

Chapter 3

DEPARTMENTS

Article 1. Water Department

§3-101 MUNICIPAL WATER DEPARTMENT; OPERATION AND FUNDING. The Municipality owns and operates the Municipal Water Department through the Maintenance Superintendent. The Governing Body, for the purpose of defraying the cost of the care, management, and maintenance of the Municipal 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 Municipal Treasurer. The Maintenance Superintendent shall have the direct management and control of the Municipal Water Department and shall faithfully carry out the duties of his office. The Governing Body 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 Governing Body. The Governing Body 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 Municipal Clerk for public inspection at any reasonable time. (*Ref. 17-531, 17-534, 19-1305 RS Neb.*)

§3-102 MUNICIPAL WATER DEPARTMENT; DEFINITIONS. The following definitions shall be applied throughout this Chapter. Where no definition is specified, the normal dictionary usage of the word shall apply.

CONSUMER. One business unit or living unit which receives direct benefit from a good or service.

MAIN. 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 Municipality.

SEPARATE PREMISE. More than one (1) consumer procuring water from the same service or supply pipe. SEPARATE PREMISE may be a separate dwelling, apartment, building, or structure used for a separate business and/or by a separate consumer.

SERVICE PIPE. 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 premise where the water is to be dispersed.

SUPPLY PIPE. Any pipe tapped into a main and extending from there to a point at or near the lot line of the consumer's premise where the shut-off, stop box, or curb cock is located. (*Amended by Ord. No. 529, 2/5/02*)

§3-103 MUNICIPAL WATER DEPARTMENT; CONSUMER'S APPLICATION. Every person or persons desiring a supply of water must make application therefor to the Maintenance Superintendent. The Superintendent may require any applicant to make a service deposit in such amount as has been set by the Governing Body and placed on file at the office of the Municipal Clerk. Water may not be supplied to any house or private service pipe except upon the order of the Superintendent. The Department shall not supply to any person outside the corporate limits water service without special permission from the Governing Body; provided, the entire cost of laying mains, service pipe, and supply pipe shall be paid by the consumer. Nothing herein shall be construed to obligate the Municipality to provide water service to non-residents. *(Ref. 17-537, 19-2701 RS Neb.)*

§3-104 MUNICIPAL WATER DEPARTMENT; WATER CONTRACT. The Municipality through its Water Department, shall furnish water to persons within its corporate limits whose premises abut a street or alley in which a commercial main now is or may hereafter be laid. The Municipality may furnish water to persons within its corporate limits whose premises do not abut a street or alley in which a Municipal commercial main is now or may hereafter be laid and may also furnish water to persons whose premises are situated outside the corporate limits of the Municipality, as and when, according to law, the Governing Body may see fit to do so. The rules, regulations, and water rates hereinafter named in this Article, shall be considered a part of every application hereafter made for water service and shall be considered a part of the contract between every consumer now or hereafter served. Without further formality, the making of application on the part of any applicant or the use or consumption of water service by present consumers thereof and the furnishing of water service to said consumer shall constitute a contract between the consumer and the Municipality, 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 Governing Body may hereafter adopt, the Maintenance Superintendent or his agent, may cut off or disconnect the water service from the building or premise or place of such violation. No further connection for water service to said building, premise, or place shall again be made except by order of said Superintendent or his agent.

§3-105 MUNICIPAL WATER DEPARTMENT; INSTALLATION EXPENSE. The customer shall pay such tap fee as is set by resolution of the Governing Body and on file with the Municipal Clerk. The Municipality shall then do the tapping of the water main and provide the necessary trenching from the main to the point of disbursement. The customer shall be responsible for reimbursing the Municipality for the cost of providing the corporate and stop cocks and any other expenses incurred by the Municipality on the account of the consumer for bringing water service to the point of disbursement.

§ 3-105.01 MUNICIPAL WATER DEPARTMENT; WATER CONNECTION FEES NOT IN A WATER DISTRICT.

