereby declared to be a lien upon the real estate for which the same was used. The City Clerk shall notify in writing or cause to be notified in writing all owners of premises or their agents whenever their tenants or lessees are 60 days or more delinquent in the payment of water rent. It shall be the duty of the Utilities Superintendent to report annually to the City Council a list of all unpaid accounts due for water, together with a description of the premises upon which the same was used. The report shall be examined and if approved by the City Council shall be certified by the City Clerk to the County Clerk to be collected as a special tax in the manner provided by law. (Neb. Rev. Stat. §17-538)

### **§3-113 SINGLE PREMISES; TAMPERING, DIVERSION.**

(A) No consumer shall supply water to other families or allow them to take water from his premises nor after water is supplied into a building shall any person make or employ a plumber or other person to make a tap or connection with the pipe upon the premises for alteration, extension, or attachment without the written permission of the Utilities Superintendent.

(B) It shall be unlawful for any person to tamper with any water meter or remote readout device or by any means or device to divert water from the service pipe so that the same shall not pass through said meter or, while passing through said meter, to cause the same to register inaccurately.

(Neb. Rev. Stat. §17-537)

### **§3-114 RESTRICTED USE.**

The City Council or the Utilities Superintendent may order a reduction in the use of water or shut off the water on any premises in the event of a water shortage due to fire or other good and sufficient cause. The City shall not be liable for any damages caused by shutting off the supply of water of any consumer while the system or any part thereof is undergoing repairs or when there is a

shortage of water due to circumstances over which the City has no control. (Neb. Rev. Stat. §17-537)

### **§3-115 FIRE HYDRANTS.**

All hydrants for the purpose of extinguishing fires are hereby declared to be public hydrants and it shall be unlawful for any person other than employees of the Water Department or members of the City Fire Department under the orders of the Fire Chief or the Assistant Fire Chief to open or attempt to open any of the hydrants and draw water from the same or in any manner to interfere with the hydrants.

### **§3-116 POLLUTION.**

It shall be unlawful for any person to pollute or attempt to pollute any stream or source of water for the supply of the Water Department. (Neb. Rev. Stat. §17-536)

### **§3-117 MANDATORY HOOKUP.**

All persons within the corporate limits of the City shall be required, upon notice by the City Council, to hook up with the city water system. (Neb. Rev. Stat. §17-539)

### **§3-118 WATER SERVICE CONTRACTS.**

Contracts for water service are not transferable. Any person wishing to change from one location to another shall make a new application and sign a new contract. If any consumer shall move from the premises where service is furnished, or if the said premises are destroyed by fire or other casualty, he shall at once inform the Utilities Superintendent, who shall cause the water service to be shut off at the said premises. If the consumer should fail to give such notice, he shall be charged for all water used on the said premises until the Superintendent is otherwise advised of such circumstances. (Neb. Rev. Stat. §17-537)

### **§3-119 INSPECTION.**

The Utilities Superintendent or his duly authorized agents shall have free access at any reasonable time to all parts of each premises and building to or in which water is delivered for the purpose of examining the pipes, fixtures, and other portions of the system to ascertain whether there is any disrepair or unnecessary waste of water. (Neb. Rev. Stat. §17-537)

### **§3-120 POLICE REPORTS.**

It shall be the duty of the City Police to report to the Utilities Superintendent all cases of leak-age and waste in the use of water and all violations of the municipal code relating to the Water Department. The Police shall have the additional duty of enforcing the observance of all such regulations.

### **§3-121 DESTRUCTION OF PROPERTY.**

It shall be unlawful for any person to willfully or carelessly break, injure, or deface any building, machinery, apparatus, fixture, attachment, or appurtenance of the Water Department. No person may deposit anything in a stop box or commit any act tending to obstruct or impair the intended use of any of the above-mentioned property without the written permission of the Utilities Superintendent.

### **§3-122 LICENSED PLUMBER.**

It shall be unlawful for any plumber or pipefitter to do any work upon any of the pipes or appurtenances of the system of waterworks or to make any connection with or extension of the supply pipes of any consumer until such plumber or pipefitter shall have first procured a license or permit from the City as provided in Sections 10-301 through 10-311. All plumbing shall be done in the manner required by the Utilities Superintendent. The said licensed plumber shall be at all times subject to the inspection and approval of the Utilities Superintendent and it shall be further unlawful to cover or conceal willfully any defective or unsatisfactory plumbing work. (Neb. Rev. Stat. §17-537)

### **§3-123 (Reserved for Future Use)**

### **§3-124 BACKFLOW PREVENTION; DEFINITIONS.**

The following definitions shall apply in the interpretation and enforcement of the Article.

"Air gap separation" means the unobstructed vertical distance through the free atmosphere between the lowest opening from any pipe or faucet supplying water to a tank, plumbing fixture, or other device and the overflow level rim of the receptacle.

"Approved tester" means a person qualified to inspect, test and repair backflow prevention/cross-connection control devices and who is licensed by the State Health Board.

"Auxiliary water supply" means any water source system, other than the public water supply, that may be available in the building or premises.

"Backflow" means the flow other than the intended direction of flow of any foreign liquids, gases, or substances into the distribution system of a public water supply.

"Backsiphonage" means the flowing back of water or foreign liquids, gases, or substances into the water distribution system due to negative pressure in the piping in the water distribution system.

"Backflow prevention device" means any device, method or type of construction intended to prevent backflow into a potable water system, provided that the backflow preventers have been tested and approved by a reputable testing laboratory.

"Consumer" means the owner or person in control of any premises supplied by or in any manner connected to a public water system.

"Containment" means protection of the public water supply by installing a cross-connection control device or air gap separation on the main service line to a facility or an installation within equipment handling potentially hazardous materials.

"Contamination" means an impairment of the quality of the water by sewage, process fluids, or other wastes to a degree which could create the actual hazard to the public health through poisoning or through spread of disease by exposure.

"Cross-connection" means any physical link between a potable water supply and any other substance, fluid, or source which makes possible contamination of the potable water supply due to reversal of flow of the water in the piping or distribution system.

"Hazard, degree of" means an evaluation of the potential risk to public health and the adverse effect of the hazard upon the potable water system.

- (A) Health hazard: Any condition, device, or practice in the water supply system and its operation which could create or may create a danger to the health and well-being of the water consumer.
- (B) Plumbing hazard: A plumbing-type cross-connection in a consumer's potable water system that has not been properly protected by a vacuum breaker, air gap separation or backflow prevention device.
- (C) Pollutational hazard: An actual or potential threat to the physical properties of the water system or to a consumer's potable water system but which would constitute a nuisance or be aesthetically objectionable or could cause damage to the system or its appurtenances but would not be dangerous to health.
- (D) System hazard: An actual or potential threat of (1) severe damage to the physical properties of the public potable water system or the consumer's potable water system or (2) a pollution or contamination which would have a protracted effect on the quality of the potable water in the system.

"Isolation" means protection of facility service line by installing a cross-connection control device or air gap separation on an individual fixture, appurtenance, or system.

"Pollution" means the presence of any foreign substance (organic, inorganic, or biological) in water which tends to degrade its quality so as to constitute a hazard or impair the usefulness of the water to a degree which does not create an actual hazard to the public health but which does adversely and unreasonably affect such water for domestic use.

"Public potable water system" means any publicly or privately owned water system supplying water to the general public which is satisfactory for drinking, culinary and domestic purposes and meets the requirements of the Nebraska Department of Health.

"Service connection" means the terminal end of a service line from the public water system. If a meter is installed at the end of the service line, then the service connection means the downstream end of the meter.

"Water Department" means the Water Department of the City of Ord.  
(Ord. No. 481, 11/2/92)

### **§3-125 BACKFLOW PREVENTION; CROSS-CONNECTIONS PROHIBITED.**

No water service connection shall be installed or maintained to any premises where actual or potential cross-connections to the public water supply system may exist unless such actual or potential cross-connections are abated or controlled to the satisfaction of the City or its authorized representative. No connections shall be installed or maintained whereby an auxiliary water supply may enter a public water supply system. No water service connection shall be installed or maintained to any premises in which the plumbing system, facilities, and fixtures have not been constructed and installed using acceptable plumbing practices considered by the Water Department as necessary for the protection of health and safety. (Ord. No. 481, 11/2/92)

### **§3-126 BACKFLOW PREVENTION; SURVEY AND INVESTIGATIONS.**

The consumer's premises shall be open at all reasonable times to the City or its authorized representative for the conduction of surveys and investigations of water use practices within the said premises to determine whether there are actual or potential cross-connections in the consumer's water system. On request by the City or its authorized representative, the consumer shall furnish requested information on water use practices in the consumer's water system within his premises. (Ord. No. 481, 11/2 /92)

### **§3-127 BACKFLOW PREVENTION; WHERE PROTECTION IS REQUIRED.**

(A) An approved backflow prevention device shall be installed between the service connection and the point of potential backflow into a consumer's water supply system when in the judgment of the City or authorized representative a health, plumbing, pollution or system hazard exists.

(B) An approved air gap separation or reduced pressure principle backflow prevention device shall be installed at the service connection or within any premises where, in the judgment of the City Water Department, the nature and extent of activities on the premises or the materials used in connection with the activities or materials stored on the premises would present an immediate and dangerous hazard to health should a cross-connection occur, even though such cross-connection may not exist at the time the backflow prevention device is required to be installed.

(Ord. No. 481, 11/2/92)

### **§3-128 BACKFLOW PREVENTION; BACKFLOW PREVENTION DEVICES.**

Any backflow prevention device required by this Article shall be of a model or construction approved by the City or its authorized representative and the Nebraska Department of Health.

(A) Air gap separation to be approved shall be at twice the diameter of the supply pipe, measured vertically above to top rim of the vessel, but in no case less than one inch.

(B) Double check valve assemblies or reduced pressure principle backflow prevention devices shall appear on the current list of approved backflow prevention devices established by the Nebraska Department of Health, unless the device was installed at the time this ordinance was passed and complies with the required inspection and maintenance.

(Ord. No. 481, 11/2/92)

### **§3-129 BACKFLOW PREVENTION; INSTALLATION.**

(A) Backflow prevention devices required by this policy shall be installed at a location in a manner approved by the City or its authorized agent. All devices shall be installed at the expense of each consumer. The costs for purchasing, installing and maintaining a backflow prevention device shall be the responsibility and sole expense of the consumer. The installation of backflow prevention devices, except for outlet fixture vacuum breakers, shall be by a licensed plumber. Outlet fixture vacuum breakers will be furnished and installed by the City at the consumer's expense.

(B) Backflow prevention devices installed at the service connection shall be located on the consumer's side of the water meter, if one is installed, or the corporation stop as close to the meter or corporation stop as is reasonably practical and prior to any other connection.

(C) Backflow prevention devices shall be conveniently accessible for maintenance and testing, protected from freezing, and installed where no part of the device will be submerged or subject to flooding by any fluid. All devices shall be installed according to manufacturer's recommendations.

