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CHAPTER 7 – PUBLIC UTILITIES

Article 1 – Utilities Generally

SECTION 7-101: CITY POWERS; RATE SETTING

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. 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 kept on file in the office of the city clerk for public inspection. (Neb. Rev. Stat. §§17-538, 17-542, 18-509)

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 water and sewer plus 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. (Neb. Rev. Stat. §17-532)

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

A. Every person desiring utility services must make application to the city clerk. Every application must be accompanied by (1) a service deposit which may be returned to the applicant after three years if all utility bills are continuously and promptly paid; (2) a tap fee for connecting to the water system; (3) a tap fee for connecting to the sewer system; (4) an additional service charge per meter in service; (5) a water testing and cross-connection compliance surcharge per meter in service; and (6) a solid waste collection service deposit fee. Once an application for utility services has been received and approved and the necessary service deposits and fees have been submitted, utility services may be supplied to the applicant upon written order of the water/sewer superintendent. 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. All such deposits, tap fees and additional charges as stated above shall be set by the City Council by resolution and kept on file in the office of the city clerk for public inspection.

B. The department shall not supply water or sewer service to any person outside the corporate limits without special permission from the City Council. Nonresidents shall pay such tap fees and installation charges in such sums as the water/sewer

superintendent, pursuant to resolution of the council, shall in each case fix. Nothing herein shall be construed to obligate the City to provide service to nonresidents. The extension of commercial mains into unsupplied territory within the corporate limits may be made by means of water extension districts.

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, 18-508, 19-2701, 70-1601) (Am. Ord. Nos. 1071, 1/7/81; 1366, 12/6/95; 1483, 4/13/05)

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 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 water/sewer superintendent or 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 is made save or except by order of said superintendent or agent.

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 city clerk, 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.

(Neb. Rev. Stat. §17-537) (Am. Ord. No. 1088, 8/5/81)

SECTION 7-105: BILLING AND COLLECTIONS; DELINQUENCY

All meters of consumers shall be read by the water/sewer superintendent or his agent monthly. Utility bills shall be joint, monthly bills for all utilities including water, sewer and garbage collection and mailed by the city clerk by the last day of each month. It shall be the duty of all utilities customers to cause their payments to be mailed or to present themselves at the city office and pay their bills each month for all utility charges. If any utility bill is not paid by the 10th day of the month, the unpaid bill shall be considered delinquent and a 10% penalty shall be assessed. The city clerk shall

also give a written notice to the customer of such delinquency and shall demand payment immediately. Any customer who fails to pay his or her bill after receiving such demand shall be subject to discontinuance of service as provided in Section 7-106. The City Council shall assess an additional fee for resumption of service as set by resolution of the council and kept on file at the office of the city clerk. All past due amounts shall be paid to the City before reconnection. (Neb. Rev. Stat. §§17-538, 17-542) (Am. Ord. Nos. 1043, 8/1/79; 1071, 1/7/81; 1205, 9/3/86; 2214, 4/1/87; 1361, 7/12/95)

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

A. No city utility shall discontinue service to any domestic subscriber for non-payment of any due account unless such utility shall first give written notice by mail to any subscriber whose service is proposed to be terminated at least seven days prior to termination, weekends and holidays excluded. As to any subscriber who has previously been identified to the utility as a recipient of assistance from the Department of Social Services, such notice shall be by certified mail to the subscriber and to Social Services.

B. Prior to the discontinuance of service to any domestic subscriber by a city utility, the subscriber upon request shall be provided a conference with the City Council as described below. The council shall notify the domestic subscriber of the time, place, and date scheduled for such conference.

C. This section shall not apply to any disconnections or interruptions of services 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.

D. The notice required herein shall contain the following information:

1. The reason for the proposed disconnection;
2. A statement of intention to disconnect unless the domestic subscriber either pays the bill or reaches an agreement with the utility 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 utility's employee or department to whom the domestic subscriber may address any 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 utility may not disconnect service pending the conclusion of the conference;

7. A statement to the effect that disconnection shall be postponed or prevented upon presentation of a duly licensed physician's, physician assistant's, or advanced practice registered nurse's certificate, which shall certify that a 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 utility within five days of receiving notice under this section, excluding holidays and weekends, and will prevent the disconnection of the utility's service for a period of at least thirty days from such filing. Only one postponement of disconnection shall be required under this subdivision 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 utility 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 board of directors or administrative board of any utility.

E. 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.

F. The procedures adopted by the City Council for resolving utility bills, one copy of which is kept 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.

