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CHAPTER 7 – PUBLIC UTILITIES

Article 1 – Utilities Generally

SECTION 7-101: CITY POWERS; RATE SETTING

A. The city currently owns and operates a water supply and distribution system and a sanitary sewer disposal and treatment system. The city has the right and power to tax assets and collect from its residents such tax, rent, or rates for the use and benefit of the water used or supplied to them by the water system and for use of the sewer system. Customers of the Water and Sewer Departments shall be charged a rate which is the sum of three charges: (1) the base charge; (2) the flow charge; and (3) the abnormal charge; provided, the monthly sewer service charge for a sewer user connected to the system shall not be less than the base charge.

B. The City Council may classify the customers of the city Sewer Department for the purpose of rental fees, provided that such classifications are reasonable and do not discriminate unlawfully against any consumer or group of consumers. The classifications must be approved by the Environmental Protection Agency relative to the user charge grant condition.

C. The City Council is authorized to establish by ordinance such rates for water and sewer service as may be deemed fair and reasonable. All such rates, taxes, or rent shall be a lien upon the premises or real estate for which the same is used or supplied and such taxes, rents, or rates shall be paid and collected and such lien enforced in such manner as the council shall by ordinance direct and provide. All such rates, taxes, or rent shall be on file in the office of the city clerk for public inspection.

(Neb. Rev. Stat. §§17-538, 17-542, 18-509) (Ord. Nos. 688, 618)

SECTION 7-102: MANDATORY USE OF CITY SERVICES

All residents of the city shall be required to subscribe to city utility services, which shall include electricity that may be supplied by a non-municipal power company. Said residents shall be subject to the assessment and payment of charges for such utility services, as set from time to time by the City Council.

SECTION 7-103: CONSUMER'S APPLICATION; SERVICE DEPOSIT; TAP FEES

A. Every person or persons desiring utility services must make application therefor to the city clerk, who shall require the applicant to make a joint service deposit and tap fees for water and sewer service in such amounts as set by resolution by the City Council and kept on file at the city office. At the time any service deposit is returned to the consumer, the city will not pay any interest that may have accrued on such amount.

B. The application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the city clerk. Utility services shall not be supplied to any house or private service pipe except upon the order of the maintenance supervisor.

C. No applicant for the services of a public or private utility company furnishing water, natural gas, or electricity in this city shall be denied service because of unpaid bills for similar service which are not collectible at law because of statutes of limitations or discharge in bankruptcy proceedings.

(Neb. Rev. Stat. §§17-537, 17-925.02, 19-2701, 70-1601)

SECTION 7-104: SERVICE CONTRACT; NOT TRANSFERABLE

A. The rules, regulations, and rates set forth in this chapter shall be considered a part of every application hereafter made for utility services and shall be considered a part of the contract between the city and every consumer now or hereafter served.

B. The making of application on the part of any applicant for the use of the city utilities by a new consumer thereof and the furnishing of utility services 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 maintenance supervisor may cut off or disconnect the water service from the building or premises of such violation. No further connection for service to said building or premises shall again be made save or except by order of said supervisor.

C. Contracts for utility services 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 or if the said premises are destroyed by fire or other casualty, he or she shall at once inform the maintenance supervisor, who shall cause the utility services to be discontinued at the said premises. If the consumer should fail to give such notice, he or she shall be charged for utility services monthly until the city is otherwise advised of such circumstances.

D. Every such utility service contract shall automatically, and without further notice or action being required, immediately terminate upon the happening of any of the following events:

1. Whenever a consumer who is the owner of the premises to which utility service is provided, sells or rents the same to other persons; or
2. Whenever a consumer or applicant whose status is that of a lessee of the premises to which utility service is provided, subleases or assigns his or her lease or tenancy of any type to other persons or permanently quits or leaves

SECTION 7-105: BILLING AND COLLECTIONS; DELINQUENCY; TERMINATION

A. Joint water and sewer bills shall be due and payable in cash monthly at the office of the city clerk. The maintenance supervisor shall read water meters, or cause the same to be read, monthly between the 25th day and the last day of the month during which service is used. Bills shall be mailed on the 15th day of each month and shall be payable by the 25th day of each month.

B. The city, in rendering bills and statements, is hereby authorized to set forth therein the new amount that shall be due without setting forth therein the amount of the discount, if any. When bills are so rendered, the city is authorized and empowered to collect an additional charge of not more than 10% of the water and sewer use charges for the current month, when bills or statements rendered are not paid at maturity. Said additional charge shall not be added by way of penalty but as a means of economizing in bookkeeping and in rendering bills and statements by which the items of discount are omitted therefrom.