(Ord. No. 481, 11/2/92)

### **§3-130 BACKFLOW PREVENTION; TESTING.**

Backflow and backsiphonage prevention devices designed to be tested shall be tested for proper operation annually or when necessary in the opinion of the City or its authorized representative. Actual testing shall be at the expense of the consumer and performed by an operator licensed by the State Department of Health. The results of testing must be furnished to the City by the consumer. The owner shall complete maintenance or repairs indicated by testing within 30 days; if not, the owner shall be considered in violation of the backflow ordinance and will be subject to disconnection of water service. (Ord. No. 481, 11/2/92)

### **§3-131 BACKFLOW PREVENTION; AUTHORIZED REPRESENTATIVE; AUTHORITY.**

The authorized representative shall have the authority to issue any order consistent with the provisions of this Article in order to protect the public health and safety. Any order of the authorized representative shall be in writing and shall clearly state the nature of the order and compliance requirements and set a reasonable date by which compliance must be met. All orders will be mailed to the consumer by first class mail, return receipt requested. (Ord. No. 481, 11/2/92)

### **§3-132 BACKFLOW PREVENTION; APPEALS.**

If the owner disagrees with any action of the City herein, the owner may file a written notice of appeal with the City Clerk within ten days after the decision or order of the authorized representative has been made. The City Council shall hear all appeals and shall have the power and authority, when appealed to, to modify the decision or order of the authorized representative. Such a decision shall be final, subject only to any remedy which the aggrieved party may have at law or equity. Appeals shall be in writing and shall state the reason for appeal. (Ord. No. 481, 11/2/92)

### **§3-133 BACKFLOW PREVENTION; VIOLATION AND PENALTIES.**

(A) The City or its authorized representative shall deny or discontinue the water service to any premises or any consumer wherein any backflow prevention device required by this policy is not installed, tested, and maintained in a manner acceptable to the City or its authorized representative or if it is found that the backflow prevention device has been removed or bypassed or if an unprotected cross-connection exists.

(B) Water service to such premises shall not be restored until the consumer is in compliance with the cross-connection ordinance to the satisfaction of the City or its authorized representative.

(Ord. No. 481, 11/2/92)

### **§3-134 BACKFLOW PREVENTION; LIABILITY CLAIMS.**

The authorized representative shall be relieved from personal liability. The City shall hold harmless the authorized representative, when acting in good faith and without malice, from all personal liability for any person or property as a result of any act required or authorized by this Article or by reason of any act or omission of the authorized representative in the discharge of his duties

hereunder. Any suit brought as a result of carrying out the provisions of the Article shall be defended by the City or its insurance carrier, if any, through final determination of such proceeding. (Ord. No. 481, 11/2/92)

**§3-135 DRILLING AND OPERATION OF WELLS AND OTHER UNDERGROUND FACILITIES OR CONTAMINATING FACILITIES; PERMIT REQUIRED.**

It shall be unlawful for any person, corporation or other legal entity to drill and/or operate any of the following facilities within the corporate limits or zoning jurisdiction without first having obtained the proper permit from the City Council: potable water well; any other well; sewage lagoon; absorption or disposal field for water; cesspool; dumping grounds; feedlot; livestock pasture or corral; chemical product storage facility; petroleum product storage facility; pit toilet; sanitary landfill; septic tank; sewage treatment plant; sewage wet well. (Ord. No. 486, 4/5/93)

**§3-136 UTILIZING THE GEOTHERMAL PROPERTIES OF THE GROUND.**

- (A) Must be a closed loop system.
  - (B) Joints must be made by heat fusion.
  - (C) Antifreeze must be potassium acetate, propylene glycol, or other food grade substance.
  - (D) Wells must be sealed from bottom to top with a cement slurry.
  - (E) Piping will consist of polybutylene or polyethylene pipe.
  - (F) Must be located no closer than 100 feet to the City's drinking water source.
- (Ord. No. 486, 4/5/93)

**§3-137 PROCEDURE TO OBTAIN PERMIT.**

In order to obtain a permit to drill and/or operate any of the facilities listed in Sections 3-135 and 3-136, the owner of the property on which the proposed facility is to be located must make application on the proper form provided by the City Council. Such application must be presented to the Council at any regular or special meeting. After reviewing the application of any person desiring to drill or operate any of the above-described facilities, the City Council shall approve or deny said permit. (Ord. No. 486, 4/5/93)

**§3-138 FACILITIES PROHIBITED WITHIN DESIGNATED DISTANCE FROM CITY WATER SOURCES**

Under no circumstances shall the City Council approve any permit to drill or operate any of the below-described facilities within the indicated number of feet from the City's water wells. These footages are taken from Nebraska Regulation Title 179, Chapter 2, and will change automatically if said title footages are revised.

Potable water well	1,000 feet
Any other well	1,000 feet
Sewage lagoon	1,000 feet
Absorption or disposal field for water	500 feet
Cesspool	500 feet
Dumping grounds	500 feet
Feedlot or feedlot runoff	500 feet
Livestock pasture or corral	500 feet
Chemical product storage facility	500 feet
Petroleum product storage	500 feet
Pit toilet	500 feet

Sanitary landfill	500 feet
Septic tank	500 feet
Sewage treatment plant	500 feet
Sewage wet well	500 feet
Closed loop geothermal well	100 feet

(Ord. No. 486, 4/5/93)

**§3-139 PENALTIES AND ABATEMENT PROCEDURE.**

Any person, corporation, or other legal entity found violating any provision of Sections 3-135 through 3-138 shall be subject to a fine set by the City Council, on file in the office of the City Clerk and available for public inspection during office hours. The continuation of a violation of this ordinance shall be deemed an additional crime for every 24 hours of such continued violation. In addition, the City may obtain injunctive relief and sue for damages and remediation and pursue any other remedy available to it under the laws of the State of Nebraska or other authority having jurisdiction over such matters. (Ord. No. 486, 4/5/93)

**§3-140 WELLHEAD PROTECTION AREA.**

“Wellhead protection area” means the surface and subsurface area surrounding a water well or well field supplying a public water system, through which contaminants are reasonably likely to move toward and reach such water or well field. The City Council designates a Wellhead Protection Area for the purpose of protecting the public water supply system. The boundaries of the Wellhead Protection Area are based upon the delineation map prepared by the Nebraska Department of Environmental Quality, presented to the City on December 23, 2003. (Ord. No. 669, 5/6/02) (Am. by Ord. No. 698, 1/5/04)

**Article 2 – Sewer Department**

**§3-201 OPERATION AND FUNDING.**

The City owns and operates the sewer system through the Utilities Superintendent. For the purpose of defraying the cost of the maintenance and repairing of any sewer or water utilities, the City Council may each year levy a tax not exceeding the maximum limit prescribed by state law on the taxable value of all the taxable property in the City. The revenue from the tax shall be known as the Sewer Fund and shall be used exclusively for the purpose of maintenance and repairs of the water and sewer system. The Utilities Superintendent shall have the direct management and control of the Sewer Department, shall faithfully carry out the duties of the office, and shall have the authority to adopt rules and regulations for the sanitary and efficient management of the Department subject to the supervision and review of the City Council. (Neb. Rev. Stat. §17-149, 17-925.01) (Am. by Ord. No. 606, 7/6/98)

**§3-202 DEFINITION OF TERMS.**

Unless the context specifically indicates otherwise, the meaning of terms used in this Article shall be as follows:

"Biochemical oxygen demand" (BOD) shall mean and include the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20° C., expressed in milligrams per liter.

"Building drain" shall mean and include that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, or other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five feet (1.5 meters) outside the inner face of the building wall.

"Building sewer" shall mean the extension from the building drain to the public sewer or other place of disposal, also called house connection.

"Chlorine requirement" shall mean the amount of chlorine, in parts per million by weight, which must be added to sewage to produce a specified residual chlorine content or to meet the requirements of some other objective, in accordance with procedures set forth in *Standard Methods for the Examination of Water and Wastewater*.

"Combined sewer" shall mean a sewer intended to receive both waste water and storm or surface water.

"Easement" shall mean an acquired legal right for the specific use of land owned by others.

"Floatable oil" shall mean oil, fat, or grease in a physical state such that it will separate by gravity from wastewater by treatment in an approved pretreatment facility. Wastewater shall be considered free of floatable fat if it is properly pretreated and the wastewater does not interfere with the collection system.

"Garbage" shall mean the animal and vegetable waste resulting from the handling, preparation, cooking, and serving of foods.

"Industrial wastes" shall mean the wastewater from industrial processes, trade, or business as distinct from domestic or sanitary wastes.

"May" is permissive; "shall" is mandatory.

"City" shall mean the City of Ord, Nebraska.

"Natural outlet" shall mean any outlet, including storm sewers and combined sewer overflows, into a watercourse, pond, ditch, lake, or other body of surface or groundwater.

"Person" shall mean any individual, firm, company, association, society, corporation, or group.

"pH" shall mean the logarithm of the reciprocal of the hydrogen-ion concentration. The concentration is the weight of hydrogen ions in grams per liter of solution. Neutral water, for example, has a pH value of 7 and a hydrogen-ion concentration of  $10^{-7}$ .

"Properly shredded garbage" shall mean the wastes from the preparation, cooking, and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half inch (1.27 centimeters) in any dimension.

"Public sewer" shall mean a common sewer controlled by a governmental agency or public utility.

"Sanitary sewer" shall mean a sewer that carries liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions, together with minor quantities of

ground, storm, and surface waters that are not admitted intentionally.

"Sewage" is the spent water of a community. The preferred term is "wastewater."

"Sewer" shall mean a pipe or conduit that carries wastewater or drainage water.

"Shall" is mandatory; "may" is permissive.

"Slug" shall mean any discharge of water or wastewater which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than 15 minutes more than five times the average 24-hour concentration or flows during normal operation and shall adversely affect the collection system and/or performance of the wastewater treatment works.

"Storm drain" (sometimes termed "storm sewer") shall mean a drain or sewer for conveying water, groundwater, subsurface water, or unpolluted water from any source.

"Suspended solids" shall mean total suspended matter that either floats on the surface of or is in suspension in water, wastewater, or other liquids and that is removable by laboratory filtering as prescribed in *Standard Methods for the Examination of Water and Wastewater* and referred to as non-filterable residue.

"Unpolluted water" is water of quality equal to or better than the effluent criteria in effect or water that would not cause violation of receiving water quality standards and would not be benefited by discharge to the sanitary sewers and wastewater treatment facilities provided.

"Wastewater" shall mean the spent water of a community. From the standpoint of source, it may be a combination of the liquid- and water-carried wastes from residences, commercial buildings, industrial plants, and institutions, together with any groundwater, surface water, and stormwater that may be present.

"Wastewater facilities" shall mean the structures, equipment, and processes required to collect, carry away, and treat domestic and industrial wastes and dispose of the effluent.

"Wastewater treatment works" shall mean an arrangement of devices and structures for treating wastewater, industrial wastes, and sludge; sometimes used synonymously with "waste treatment plant," "wastewater treatment plant" or "water pollution control plant."

"Watercourse" shall mean a natural or artificial channel for the passage of water, either continuously or intermittently.