G. This section shall not apply to any disconnections or interruptions of services 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. §§70-1603, 70-1604, 70-1606, 70-1608) (Ord. Nos. 1205, 9/3/86; 1404, 11/12/97)

SECTION 7-107: LIEN

In addition to all other remedies, if a customer shall for any reason remain indebted to the City for utility services 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 report monthly to the mayor and council 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) (Am. Ord. No. 1361, 7/12/95)

SECTION 7-108: WORK BY AUTHORIZED PERSONS

It shall be unlawful for any person other than the water/sewer superintendent, persons in the City's employ, or persons operating under special contract with the City to open, uncover, or make any connection with the sewer system or to lay any sewer pipes or attach or modify any fixtures or appurtenances which are in any manner attached to or used in connection with the sewer system. (Am. Ord. No. 1176, 12/5/84)

SECTION 7-109: 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 7-110: 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 water/sewer superintendent. 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 water/sewer superintendent shall have the direct management and control of the Water Department 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 Water Department, subject to the supervision and review of the mayor and City Council.
(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: CONNECTION TO WATER SYSTEM

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 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 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) (Am. Ord. Nos. 1071, 1/7/81; 1366, 12/6/95; 1483, 4/13/05)

SECTION 7-204: PROHIBITION OF LEAD PIPES, SOLDER AND FLUX

Unless the Plumbing Code provides more restrictive requirements, the said code shall be deemed to require compliance with the requirements of this section. 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. (Neb. Rev. Stat. §71-5301) (Ord. No. 1233, 6/1/88)

SECTION 7-205: WATER METERS REQUIRED; LAWFUL USE

All service pipes connected with the city water system shall have placed thereon a water meter of a type prescribed, furnished, and installed by the City. No person other than the water/sewer superintendent or assistants shall be allowed to set water meters. All meters shall be set in horizontal position so that they can be easily read, whether set in a meter pit or a basement. If a meter is installed in a meter pit, the pit shall first be approved by the superintendent.

SECTION 7-206: SERVICE PIPE

A. All pipe of one inch or less in diameter between the corporation cock and the meter must be copper and must be of sufficient strength to resist the maximum water pressure. Larger pipe must be of a type and quality approved by the water/sewer superintendent. Without a special permit from the said superintendent, all service pipes must be laid as much underground as the main pipe in the street and in all cases be

so protected as to prevent ruptures by freezing. Unless otherwise permitted, curb stop cocks shall be placed in the service pipe at the edge of the sidewalk nearest the curb line, and be protected by a box or iron pipe to admit a stop key for turning the stop on and off and also with a cast iron cover having the letter "W" marked thereon, visible and even with the surface.

B. When one service pipe supplies two or more distinct premises, there shall be provided, subject to the control of the water/sewer superintendent, a separate stop for each of such premises so that the water supply may be shut off from one without interfering with the supply of the other. Not more than one residence or place of business shall be supplied from one tap or meter, except by special permission of the superintendent and upon payment of the charges provided for in Article 1. However, in no event shall properties owned by different persons be served from one meter.

SECTION 7-207: TAPPING THE CITY MAIN; TAP FEE

No person except the water/sewer superintendent or a person authorized by him or her shall tap the city water main or insert stop cocks or ferrules therein. All taps shall be made on top of the water main and in no case nearer than 4 feet to any other tap. Before tapping any water main, the consumer must pay to the City a tap fee based on the size of the service line, which fee shall be set by the City Council by resolution and kept on file in the office of the city clerk for public inspection. Service line over 3 inches will be considered a cut in the main with a street box, gate valve and a tee installed, which tapping fee shall then be given to the city treasurer for credit to the city water fund. (Am. Ord. No. 1030, 1/3/79)

SECTION 7-208: INSTALLATION EXPENSE

The expense of tapping the main, as well as the cost of the corporate cock, shall be paid by the consumer. The said consumer shall also pay the expense of installing the curb stop and shall reimburse the City for its cost. The curb stop shall be supplied by the City and the meter shall be installed and supplied by the City. All other expenses shall be paid by the consumer, including the expense of procuring the service of a licensed plumber and the expense of furnishing and installing pipe, trenching, and the necessary labor to bring water service from the main to the place of dispersing. All materials and fittings shall be approved by the water/sewer superintendent. (Neb. Rev. Stat. §17-542)

SECTION 7-209: REPAIRS AND MAINTENANCE; METERS

A. Repairs to the service pipe shall be made at the expense of the customer. Repairs to the main, supply pipe, shut-off box, curb cock, or water meter shall be made by the City, provided that if a customer permits or allows a water meter to be damaged or destroyed through his or her own recklessness, carelessness, or neglect so that the meter must be repaired or replaced or neglects or refuses to make necessary repairs to any service pipe, the water/sewer superintendent shall bill and collect from the customer the cost of such meter repair or replacement or service pipe repair or replace-

ment in the same manner as water rent is collected. If excavation is necessary to effect any repairs, then the party responsible for making the repairs shall pay all expenses in connection with excavation, fill and placing the property back to grade, including resurfacing of any streets.