(1) Fee base. All applicants for connection to the water system which seek to connect to the system where a water district, water extension district, or combined sewer and water district have not been created and whose property shall not have been charged by way of

special assessments for said water service, shall pay, in addition to the deposit required by the Code of the City of Springfield, a water connection fee to the City Treasurer, which water connection fee shall be based upon the following formula:

The City Engineer shall prepare an estimate of the cost of an installed six (6) inch water main. In addition to the estimated cost of the six (6) inch main, the City Engineer shall add a factor to cover engineering fees, bonding fees, legal fees, and other miscellaneous expenses. Based on these estimates, the City Engineer shall then calculate a "per linear foot" estimated cost for the water main. The per linear foot cost shall be recalculated annually and be kept on file in the City Clerk's office.

(2) Application of fee base. The water connection fee shall be calculated by multiplying the number of linear feet of frontage of the applicant's lot parallel to the water line times the Engineer's estimate of the per linear foot water line cost.

(3) Alternate Fee application. In cases where irregular lot configuration lends front footage connection calculations to be inequitable, the City Engineer, with approval of City Council, may use one of the following alternate methods of applying the fee base.

(a) The fee base may be applied prorata to the number of properties benefitted.

(b) The fee base may be applied on a square footage of benefitted properties basis or by a combination of square footage and front footage.

(4) No connection fee shall prohibit the Council from negotiating and entering into a developer subdivision agreement which may specify fees, assessments and other subsequent charges.

(5) Water connection fee is non-exclusive. Payment of a water connection fee under this section does not exclude the applicant from the responsibility of water connection-capital facilities fees which intent is to offset costs of water treatment facilities and supporting structures necessary to provide water service to the property.

(6) No connection shall be made to the water system until such deposit and appropriate water connection fees shall have been paid in full to the City Treasurer.

(7) The City Treasurer shall apply all fees collected to the City Water Fund. (*Ord. No. 471, 9/1/98; Amended by Ord. No. 703, 2/21/06*)

§3-105.02 MUNICIPAL WATER DEPARTMENT; WATER CONNECTION FEES IN A WATER DISTRICT.

(1) Fee base.

(a) All applicants for connection to the water system which seek to connect to the system where a water district, water extension district, or combined sewer and water district have been created and whose property shall not have been charged by way of special assessments for said water service, shall pay, in addition to the deposit required by the Code of the City of Springfield, a water connection fee to the City Treasurer, which water connection fee shall be based upon the following formula:

(b) The City Engineer shall prepare an estimate of the cost of an installed six (6) inch water main. In addition to the estimated cost of the six (6) inch main, the City Engineer shall add a factor to cover engineering fees, bonding fees, legal fees, and other miscellaneous

expenses. Based on these estimates, the City Engineer shall then calculate a "per linear foot" estimated cost of the water main. The per linear foot cost shall be recalculated annually and be kept on file in the City Clerk's office.

(2) Application of Fee Base. The water connection fee shall be calculated by multiplying the number of linear feet of frontage of the applicant's lot parallel to the water line times the Engineer's estimate of the per linear foot water line cost.

(3) Alternate Fee Application. In cases where irregular lot configuration lends front footage connection calculations to be inequitable, the City Engineer, with approval of City Council, may use one of the following alternate methods of applying the fee base.

(a) The fee base may be applied prorata to the number of properties benefitted.

(b) The fee base may be applied on a square footage of benefitted properties basis or by a combination of square footage and front footage.

(4) No connection fee shall prohibit the Council from negotiating and entering into a developer subdivision agreement which may specify fees, assessments and other subsequent charges.

(5) Water connection fee is non-exclusive. Payment of a water connection fee under this section does not exclude the applicant from the responsibility of water connection-capital facilities fees which intent is to offset costs of water treatment facilities and supporting structures necessary to provide water service to the property.

(6) No connection shall be made to the water system until such deposit and appropriate water connection fees shall have been paid in full to the City Treasurer.

(7) The City Treasurer shall apply all fees collected to the city water fund. (*Ord. 704, 2/21/06*)

§3-105.03 MUNICIPAL WATER DEPARTMENT; WATER CONNECTION-CAPITAL FACILITIES FEES.

(1) Amount of fee. The water connection-capital facilities fee shall be established and listed in the Springfield Fees Ordinance adopted by City Council and kept current in the City Clerk's Office.

(2) When applied. The water connection-capital facilities fee shall apply to all final plats which come before the Springfield City Council for approval, and which have not been previously platted; provided, however, that the City and a developer or subdivider of a residential subdivision may agree in a developer or subdivision agreement that residential water connection-capital facilities fees may be paid when building permits are issued for lots within the subdivision..