### **§3-203 APPLICATION FOR PERMIT.**

Any person wishing to connect with the sewer system shall make application to the City Clerk, who may require any applicant to make a service deposit in such amount as the City Council shall determine by resolution. Sewer service may not be supplied to any house or building except upon the order of the Utilities Superintendent. (Neb. Rev. Stat. §17-149)

### **§3-204 SERVICE TO NONRESIDENTS.**

The Water Department shall not supply sewer service to any person outside the corporate limits without special permission from the City Council; provided, the entire cost of pipe and other installation charges shall be paid by such consumer. Nothing herein shall be construed to obligate

the City to provide sewer service to nonresidents. (Neb. Rev. Stat. §19-2701)

### **§3-205 SEWER CONTRACT.**

The City through the Sewer Department shall furnish sewer services to persons within its corporate limits whose premises abut a street or alley in which a commercial main is now or may hereafter be laid. The City may also furnish sewer service to persons whose premises are situated outside the corporate limits of the City as and when, according to law, the City Council may see fit to do so. The rules, regulations, and sewer rental rates hereinafter named in this Article shall be considered a part of every application hereafter made for sewer service and shall be considered a part of the contract between every customer now or hereafter served. Without further formality, the making of the application on the part of any applicant or the use of sewer service by any present customer thereof shall constitute a contract between the customer and the City to which said contract both parties are bound. If the customer shall violate any of the provisions of said contract or any reasonable rules and regulations that the City Council may hereafter adopt, the Utilities Superintendent or his agent may cut off or disconnect the sewer service from the building or premises of such violation. No further connection for sewer service to said building or premises shall again be made save or except by order of the Superintendent or his agent. (Neb. Rev. Stat. §17-901, 17-902, 18-503)

### **§3-206 SERVICE CONTRACTS.**

Contracts for sewer service are not transferable. Any person wishing to change from one location to another shall make a new application and sign a new contract. If any customer shall move from the premises where service is furnished or if the said premises are destroyed by fire or other casualty, he shall at once inform the Utilities Superintendent, who shall cause the sewer service to be shut off from the said premises. If the customer should fail to give notice, he shall be charged for that period of time until the Superintendent is otherwise advised of such circumstances. (Neb. Rev. Stat. §18-503)

### **§3-207 INSTALLATION PROCEDURE.**

In making excavations in streets, alleys, or sidewalks for the purpose of installing pipe or making repairs, the paving, stones, and earth must be removed and deposited in a manner that will occasion the least inconvenience to the public and provide for adequate drainage. No person shall leave an excavation made in the street, alley, or sidewalk open at any time without a barricade and, during the night, warning lights. After the house sewer is laid, the public ways and property shall be restored to good condition. If the excavation in the public ways and property is left open or unfinished for a period of 24 hours or more, the Utilities Superintendent shall have the duty to finish or correct the work, and all expenses so incurred shall be charged to the owner, occupant, or lessee of the property. All installations or repairs of pipes require inspection by the Utilities Superintendent or his representative. Said inspection shall be made when connections or repairs are complete but before pipes are covered. It is the customer's responsibility to notify the Superintendent at the time the work is ready for inspection. All installation shall be done under the supervision and strictly in accordance with the rules, regulations, and specifications for such installation prescribed by the Superintendent; provided, the said rules, regulations, and specifications have been reviewed and approved by the City Council. (Neb. Rev. Stat. §18-503)

### **§3-208 INSTALLATION EXPENSE.**

All installation of sewer pipe and appurtenances from the main to and including the customer's property shall be done at the expense of the customer. The customer shall also pay the expense of obtaining a licensed plumber, who shall perform all installation work, including the tapping of

the main.

### **§3-209 REPAIRS AND REPLACEMENT.**

The Sewer Department may require the owner of any property which is within the City and connected to the public sewers or drains to repair or replace any connection line which serves the owner's property and is broken, clogged or otherwise in need of repair or replacement. The property owner's duty to repair or replace such a connection line shall include those portions upon the owner's property and those portions upon public property or easements up to and including the point of junction with the public main. The City Clerk shall give the property owner notice by registered letter or certified mail, directed to the last known address of such owner or the agent of such owner, directing the repair or replacement of such connection line. If within 30 days of mailing such notice the property owner fails or neglects to cause such repairs or replacements to be made, the Utilities Superintendent may cause such work to be done and assess the cost upon the property served by such connection. (Neb. Rev. Stat. §18-1748) (Am. by Ord. No. 398, 12/3/84)

### **§3-210 CLASSIFICATION.**

The City Council may classify the customers of the Sewer Department for the purpose of rental fees; provided, such classifications are reasonable and do not discriminate unlawfully against any consumer or group of consumers. (Neb. Rev. Stat. §17-925.02)

### **§3-211 FEES; LATE CHARGES AND COLLECTIONS.**

Sewer use fees shall be set by resolution of the City Council and kept on file for public inspection at the office of the City Clerk. Said fees shall be based on a percentage of water used by the customer. Sewer bills shall be due and payable at the same time and in the same manner as water bills. All penalties, late charges and procedures concerning delinquent accounts with the Water Department shall also be applicable to delinquent accounts with the Sewer Department and are incorporated herein by this reference thereto. (Am. by Ord No. 463, 5/6/91)

### **§3-212 DESTRUCTION OF PROPERTY.**

No person or persons shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment which is part of the wastewater facilities. Any person or persons violating this provision shall be subject to immediate arrest under charge of disorderly conduct.

### **§3-213 UNLAWFUL DEPOSIT OF WASTES.**

It shall be unlawful for any person to place, deposit, or permit to be deposited any human or animal excrement, garbage, or other objectionable waste in any unsanitary manner on public or private property within the City; within two miles of the corporate limits thereof, or in any area under the jurisdiction of said city.

### **§3-214 UNLAWFUL DISCHARGE OF UNTREATED SEWAGE.**

It shall be unlawful to discharge any wastewater or other polluted waters to any natural outlet within the City, within two miles of the corporate limits thereof, or in any area under the jurisdiction of said city, except where suitable treatment has been provided in accordance with subsequent provisions of this Article.

### **§3-215 CESSPOOLS, PRIVIES AND SEPTIC TANKS PROHIBITED.**

Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of wastewater.

### **§3-216 MANDATORY HOOKUP.**

The owner of any house, building, or property used for human occupancy, employment, recreation, or other purposes situated within the City and abutting on any street, alley, or right-of-way in which there is now located or may in the future be located a public sanitary or combined sewer of the City is hereby required at his expense to install suitable toilet facilities therein. He shall connect such facilities directly with the proper public sewer in accordance with the provisions of this Article within 60 days after date of official notice to do so; provided, said public sewer is within 100 feet (30.5 meters) of the property line.

### **§3-217 PRIVATE SEWAGE DISPOSAL; WHEN APPLICABLE.**

Where a public sanitary or combined sewer is not available under the provisions of Section 3-216, the building sewer shall be connected to a private sewage disposal system complying with the provisions of this Article. At such time as a public sewer becomes available to a property served by a private wastewater disposal system, as provided in Section 3-216, a direct connection shall be made to the public sewer within 60 days in compliance with this Article. Thereafter, any septic tanks, cesspools, and similar private wastewater disposal facilities shall be cleaned of sludge and filled with suitable material.

### **§3-218 PRIVATE SEWAGE DISPOSAL; PERMIT REQUIRED, FEE.**

Before commencement of construction of a private wastewater disposal system, the owner shall first obtain a written permit signed by the Utilities Superintendent. The application for such permit shall be made on a form furnished by the City, which the applicant shall supplement by any plans, specifications, and other information as are deemed necessary by the Superintendent. The City Council may require that each application be accompanied by a permit and inspection fee in an amount set by resolution of the City Council and which shall be paid to the City at the time the application is filed.

### **§3-219 PRIVATE SEWAGE DISPOSAL; PERMIT, WHEN EFFECTIVE; INSPECTIONS.**

A permit for a private wastewater disposal system shall not become effective until the installation is completed to the satisfaction of the Utilities Superintendent. He shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for the permit shall notify the Superintendent when the work is ready for final inspection and before any underground portions are covered. The inspection shall be made within 24 hours of the receipt of notice by the Superintendent.

### **§3-220 PRIVATE SEWAGE DISPOSAL; SPECIFICATIONS.**

The type, capacities, location, and layout of a private wastewater disposal system shall comply with all recommendations of the Department of Public Health of the State of Nebraska. No permit shall be issued for any private wastewater disposal system employing subsurface soil absorption facilities when the area of the lot is less than 10,000 square feet. No septic tank or cesspool shall be permitted to discharge to any natural outlet.

### **§3-221 PRIVATE SEWAGE DISPOSAL; MAINTENANCE.**

The owner shall operate and maintain the private wastewater disposal facilities in a sanitary manner at all times at no expense to the City.

### **§3-222 PRIVATE SEWAGE DISPOSAL; ADDITIONAL REQUIREMENTS.**

No statement contained in Sections 3-217 through 3-221 shall be construed to interfere with any additional requirements that may be imposed by the City Board of Health.

### **§3-223 SEWER INSTALLATION; SINGLE PREMISES.**

A separate and independent building sewer shall be provided for every building, except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway. The building sewer from the front building may be extended to the rear building and the whole considered as one building sewer but the City does not and will not assume any obligation or responsibility for damage caused by or resulting from any such single connection aforementioned.

### **§3-224 SEWER INSTALLATION; USE OF EXISTING SEWERS.**

Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the Superintendent, to meet all requirements of this Article.

### **§3-225 SEWER INSTALLATION; CONSTRUCTION CODES.**

(A) The size, slope, alignment, materials of construction of a building sewer and the methods to be used in excavating, placing of pipe, jointing, testing and backfilling the trench shall all conform to the requirements of the building and plumbing code or other applicable rules and regulations of the City. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the A.S.T.M. and W.P.C.F. *Manual of Practice No. 9* shall apply.

(B) Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.

(C) The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the City or the procedures set forth in appropriate specifications of the A.S.T.M. and the W.P.C.F. *Manual of Practice No. 9*. All such connections shall be made gas-tight and watertight and verified by proper testing. Any deviation from the prescribed procedures and materials must be approved by the Utilities Superintendent before installation.

### **§3-226 SEWER INSTALLATION; UNLAWFUL CONNECTION.**

No person shall make connection of roof downspouts, exterior foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer unless such connection is approved by the Utilities Superintendent for purposes of disposal of polluted surface drainage.

**§3-227 PROHIBITED DISCHARGES; STORM, SURFACE, GROUND, COOLING, AND PROCESS WATERS.**

No person shall discharge or cause to be discharged any unpolluted waters such as stormwater, groundwater, roof runoff, subsurface drainage, or cooling water to any sewer, except that stormwater runoff from limited areas, which stormwater may be polluted at times, may be discharged to the sanitary sewer by permission of the Superintendent. Stormwater other than that exempted above and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as combined sewers or storm sewers or to a natural outlet approved by the Utilities Superintendent and other regulatory agencies. Unpolluted industrial cooling water or process water may be discharged, on approval of the Superintendent, to a storm sewer, combined sewer, or natural outlet.

**§3-228 HAZARDOUS AND PROHIBITED DISCHARGES; FLAMMABLE, TOXIC, CORROSIVE AND OBSTRUCTIVE SUBSTANCES; PRELIMINARY TREATMENT.**

(A) No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:

(1) Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas.

(2) Any waters or wastes containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, which injure or interfere with any waste treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the wastewater treatment plant.

(3) Any waters or wastes having a pH lower than 5.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the wastewater works.

(4) Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers or other interference with the proper operation of the wastewater facilities such as, but not limited to, ashes, bones, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.

(5) Any waters or wastes having:

(a) A five-day BOD greater than 300 parts per million by weight;

(b) Containing more than 350 parts per million by weight of suspended solids;

(c) Having an average daily flow greater than 2% of the average sewage flow of the City; or

(d) A chlorine requirement greater than demanded by normal sewage as evaluated by the City's consulting engineer shall be subject to the review of the Superintendent.