B. 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 water/sewer superintendent shall bill and collect from the customer the cost of such meter repair or replacement. Permitting a water meter to be damaged or destroyed by freezing shall always be considered negligence on the part of the customer.

C. All meters shall be tested at the customer's request at his or her expense any reasonable number of times; provided, if the test shows the water meter to be running 2% or more fast, the City shall bear the expense of such test. 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 monthly consumption during the same month 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 water/sewer superintendent. (Neb. Rev. Stat. §17-537) (Am. Ord. Nos. 1191, 2/5/86; 1379, 6/12/96; 1389, 5/13/97)

SECTION 7-210: PLUMBERS; COMPLIANCE; LIABILITY

All work by plumbers shall be done in the manner required by the water/sewer superintendent and shall be at all times subject to the inspection and approval of the superintendent. 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 superintendent. It shall be unlawful to cover or conceal willfully any defective or unsatisfactory work. (Neb. Rev. Stat. §17-537) (Am. Ord. No. 1191, 2/5/86)

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. The refilling of all trenches shall be done in uniform layers not exceeding 9 inches and thoroughly tamped so as to replace all excavated material

and leave the surface in as good condition as found before the commencement of the work. If the excavation in any street, alley, or sidewalk is left open or unfinished for a period of 24 hours or more, the water/sewer superintendent 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 two inspections by the water/sewer superintendent: 1) when connections or repairs are completed and before the pipes are covered; 2) after the dirt work is completed and the service is restored. It is the customer's responsibility to notify the superintendent at the time the work is ready for each 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 water/sewer superintendent, provided the said rules, regulations, and specifications have been reviewed and approved by the City Council.

(Neb. Rev. Stat. §§17-537, 71-5301)

SECTION 7-212: WATER RATES

A. The City has the power and authority to fix the rates to be paid by water consumers for the use of water from the Water Department. All such charges shall be set by the City Council by ordinance and kept on file for public inspection at the office of the city clerk, who 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 treasurer all revenue collected, making the receipt therefor in duplicate, filing one with the clerk and keeping the other on file in the Water Department's official records.

B. All water consumers shall be liable for the rates provided by ordinance unless and until the consumer shall, by written order, direct the water/sewer superintendent to shut off the water at the stop box, in which case the consumer shall not be liable thereafter for water rental until the water is turned on again. If more than one residence or place of business is served by one meter, each residence or place of business shall pay the monthly charge and shall be jointly and severally liable for the actual water usage for any month. In the case of several tenants in one building or in a tourist camp, motor court or trailer court, one meter may provide for such building, tourist camp, motor court or trailer court and the rate applicable to a single consumer shall be charged regardless of the number of tenants and the owner of the premises shall be billed for the water fees due.

C. In addition to the charges specified in Section 7-212(A), there is hereby imposed a monthly testing charge per meter in service. Revenue generated from the testing charge shall be used exclusively for water testing and cross-connection compliance mandated by the State and the federal government and for all other testing deemed necessary for the safe operation of the Water Department. The testing charge shall be considered part of the water rate of the City and failure to pay the charge shall be treated the same as other delinquent water rents.

(Neb. Rev. Stat. §§17-540, 17-542) (Ord. Nos. 1361, 7/12/95; 1538, 6/1/19)

SECTION 7-213: BILLING AND COLLECTIONS

The city clerk shall bill the consumers, collect all money received by the City on the account of the Water Department, and 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: POLICE REPORTS

It shall be the duty of law enforcement officers to report to the water/sewer superintendent all cases of leakage and waste in the use of water and all violations of the Municipal Code relating to the water system. Said officers shall have the additional duty of enforcing the observance of all such regulations.

SECTION 7-215: RIGHT OF ENTRY FOR INSPECTION

The water/sewer superintendent or his duly authorized agent shall have free access between the hours of 7:00 a.m. and 6:00 p.m. 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) (Am. Ord. No. 1191, 2/5/86)

SECTION 7-216: 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 water/sewer superintendent.

SECTION 7-217: 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 (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.

SECTION 7-218: 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. The standards for water quality established or adopted by the State shall be presumptive evidence as to when the water is deemed to be polluted under this section. (Neb. Rev. Stat. §§17-536, 18-1720, 28-1321)

SECTION 7-219: RESTRICTED USE

The City Council or the water/sewer 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. §27-537)

SECTION 7-220: BACKFLOW PREVENTION; STATEMENT OF PURPOSE

The City hereby finds that backflow and backsiphonage of contaminants into a public water supply system can be a threat to public health and safety. Direct or indirect cross-connections within a water distribution system, including within a water customer's distribution system, are among possible structural arrangements which can result in backflow and backsiphonage. In the interest of public health and safety, the City hereby adopts the following backflow and backsiphonage prevention program, and cross-connection control program.