(3) Date due. The water connection-capital facilities fee shall be paid to the City Clerk prior to the Mayor signing the approved final plat or at the time agreed to in an approved developer or subdivision agreement.

(4) Distribution of funds. The City Treasurer shall apply the water connection-capital facilities fee to the Springfield Water Capital Facilities Fund.

(5) Water connection-capital facilities fee is non-exclusive. Payment of a water connection-capital facilities fee under this section does not exclude the applicant from the responsibility of water connection fees which intent is to offset costs of water main installation necessary to provide service to the property.

(6) No connection shall be made to the water system until such deposit and appropriate water connection fees shall have been paid in full to the City Treasurer.

(7) The water connection-capital facilities fee shall not create an obligation on behalf of the city to provide any services to the platted properties. *(Ord. 704, 2/21/06) (Amended by Ord. No. 904, 10/20/15)*

§3-106 MUNICIPAL WATER DEPARTMENT; REPAIRS AND MAINTENANCE. The Municipality shall repair or replace, as the case may be, all supply pipe between the commercial main and the stop box. The customer at his own expense shall replace and keep in repair all service pipe from the stop box to the place of dispersement. When leaks occur in service pipes, the Superintendent shall shut off water service until the leak is repaired at the expense of the customer to the satisfaction of the Superintendent. It shall be unlawful for any person to tamper with any water meter, or by any means or device to divert water from the service pipe so that the same shall not pass through said meter, or while passing through said meter, to cause the same to register inaccurately.

§3-107 MUNICIPAL WATER DEPARTMENT; MINIMUM RATES. All water consumers shall be liable for the minimum rate provided by resolution unless and until the consumer shall, by written order, direct the Superintendent to shut off the water at the stop box, in which case he shall not be liable thereafter for water rental until the water is turned on again. *(Ref. 17-542 RS Neb.)*

§3-108 MUNICIPAL WATER DEPARTMENT; WATER BILLS. Water bills shall be due and payable monthly at the office of the Municipal Clerk or other depository as approved by the Governing Body. Water bills shall be due on the first (1st) day of the month following the month in which service has been provided and shall be considered delinquent after the fifth (5th) business day of the same month. Upon being deemed to be delinquent, as herein defined, the Municipal Clerk shall assess a delinquent fee as set by resolution of the Governing Body and on file at the office of the Municipal Clerk. If a customer shall for any reason remain delinquent after the fifteenth (15th) of the same month, the Municipal Clerk shall give a written notice to the customer of such delinquency and shall demand payment immediately. In the event that the bill is not paid within seven (7) days after the sending of said notice, it shall be discretionary with the Superintendent to cut off service at any time; provided, if the delinquent customer is a known welfare recipient, it shall be the duty of the Municipal Clerk to notify the customer and the County Welfare Department by certified mail of the proposed termination. The Maintenance Superintendent shall assess an additional fee set by resolution of the Governing Body and on file at the office of the Municipal Clerk in the event that water is shut off for the non-payment of any water bill, to compensate the Municipality for the additional hook-up necessary to again provide water service to the delinquent customer. In the event that the delinquent bill is not paid, the customer may also be subject to a Municipal Water Lien as provided in this code. *(Ref. 17-542, 18-416 RS Neb.) (Amended by Ord. Nos. 504, 12/20/00; 622, 9/2/03; 631, 1/6/04; 707, 2/21/06)*

§3-109 MUNICIPAL WATER DEPARTMENT; LIEN. In addition to all other remedies, if a customer shall for any reason remain indebted to the Municipality for water service furnished, such amount due, together with any rents and charges in arrears, shall be considered a delinquent water rent which is hereby declared to be a lien upon the real estate for which the same was used. The Municipal 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 delinquent after the fifteenth (15th) of the month following the month in which service has been provided.