(6) Where necessary in the opinion of the Superintendent, the owner shall provide, at his expense, such preliminary treatment as may be necessary to:

- (a) Reduce the biochemical oxygen demand to 300 parts per million by weight;
- (b) Reduce the suspended solids to 350 parts per million by weight;
- (c) Control the quantities and rates of discharge of such waters or wastes; or
- (d) Reduce the chlorine requirement to conform with normal sewage.

(B) Plans, specifications, and other pertinent information relating to proposed preliminary treatment facilities shall be submitted for the approval of the Superintendent and no construction of such facilities shall be commenced until said approvals are obtained in writing.

**§3-229 HAZARDOUS AND PROHIBITED DISCHARGES; SPECIFIC PROHIBITIONS AS DETERMINED BY SUPERINTENDENT.**

The following-described substances, materials, water, or waste in discharges to city systems shall be limited to concentrations or quantities which will not harm the sewers, wastewater treatment process or equipment, will not have an adverse effect on the receiving stream, or will not otherwise endanger lives, limb, public property, or constitute a nuisance. The Utilities Superintendent may set limitations lower than the limitations established in the regulations below if in his opinion such more severe limitations are necessary to meet the above objectives. In forming his opinion as to acceptability, the Superintendent will give consideration to such factors as the quantity of subject waste in relation to flows and velocities in the sewers, construction materials of the sewers, the wastewater treatment process employed, capacity of the wastewater treatment plant, degree of treatability of the waste in the wastewater treatment plant, and other pertinent factors. The limitations or restrictions on materials or characteristics of waste or wastewaters discharged to the sanitary sewer which shall not be violated without approval of the Superintendent are as follows:

- (A) Wastewater having a temperature higher than 150° Fahrenheit (65° C).
- (B) Wastewater containing more than 25 milligrams per liter of petroleum oil, nonbiodegradable cutting oils, or product of mineral oil origin.
- (C) Wastewater from industrial plants containing floatable oils, fat, or grease.
- (D) Any garbage that has not been properly shredded. Garbage grinders may be connected to sanitary sewers from homes, hotels, institutions, restaurants, hospitals, catering establishments, or similar places where garbage originates from the preparation of food in kitchens for the purpose of consumption on the premises or when served by caterers.
- (E) Any waters or wastes containing iron, chromium, copper, zinc, and similar objectionable or toxic substances to such degree that any such material received in the composite wastewater at the sewage treatment works exceeds the limits established by the Utilities Superintendent for such materials.
- (F) Any waters or wastes containing odor-producing substances exceeding limits which may be established by the Superintendent.

(G) Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Superintendent in compliance with applicable state or federal regulations.

(H) Quantities of flow, concentrations, or both which constitute a "slug" as defined herein.

(I) Materials which exert or cause:

(1) Unusual concentrations of inert suspended solids such as but not limited to Fuller's earth, lime slurries, and lime residues or of dissolved solids such as but not limited to sodium chloride or sodium sulfate.

(2) Excessive discoloration such as but not limited to dye wastes and vegetable tanning solutions.

(3) Unusual BOD, chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.

(4) Unusual volume of flow or concentration of wastes constituting "slugs" as defined herein.

(J) Waters or wastes containing substances which are not amenable to treatment or reduction by the wastewater treatment processes employed or are amenable to treatment only to such degree that the wastewater treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

(K) Any waters or wastes which, by interaction with other waters or wastes in the public sewer system, release obnoxious gases, form suspended solids which interfere with the collection system, or create a condition deleterious to structures and treatment processes.

**§3-230 DISCHARGE OF HAZARDOUS AND PROHIBITED SUBSTANCES;  
REJECTION, PRETREATMENT, CONTROL OF DISCHARGE RATE OR  
USE FEE SURCHARGE.**

(A) If any waters or wastes are discharged or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in Section 3-229 and which in the judgment of the Utilities Superintendent may have a deleterious effect upon the wastewater facilities, processes, equipment, or receiving waters or which otherwise create a hazard to life to constitute a public nuisance, the Superintendent may:

- (1) Reject the wastes,
- (2) Require pretreatment to an acceptable condition for discharge to the public sewers,
- (3) Require control over the quantities and rates of discharge, and/or
- (4) Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of Section 3-231.

(B) When considering the above alternatives, the Superintendent shall give consideration

to the economic impact of each alternative on the discharger. If the Superintendent permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to his review and approval.

**§3-231 HAZARDOUS AND PROHIBITED SUBSTANCES; SPECIAL EXCEPTIONS PERMITTED; USE FEE SURCHARGE.**

No statement contained in this Article shall be construed as preventing any special agreement or arrangement between the City and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the City for treatment, subject to payment therefor by the industrial concern.

**§3-232 GREASE, OIL AND SAND INTERCEPTORS; WHEN REQUIRED.**

Grease, oil, and sand interceptors shall be provided when, in the opinion of the Utilities Superintendent, they are necessary for the proper handling of liquid wastes containing floatable grease in excessive amounts or any flammable wastes, sand, or other harmful ingredients, except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the Superintendent and shall be located as to be readily and easily accessible for cleaning and inspection. In the maintaining of these interceptors, the owner shall be responsible for the proper removal and disposal by appropriate means of the captured material and shall maintain records of the dates and means of disposal which are subject to review by the Superintendent. Any removal and hauling of the collected materials not performed by owner's personnel must be performed by currently licensed waste disposal firms.

**§3-233 PRELIMINARY TREATMENT OR FLOW-EQUALIZING FACILITIES; MAINTENANCE BY OWNER.**

Where preliminary treatment or flow-equalizing facilities are provided or required for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense.

**§3-234 CONTROL STRUCTURES/SAMPLING STATIONS; WHEN REQUIRED; INSTALLATION AND MAINTENANCE.**

When required by the Utilities Superintendent, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control structure, together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such structure, when required, shall be accessibly and safely located and shall be constructed in accordance with plans approved by the Superintendent. The structure shall be installed by the owner at his expense and shall be maintained by him so as to be safe and accessible at all times.

**§3-235 CONTROL MANHOLES/SAMPLING STATIONS; METHOD.**

All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this Article shall be determined in accordance with the latest edition of *Standard Methods for the Examination of Water and Wastewater*, published by the American Public Health Association. Sampling methods, location, times, durations, and frequencies are to be determined on an individual basis, subject to approval by the Superintendent.

### **§3-236 COMPLIANCE WITH ARTICLE; INSPECTIONS GENERALLY.**

The Utilities Superintendent and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling, and testing pertinent to discharge to the community system in accordance with the provisions of this Article. The Superintendent or other duly authorized employees are authorized to obtain information concerning industrial processes which have a direct bearing on the kind and source of discharge to the wastewater collection system. The industry may withhold information considered confidential. The industry must establish that the revelation to the public of the information in question might result in an advantage to competitors.

### **§3-237 COMPLIANCE WITH ARTICLE; INSPECTIONS; INJURY LIABILITY.**

While performing the necessary work on private properties referred to in Section 3-236 above, the Superintendent or duly authorized employees of the City shall observe all safety rules applicable to the premises established by the company and the company shall be held harmless for injury or death to the city employees. The City shall indemnify the company against loss or damage to its property by city employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions as required in Section 3-234.

### **§3-238 COMPLIANCE WITH ARTICLE; INSPECTIONS; EASEMENTS.**

The Utilities Superintendent and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all private properties through which the City holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the sewage works lying within said easement. All entry and subsequent work, if any, on said easement shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

### **§3-239 VIOLATIONS; NOTICE AND LIABILITY.**

Any person found to be violating any provision of this Article, except Section 3-212, shall be served by the City with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations. Any person violating any of the provisions of this Article shall become liable to the City for any expense, loss, or damage occasioned the City by reason of such violation.

## **Article 3 – Fire Department**

### **§3-301 OPERATION AND FUNDING.**

The City operates the Fire Department through the Fire Chief and Firemen. The City Council, for the purpose of defraying the cost of the management, maintenance, and improvement of the Fire Department may each year levy a tax not exceeding the maximum limits prescribed by state law on the actual valuation of all real estate and personal property within the City that is subject to

taxation. The revenue from the said tax shall be known as the Fire Department Fund, which shall be at all times in the possession of the City Treasurer. The City may enter into an agreement with a rural fire district for cooperation in providing mutual aid and protection for all the residents therein. (Neb. Rev. Stat. §17-147, 17-718, 17-953)

### **§3-302 FIRE CHIEF.**

The Fire Chief shall manage the Fire Department and it shall be his duty to inform the City Council when any of the fire engines, hose, ladders, or other apparatus needs repair. Upon the written consent and directive of the Council, the Fire Chief shall cause the repair, improvement, or maintenance of the said equipment and shall personally supervise and approve of the same. It shall be the duty of the Fire Chief to come before the City Council at the regular meeting in January of each year to give an annual report of the general condition and the proposed additions or improvements recommended by him.

### **§3-303 MEMBERSHIP.**

(A) The Fire Department shall consist of so many members as may be decided by the City Council. The members may organize themselves in any way they may decide, subject to the review of the City Council. The Fire Chief shall appoint no more than 25 members for each Fire Department company, subject to the review and approval of the City Council. All vacancies shall be filled in this manner.

(B) All members of the Fire Department shall be subject to such rules and regulations and shall perform such duties as may be prescribed or required of them by the Fire Chief or the City Council. The members of the Fire Department shall, during the time of a fire or great public danger, have and exercise the powers and duties of police officers and shall have full power and authority to arrest all persons guilty of any violation of the municipal code or state laws.

(C) Members of the Fire Department may hold meetings and engage in social activities with the approval of the City Council. The secretary shall, upon request, keep a record of all meetings and shall make a report to the City Council of all meetings and activities of the Department.

(D) Members of the Fire Department shall be considered to be employees of the City for the purpose of providing them with workers' compensation and other benefits. The City Council may compensate or reimburse any member of the Department for expenses incurred in carrying out his or her duties in an amount set by resolution.

(E) The City Council shall purchase and maintain in force a policy of group term life insurance to age 65 covering the lives of all of the City's active volunteer fire and rescue personnel, except that when any such person serves more than one city or rural or suburban fire protection district, the policy shall be purchased only by the first city or district which he or she serves. The policy shall provide a minimum death benefit of \$10,000 for death from any cause and shall, at the option of the insured, be convertible to a permanent form of life insurance at age 65. The coverage of such policy shall terminate as to any individual who ceases to be an active volunteer member of the Fire Department of the City. (Neb. Rev. Stat. §35-108)

(F) For purposes of Neb. Rev. Stat. §33-139.01, volunteer firefighters and rescue squad members testifying as witnesses in that capacity alone shall not be deemed employees of the City. (Neb. Rev. Stat. §33-139.01)  
(Am. by Ord. No. 703, 5/3/04)

### **§3-304 FIRES.**

It shall be the duty of the Fire Department to use all proper means for the extinguishment of fires; to protect property within the City; and to secure the observance of all ordinances, laws, and other rules and regulations with respect to fires and fire prevention.

### **§3-305 DISTANT FIRES.**

Upon the permission of the Mayor or Fire Chief or pursuant to any agreement with a rural fire district for mutual aid and protection, such fire equipment of the City as may be designated by the City Council as rural equipment may be used beyond the corporate limits to extinguish reported fires.