SECTION 7-221: BACKFLOW PREVENTION; DEFINITIONS

For the purpose of this ordinance, the following terms shall mean:

“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 flood level rim of the receptacle; used to prevent either backflow or backsiphonage,

“Atmospheric vacuum breaker (nonpressure-type backsiphonage preventer)” means used as protection for direct or indirect water connections to all types of polluted or contaminated liquids where the preventer is not subjected to back-pressures and is installed on the discharge side of the last control valve. This preventer should not be subjected to continuous flows for periods of more than 12 hours.

“Backflow” means the flow of water or other liquids, mixtures or substances into the water distribution system from other than the intended liquids, mixtures or substances of the public water supply system.

“Backsiphonage” means the flowing back of water, or other liquids, mixtures or substances into a water distribution system due to negative pressure in the piping of the water distribution system.

“Double check-valve assembly (backflow preventer)” means a device used as protection for all direct or indirect water connections through which foreign substances might enter the system in such concentrations as to constitute a nuisance or be aesthetically objectionable. Examples are foods, beverages, or other substances that do not

constitute a health hazard.

“Cross-connection” means any actual or potential connection or structural arrangement within a water distribution system through which it is possible to introduce into the public water supply system any water, liquids, mixtures or substances, other than the intended water, liquids, mixtures or substances of the public water supply system.

“Nontoxic substance” means any substance of a nonpoisonous nature that may create a moderate or minor hazard to the domestic water system. Hazardous connections include (A) connections to food processing lines, including but not limited to those carrying syrups, lard, beer; (B) connections to steam and steam boilers where the steam does not come in contact with toxic substances; (C) McDaniel tees or steam clean-up connections in food plants, apartment house boilers, or pressing boilers where toxic compounds are not used; and (D) connections to enclosed circulating refrigerated-water systems where toxic compounds are not used.

“Pressure vacuum breaker (backsiphonage preventer)” means a device used as a protection for direct or indirect water connections to all types of polluted or contaminated liquids where the preventer is not subjected to back-pressures. This device may be installed for use under continuous line pressure.

“Reduced-pressure device (backflow preventer)” means a device used as protection for direct or indirect water connections where the device may be subject to backpressures from toxic chemicals, sewage, or other lethal substances.

“Toxic substance” means any substance (liquid, solid, or gaseous), including raw sewage and lethal substances, that when introduced into the water supply system creates or may create a danger to the health and wellbeing of the consumer. Hazardous connections include flush valve toilet, direct connection to contaminated vessel or system, ship watering point.

SECTION 7-222: BACKFLOW PREVENTION; UNLAWFUL CONNECTIONS; NEW INSTALLATIONS AND REPAIRS

No installation or repair within the water distribution system, including the customer's water distribution system shall be made in such manner:

- A. That a cross-connection shall exist;
- B. That it will be possible in any manner to allow the flow of any water or other liquids, mixtures or substances into the water supply system other than the intended water, liquids, mixtures or substances of the public water supply system;
- C. That it will be possible in any manner to allow the flowing back of water or other liquids, mixtures or substances into the water supply system due to negative pressure in the water distribution system; or

D. That the device will be inaccessible.

SECTION 7-223: BACKFLOW PREVENTION; PREVENTION DEVICES REQUIRED

A backflow or backsiphonage prevention device approved by the water/sewer superintendent shall be installed at the customer's expense in the customer service pipe when any of the following conditions are found by the superintendent:

A. Premises having an auxiliary water supply;

B. Premises in which, in the opinion of the superintendent, substances are handled in a manner as to create an actual or potential hazard to the public water supply;

C. Premises having existing or potential internal cross-connections;

D. Premises where, in the opinion of the superintendent it is impossible or impractical to make a complete cross-connection premises survey;

E. Premises having more than one customer service pipe.

SECTION 7-224: BACKFLOW PREVENTION; PREVENTION DEVICES; MINIMUM PROTECTION

When backflow or backsiphonage prevention devices are required by this ordinance, the prevention devices shall provide a minimum level of protection as provided below; provided, however, this shall be a minimum standard of protection. When in the opinion of the water/sewer superintendent a different level of protection would be more appropriate, the superintendent shall prescribe the method of backflow or backsiphonage protection.