C. Bills and statements not paid by their due date of the 25th shall be deemed to be delinquent, whereupon the city clerk shall give a written disconnect notice to the customer of such delinquency on the 1st of the month, along with the next water bill. Delinquent amounts are to be paid by the 15th of the month. If payment or arrangements have not been made by such date, a courtesy call shall be given on the 15th and disconnects shall be done on the 16th, pursuant to the provisions of Section 7-106. Once the service has been disconnected, there shall be charged a reconnection fee as set by resolution of the City Council and kept on file at the office of the city clerk.

D. Tenants of rental property will be required to make a deposit with the water/sewer service application, in an amount set by resolution of the City Council and filed at the office of the city clerk. Such deposit will be refunded to the customer when a move-out form is turned in and the final bill is paid in full. An extension form may be provided to the customer per request. Such form must be submitted in person and approved prior to 3:30 p.m. on the day before the actual date given for disconnection.
(Neb. Rev. Stat. §§17-538, 17-542) (Am. Ord. No. 711, 7/18/16)

SECTION 7-106: DISCONTINUANCE OF SERVICE; NOTICE; PROCEDURE

A. The city shall have the right to discontinue services and remove its properties if the charges for such services are not paid as provided in Section 7-105. Before any termination, the maintenance supervisor 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. As to any subscriber who has previously been identified to the city as a recipient of assistance from the Department of Social Services, such notice shall be by certified mail and notice of such proposed termination shall be given to Social Services.

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 department 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 department 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 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 utility's service to that household. Such certificate shall be filed with the city clerk within five days of receiving notice under this section and will prevent the disconnection of the utility services for a period of 30 days from such filing. Only one postponement of disconnection shall be allowed under this subsection for each incidence of non-payment of any due account;
8. The cost that will be borne by the domestic subscriber for a 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 maintenance supervisor 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 utility may discontinue services.

D. This section shall not apply to any disconnection or interruptions of service made necessary by the utility 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. §§70-1603 through 70-1608)

SECTION 7-107: LIEN

In addition to all other remedies, if a customer shall for any reason remain indebted to the city for utilities service furnished, such amount due, together with any rents and charges in arrears, shall be considered a delinquent utility rent which is hereby declared to be a lien upon the real estate for which the same was furnished. 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 utility charges. It shall be the duty of the City clerk to provide to the mayor and council monthly a list of all unpaid accounts due for utility services, together with a description of the premises

served. The report shall be examined and if approved by the 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, 17-925.01, 18-503)

SECTION 7-108: DIVERSION OF SERVICES; METER TAMPERING, UNAUTHORIZED RECONNECTION PROHIBITED; EVIDENCE

A. Any person who connects any instrument, device, or contrivance with any wire supplying or intended to supply electricity or electric current or connects any pipe or conduit supplying gas or water, without the knowledge and consent of the supplier of such products, in such manner that any portion thereof may be supplied to any instrument by or at which electricity, electric current, gas, 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, and any person who knowingly uses or knowingly permits the use of electricity, electric current, gas, or water obtained unlawfully pursuant to this section, shall be deemed guilty of an offense.

B. If water meters are not in use in the city, any person who connects any pipe or conduit supplying water without the knowledge and consent of the supplier of such product in such manner that any portion thereof may be supplied to any instrument by or at which water may be consumed without the knowledge and consent of the supplier, and any person who knowingly uses or knowingly permits the use of water obtained unlawfully pursuant to this section, shall be deemed guilty of an offense.

C. Any person who reconnects electrical, gas, or water service without the knowledge and consent of the supplier of such service if the service has been disconnected pursuant to Neb. Rev. Stat. §§70-1601 to 70-1615 or Section 7-106 of this code shall be deemed guilty of an offense.

D. Any person who willfully injures, alters, or by any instrument, device, or contrivance in any manner interferes with or obstructs the action or operation of any meter made or provided for measuring or registering the amount or quantity of electricity, electric current, gas, or water passing through it without the knowledge and consent of the supplier of the electricity, electric current, gas, or water passing or intended to pass through such meter shall be deemed guilty of an offense.

E. 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. §§25-21,275 through 25-21, 278, 28-515.02)

SECTION 7-109: DIVERSION OF SERVICES; PENALTY

A. 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.

B. 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:

1. The amount of actual damage or loss if such amount may be reasonably calculated; or

2. Liquidation damages of \$750.00 if the amount of actual damage or loss cannot be reasonably calculated.

C. In addition to damage or loss under subdivision (B)(1) or (2), 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.

D. 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 (1) 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 (2) 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.