### **§3-306 FIGHTING DISTANT FIRES.**

The firemen of the City shall be considered as acting in the performance and within the scope of their duties in fighting fires or saving property or life outside the corporate limits of the City when directed to do so by the Mayor or Fire Chief or some person authorized to act for such chief and in so doing may take such fire equipment of the City as may be designated by the City Council.

### **§3-307 PRESERVATION OF PROPERTY.**

Any official of the Fire Department shall have the power during the time of a fire to cause the removal of any private or public property whenever it shall become necessary to do so for the preservation of such property from fire, to prevent the spreading of fire, or to protect adjoining property. The said officials may direct the city firemen to remove any building, structure, or fence for the purpose of checking the progress of any fire. The official in charge of the firefighting effort shall have the power to blow up or cause to be blown up with powder or otherwise any building or erection during the progress of a fire for the purpose of extinguishing or checking the same.

### **§3-308 HOSE TESTED.**

All fire hose shall be pressure-tested at least one time each year.

### **§3-309 INSPECTIONS.**

It shall be the duty of the Fire Chief, when directed to do so by the City Council, to inspect or cause to be inspected all buildings, premises and public thoroughfares, except the interiors of private dwellings, by Fire Department officers, members, or some other official as often as may be necessary for the purpose of ascertaining and causing to be corrected any conditions liable to create a fire hazard. The inspection shall be of the storage, sale and use of flammable liquids, combustibles, and explosives; electric wiring and heating; and the means and adequacy of exits in case of fire in schools, churches, hotels, halls, theaters, factories, hospitals, and all other buildings in which numbers of persons congregate from time to time for any purpose, whether publicly or privately owned; the design, construction, location, installation, and operation of equipment for storing, handling, and utilizing of liquefied petroleum gases, specifying the odorization of said gases and the degree thereof; and chemicals, prozylin plastics, nitrocellulose films, or any other hazardous material that may now or hereafter exist. (Neb. Rev. Stat. §81-512)

### **§3-310 IMPERSONATING FIREMEN.**

It shall be unlawful for any person to falsely impersonate a fireman by wearing a badge or other apparel usually worn by a fireman for the purpose of obtaining any benefit whatsoever. Nothing herein shall be construed to prohibit the theatrical representation of a fireman for bona fide entertainment purposes when there is no intent to defraud. (Neb. Rev. Stat. §28-1219)

### **§3-311 (Reserved for Future Use)**

### **§3-312 POWER OF ARREST.**

The Fire Chief or assistant Chief shall have the power during the time of a fire and for a period of 36 hours after its extinguishment to arrest any suspected arsonist or other person hindering or resisting the firefighting effort or any person who conducts himself in a noisy or disorderly manner. The said officials shall be severally vested with the usual powers and authority of City Policemen to command all persons to assist them in the performance of their duties.

### **§3-313 FIRE INVESTIGATION.**

It shall be the duty of the Fire Department to investigate or cause to be investigated the cause, origin, and circumstances of every fire occurring in the City in which property has been destroyed or damaged in excess of \$50.00. All fires of unknown origin shall be reported and such officers shall especially make an investigation and report as to whether such fire was the result of carelessness, accident, or design. Such investigation shall be begun within two days of the occurrence of such fire and the State Fire Marshal shall have the right to supervise and direct the investigation whenever he deems it expedient or necessary. The officer making the investigation shall immediately notify the State Fire Marshal and shall, within one week of the occurrence of the fire, furnish him with a written statement of all the facts relating to the cause and origin of the fire and such further information as he may call for. (Neb. Rev. Stat. §81-506)

## **Article 4 – Police Department**

### **§3-401 DUTIES.**

The Police Department shall consist of the Chief of Police and such further number of regular policemen as may be duly ordered by resolution of the Council. The Chief shall, subject to the direction of the Mayor, have control and management of all matters relating to the Police Department, its officers and members, and shall have the custody and control of all property and books belonging to the Department. The Department shall execute and enforce all laws and the orders of the Mayor. It shall be the duty of the Department to protect the rights of persons and property. There shall be a proper police force at all fires. The Department shall take notice of all nuisances, impediments, obstructions, and defects in the streets, avenues, alleys, business places, and residences of the City. The Department shall execute or cause to be executed all processes issued and shall cause all persons arrested to be brought before the proper court for trial as speedily as possible. The Chief of Police and all regular and special Policemen shall become thoroughly conversant with the laws of the City and shall see that the same are strictly enforced, making sworn complaints against any person or persons for violation of the same.

### **§3-402 ARREST AND ENFORCEMENT JURISDICTION.**

(A) Every city law enforcement officer has the power and authority to enforce the laws of

this state and the City or otherwise perform the functions of that office anywhere within his or her primary jurisdiction. "Primary jurisdiction" means the geographic area within territorial limits of the City.

(B) Any city law enforcement officer who is within this state but beyond his or her primary jurisdiction has the power and authority to enforce the laws of this state or any legal ordinance of any city or incorporated village or otherwise perform the functions of his or her office, including the authority to arrest and detain suspects, as if enforcing the laws or performing the functions within his or her primary jurisdiction in the following cases:

(1) Any city law enforcement officer, if in a fresh attempt to apprehend a person suspected of committing a felony, may follow such person into any other jurisdiction in this state and there arrest and detain such person and return such person to the officer's primary jurisdiction;

(2) Any city law enforcement officer, if in a fresh attempt to apprehend a person suspected of committing a misdemeanor or a traffic infraction, may follow such person anywhere in an area within 25 miles of the boundaries of the officer's primary jurisdiction and there arrest and detain such person and return such person to the officer's primary jurisdiction;

(3) Any city law enforcement officer has such enforcement and arrest and detention authority when responding to a call in which a local, state, or federal law enforcement officer is in need of assistance. A "law enforcement officer in need of assistance" shall mean:

(a) A law enforcement officer whose life is in danger; or

(b) A law enforcement officer who needs assistance in making an arrest and the suspect (i) will not be apprehended unless immediately arrested; (ii) may cause injury to himself or herself or others or damage to property unless immediately arrested; or (iii) may destroy or conceal evidence of the commission of a crime; and

(4) If the City, under the provisions of the Interlocal Cooperation Act or the Joint Public Agency Act, enters into a contract with any other city or county for law enforcement services or joint law enforcement services, law enforcement personnel may have such enforcement authority within the jurisdiction of each of the participating political subdivisions if provided for in the agreement. Unless otherwise provided in the agreement, the City shall provide liability insurance coverage for its own law enforcement personnel as provided in Neb. Rev. Stat. §13-1802.

(C) When probable cause exists to believe that a person is operating or in actual physical control of any motor vehicle, motorboat, or aircraft while under the influence of alcoholic liquor or of any drug or is otherwise in violation of Neb. Rev. Stat. §28-1465, 28-1466, 28-1472, 37-1254.01, 37-1254.02, 60-4,163, 60-4,164, 60-6,196, 60-6,197, 60-6,211.01, or 60-6,211.02, a city law enforcement officer has the power and authority to do any of the following or any combination thereof:

(1) Transport such person to a facility outside of the law enforcement officer's primary jurisdiction for appropriate chemical testing of the person;

(2) Administer outside of the law enforcement officer's primary jurisdiction any post-arrest test advisement to the person; or

(3) With respect to such person, perform other procedures or functions outside of the law enforcement officer's primary jurisdiction which are directly and solely related to enforcing the laws that concern a person operating or being in actual physical control of any motor vehicle, motorboat, or aircraft while under the influence of alcoholic liquor or of any other drug or otherwise in violation of Neb. Rev. Stat. §28-1465, 28-1466, 28-1472, 37-1254.01, 37-1254.02, 60-4,163, 60-4,164, 60-6,196, 60-6,197, 60-6,211.01, or 60-6,211.02. (Neb. Rev. Stat. §29-215)

(D) If city law enforcement personnel are rendering aid in their law enforcement capacity outside the limits of the City in the event of disaster, emergency, or civil defense emergency or in connection with any program of practice or training for such disaster, emergency, or civil defense emergency when such program is conducted or participated in by the Nebraska Emergency Management Agency or with any other related training program, the law enforcement personnel have the power and authority to enforce the laws of this state or any legal ordinances or resolutions of the local government where they are rendering aid or otherwise perform the functions of their office, including the authority to arrest and detain suspects, as if enforcing the laws or performing the functions within their primary jurisdiction. The City shall self-insure or contract for insurance against any liability for personal injuries or property damage that may be incurred by it or by its personnel as the result of any movement made pursuant to this division. (Neb. Rev. Stat. §81-829.65)

(Ord. No. 525, 2/6/95) (Am. by Ord. Nos. 607, 7/6/98; 702, 5/3/04)

### **§3-403 POLICE OFFICERS; DISCIPLINE OR REMOVAL FROM DUTY; NOTICE AND HEARING; DETERMINATION.**

(A) No police officer, including the Chief of Police, shall be disciplined, suspended, demoted, removed, or discharged except upon written notice stating the reasons for such disciplinary action, suspension, demotion, removal, or discharge. Such notice shall also contain a statement informing the police officer of his or her right to a hearing before the City Council.

(B) Any police officer so disciplined, suspended, demoted, removed, or discharged may, within ten days after being notified by of such disciplinary action, suspension, demotion, removal, or discharge, file with the City Clerk a written demand for a hearing before the City Council. The Council shall set the matter for hearing not less than ten nor more than 20 days after the filing of the written demand for a hearing. The City Council shall give the police officer written notice of the hearing not less than seven nor more than 14 days prior to the hearing.

(C) At the hearing, the police officer shall have the right to: (1) respond in person to the charges and to present witnesses and documentary evidence; (2) confront and cross-examine available adverse witnesses; and (3) to be represented by counsel.

(D) Not later than 30 days following the adjournment of the meeting at which the hearing was held, the City Council shall vote to uphold, reverse, or modify the disciplinary action, suspension, demotion, removal, or discharge. The failure of the Council to act within 30 days or the failure of a majority of the elected council members to vote to reverse or modify the disciplinary action, suspension, demotion, removal, or discharge shall be construed as a vote to uphold the disciplinary action, suspension, demotion, removal, or discharge. The decision of the City Council shall be based upon its determination that, under the facts and evidence presented at the hearing, the challenged disciplinary action, suspension, demotion, removal, or discharge was necessary for the proper management and the effective operation of the Police Department in the performance of its duties under the state statutes.

(E) Nothing in this section shall be construed to prevent the preemptory suspension or

immediate removal from duty of an officer in cases of gross misconduct, neglect of duty, or disobedience of orders, pending the hearing authorized by this section.

(Ord. No. 545, 1/3/96)

## **Article 5 – Parks**

### **§3-501 OPERATION AND FUNDING.**

(A) The City owns and operates the City Parks and other recreational areas through the Board of Park and Recreation Commissioners. The City Council, for the purpose of defraying the cost of the care, management, and maintenance of the city park may each year levy a tax not exceeding the maximum limit prescribed by state law on the actual valuation of all real estate and personal property within the corporate limits that is subject to taxation. The revenue from the said tax shall be known as the Cultural and Recreational Fund and shall include all gifts, grants, deeds of conveyance, bequests, or other valuable income-producing personal property and real estate from any source for the purpose of operation, maintenance, and improvement of the city parks and recreational facilities. The Cultural and Recreational Fund shall at all times be in the custody of the City Treasurer. All claims against the Cultural and Recreational Fund shall be audited by the City Council and warrants for payments of all claims shall be drawn by the Mayor and countersigned by the City Clerk.