SECTION 7-225: BACKFLOW PREVENTION; INSTALLATION INSPECTIONS

A. The water/sewer superintendent or representative may inspect any premises to determine if a backflow device is required and what level of protection will be necessary to protect public health and safety.

B. In order to inspect any premises, the superintendent shall give notice setting forth a proposed date and time to the customer at least ten working days in advance by first-class certified mail, return receipt requested. If the customer cannot make the premises available for inspection on that date and time, he or she shall contact the water/sewer superintendent to arrange another date and time for inspection. The customer shall provide access to the premises at reasonable times to the superintendent or authorized representative. If the water/sewer superintendent and the customer cannot agree on a date and time for inspection, the premises shall be declared impossible or impractical to make a cross-connection survey and the backflow or backsiphonage

device shall be installed pursuant to the requirements of this article.

C. All inspections shall be made at the expense of the customer and shall be performed by a Grade VI Backflow licensee.
(Am. Ord. No. 1424, 10/14/98)

SECTION 7-226: BACKFLOW PREVENTION; MAINTENANCE

Backflow and backsiphonage prevention devices shall be maintained in good working condition by the customer at his or her expense.

SECTION 7-227: 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 water/sewer superintendent. Actual testing shall be at the expense of the customer. Any required maintenance or repair shall be at the expense of the customer and subject to the approval of the superintendent. Any backflow/backsiphonage prevention device found to be not operating properly after testing shall be repaired or replaced within ten working days of the test. The customer shall provide a copy of any test results of a backflow/backsiphonage prevention device to the water/sewer superintendent. (Am. Ord. No. 1424, 10/14/98)

SECTION 7-228: BACKFLOW PREVENTION; SUPERINTENDENT'S AUTHORITY

The water/sewer superintendent shall have the authority to issue any order consistent with the provisions of this ordinance in order to protect the public health and safety. Any order of the superintendent 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 customer by certified first class mail, return receipt requested.

SECTION 7-229: BACKFLOW PREVENTION; NUISANCE

Any actual or potential connection or structural arrangement within a water distribution system through which it is possible to introduce into the public water supply system any water, liquids, mixtures or substances other than the intended water, liquids, mixtures or substances of the public water supply system shall hereby be declared a nuisance.

SECTION 7-230: BACKFLOW PREVENTION; APPEALS

In the event that it is claimed that the true intent and meaning of this ordinance has been wrongfully interpreted by the water/sewer superintendent, that the time allowed for compliance with any order of the superintendent is too short, or that conditions peculiar to a particular premises make it unreasonably difficult to meet the literal requirements prescribed by this article, the owner may file a written notice of appeal with

the city clerk within ten days after the decision or order of the water/sewer superintendent 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 superintendent. Such a decision shall be final and 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 the appeal.

SECTION 7-231: PRIVATE WATER WELLS; APPLICATION; WHEN PROHIBITED

A. It shall be unlawful for any person, whether the owner, tenant, contractor or otherwise, to drill, construct or replace a private water well for any purpose within the corporate limits of the City or within one mile of said corporate limits except upon application to and grant of permission from the City Council. All applications shall be submitted to the city clerk and shall include, at a minimum, the location of the proposed well, the contemplated purpose for the well and the name, and licensing number or certification number of the pump installation contractor, supervisor, well contractor, or well drilling supervisor. A hearing on the application shall be held at the next regular City Council meeting. The council, before granting permission for the drilling, construction, repair or replacement of a private well, must find and determine the existence of the following facts and conditions: That the contemplated purpose for the well cannot be satisfied by use of the city water supply system; and that granting permission will not be contrary to or substantially detrimental to the public safety, good, welfare or interest.

B. Those wells existing and operating upon the effective date of this section shall not be affected by this section except as to their repair or replacement and their use may continue subject to the conditions and restrictions, if any, imposed by the original grant for construction.

(Ord. Nos. 1440, 5/31/00; 1442, 9/13/00)

SECTION 7-232: PRIVATE WATER WELLS; LICENSING, CERTIFICATION

Only those persons licensed or certified pursuant to the Water Well Standards and Contractors Licensing Act (Neb. Rev. Stat. §46-1201 to §46-1241) as a pump installation contractor, pump installation supervisor, water well contractor, or water well drilling supervisor shall be authorized to drill, construct, repair or replace a private water well within the corporate limits of the City or within one mile of said corporate limits. (Ord. No. 1442, 9/13/00)

SECTION 7-233: PRIVATE WATER WELLS; ABANDONMENT; DECOMMISSIONING

Any abandoned private water well located within the corporate limits of the City or within one mile of said corporate limits shall be decommissioned in accordance with the rules and regulations of the Department of Health and Human Services Regulation and Licensure. (Ord. No. 1442, 9/13/00)

SECTION 7-234: DRILLING OR INSTALLATION OF WELLS OR OTHER FACILITIES NEAR CITY WATER SOURCES; PROHIBITED

It shall be unlawful to place, maintain, construct or replace any of the following facilities or structures or to discharge any of the following materials within the indicated number of feet from the City's public water supply wells:

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)

Article 3 – Sewer Department

SECTION 7-301: OPERATION AND FUNDING

A. The City owns and operates the sewer system through the water/sewer superintendent. 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 water/sewer superintendent shall have the direct management and control of the Sewer Department and shall faithfully carry out the duties of the office, having 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, city administrator and City Council.