If payment is not remitted within seven (7) days after the mailing of such notice, the Municipal Clerk shall certify the delinquent amounts to the County Clerk to be collected as a special tax in the manner provided by law. The delinquent amount shall include all recording and releasing fees at the Sarpy County Register of Deeds office *(Amended by Ord. Nos. 302, 10/4/88; 623, 9/2/03; 986, 8/7/18)*

§3-110 MUNICIPAL WATER DEPARTMENT; SINGLE PREMISE. No consumer shall supply water to other consumers, or allow them to take water from his premise, nor after water is supplied into a premise shall any person make or employ a plumber or other person to make a tap or connection with the pipe upon the premise for alteration, extension, or attachment without the written permission of the Superintendent. It shall further be unlawful for any person to tamper with any water meter or by means of any contrivance or device to divert the water from the service pipe so that the water will not pass through the meter or while passing through said meter to cause the meter to register inaccurately. *(Ref. 17-537 RS Neb.) (Amended by Ord. No. 530, 2/5/02)*

§3-111 MUNICIPAL WATER DEPARTMENT; RESTRICTED USE. The Governing Body or the Maintenance Superintendent may order a reduction in the use of water or shut off the water on any premise in the event of a water shortage due to fire or other good and sufficient cause. The Municipality 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 Municipality has no control. *(Ref. 17-537 RS Neb.)*

§3-112 MUNICIPAL WATER DEPARTMENT; 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 members of the Municipal Fire Department under the orders of the Fire Chief, or the Assistant Fire Chief; or members 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.

§3-113 MUNICIPAL WATER DEPARTMENT; 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 Municipal Water Department. *(Ref. 17-536 RS Neb.)*

§3-114 MUNICIPAL WATER DEPARTMENT; MAN-DATORY HOOK-UP. All persons whose property abuts a water main that is now or may hereafter be laid shall be required, upon notice by the Governing Body, to hook-up with the Municipal Water System. *(Ref. 17-539 RS Neb.)*

§3-115 MUNICIPAL WATER DEPARTMENT; WATER SERVICE CONTRACTS. Contracts for water service are not transferable. Any person wishing to change from one location to another shall make a new application and sign a new contract. If any consumer shall move from the premise where service is furnished, or if the said premise is destroyed by fire or other casualty, he shall at once inform the Maintenance Superintendent who shall cause the water service to be shut off at the said premise. If the consumer should fail to give such notice, he shall be charged for all water used on the said premise until the Superintendent is otherwise advised of such circumstances. *(Ref. 17-537 RS Neb.)*

§3-115.01 MUNICIPAL WATER DEPARTMENT; SERVICE DEPOSIT. The Governing Body, in its discretion, may require a service deposit from any or all customers of the Municipal Sewer and Water Department in a sum set by the Governing Body and filed in the office of the Municipal Clerk for public inspection at any reasonable time. From the said fund shall be deducted all delinquent sewer and/or water charges. The deposit shall be collected by the Municipal Clerk who shall immediately turn the same over to the Municipal Treasurer who shall keep the deposit in a trust fund for customers of the Municipal Sewer and Water Department. The said fund shall be put out at interest separate and apart from other funds. Interest arising therefrom shall be expended solely for the repair of equipment and property belonging to the Municipal Sewer and Water Department. *(Ord. No. 536, 2/19/02)*

§3-116 MUNICIPAL WATER DEPARTMENT; INSPECTION. The Maintenance Superintendent, or his duly authorized agents, shall have free access, at any reasonable time, to all parts of each premise 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. *(Ref. 17-537 RS Neb.)*

§3-117 MUNICIPAL WATER DEPARTMENT; 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 Municipal 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 Superintendent.

§3-118 MUNICIPAL WATER DEPARTMENT; COMPLAINTS. Any consumer feeling himself aggrieved by reason of any controversy with the Maintenance Superintendent may appear before the Governing Body and present his grievance. Any consumer who considers himself aggrieved by being required to pay the charge demanded for the use of water, or for the resumption of water service after the same shall have been shut off, shall pay such charge under protest, in which event the Municipal Clerk shall write on the receipt given such customer the words, "Paid Under Protest." Such consumer may then present his verified claim

in the manner provided for presenting claims to the Governing Body for a refund of the amount so paid under protest. Such claims shall then be considered by the Governing Body in the same manner as other claims against the Municipality.