E. 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.

F. The remedies provided by this section shall be deemed to be supplemental and additional to powers conferred by existing laws, and 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. §§25-21,276, 25-21,277)

Article 2 – Water Department

SECTION 7-201: OPERATION AND FUNDING

A. The city owns and operates the Water Department through the maintenance supervisor. The mayor and 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.

B. The maintenance supervisor shall have the direct management and control of the Water Department and shall faithfully carry out the duties of his office. He 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 mayor and City Council. The council shall set the rates to be charged for services rendered by ordinance 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)

SECTION 7-202: DEFINITIONS

The following definitions shall be applied throughout this section. 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.

SECTION 7-203: MANDATORY HOOKUP

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. All persons whose property is within 300 feet of a main shall be required, upon notice by the mayor and City Council, to hook up with the city water system.

B. The city may furnish water service to persons within its corporate limits whose premises are not within 300 feet of the said main; 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 water service to persons whose property line is not within 300 feet of the said main.

C. Each building hereafter erected shall be connected with the water system at the time of its erection. In the event any owner, occupant, or lessee shall neglect, fail, or refuse to make such connection within a period of ten days after the notice has been given to do so by regular mail or by publication in a newspaper in or of general circulation in the city, the mayor and City Council shall have the power to cause the same to be done, to assess the cost thereof against the property, and to collect the water bills in the manner provided for collection of other special taxes or assessments or to collect in the manner provided for the collection of water bills as provided herein.

D. Private wells previously constructed and operating prior to the city's establishment of its water system shall be permitted to operate, providing that such wells comply with other existing, applicable ordinances and do not violate applicable state laws or regulations promulgated by the Nebraska Department of Health.

(Neb. Rev. Stat. §17-532)

SECTION 7-204: SERVICE TO NONRESIDENTS

The Water Department shall not supply water service to any person outside the corporate limits without special permission from the mayor and City Council; provided, the entire cost of laying mains, service pipe, and supply pipe shall be paid by the consumer. Nonresidents shall pay such tap fees as have been set by the council by resolution. Nothing herein shall be construed to obligate the city to provide water service to nonresidents. (Neb. Rev. Stat. §§17-537, 19-2701)

SECTION 7-205: NEW WATER LINES; LEAD PROHIBITED; COMPLIANCE

A. Any pipe, solders, or flux used in the installation or repair of any residential or nonresidential building which is connected to the public water supply system shall be lead-free. For purposes of this section, "lead-free" shall mean (A) solders and flux, not

more than .2% lead and (B) pipe and pipe fittings, not more than .25% lead.

B. All new lines shall have check valves installed and such installation shall be inspected and approved by the maintenance supervisor. He shall have the authority to refuse to turn on the city water on any premises until the plumbing has been made to comply with all statutory sections.

(Neb. Rev. Stat. §71-5301)

SECTION 7-206: WATER METERS; INSTALLATION CHARGE; RULES

The purpose of this subsection is to require accurate water meters as a condition precedent to the use of water from the Water Department. The following rules shall apply:

A. Any new building or structure erected or constructed in the city or within its extraterritorial jurisdiction where water service is provided shall contain a water meter with remote readouts and fittings to accommodate connections therewith of not less than 5/8 inch.

B. All meters may be tested at the customer's request and expense any reasonable number of times; provided, if the test shows the meter to be running 2% or more fast, the expense of such test shall be borne by the city.

C. The city reserves the right to test any water service meter at any time and, if said meter is found to be inaccurate or defective, to have it repaired, or if not repairable, to have it replaced, in either case at the expense of the city.

D. 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 monthly consumption on the same month during the preceding year; provided, if no basis of comparison exists, the customer shall be charged such amount as may be reasonably fixed by the maintenance supervisor.

E. The installation charge for a water meter shall be set by the City Council by resolution and kept on file in the office of the city clerk.

F. 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 expense; provided, if the customer permits or allows a water meter to be damaged, injured, or destroyed through his or her own recklessness, carelessness, or neglect so that the meter must be repaired or replaced, the maintenance supervisor 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.

SECTION 7-207: INSTALLATION; EXPENSE

A. The city shall tap the main and supply the meter, which shall be purchased from the city and the cost will be included in the hookup charge. No person other than the maintenance supervisor or his or her duly authorized agent shall tap the water main.

B. The customer shall pay all tap fees, capital facilities charges, and such other fees and charges as may be established from time to time by further ordinances or resolutions of the City Council; provided, a tap for a 3/4 inch pipe shall be deemed to be the basis for the minimum tap fee.