(B) The Board shall have the authority to adopt rules and regulations for the efficient management of the city parks and other recreational areas of the City, with the exception that management and control of certain recreational facilities may be reserved by the City Council and delegated as it sees fit.

(C) The Board shall not enter into a contract of any nature which involves an expenditure of funds, except for ordinary operating expenses, unless the contract has been approved by resolution of the City Council prior to the contractual agreement.

(Neb. Rev. Stat. §17-948 thru 17-952)

### **§3-502 INJURY TO PROPERTY.**

It shall be unlawful for any person to maliciously or willfully cut down, injure, or destroy any tree, plant, or shrub. It shall be unlawful for any person to injure or destroy any sodded or planted area or injure or destroy any building, structure, equipment, fence, bench, table, or any other property of the city parks and recreational areas. No person shall commit any waste on or litter the city parks or other public grounds.

## **Article 6 – Swimming Pool**

### **§3-601 OPERATION AND FUNDING.**

The City owns and manages the city swimming pool. The City Council, for the purpose of defraying the cost of the management, maintenance, and improvements of the swimming pool may each year levy a tax not exceeding the maximum limit prescribed by state law on the actual valuation of all real estate and personal property within the City that is subject to taxation. The revenue from the said tax shall be known as the Cultural and Recreational Fund and shall include all gifts, grants, deeds of conveyance, bequests, or other valuable income-producing personal property and real estate from any source for the purpose of operation, maintenance, and improvement

of the city parks and recreational facilities, including the swimming pool. The Cultural and Recreational Fund shall at all times be in the custody of the City Treasurer. The City Council shall manage the swimming pool and shall have the power and authority to hire and supervise the Pool Manager and such employees as it may deem necessary and shall pass such rules and regulations for the operation of the swimming pool as may be proper for its efficient operation. (Neb. Rev. Stat. §17-948, 17-951, 17-952)

### **§3-602 ADMISSION CHARGE.**

The City Council may, for the purpose of defraying the expenses involved in maintaining, improving, managing, and beautifying the swimming pool, make a reasonable admission charge for the use by any person of the pool. The said charges shall be on file at the office of the City Clerk and shall also be posted in a conspicuous place at the swimming pool for public inspection. Such rates may be structured for classes of persons in a reasonable manner; provided, nothing herein shall be construed to permit or allow discrimination on the basis of race, creed, color, or national origin in the classification of persons for admission charges. (Neb. Rev. Stat. §17-949)

### **§3-603 RENTALS.**

The City Council shall have the authority to rent the swimming pool to such organizations and other persons as it may in its discretion see fit. The Council shall prescribe rules and regulations for such rentals and shall require an appropriate number of qualified lifeguards to be in attendance during the rental period. Such fees and other costs shall be on file at the office of the City Clerk and posted in a conspicuous place at the swimming pool (Neb. Rev. Stat. §17-949)

## **Article 7 – Cemetery**

### **§3-701 OPERATION AND FUNDING.**

(A) The City owns and manages the municipal cemetery through the City Council. The Council, for the purpose of defraying the cost of the care, management, maintenance, and beautification of the cemetery, may each year levy a tax not exceeding the maximum limit prescribed by state law on the actual valuation of all real estate and personal property within the City that is subject to taxation. The revenue from the said tax shall be known as the Cemetery Fund and shall include all gifts, grants, deeds of conveyance, bequests, money, stocks, bonds, or other valuable income-producing personal property and real estate from any source for the purpose of endowing the Cemetery. The Cemetery Fund shall at all times be in the custody of the City Treasurer. The City Council shall have the power and authority to hire and supervise such employees as it may deem necessary and to pass such rules and regulations for the operation of the Cemetery as may be proper for its efficient operation.

(B) The Mayor and City Council may receive money by donation, bequest, or otherwise for credit to the perpetual fund to be invested as provided by ordinance or as conditioned by the donor. The income therefrom may be used for the general care, management, maintenance, improvement, beautifying, and welfare of the cemetery as the donor may designate. The principal therefrom may be used for the general care, management, maintenance, improvement, beautifying, and welfare of the cemetery as the donor may designate as long as no more than 20 percent of the principal is so used in any fiscal year and no more than 40 percent of the principal is so used in any period of ten consecutive fiscal years. The principal therefrom may also be used for the purchase and development of additional land to be used for cemetery purposes as the donor may designate as long as no more than 25 percent of the principal is so used in any fiscal year

and no more than 35 percent of the principal is so used in any period of ten consecutive fiscal years.

(Neb. Rev. Stat. §12-301 thru 12-403) (Am. by Ord. No. 778, 3/1/10)

### **§3-702 SEXTON.**

The City Council may appoint a Sexton, who shall perform such duties and make such reports as the Council shall direct. It shall be the duty of the Sexton, upon receiving a burial permit, to locate and direct the party named in the permit to the lot mentioned therein and to dig and excavate or cause the same to be dug or excavated in compliance with the rules and regulations of the Council.

### **§3-703 CONVEYANCE OF LOTS.**

The City Council may convey cemetery lots by certificate signed by the Mayor and countersigned by the City Clerk under the City Seal, specifying that the person to whom the same is issued is the owner of the lot described therein by number for the purpose of interment. The said certificate shall give a right in fee simple to the proprietor, his heirs, and assigns. The certificate shall then be recorded in the office of the County Clerk, (Neb. Rev. Stat. §17-941)

### **§3-704 (Reserved for Future Use)**

### **§3-705 (Reserved for Future Use)**

### **§3-706 PERPETUAL CARE.**

(A) The City Treasurer shall allocate and set apart a percentage of the entire amount paid for lots or burial spaces if the said lots or burial spaces are to be endowed with perpetual care. The fund shall be permanent in nature and as it accumulates shall be invested in such interest-bearing securities as are authorized by state law. The income earned thereon shall be used solely for the purposes of perpetual care for the cemetery lots. Any lot owner who, prior to the purchase of his lot, shall not have endowed his holdings with perpetual care may do so by paying to the Secretary of the Cemetery Board such sum of money as the Board may in each case fix and determine. Thereafter, the owner shall not be liable for the payment of an annual maintenance assessment.

(B) The Mayor and City Council may set aside the proceeds of the sale of lots as a perpetual fund to be invested as provided by ordinance. The income from the fund may be used for the general care, management, maintenance, improvement, beautifying, and welfare of the cemetery. The principal of the perpetual fund may be used for the general care, management, maintenance, improvement, beautifying, and welfare of the cemetery as long as no more than 20 percent of the principal is so used in any fiscal year and no more than 40 percent of the principal is so used in any period of ten consecutive fiscal years. The principal of the perpetual fund may also be used for the purchase and development of additional land to be used for cemetery purposes as long as no more than 25 percent of the principal is so used in any fiscal year and no more than 35 percent of the principal is so used in any period of ten consecutive fiscal years.

(Am. by Ord. No. 778, 3/1/10)

### **§3-707 LOT CURBING.**

It shall be unlawful for the owner of any lot within the cemetery to construct, maintain, or suffer to remain any curbing around any lot or burial space therein.

### **§3-708 SHRUBS AND TREES.**

It shall be unlawful for the owner of any lot within the cemetery to plant, maintain, or suffer to maintain any shrub or tree on any lot or burial space therein.

### **§3-709 MONUMENTS.**

It shall be lawful to erect a monument, tombstone, or other structure upon any lot or burial space within the cemetery except in those areas where the City Council shall provide otherwise by resolution.

### **§3-710 DESTRUCTION OF PROPERTY.**

Any person who shall willfully destroy, mutilate, deface, injure, or remove any tomb, monument, or gravestone or any fence, railing, or other work for the protection or ornamentation of the cemetery or who shall willfully destroy, cut, break, or injure any tree, shrub, or plant shall be deemed to be guilty of a misdemeanor. (Neb. Rev. Stat. §28-512)

### **§3-711 RESTRICTION AS TO VAULTS.**

No burial vault shall be located or placed in any part of the cemetery or in any future annexations thereto unless the same be a permanent vault of steel or reinforced concrete and of the type that shall be buried underneath the surface of the ground, with the exception of:

(A) Wood rough boxes may be used in place of above-mentioned vaults only in the area designated for Valley County welfare funerals and for infant burials.

(B) Above-ground mausoleum-type vaults will be permitted only to match a previously installed mausoleum for a member of the immediate family, to-wit: wife, husband, or unmarried child.

## **Article 8 – Landfill**

### **§3-801 OPERATION AND FUNDING.**

The City leases the municipal landfill and operates the same through the Landfill Superintendent. The City Council, for the purpose of defraying the cost of the care, management, and maintenance of the landfill, may each year levy a tax not exceeding the maximum limit prescribed by state law on the actual valuation of all real estate and personal property within the corporate limits that is subject to taxation. The revenue from the said tax shall be known as the Landfill Fund and shall remain in the custody of the City Treasurer. The Landfill Superintendent shall have the direct management and control of the landfill and shall faithfully carry out the duties of his office. The Superintendent shall have the authority to adopt rules and regulations for the sanitary and efficient management of the landfill, subject to the supervision and review of the City Council. Fees for the use of said landfill may be set by resolution of the Council. (Neb. Rev. Stat. §19-2101 thru 19-2106)

## **Article 9 – Electrical System**

### **§3-901 OWNERSHIP.**

The City owns and operates the Electrical System through the Utilities Superintendent. The City Council, for the purpose of defraying the cost of the care, management, and maintenance of the Electrical System, may each year levy a tax not exceeding the maximum limit prescribed by state law on the actual valuation of all real estate and personal property within the corporate limits that is subject to taxation. The revenue from the said tax shall be known as the Electrical Fund and shall remain in the custody of the City Treasurer. The Utilities Superintendent shall have the direct management and control of the Electrical System and shall faithfully carry out the duties of his office. He shall have the authority to adopt rules and regulations for the safe and efficient management of the Electrical System, subject to the supervision and review of the City Council. (Neb. Rev. Stat. §17-902 thru 17-904, 17-906, 17-909)

### **§3-902 CONTRACTS AND TERMS.**

The City through its Electrical System shall furnish electric current for light and power purposes to persons whose premises abut on any supply wire of the distribution system and may furnish electric current to such other persons within or without its corporate limits as and when, according to law, the City Council may see fit to do so. The rules and regulations in this Article shall be considered a part of every application hereafter made for electric service and shall be considered a part of the contract between every consumer now served by the Electrical System. Without further formality, the making of application on the part of any applicant or the use or consumption of electric energy by present customers and the furnishing of electric service to said applicant or customer shall constitute a contract between applicant or customer and the City, to which both parties are bound. If customer should violate any of the provisions of said contract or any reasonable rules and regulations that the City Council may hereafter adopt, the Utilities Superintendent or his agent shall cut off or disconnect the electric service from the building or place of such violation and no further connection of electric service for such building or place shall again be made save or except by order of the Superintendent or his agent.