§3-119 MUNICIPAL WATER DEPARTMENT; FLUORIDATION PROHIBITED. *(Repealed by Ord. No. 345, 5/19/92)*

§3-120 MUNICIPAL WATER DEPARTMENT; METER INSTALLATION; REQUIREMENTS. (1) Before any consumer shall make use of the Municipal water service, the Municipality shall furnish a meter, the cost of which shall be billed to the consumer. Meters shall be conveniently located at a point approved by the Municipal Superintendent, so as to control the entire supply. After such meters shall be installed, it must be approved by the Superintendent or his agent, after which the water may only be turned on by the Superintendent.

(2) When water is furnished by meter, the quantity recorded by the meter shall be conclusive on both municipality and consumer, except when the meter has been found to be registering inaccurately or has ceased to register. In the later case, the quantity may be determined by the average registration of the meter when in order plus the charges provided in subsection (4) hereof.

(3) In case of a disputed account involving the accuracy of a meter, such meter shall be tested on request of either the consumer or the Municipality in conformity with the provisions of rules and regulations adopted by the Municipality. If the meter so tested is found to have an error in registration of five percent (5%) or more, the bills will be increased or decreased accordingly.

(4) In the event a consumer is found to have been using the Municipal water supply without a working meter, such consumer shall pay, in addition to an estimated water use charge, an additional charge of fifty dollars (\$50.00) per month for each month of unmetered water use.

(5) The Municipal Superintendent shall adopt reasonable rules and regulations for the installation and maintenance of water meters. *(Ord. No. 231, 12/7/82)*

§3-120.01 MUNICIPAL WATER DEPARTMENT; METER INSTALLATION; MULTIPLE UNITS; NON-RESIDENTIAL UNITS. Non-residential units allowing for four (4) or less consumers or separate premises shall have a separate meter for each consumer or premises. Non-residential units allowing for more than four (4) consumers or separate premises may have one (1) meter per consumer group or premise. In such circumstances where individual consumers or separate premises do not have an individual meter, minimum charges shall be applied to each available consumer or premise and overages shall be applied to the non-residential unit as an accumulation of the entire non-residential unit's usage. *(Ord. No. 531, 2/5/02)*

§3-120.02 MUNICIPAL WATER DEPARTMENT; METER INSTALLATION; MULTIPLE UNITS; RESIDENTIAL UNITS. Residential units allowing for four (4) or less consumers or separate premises shall have a separate meter for each consumer or premises. Residential units allowing for more than four (4) consumers or separate premises may have one (1) meter per consumer group or premise. In such circumstances where individual consumers or separate

premises do not have an individual meter, mini-mum charges shall be applied to each available consumer or premise and overages shall be applied to the residential unit as an accumulation of the entire residential unit's usage. (Ord. No. 531, 2/5/02)

§3-121 MUNICIPAL WATER DEPARTMENT; WATER WATCH, WARNING OR EMERGENCY.

(1) *Purpose.*

The purpose of this section is to provide for the declaration of a water supply watch, warning or emergency and the implementation of voluntary and mandatory water conservation measures throughout the City in the event such a watch, warning or emergency is declared.

(2) *Definitions:*

(a) WATER. Water available to the City of Springfield for treatment by virtue of its water rights or any treated water introduced by the City into its water distribution system, including water offered for sale at any coin-operated site.

(b) CUSTOMER. The customer of record using water for any purpose from the City's water distribution system and for which either a regular charge is made or, in the case of coin sales, a cash charge is made at the site of delivery.

(c) WASTE OF WATER. Includes, but is not limited to:

1. Permitting water to escape down a gutter, ditch, or other surface drain; or
2. Failure to repair a controllable leak of water due to defective plumbing.

(d) The following classes of water are established:

CLASS 1: Water used for outdoor watering, either public or private, for gardens, lawns,

trees, shrubs, plants, parks, golf courses, playing fields, swimming pools or other recreational areas; or the washing of motor vehicles, boats, trailers, or the exterior of any building or structure.

CLASS 2: Water used for any commercial or industrial, including agricultural, purposes: except water actually necessary to maintain the health and personal hygiene of bona fide employees while such employees are engaged in the performance of their duties at their place of employment.

CLASS 3: Domestic usage, other than that which would be included in either Classes 1 or 2.

CLASS 4: Water necessary only to sustain human life and the lives of domestic pets and maintain standards of hygiene and sanitation.