(Neb. Rev. Stat. §§17-574, 17-925.01)

SECTION 7-302: 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, septic tank, cesspool, or other facility intended or used for the disposal of sewage.

D. Storm water and all other unpolluted drainage including surface water, sub-surface 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 water/sewer superintendent and regulatory agencies. Industrial cooling water or unpolluted process water may be discharged, on approval of the superintendent, 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 water/sewer superintendent. 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. (Am. Ord. No. 1307, 8/12/92)

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 7-303: CONNECTION TO SEWER SYSTEM

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 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 the 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 ~~400~~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 7-304: PLUMBERS; COMPLIANCE; LIABILITY

All work by plumbers shall be done in the manner required by the water/sewer superintendent and shall be at all times subject to the inspection and approval of the superintendent. 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 water/sewer superintendent. It shall be unlawful to cover or conceal willfully any defective or unsatisfactory work. (Neb. Rev. Stat. §17-537)

SECTION 7-305: INSTALLATION; CLASSIFICATION; PERMIT; FEE

There shall be two classes of building sewer permits: (A) for residential and commercial service and (B) for service to establishments producing industrial wastes. In either case, the owner or agent shall make application on a special form furnished by the City. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the water/sewer superintendent. A fee for an industrial building sewer permit shall be paid to the City at the time the application is filed. Such fee shall be set by the City Council and kept on file in the office of the city clerk for public inspection. (Am. Ord. No. 1285, 1/14/91)

SECTION 7-306: INSTALLATION EXPENSE; TAP FEE

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. The customer, upon approval of his or her application for sewer service, shall pay a tap fee to the City, as provided in Section 7-103, which compensates the City for the expense of processing the application and tapping the sewer main. The water/sewer superintendent in his discretion may direct the customer to hire a licensed plumber to tap the main. The customer shall then be required to pay the expense of procuring the materials required and shall pay all other costs of installation. (Neb. Rev. Stat. §18-503)

SECTION 7-307: 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 water/sewer superintendent, to conform in all respects to the requirements governing new sewers and drains. If the old work is found defective or otherwise unsatisfactory, the superintendent shall notify the owner to make the necessary changes to conform to the provisions required by the City.

SECTION 7-308: 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 7-309: 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 water/sewer superintendent 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. (Am. Ord. No. 1307, 8/12/92)

SECTION 7-310: RATES AND SURCHARGES

A. Each user shall pay for the services provided by the City based upon use of the wastewater treatment works as determined by water meter(s) acceptable to the City. The minimum charge per month and a user charge in excess of minimum shall be set by the City Council by ordinance and kept on file in the office of the city clerk for public inspection.

B. For those users who contribute wastewater having a strength greater than normal domestic sewage, a surcharge in addition to the normal charge will be collected. The surcharge for operation and maintenance including replacement will be determined by the responsible plant operating personnel and approved by the City Council.

C. Any user which discharges any toxic pollutants which cause an increase in the cost of managing the effluent or the sludge from the city's wastewater treatment works or any user which discharges any substance which singly or by interaction with other substances cause identifiable increases in the cost of operation, maintenance, or replacement of the wastewater treatment works shall pay for such increased costs. The charge to each such user will be as determined by the responsible plant operating personnel and approved by the City Council.

D. Any user which elects to terminate sewer service temporarily (a period not to exceed eight months) shall be charged a hookup fee when service is reinstated. Such fee shall be set by the City Council and filed in the office of the city clerk for public inspection during office hours.

E. The user charge system shall take a precedence over any terms or conditions of agreements or contracts which are inconsistent with the requirements of section 204(b) (1) (A) of the Clean Water Act and its corresponding regulations. (Ord. Nos. 1305, 7/8/92; 1307, 8/12/92; 1311, 10/14/92; 1320, 5/12/93; 1458, 1/8/03; 1493, 9/12/07; 1537, 11/14/18)

SECTION 7-311: 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 revenue collected. Billing and collection procedures are set forth in Section 7-105. (Neb. Rev. Stat. §17-540)

SECTION 7-312: 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 water/sewer superintendent, 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 water/sewer superintendent shall complete the work and charge the cost of such repairs or replacement to the customer.