C. The customer shall, at his or her own expense, bring water service from the corporation cock and shall employ a licensed master plumber who shall install the water

service to the place of dispersion. The customer shall also install a stop box at the lot line. All of the foregoing requirements shall be performed strictly in accordance with the plumbing code as set forth in Section 9-301 and all other applicable codes, rules and regulations.

D. All customers, whether within or outside the city corporate limits, shall be responsible for installation of their water meters within buildings, when appropriate, or in below-ground pits. Subject to the foregoing, the maintenance supervisor shall have discretionary authority to direct the place of installation of all water meters, piping and related water system appurtenances.

SECTION 7-208: REPAIRS AND MAINTENANCE; PIPES; METERS

A. The property owner is responsible for the general condition of the water service including all piping and appurtenances beyond the corporation cock. The owner, at his or her own expense, shall maintain, repair and renew the service and appurtenances in accordance with the rules and regulations set forth herein. The owner shall maintain the service in such manner that it does not leak water and does not become a hazard to the public.

B. If the Water Department discovers a need for any maintenance, repair or renewal of a water service, the owner and customer shall be given notice of this condition. It will then be the responsibility of the owner to see that the condition is remedied. Materials used for repairs or modifications shall be of the type and size specified by the city. (Neb. Rev. Stat. §17-537)

SECTION 7-209: PLUMBER'S DUTIES AND LIABILITY

It shall be unlawful for any plumber 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 taking water from said system until such plumber shall have first procured a license from the State of Nebraska. All work by plumbers shall be done in the manner required by the maintenance supervisor and shall be at all times subject to his inspection and approval. Plumbers who connect with the public water system shall be held responsible for any damage to the pipes or the public ways and property and shall restore all excavated streets to the complete satisfaction of the maintenance supervisor. It shall be unlawful to cover or conceal willfully any defective or unsatisfactory work. (Neb. Rev. Stat. §17-537)

SECTION 7-210: TAPS AND PLUMBING WORK; PERMISSIBLE TIMES

All taps or plumbing work done on or to the city water system shall be done during normal working hours.

SECTION 7-211: INSTALLATION OR REPAIR; PROCEDURE

A. In making excavations in streets, alleys, or sidewalks for the purpose of installing pipe or making repairs, the paving and earth must be removed and deposited in a manner that will be least inconvenient 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.

B. 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 maintenance supervisor shall have the duty to finish or correct the work and all expenses so incurred shall be charged to the consumer.

C. All installations or repairs of pipes require an inspection by the maintenance supervisor. The inspection shall be made when connections or repairs are completed and before the pipes are covered. It is the customer's responsibility to notify the supervisor 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 supervisor; provided, the said rules, regulations, and specifications have been reviewed and approved by the mayor and City Council. (Neb. Rev. Stat. §§17-537, 71-5301)

SECTION 7-212: WATER RATES

All water consumers shall be liable for the minimum rate provided by ordinance as provided in Section 7-101 unless and until a consumer shall direct the maintenance supervisor to shut off the water at the stop box, in which case he or she shall not be liable thereafter for water usage until the water is turned on again. (Neb. Rev. Stat. §§17-540, 17-542)

SECTION 7-213: BILLING AND COLLECTIONS

The city clerk shall bill the consumers and collect all money received by the city on the account of the Water Department. He or she shall faithfully account for and pay to the city treasurer all revenue collected. Billing and collection procedures are set forth in Section 7-105. (Neb. Rev. Stat. §17-540)

SECTION 7-214: RIGHT OF ENTRY FOR INSPECTION

The maintenance supervisor or his duly authorized agent 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)

SECTION 7-215: 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 maintenance supervisor.

SECTION 7-216: FIRE HYDRANTS

A. 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 (A) members of the Fire Department under the orders of the fire chief or the assistant chief or (B) employees of the Water Department 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.

B. Fire hydrants located upon privately owned real estate, except those located on easements provided for fire training facilities or on publicly owned streets not dedicated to public use are the property of the owner of said real estate and are to be used for fire protection. These hydrants are designated "private fire hydrants." Where it is the owner's intention that such hydrants are to be used by the city Fire Department or other public firefighting authority, they shall fully conform to the same requirements as public hydrants and, without limitation, to all of the specifications and color coding. In addition, all such hydrants shall have a 3-inch black strip on the hydrant barrel. Copies of hydrant specifications are kept on file at the city Fire Department. Private hydrants used for public fire protection may be maintained by the city in its sole discretion.