### **§3-903 CONSUMER'S APPLICATION.**

Every person or persons desiring electrical service must make application to the City Clerk. Any applicant may be required to make a meter deposit in such amount as has been set by the City Council and on file at the office of the City Clerk. Electricity may not be supplied to any house or building except upon the order of the Utilities Superintendent. The system shall not supply electrical service to any person outside the corporate limits without special permission from the City Council; provided, the entire cost of wire, installation, and other expenses shall be paid by the consumer. Nothing herein shall be construed to obligate the City to supply electrical service to nonresidents. (Neb. Rev. Stat. §17-902, 19-2701)

### **§3-904 ELECTRICAL SERVICE CONTRACTS.**

Contracts for electrical service are not transferable. Any person wishing to change from one location to another shall make a new application and sign a new contract. If any consumer shall sell, dispose of, or move from the premises where service is furnished in his name or if the said premises are destroyed by fire or other casualty, he shall at once inform the Utilities Superintendent, who shall cause the electrical service to be shut off from the said premises. If the consumer should fail to give such notice, he shall be charged for all electricity used on the said premises until the Utilities Superintendent is otherwise advised of such circumstances. (Neb. Rev. Stat. §17-

**§3-905 LICENSED ELECTRICIAN.**

Under no circumstances shall connections be made between the wires of the electrical distribution system of this city and the meter of the consumer except by an employee of the City or a licensed electrician authorized to do so by the Utilities Superintendent. The consumer may have wiring done by any competent licensed electrician from the meter to the points of distribution. All wiring, equipment, and apparatus shall be installed according to the electrical code duly adopted by the City. All installation shall be done under the supervision and strictly in accordance with the rules, regulations, and specifications for such installation prescribed by the Utilities Superintendent and Building Inspector; provided, such rules, regulations, and specifications have been reviewed and approved by the City Council. (Neb. Rev. Stat. §17-902)

**§3-906 INSTALLATION AND REPAIRS.**

The City shall furnish and install the electric meter at city expense. The consumer shall furnish at his own expense all wiring, hardware, and other materials necessary to bring electrical service from the primary supply line to the point of distribution and the City shall install the same at city expense; provided, if the consumer desires underground installation, the consumer shall reimburse the City for the added expense of such excavation and installation which exceeds the normal cost of overhead installation. Repair or replacement of electrical meters shall be done at city expense unless such repair or replacement is made necessary by some intentional or negligent act of the consumer. All repairs to the service line from the primary supply line to the point of distribution shall be performed by the City at the consumer's expense.

**§3-907 READING OF METERS.**

All electrical meters shall be read at least one time each month during which electrical service is used between the 20<sup>th</sup> day and the 25<sup>th</sup> day of the month.

**§3-908 MINIMUM RATES.**

All electrical consumers shall be liable for the minimum rate provided by resolution and kept on file with the City Clerk unless and until the consumer shall by written order direct the Utilities Superintendent to shut off the electricity, in which case he shall not be liable thereafter for electrical service until the electricity is turned on again. (Neb. Rev. Stat. §17-902)

**§3-909 COLLECTION OF FEES; LATE CHARGE.**

(A) The City Clerk shall bill consumers of the Electrical System by the first day of each month. Electrical bills shall be paid to the City Clerk, who shall collect all money received on behalf of the Electrical System, and shall pay over the same to the City Treasurer.

(B) Electrical bills shall be paid by the 14<sup>th</sup> day of each month. Bills not paid by the 14<sup>th</sup> day of the month shall be deemed to be delinquent and a 10% late charge shall be added to said bill. If the bill and delinquent charges are not paid by the 20<sup>th</sup> day of the month, then the Utilities Superintendent and/or City Clerk shall immediately commence procedure to disconnect said electrical service and such service shall not be turned on again until all delinquent fees and charges are paid, including any reconnection fee which the City Council may prescribe by resolution. The owner of the premises will in all cases be held primarily responsible and will be required to pay for electricity at such premises.

(C) If the 14<sup>th</sup> day of the month falls on a weekend or city-observed holiday, then the consumer shall have the next following business day to pay the bill without penalty. (Neb. Rev. Stat. §17-902) (Am. by Ord. Nos. 463, 5/6/91; 466, 7/1/91)

### **§3-910 RESTRICTED USE.**

The Electrical System does not guarantee the delivery of electric current over the lines of the distribution system except when it has sufficient power, current, equipment, and machinery to do so. The Utilities Superintendent has the power and authority to disconnect or discontinue such service for any good and sufficient reason without liability. The City shall use due care and reasonable diligence to provide and supply uninterrupted service to consumers but shall not be liable for damages resulting from interruption of service due to causes over which the City has no control. The City expressly reserves the right to discontinue or disconnect any consumer's service without preliminary notice. (Neb. Rev. Stat. §17-902)

### **§3-911 METER IN DISREPAIR.**

In the event that any customer's meter falls out of repair or fails to register properly, the Utilities Superintendent shall charge such customer the same amount billed one year prior to such disrepair. In the event that there is no such basis for comparison, the Superintendent shall charge the customer such amount as he deems is fair both to the customer and the City.

### **§3-912 POSTING SIGNS.**

It shall be unlawful for any person to post, tack, or fasten to the poles, structures, fixtures, or equipment of the Electrical System any sign, poster, advertisement, or banner without written permission from the Utilities Superintendent.

### **§3-913 (Reserved for Future Use)**

### **§3-914 TRIMMING TREES.**

Any person desiring to cut or remove trees or branches thereof in close proximity to the lines of the Electrical System shall, before doing the said work, give reasonable written notice to the Utilities Superintendent and shall follow any and all rules and regulations which he may prescribe for doing such work. It shall be unlawful for any person felling or removing such trees or branches to disrupt or damage the lines without first giving proper notice and receiving permission in writing to do so. Whenever it becomes necessary to protect the lines or property of the Electrical System, the City Council shall have the power to order cut and removed any overhanging branches or limbs of trees so that the lines will be free and safe.

### **§3-915 INSPECTIONS.**

The Utilities Superintendent or his duly authorized agents shall have free access at any reasonable time to each premises and building to or in which electricity is supplied; provided, in the event of an emergency, such inspections may take place at any time. (Neb. Rev. Stat. §17-902)

### **§3-916 DESTRUCTION OF PROPERTY.**

It shall be unlawful for any person to willfully or carelessly break, injure, or deface any building, machinery, apparatus, fixture, attachment, or appurtenance of the Electrical System. (Neb. Rev. Stat. §28-512)

### **§3-917 CO-GENERATION; DEFINITIONS.**

For the purpose of this Article, the following definitions will apply.

“Co-generation facility” means a facility which produces electric energy and steam or other forms of useful energy (such as heat) which are used for industrial, commercial, heating, or cooling purposes.

“Qualifying co-generation facility” means a co-generation facility that meets the requirements of the Federal Energy Regulatory Commission regarding ownership, fuel use, and operating and efficiency standards.

“Small power production facility” means a facility which produces electric energy as a primary energy source solely by the use of biomass, waste, renewable resources, or any combination thereof totaling not greater than 80 megawatts at one site.

“Qualifying small power production facility” means a small power production facility that meets the requirements of the Federal Energy Regulatory Commission regarding ownership, fuel use, fuel efficiency, and reliability.

“Interconnection costs” means the reasonable costs of connection, switching, metering, transmission, distribution, safety provisions, and administrative costs incurred by the electric utility directly related to the installation and maintenance of the physical facilities necessary to permit interconnected operations with a qualifying facility, to the extent such costs are in excess of the corresponding costs which the electric utility would have incurred if it had not engaged in interconnected operations but instead generated an equivalent amount of electric energy itself or purchased an equivalent amount of electric energy or capacity from other sources. Interconnection costs do not include any costs involved in the calculation of avoided costs.

“Avoided costs” means the incremental costs to an electric utility of electric energy or capacity or both which, but for the purchase from qualifying facilities, such utility would generate itself or purchase from another source.

(Ord. No. 321, 3/2/81)

### **§3-918 CO-GENERATION; INTERCONNECTIONS WITH QUALIFYING FACILITIES.**

Qualifying facilities desiring to interconnect with the electric system of the City shall make application to the Department of Utilities for such interconnection. Applicants shall use such forms as are prescribed by the City and shall furnish all information requested. The City shall establish reasonable standards to be met by qualifying facilities to ensure system safety and reliability of interconnected operations. Such standards may include but shall not be limited to the following areas: power factor; voltage regulations; fault, over-current, and over-under voltage protection; harmonics; synchronization; and isolation. Interconnection costs associated with the interconnection with a qualifying facility shall be paid for by such qualifying facility. Qualifying facilities shall be required to execute contractual agreements with the City before any interconnection is established. (Ord. No. 321, 3/2/81)

### **§3-919 CO-GENERATION; RATES FOR SALES OF ELECTRIC ENERGY TO QUALIFYING FACILITIES.**

Rates for sales of electric energy to qualifying facilities shall be those current standard rates

adopted from time to time by resolution of the Mayor and City Council which apply to other customers of the utility in the same classification(s) of electric service. (Ord. No. 321, 3/2/81)

### **§3-920 CO-GENERATION; RATES FOR PURCHASES OF ELECTRIC ENERGY FROM QUALIFYING FACILITIES.**

Rates for purchases of electric energy from qualifying facilities shall be established by resolution of the Mayor and City Council. Such rates shall be just and reasonable to the electric consumer of the utility and in the public interest, shall not discriminate against qualifying cogeneration and small power production facilities, and shall be related to avoided costs; however, in no case is the utility required to pay more than the avoided costs. Standard rates shall be established for purchases from qualifying facilities with a design capacity of 100 kilowatts or less. Rates for purchases from qualifying facilities with a design capacity over 100 kilowatts may be standard rates or may be by individual contracts, the terms of which are fair and reasonable. (Ord. No. 321, 3/2/81)

## **Article 10 – Housing Authority**

[Editor's Note: For provisions on the Housing Authority Board, see Section 2-209]

### **§3-1001 OWNERSHIP.**

The City Housing Authority is owned by the City and operated through the Housing Authority Commission. The Housing Authority shall constitute a body corporate and politic and shall have all the powers necessary or convenient to carry out and effectuate the purposes and provisions of the Nebraska Housing Authority Law. (Neb. Rev. Stat. §71-1529)

### **§3-1002 DEFINITIONS.**

Except as otherwise specifically provided, the definitions and terms set out in the Nebraska statutes relating to housing authorities under the Nebraska Housing Authority Law are hereby adopted by reference as they now exist or may hereafter be amended. (Neb. Rev. Stat. §71-1522)

### **§3-1003 OPERATION AND MANAGEMENT.**

The Housing Authority shall at all times observe the following duties with respect to rentals and tenant selection:

(A) It may rent or lease dwelling accommodations therein only to persons of low income, elderly, or handicapped persons of low income and displaced persons in need.

(B) There shall be no discrimination in the eligibility or occupancy of tenants on the basis of race, religion, color, creed, national origin, or ancestry.

(C) The Authority shall not accept any person as a tenant in any dwelling in the housing project if the applicant has an annual income which equals or exceeds the amount which the Authority has conclusively determined to be sufficient to enable one to secure, safe, sanitary, and uncongested dwelling accommodations within the area served by the Authority and to provide an adequate standard of living.

(D) The Authority may rent or lease to a tenant a dwelling consisting of a number of rooms which is deemed necessary to provide safe and sanitary accommodations to the occupants

without overcrowding.