(Neb. Rev. Stat. §18-1748)

SECTION 7-313: INSTALLATION OR REPAIR; PROCEDURE, MATERIALS

All installation or repair of any part of the sewerage system shall be done under the supervision of the water/sewer superintendent and strictly in accordance with the rules, regulations, and specifications on file with the City 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 city 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 7-314: 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 7-315: 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 7-316: USER CHARGE SYSTEM; BIENNIAL REVIEW

A. The user charge system shall generate adequate annual revenues to pay costs of annual operation and maintenance including replacement and costs associated with debt retirement of bonded capital associated with financing the wastewater treatment works which the City may by ordinance designate to be paid by the user charge system. That portion of the total user charge which is designated for operation and maintenance, including replacement of the water treatment works, shall be established by this section. That portion of the total user charge collected which is designated for operation and maintenance purposes as established by subsection (C) below shall be deposited in a separate non-lapsing fund known as the "Operation and Maintenance Fund" and will be kept in two primary accounts as follows:

1. An account designated for the specific purpose of defraying operation and maintenance costs excluding replacement of the treatment works (Operation and Maintenance Account).
2. An account designated for the specific purpose of defraying replacement costs (Replacement Account).

B. Fiscal year-end balances in the Operation and Maintenance Account and the Replacement Account shall be carried over to the same accounts in the subsequent year and shall be used for no other purposes than those designated for these accounts. Moneys which have been transferred from other sources to meet temporary shortages in the operation, maintenance and replacement fund shall be returned to their respective accounts upon appropriate adjustment of the user charge rate for operation, maintenance and replacement. The user charge rate(s) shall be adjusted such that the transferred monies will be returned to their respective accounts within the fiscal year following the fiscal year in which the monies were borrowed.

C. The City will review the user charge system at least every two years and revise user charge rates as necessary to ensure that the system generates adequate revenues to pay the costs of operation and maintenance including replacement and that the system continues to provide for the proportional distribution of operation and maintenance including replacement costs among users and user classes.

(Am. by Ord. Nos. 1055, 1/2/80; 1084, 8/5/81; 1205, 9/3/86; 1305, 7/8/92)

Article 4 – Solid Waste

SECTION 7-401: OPERATION AND FUNDING

The City owns and operates the solid waste collection system through the street superintendent. The City Council, for the purpose of defraying the cost of the management and maintenance of the solid waste collection system, may each year levy a tax not to exceed 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 solid waste collection system fund and shall be in the custody of the city treasurer. The mayor, city administrator and City Council shall have the direct management and control of the solid waste collection system and shall have the authority to adopt rules and regulations for its sanitary and efficient management. The council shall set rates to be charged for use of the collection system by resolution and file the same in the office of the city clerk for public inspection. (Neb. Rev. Stat. §19-2101 through 19-2106)

SECTION 7-402: SOLID WASTE COLLECTION; OPERATION BY CITY

The City shall operate a solid waste collection service. The mayor, City Council and city administrator shall have direct management and control of the collection service. Rules and regulations shall be adopted by resolution of the City Council and kept on file at the office of the city clerk for public inspection. (Am. Ord. No. 1258, 10/9/89)

SECTION 7-403: RATE CATEGORIES; RESIDENTIAL SERVICE

The rate categories for collection service are defined as follows:

A. *Class 1:* Single-family dwelling or light commercial or business enterprise which has an average weekly solid waste utilizing five or fewer 30-gallon garbage bags or the equivalent.

B. *Class 2:* Multiple-family dwelling (including duplexes or apartments) not utilizing a dumpster.

C. *Class 3:* Heavy single-family dwelling or regular commercial or business enterprise having an average weekly solid waste utilizing six to ten 30-gallon garbage bags of waste or the equivalent per week.

D. *Class 4:* All businesses or dwellings outside the city limits utilizing five or fewer 30-gallon bags of waste or the equivalent per week.