SECTION 7-217: 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)

SECTION 7-218: BACKFLOW PREVENTION; CUSTOMER INSTALLATION AND MAINTENANCE; TESTING

A. A customer of the Water Department may be required by the maintenance supervisor to install and maintain at his or her expense a properly located backflow prevention device appropriate to the potential hazards set forth in Nebraska Department of Health, Title 179, and approved by the maintenance supervisor.

B. The customer shall make application to the maintenance supervisor to install a required backflow prevention device on a form provided by the city. The application shall contain at a minimum the name and address of the applicant, the type of potential hazard protection required, and the type of backflow device to be installed, including brand and model number. The supervisor shall approve or disapprove the application based on his opinion of whether such installation will protect the city water distribution system from potential backflow and cross-connection hazards.

C. The installation of the device shall be subject to all other sections of this code dealing with installation of plumbing, including the use of a licensed plumber, if applicable.

D. Every backflow prevention device equipped with a test port shall be tested as often as required by the city but at least once each year by a Grade 6 certified water operator, with test results certified to the city as often as required but in no case more than 30 calendar days after the test. Such certification shall be made on a form available at the office of the city clerk.

E. All customers of the Water Department shall be required to report to the maintenance supervisor at least every five years any potential backflow hazards which may be on their premises.

F. Any decision of the maintenance supervisor may be appealed to the City Council.

SECTION 7-219: RESTRICTED USE

The mayor and City Council or the maintenance supervisor 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, drought, 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)

SECTION 7-220: WELLS AND OTHER UNDERGROUND FACILITIES; DISTANCE FROM CITY WATER SOURCES

A. It shall be unlawful to cause pollution to or be in a position to cause pollution to the public water supply by willfully or carelessly allowing the following facilities, acts, or events within the specified footage of any city public water supply well. The following facilities, acts, or events shall be defined as nuisances for purposes of this section:

Water well	1,000 feet
Sewage lagoon	1,000 feet
Land application of municipal/industrial waste material	1,000 feet
Feedlot or feedlot runoff	1,000 feet

Underground disposal system (septic system, etc.)	500 feet
Corral	500 feet
Pit toilet, vault toilet	500 feet
Wastewater holding tank	500 feet
Sanitary landfill/dump	500 feet
Chemical or petroleum product storage	500 feet
Sewage treatment plant	500 feet
Sewage wet well	500 feet
Sanitary sewer connection	100 feet
Sanitary sewer manhole	100 feet
Sanitary sewer line	50 feet

(Nebraska DHHS 4/4/10)

B. It shall be unlawful for any person, corporation, or other legal entity to drill and/or operate any of the above-named facilities within the corporate limits of the city or its extraterritorial jurisdiction without first having obtained the proper permit from the City Council. In order to obtain a permit to drill and/or operate any of the said facilities, the owner of property on which the proposed facility is to be located must make application on the proper form provided by the city. Such application must be presented to the City Council at any regular or special meeting. After reviewing the application of any person desiring to drill or operate any of the facilities described above, then the council must approve or deny said permit.

C. In the event any facility as described herein is installed or operated (1) without first having obtained a permit from the city and/or (2) within the designated number of feet from the city water supply, then such facility shall be deemed a nuisance and the City Council shall abate such facility as a public nuisance pursuant to Chapter 3, Article 5 of this code.

Article 3 – Sewer Department

SECTION 7-301: OPERATION AND FUNDING

A. The city owns and operates the sewer system through the maintenance supervisor. The mayor and City Council, for the purpose of defraying the cost of the management and maintenance of the sewer 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 sewer maintenance fund.

B. The maintenance supervisor shall have the direct management and control of the Sewer Department and shall faithfully carry out the duties of his office. He 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 mayor and City Council. The said council shall set the rates to be charged for services rendered by ordinance and shall file a copy of the rates in the office of the city clerk for public inspection during office hours. (Neb. Rev. Stat. §17-925.01)

SECTION 7-302: DEFINITIONS

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

"Building drain" shall mean that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer beginning 5 feet outside the inner face of the building wall.

"Building sewer" shall mean and include that part of a house or building drainage system extending from the house or building drain to its connection with the main sewer.

"Combined sewer" shall mean a sewer receiving both surface runoff and sewage.

"Maintenance supervisor" shall mean the superintendent of the city sewage system or his authorized deputy, agent or representative.

"Natural outlet" shall mean any outlet 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.

"Public sewer" shall mean a sewer that is controlled by public authority.

"Sanitary sewer" shall mean a sewer that carries sewage and to which storm, surface, and ground waters are not intentionally admitted.