(E) The Authority shall fix income limits for occupancy and rents after taking into consideration (1) family size, composition, age, physical handicaps, and other factors which might affect the rent-paying ability of the person and (2) the economic factors which affect the financial stability and solvency of the project.

(F) The Authority may accept as a tenant any displaced person or persons in need regardless of income but in no event shall such person or persons remain as a tenant or tenants of the Authority for more than a period of six months unless such person(s) also qualify as persons of low income or elderly or handicapped persons of low income.

(G) All persons of low income, elderly or handicapped persons of low income, or displaced persons in need shall be entitled to the benefits of this Article and the Authority may establish rules and regulations consistent with the purposes of this Article concerning eligibility and occupancy of the housing project or other such shelter.

(H) Nothing herein shall prohibit the right of the Authority to inquire into the financial condition, family composition, medical, personal, and employment history of any tenant or prospective tenant.

(I) The Authority shall prohibit subletting by tenants.  
(Neb. Rev. Stat. §71-1536)

### **§3-1004 RULES AND REGULATIONS.**

The Housing Authority may establish from time to time rules and regulations consistent with the purposes of this Article concerning the priority of eligible applicants for occupancy. The Authority may give preferential treatment to applicants who are service members or veterans relatives of service members or veterans, disabled service members or veterans, the elderly or disabled, those in urgent need of adequate housing or who have no adequate source of income; provided, in any such system of priority, displaced persons in need shall have a priority ahead of all other persons; and provided further, no tenant in good standing then in occupancy and qualified for continued occupancy shall have his tenancy terminated in order to provide dwelling units for classes or categories of applicants as the Authority may establish. (Neb. Rev. Stat. §71-1547)

### **§3-1005 REPORTS.**

The Housing Authority shall keep an accurate account of all its activities and of all its receipts and disbursements and shall make an annual report at the second regular meeting in January of each year to the City Council. (Neb. Rev. Stat. §71-1552)

### **§3-1006 CONTINUED EXISTENCE AS HOUSING AGENCY.**

(A) The local housing authority established under prior state law and in existence on January 1, 2000, shall have continued existence as a housing agency under the Nebraska Housing Agency Act.

(B) The local housing agency shall conduct its operations consistent with the Nebraska Housing Agency Act. All property rights in land, buildings, records, and equipment and any funds, money, revenue, receipts, or assets of the authority belong to the agency as successor. All obligations, debts, commitments, and liabilities of the authority are obligations, debts, commit-

ments, and liabilities of the successor agency.

(C) Any resolution by the Authority and any action taken by the Authority prior to January 1, 2000, with regard to any project or program which is to be completed within or to be conducted for a 12-month period following January 1, 2000, and which resolution or action is lawful under state law as it existed prior to January 1, 2000, is a lawful resolution or action of the successor agency and binding upon the successor agency and enforceable by or against the agency notwithstanding that such resolution or action is inconsistent with, not authorized by, or prohibited under the provisions of the Nebraska Housing Agency Act.

(D) All Commissioners of the local housing agency and all officers, legal counsel, technical experts, directors, and other appointees or employees of the agency holding office or employment by virtue of any such prior law on January 1, 2000, shall be deemed to have been appointed or employed under the Nebraska Housing Agency Act.

(Neb. Rev. Stat. §71-1576) (Ord. No. 642, 7/5/00)

## **Article 11 – Utilities Generally**

### **§3-1101 DIVERSION OF SERVICES; CIVIL ACTION.**

(A) For purposes of this section, the definitions found in Neb. Rev. Stat. §25-21,275 shall apply.

(B)(1) The City may bring a civil action for damages against any person who commits, authorizes, solicits, aids, abets, or attempts bypassing, tampering, or unauthorized metering when such act results in damages to a city utility. The City may bring a civil action for damages pursuant to this section against any person receiving the benefit of utility service through means of bypassing, tampering or unauthorized metering.

(2) In any civil action brought pursuant to this section, the City shall be entitled, upon proof of willful or intentional bypassing, tampering, or unauthorized metering, to recover as damages:

- (a) The amount of actual damage or loss if the amount of the damage or loss is susceptible of reasonable calculation; or
- (b) Liquidated damages of \$750.00 if the amount of actual damage or loss is not susceptible of reasonable calculation.

(3) In addition to damage or loss under subdivision (2)(a) or (b), the City may recover all reasonable expenses and costs incurred on account of the bypassing, tampering, or unauthorized metering including but not limited to disconnection, reconnection, service calls, equipment, costs of the suit, and reasonable attorney's fees in cases within the scope of Neb. Rev. Stat. §25-1801. (Neb. Rev. Stat. §25-21,276)

(C)(1) There shall be a rebuttable presumption that a tenant or occupant at any premises where bypassing, tampering or unauthorized metering is proven to exist caused or had knowledge of such bypassing, tampering, or unauthorized metering if the tenant or occupant:

- (a) Had access to the part of the utility supply system on the premises where the

bypassing, tampering, or unauthorized metering is proven to exist and

- (b) Was responsible or partially responsible for payment, either directly or indirectly, to the utility or to any other person for utility services to the premises.

(2) There shall be a rebuttable presumption that a customer at any premises where bypassing, tampering, or unauthorized metering is proven to exist caused or had knowledge of such bypassing, tampering, or unauthorized metering if the customer controlled access to the part of the utility supply system on the premises where the bypassing, tampering, or unauthorized metering was proven to exist. (Neb. Rev. Stat. §25-21,277)

(D) The remedies provided by this section shall be deemed to be supplemental and additional to powers conferred by existing laws. The remedies provided in this section are in addition to and not in limitation of any other civil or criminal statutory or common-law remedies. (Neb. Rev. Stat. §25-21,278)  
(Ord. No. 361, 9/6/83) (Am. by Ord. No. 693, 6/2/03)

### **§3-1102 DISCONTINUANCE OF SERVICE, NOTICE PROCEDURE.**

(A) The City shall have the right to discontinue utility services and remove its properties if the charges for such services are not paid within seven days after the date that the charges become delinquent. Before any termination, the City shall first give notice by first class mail or in person to any domestic subscriber whose service is proposed to be terminated. If notice is given by first class mail, such mail shall be conspicuously marked as to its importance. Service shall not be discontinued for at least seven days, weekends and holidays excluded, after notice is sent or given. As to any subscriber who has previously been identified as a welfare recipient to the City by the Department of Health and Human Services, such notice shall be by certified mail and notice of such proposed termination shall be given to HHS.

(B) The notice shall contain the following information:

- (1) The reason for the proposed disconnection;
- (2) A statement of the intention to disconnect unless the domestic subscriber either pays the bill or reaches an agreement with the City regarding payment of the bill;
- (3) The date upon which service will be disconnected if the domestic subscriber does not take appropriate action;
- (4) The name, address, and telephone number of the employee or department to whom the domestic subscriber may address an inquiry or complaint;
- (5) The domestic subscriber's right, prior to the disconnection date, to request a conference regarding any dispute over such proposed disconnection;
- (6) A statement that the City may not disconnect service pending the conclusion of the conference;
- (7) A statement to the effect that disconnection may be postponed or prevented upon presentation of a duly licensed physician's certificate which shall certify that the domestic subscriber or a resident within such subscriber's household has an existing illness or handicap which would cause such subscriber or resident to suffer an immediate and serious health hazard by the

disconnection of the City's service to that household. Such certificate shall be filed with the City within five days of receiving notice under this section and will prevent the disconnection of the City's service for a period of 30 days from such filing. Only one postponement of disconnection shall be allowed under this subsection for each incidence of nonpayment of any past due account;

(8) The cost that will be borne by the domestic subscriber for restoration of service;

(9) A statement that the domestic subscriber may arrange with the City for an installment payment plan;

(10) A statement to the effect that those domestic subscribers who are welfare recipients may qualify for assistance in payment of their utility bill and that they should contact their caseworker in that regard; and

(11) Any additional information not inconsistent with this section which has received prior approval from the City Council.

(C) A domestic subscriber may dispute the proposed discontinuance of service by notifying the City with a written statement that sets forth the reasons for the dispute and the relief requested. If a statement has been made by the subscriber, a conference shall be held before the City may discontinue services.

(D) The procedures adopted by the City Council for resolving utility bills, three copies of which are on file in the office of the City Clerk, are hereby incorporated by reference in addition to any amendments thereto and are made a part of this section as though set out in full.

(E) This section shall not apply to any disconnections or interruptions of service made necessary by the City for reasons of repair or maintenance or to protect the health or safety of the domestic subscriber or of the general public.

(Neb. Rev. Stat. §70-1602) (Ord. No. 394, 11/5/84) (Am. by Ord. No. 567, 8/4/97)

### **§3-1103 DIVERSION OF SERVICES, METER TAMPERING, UNAUTHORIZED RECONNECTION, PROHIBITED; EVIDENCE.**

(A) It is an offense for any person:

(1) To connect any instrument, device, or contrivance with any wire supplying or intended to supply electricity or electric current or to connect any pipe or conduit supplying water without the knowledge and consent of the City, in such manner that any portion thereof may be supplied to any instrument by or at which electricity, electric current, or water may be consumed without passing through the meter made or provided for measuring or registering the amount or quantity thereof passing through it;

(2) To knowingly use or knowingly permit the use of electricity, electric current, or water obtained unlawfully pursuant to this section;

(3) To reconnect electrical or water service without the knowledge and consent of the City if the service has been disconnected pursuant to Neb. Rev. Stat. §70-1601 to 70-1615 or Section 3-1102 of this code; or

(4) To willfully injure, alter, or by any instrument, device, or contrivance in any man-

ner to interfere with or obstruct the action or operation of any meter made or provided for measuring or registering the amount or quantity of electricity, electric current, or water passing through it without the knowledge and consent of the City.

(B) Proof of the existence of any wire, pipe, or conduit connection or reconnection or of any injury, alteration, interference, or obstruction of a meter is prima facie evidence of the guilt of the person in possession of the premises where such connection, reconnection, injury, alteration, interference, or obstruction is proved to exist.

(Neb. Rev. Stat. §28-515.02) (Ord. No. 545, 1/3/96) (Am. by Ord. No. 692, 6/2/03)

### **§3-1104 DENIAL OF UTILITY SERVICE; WHEN PROHIBITED.**

No applicant for the services of a public or private utility company furnishing water, natural gas, or electricity in the City shall be denied service because of unpaid bills for similar service which are not collectible at law because of the statutes of limitation or discharge in bankruptcy proceedings. (Neb. Rev. Stat. §70-1601) (Ord. No. 624, 4/5/99)

## **Article 12 – Penal Provision**

### **§3-1201 VIOLATIONS; PENALTY.**

(A) Any person or any person's agent or servant who violates any of the provisions of this chapter, unless otherwise specifically provided herein, shall be deemed guilty of an offense and upon conviction thereof shall be fined in any sum not exceeding \$500.00. A new violation shall be deemed to have been committed every 24 hours of failure to comply with the provisions of this chapter.

(B)(1) Whenever a nuisance exists as defined in this chapter, the City may proceed by a suit in equity to enjoin, abate, and remove the same in the manner provided by law.

(2) Whenever in any action it is established that a nuisance exists, the court may, together with the fine or penalty imposed, enter an order of abatement as a part of the judgment in the case.

(Neb. Rev. Stat. §17-505, 18-1720, 18-1722) (Am. by Ord. No. 645, 7/5/00)