E. *Class 5:* All other businesses or commercial enterprises or multiple-family dwelling units disposing of their waste in a dumpster or having an average weekly solid waste utilizing 11 or more 30-gallon garbage bags of waste or the equivalent per week. (Ord. Nos. 1258, 10/9/89; 1336, 3/11/94; 1482, 4/13/05)

SECTION 7-404: MANDATORY SERVICE CHARGE

Service charges shall be imposed for the following customers of the solid waste collection service provided by the City:

A. Service charges shall be imposed according to the following classes or categories:

1. Each residential customer or light commercial or business enterprise receiving either water or sewer or both to such customer's place of residence or business (Class 1 rate category).
2. Each owner of a multiple-family dwelling unit (Class 2 rate category).
3. Each heavy residential or regular commercial customer receiving either water or sewer service or both to such customer's place of residence or business (Class 3 rate category).
4. Each heavy commercial customer receiving either water or sewer service or both to such customer's place of business or the owner of each multiple-family dwelling unit utilizing a dumpster (Class 5 rate category).
5. Any customer receiving either water or sewer service or both to such customer's residence or place of business, in addition to any other service charge provided for herein, a cycle charge for solid waste collection service for each cycle of the solid waste hauling vehicle provided by the City. For the purposes of this subsection, "cycle" is defined as the mechanical compacting of the waste placed in the hauling portion of the solid waste collection vehicle.

B. Other charges for solid waste collection service shall be imposed upon the persons receiving special services provided to customers based upon charges established by the City.

(Am. Ord. Nos. 1015, 7/5/78; 1145, 10/5/83; 1258, 10/9/89; 1336, 3/11/94)

SECTION 7-405: MONTHLY RATE; CYCLE CHARGE; ADDITIONAL WEEKLY PICKUP CHARGE

The rates for each category for service shall be set by the City Council and filed in the office of the city clerk for public inspection. The rates established herein are based upon one collection of a customer's solid waste per week. In the event a customer requires or requests more than one collection per week, then the monthly rate imposed upon such customer shall be determined by multiplying the number of collections per week times the rate category for that customer. (Ord. Nos. 1258, 10/9/89; 1294, 9/11/91; 1336, 3/11/94; 1482, 4/13/05)

SECTION 7-406: TEMPORARY WAIVERS; CATEGORY CHANGES

A. Any Class 1 or Class 3 residential customer may apply in writing to the city clerk for a waiver of the service charge for a single period of one, two or three successive calendar months in any successive 12-month period, which shall be granted if the city clerk finds that such application was made before the commencement date of the requested waiver period and that the residence will be wholly unoccupied during the entire period for which the waiver is requested. If the city clerk later determines that the residence was occupied at the time during the waiver period, the waiver shall be terminated and the customer shall be liable for the full amount of the service charge as if such waiver had not been granted. The waiver shall automatically terminate at the end of the requested period.

B. Requests for change of rate category may be made by any customer at any time and if the city clerk finds that such change is proper, such change shall become effective for the next billing period following the date of request. The city clerk shall change the rate category of any customer to the proper category without request of the customer when such change would result in an increase in rate.

(Ord. Nos. 1258, 10/9/89; 1294, 9/11/91 1336, 3/11/94)

SECTION 7-407: BILLING

Customers of the city waste collection service shall be billed according to the provisions of Section 7-105.

SECTION 7-408: USE OF DUMPSTER; PAD REQUIRED

Any customer receiving solid waste collection services provided by the City who disposes of his, her, or their solid waste in a dumpster shall be required to install and maintain a concrete pad or other hard-surfaced area upon which said dumpster shall be placed. (Ord. Nos. 1258, 10/9/89; 1366, 3/11/94)

SECTION 7-409: SERVICE TO CUSTOMERS ONLY

It shall be unlawful for any person, firm or corporation upon which no service charge is imposed under Section 7-404 (Mandatory Service Charge) and with whom no contract for regular solid waste collection services by the City exists to dispose of or attempt to dispose of any solid waste materials by the city solid waste collection service except by specific arrangement with the City. (Ord. Nos. 1194, 5/7/84; 1258, 10/9/89)

SECTION 7-410: SOLID WASTE DISPOSAL AREA; PERMIT

A. The City Council shall from time to time by resolution or order designate, regulate and control the solid waste collection system, either within or without the corporate limits of the City. The council shall designate a particular area for disposition of grass clippings, tree branches, and other approved compost materials. No fee shall be charged for dumping of such materials in such location, to be known as the compost

area. It shall be unlawful for any person to deposit any waste materials or garbage in the compost area except grass clippings, tree branches, and other approved compost materials.

B. The City Council shall designate a separate area for the disposition of waste materials and garbage of any other nature, except hazardous materials. "Hazardous materials" shall mean all materials or substances which are defined as hazardous by a state or federal government agency, as amended from time to time. It shall be unlawful for any person to deposit any nonhazardous waste materials and garbage on the landfill area of the solid waste collection system unless and until such person has complied with all rules and regulations and paid any fee which may be prescribed by the City Council or the Board of Health. It shall be unlawful for any person to dump any waste materials or garbage of any nature on any other place within the corporate limits or within the jurisdiction of the City for the regulation of health without first applying for and receiving a written permit from the chairman of the Board of Health to do such dumping.

(Am. Ord. No. 1281, 12/10/90)

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.