"Sewage" shall mean a combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with such ground, surface, and storm waters as may be present.

"Sewage treatment plant" shall mean any arrangement of devices and structures used for treating sewage.

"Sewer" shall mean a pipe or conduit for carrying sewage.

"Sewer system" shall mean and include all facilities for collecting, pumping, treating, and disposing of sewage.

"Watercourse" shall mean a channel in which a flow of water occurs, either continuously or intermittently.

(Am. Ord. Nos. 618, 6/15/09; 641, 4/19/10)

SECTION 7-303: UNLAWFUL DEPOSITS AND DISCHARGES; PROHIBITED FACILITIES

A. 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 one mile of the corporate limits thereof, or in any area under the jurisdiction of said city.

B. It shall be unlawful to discharge to any natural outlet within the city, within one mile of the corporate limits thereof or in any area under its jurisdiction, any sewage or other polluted waters, except where suitable treatment has been provided in accordance with subsection (E) below.

C. Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, cesspool, or other similar facility intended or used for the disposal of sewage. Septic tanks may be installed as provided in Section 7-318.

D. Storm water and all other unpolluted drainage including surface water, subsurface drainage, ground water, and roof runoff shall be discharged to specifically designated combined sewers or storm sewers or to a natural outlet approved by the maintenance supervisor. Industrial cooling water or unpolluted process water may be discharged, on approval of the maintenance supervisor, to a storm sewer, combined sewer, or natural

outlet. The contributor of any identifiable discharge of polluted water to the sanitary sewer system shall be held responsible for reimbursing the city for such costs, which shall be as determined by the maintenance supervisor. It shall further be unlawful to connect or maintain connected to the sanitary sewer system any pump which pumps any of the above-identified kinds of water for any purpose whatsoever.

E. No person shall discharge or cause to be discharged any hazardous waters or wastes into the city sewer system. Specific prohibitions in reference to hazardous discharges, options for handling the same, compliance procedures, and penalties for violations shall be as provided by the requirements of applicable regulations, laws, codes, and ordinances including 40 C.F.R., Part 403.

F. In addition to the other remedies that are provided by this chapter for violations of this code, the city shall have the right to secure the abatement of any connection or discharging violation of this section.

SECTION 7-304: MANDATORY HOOKUP

A. The owner of any house, building, or property used for human 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 sewer line of the city is hereby required at the owner's expense to install suitable toilet facilities therein and to connect such facilities directly with the said public sewer in accordance with the provisions of this article within ten days after date of official notice to do so, provided that said public sewer is within 300 feet of the property line.

B. The city may furnish sewer service to persons within its corporate limits whose property line is not within 300 feet of the said public sewer with permission from the mayor and City Council, provided that 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 persons whose property line is not within 300 feet of the said public sewer.

C. Each building hereafter erected shall be connected with the sewer system at the time of its erection. In the event that any property owner, occupant, or lessee shall neglect, fail, or refuse to make such a connection with the public sewer within a period of ten days after notice has been given to him or her to do so by registered mail or by publication in a newspaper in or of general circulation in the city, the mayor and City Council shall have the power to cause the same to be done, to assess the cost thereof against the property, and to collect the assessment thus made in the manner provided for collection of other special taxes and assessments or to collect in the manner provided for the collection of sewer bills as provided herein.

(Neb. Rev. Stat. §§17-149.01, 18-503)

SECTION 7-305: SERVICE TO NONRESIDENTS

Any person whose premises are located outside the corporate limits of the city and who desires to install a house or building sewer that will be connected with the city sewer system shall file a written application with the city clerk for a permit for such connection, setting forth the name of the owner, occupant or lessee of the premises, the use to which the premises is devoted and such other information as the City Council may require. The council may approve or deny such application in its absolute discretion. If it approves the application, it may do so by attaching whatever conditions to such approval as determined necessary. (Neb. Rev. Stat. §§18-508, 19-2701)

SECTION 7-306: INSTALLATION EXPENSE

All costs and expenses incidental to the installation and connection of the building sewer shall be borne by the owner, who shall indemnify the city from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer. Any applicant for a permit to connect his or her property to the sanitary sewer system shall be required to pay to the city a connection charge in the nature of a tap fee and also an impact fee, both of which shall be in addition to and not in substitution for any and all recurrent monthly charges relating to water usage, sewer use or rental, or other charges or assessments which may be levied by the city from time to time. All connection charges and impact fees for residential, commercial and industrial usage shall be set by resolution of the City Council and kept on file at the office of the city clerk. (Neb. Rev. Stat. §18-503)

SECTION 7-307: REPAIRS AND MAINTENANCE

A. The Sewer Department may require the owner of any property which is 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. All replacements and repairs made by the customer shall be done in the manner and with the materials approved by the maintenance supervisor, provided the same have been previously approved by the City Council.