(3) *Declaration of Water Watch.* Whenever the Governing Body of the City finds that conditions indicate that the probability of a drought or some other condition causing a major water supply shortage is rising, it shall be empowered to declare, by resolution, that a water watch exists and that it shall take steps to inform the public and ask for voluntary reductions in water use. Such a watch shall be deemed to continue until it is declared by resolution of the Governing Body to have ended. The resolutions declaring the existence and end of a water watch shall be effective upon their publication in the official City newspaper.

(4) *Declaration of Water Warning.* Whenever the Governing Body of the City finds that drought conditions or some other condition causing a major water supply shortage are present and supplies are starting to decline, it shall be empowered to declare by resolution that a water warning exists and that it will recommend restrictions on nonessential uses during the period of warning. Such a warning shall be deemed to continue until it is declared by resolution of the Governing Body to have ended. The resolutions declaring the beginning and ending of the water warning shall be effective upon their publication in the official City newspaper.

(5) *Declaration of Water Emergency.* Whenever the Governing Body of the City finds that an emergency exists by reason of a shortage of water supply needed for essential uses, it shall be empowered to declare by resolution that a water supply emergency exists and that it will impose mandatory restrictions on water use during the period of the emergency. Such an emergency shall be deemed to continue until it is declared by resolution of the Governing Body to have ended. The resolutions declaring the existence and end of a water supply emergency shall be effective upon their publication in the official City newspaper.

(6) *Voluntary Conservation Measures.* Upon the declaration of a water watch or water warning as provided in subsections (3) and (4) above, the Mayor (or the City Manager) is authorized to call on all water consumers to employ voluntary water conservation measures to limit or eliminate nonessential water uses including, but not limited to, limitations on the following uses:

(a) Sprinkling of water on lawns, shrubs or trees (including golf courses).

(b) Washing of automobiles.

(c) Use of water in swimming pools, fountains and evaporative air conditioning systems.

(d) Waste of water.

(7) *Mandatory Conservation Measures.* Upon the declaration of a water supply emergency as provided in subsection (5) above, the Mayor (or the City Manager) is also authorized to implement certain mandatory water conservation measures, including, but not limited to, the following:

(a) Suspension of new connections to the City's water distribution system, except connections of fire hydrants and those made pursuant to agreements entered into by the City prior to the effective date of the declaration of the emergency;

(b) Restrictions on the uses of water in one or more classes of water use, wholly or in part;

(c) Restrictions on the sales of water at coin-operated facilities or sites;

(d) The imposition of water rationing based on any reasonable formula including, but not limited to, the percentage of normal use and per capita or per consumer restrictions;

(e) Complete or partial bans on the waste of water; and

(f) Any combination of the foregoing measures.

(8) *Emergency Water Rates.* Upon the declaration of a water supply emergency as provided in subsection (5) above, the Governing Body of the City shall have the power to adopt emergency water rates by ordinance designed to conserve water supplies. Such emergency rates may provide for, but are not limited to:

(a) Higher charges for increasing usage per unit of use (increasing block rates);

(b) Uniform charges for water usage per unit of use (uniform unit rate); or

(c) Extra charges in excess of a specified level of water use (excess demand surcharge).

(9) *Regulations.* During the effective period of any water supply emergency as provided for in subsection (5) above, the Mayor (or City Manager or Water Superintendent) is empowered to promulgate such regulations as may be necessary to carry out the provisions of this section, any water supply emergency resolution, or emergency water rate ordinance. Such regulations shall be subject to the approval of the Governing Body at its next regular or special meeting.

(10) *Violations, Disconnections and Penalties.*

(a) If the Mayor, City Manager, Water Superintendent, or other City official or officials charged with implementation and enforcement of this section or a water supply emergency resolution learn of any violation of any water use restrictions imposed pursuant to subsections (7) or (9) of this section, a written notice of the violation shall be affixed to the property where the violation occurred and the customer of record any other person known to the City who is responsible for the violation or its correction shall be provided with either actual or mailed notice. Said notice shall describe the violation and order that it be corrected, cured or abated immediately or within such specified time as the City determines is reasonable under the circumstances. If the order is not complied with, the City may terminate water service to the customer subject to the following procedures:

1. The City shall give the customer notice by mail or actual notice that water service will be discontinued within a specified time due to the violation and that the customer will have the opportunity to appeal the termination by requesting a hearing scheduled before the City Governing Body or a City official designated as a hearing officer by the Governing Body;
2. If such a hearing is requested by the customer charged with the violation, he or she shall be given a full opportunity to be heard before termination is ordered; and
3. The governing body or hearing officer shall make findings of fact and order whether service should continue or be terminated.