B. 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 maintenance supervisor shall complete the work and charge the cost of such repairs or replacement to the customer.

(Neb. Rev. Stat. §18-1748)

SECTION 7-308: PLUMBER'S DUTIES AND LIABILITY

It shall be unlawful for any plumber to do any work upon any of the pipes or appurtenances of the sewer system or to make any connection with or extension of the pipes of any consumer using the said system until such plumber shall have first procured a license from the State of Nebraska. All work by plumbers shall be done in the manner required by the maintenance supervisor and shall be at all times subject to his inspection and approval. All work by plumbers shall be done in the manner required by the maintenance supervisor and shall be at all times subject to his inspection and approval. Plumbers who connect with the public sewer system shall be held responsible for any damage to the pipes or the public ways and property and shall restore all excavated streets to the complete satisfaction of the maintenance supervisor. It shall be unlawful to cover or conceal willfully any defective or unsatisfactory work. (Neb. Rev. Stat. §17-537)

SECTION 7-309: INSTALLATION OR REPAIR; PROCEDURE, MATERIALS

The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of the 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.

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.

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 gastight and watertight, and verified by proper testing. Any deviation from the prescribed procedures and materials must be approved by the superintendent before installation.

All installation or repair of any part of the sewerage system shall be done under the supervision of the maintenance supervisor and strictly in accordance with the rules, regulations, and specifications on file with the city clerk and prescribed for such installation by the city engineer, provided that the said rules, regulations, and specifications have been reviewed and approved by the mayor and City Council. Where the material proposed to be used for sewerage system installation or repairs is not among those on file in the clerk's office, a determination shall be made and expense paid using the same procedures as prescribed for determinations of materials for water mains, supply lines, and service lines. (Neb. Rev. Stat. §18-503)

SECTION 7-310: INSTALLATION; USE OF EXISTING SEWERS

Old building sewers and drains may be used in connection with new buildings or new plumbing only when they are found, on examination by the maintenance supervisor, to conform in all respects to the requirements governing new sewers and drains. If the old work is found defective or otherwise unsatisfactory, the supervisor shall notify the owner to make the necessary changes to conform to the provisions of the municipal code.

SECTION 7-311: INSTALLATION; INDEPENDENT CONNECTION; EXCEPTION

A separate and independent building sewer shall be provided for every building. 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. (Neb. Rev. Stat. §18-503)

SECTION 7-312: INSTALLATION; UNLAWFUL CONNECTION; POLLUTED DRAINAGE

No person shall make connection of roof downspouts, interior and 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 maintenance supervisor for purposes of disposal of polluted surface drainage. If responsibility can be determined, the party responsible for disposal of polluted surface drainage into the public sanitary sewer shall pay a user charge equivalent to the cost of treating the polluted drainage.

SECTION 7-313: SEWER RATES

All sewer customers shall be liable for the minimum rate provided by ordinance as provided in Section 7-101. (Neb. Rev. Stat. §18-509)

SECTION 7-314: BILLING AND COLLECTIONS

The city clerk shall bill the consumers, collect all money received by the city on the account of the Sewer Department, and faithfully account for and pay to the city treasurer all

SECTION 7-315: USER NOTIFICATION; WASTEWATER TREATMENT

Each user will be notified, at least annually, included with a regular bill, of the rate and that portion of the user charges *ad valorem* taxes which are attributable to wastewater treatment.

SECTION 7-316: MANHOLES

Entrance into a manhole or opening for any purpose except by authorized persons is prohibited. It shall be unlawful to deposit or cause to be deposited in any receptacle connected with the sewer system any substance which is not the usual and natural waste carried by the sewer system.

SECTION 7-317: DESTRUCTION OF PROPERTY

No person 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.

SECTION 7-318: PRIVATE SEWAGE DISPOSAL; PERMIT

A. Where a public sanitary or combined sewer is not available under the provisions herein, the building sewer shall be connected to a private sewage disposal system complying with the provisions of this article.

B. Before commencement of construction of a private sewage disposal system, the owner shall first obtain a written permit signed by the maintenance supervisor. 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 deemed necessary by the supervisor. A permit and inspection fee, as set by resolution of the City Council and kept on file, shall be paid to the city clerk at the time the application is filed.

C. A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the maintenance supervisor. 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 supervisor when the work is ready for final inspection and before any underground portions are covered. The inspection shall be made within 48 hours of the receipt of notice by the supervisor.

D. The type, capacity, location, and layout of a private sewage disposal system shall comply with the rules and regulations of the state Department of Health as well as Department of Environmental Quality's Title 124 *Rules and Regulations for the Design, Operation and Maintenance of Septic Tank Systems*. No permit shall be issued for any private sewage disposal system employing subsurface soil absorption facilities where 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.

E. At such time as a public sewer becomes available to a property served by a private sewage disposal system, a direct connection shall be made to the public sewer in compliance with this chapter within 60 days and the private sewage system shall be abandoned in accordance with Title 124(D).

F. The owner shall operate and maintain the private sewage disposal facilities in a

sanitary manner at all times at no expense to the city.

G. No statement contained in this section shall be construed to interfere with any additional requirements that may be imposed by the health officer or by state or federal law.

Article 4 – Solid Waste

SECTION 7-401: DEFINITIONS

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

"Garbage" shall mean including waste accumulation of animal, fruit, or vegetable matter used or intended for food or that attend the preparation, use, cooking, dealing in, or storing of meat, fish, fowl, fruit, or vegetables, and dead animals rejected by rendering plants.

"Hazardous waste" shall mean a solid waste or combination of solid wastes which because of their quantity, concentration, or physical, chemical, or infectious characteristics may (A) cause or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness or (B) pose a substantial present or potential hazard to human or animal health or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

"Junk" shall mean old scrap, copper, brass, iron, steel, rope, rags, batteries, paper, trash, rubber debris, waste, dismantled or wrecked automobiles, or parts thereof, and other old or scrap ferrous or nonferrous material.

"Refuse" shall mean putrescible and non-putrescible solid wastes, except body wastes, and include garbage, rubbish, ashes, incinerator ash, incinerator residue, street cleanings, industrial wastes, and other such wastes.

"Rubbish" shall mean nonputrescible solid wastes, excluding ashes, consisting of both combustible and noncombustible wastes, such as paper, cardboard, tin cans, yard clippings, wood, glass, bedding, crockery, or litter of any kind that will be a detriment to the public health and safety.

"Solid waste" shall mean any garbage, refuse, or sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, and mining operations and from community activities. Unless otherwise qualified, it shall also include yard waste, lead acid batteries and waste oil, waste tires, discarded household appliances, construction debris and all hazardous waste.

"Yard waste" shall mean grass and leaves.
(Neb. Rev. Stat. §81-1502)

SECTION 7-402: DISPOSAL OF WASTE

All persons within the city shall be required to use the solid waste collection, hauling and disposal services of one of the contracted haulers. It shall be unlawful for any person or entity to independently dispose of his, her, or its solid waste except in a legal and lawful manner and in compliance with this article, the state's Integrated Waste Management Act, and the franchise agreement(s) entered into by the city.

SECTION 7-403: SCOPE OF SERVICES

All contract haulers shall provide for residential pickup at least once a week at curbside or, if curb pickup is not available or feasible, then within adjacent alleys. All solid waste shall be collected. Only closed containers for garbage and trash will be permitted. The contract haulers shall be permitted to impose reasonable rules, regulations and specifications governing the type, size and number of containers to be utilized by residential subscribers and customers and may require reasonable pre-sorting.

SECTION 7-404: FEES, CHARGES AND ADJUSTMENTS

The fees to be charged and collected by any contract hauler hereunder shall at all times be reasonable. Prior to the issuance of any grant of franchise, the applicant shall have filed with the City Council its initial schedule of fees, charges and rates for the initial term of the franchise, unless changed or amended by authority of the City Council following request in writing by the contract hauler and a hearing before a regular or special council meeting. Except in cases of emergency, no rate adjustment granted by the city shall take effect until at least 30 days following the resolution granting such increase.

SECTION 7-405: COMPLAINTS

Any subscriber or customer of any contract hauler hereunder who shall have an unresolved complaint regarding late pickup of solid waste, abuse or unprovoked conduct by employees of the contract hauler or continuing nuisance or trespass through their property shall have the right to present such complaint to the City Council. Its determination as to the merits of such complaints and order to the parties shall be conclusive as a final appealable order.

Article 5 – Penal Provision

SECTION 7-501: VIOLATION; PENALTY

Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this chapter, set forth at full length herein or incorporated by reference, shall be deemed guilty of an offense and upon conviction thereof shall be fined not more than \$500.00 for each offense. A new violation shall be deemed to have been committed every 24 hours of such failure to comply.