(b) A fee of fifty dollars (\$50.00) shall be paid for the reconnection of any water service terminated pursuant to subsection 10(a) above. In the event of subsequent violations, the reconnection fee shall be two hundred dollars (\$200.00) for the second reconnection and three hundred dollars (\$300.00) for any additional reconnections.

(c) Violations of this section shall be a municipal offense and may be prosecuted in Municipal Court. Any person so charged and found guilty in Municipal court of violating the provisions of this section shall be guilty of a municipal offense. Each day's violation shall constitute a separate offense. The penalty for an initial violation shall be a mandatory fine of five hundred dollars (\$500.00). In addition, such customer may be required by the Court to serve a definite term of confinement in the City or County jail which shall be fixed by the Court and which shall not exceed thirty (30) days. The penalty for a second or subsequent conviction shall be a mandatory fine of five hundred dollars (\$500.00). In addition, such customer shall serve a definite term of confinement in the City or County jail which shall be fixed by the Court and which shall not exceed thirty (30) days.

(11) *Emergency Termination.* Nothing in this section shall limit the ability of any properly authorized City official from terminating the supply of water to any or all customers upon the determination of such City official that emergency termination of water service is required to protect the health and safety of the public. (*Ord. No. 501, 8/1/00*)

Article 2. Sewer Department

§3-201 MUNICIPAL SEWER DEPARTMENT; OPERATION AND FUNDING. The Municipality owns and operates the Municipal Sewer System through the Maintenance Superintendent. The Governing Body, for the purpose of defraying the cost of the management and maintenance of the Municipal 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. The Maintenance Superintendent 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 Governing Body. *(Ref. 17-149, 17-925.01 RS Neb.)*

§3-202 MUNICIPAL SEWER DEPARTMENT; DEFINITIONS. The following definitions shall be applied throughout this Chapter. Where no definition is specified, the normal dictionary usage of the word shall apply.

BUILDING OR HOUSE SEWER. The terms "Building Sewer" and "House Sewer" as used in this Code, 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.

BUILDING OR HOUSE DRAIN. The terms "Building Drain" and "House Drain" as used in this Code, shall mean and include that part of the lowest horizontal piping of a house or building drainage system which receives the discharge from soil, waste, or other drainage pipes inside the walls of any building or house.

SOIL PIPE. The term "Soil Pipe" as used in this Code, shall mean and include any pipe which conveys the discharge of water closets with or without the discharge from other fixtures to the house or building drain.

WASTE PIPE. The term "Waste Pipe" as used in this Code, shall mean and include any pipe which receives the discharge of any fixture, except water closets, and conveys the same to the house drain, soil pipe, or waste stack.

LOCAL VENTILATING PIPE. The term "Local Ventilating Pipe" as used in this Code, shall mean and include any pipe through which foul air is removed from a room or fixture.

VENT PIPE. The term "Vent Pipe" as used in this Code, shall mean and include any pipe provided to ventilate a house or building drainage system and to prevent trap siphonage and back pressure.

TRAP. The term "Trap" as used in this Code, shall mean and include a fitting or device so constructed as to prevent the passage of air or gas through a pipe without materially affecting the flow of sewage or waste through it.

TRAP SEAL. The term "Trap Seal" as used in this Code, shall mean and include the vertical distance between the crown weir and the dip of the trap.

PLUMBING FIXTURES. The term "Plumbing Fixtures" as used in this Code, shall mean and include receptacles intended to receive and discharge water liquid or water-carried wastes into the sewer system with which they are connected.

SEWER SYSTEM. The term "Sewer System" as used in this Code, shall mean and include all facilities for collecting, pumping, treating, and disposing of sewage.

SEWAGE. The term "Sewage" as used in this Code, shall mean and include 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.

SANITARY SEWER. The term "Sanitary Sewer" as used in this Code, shall mean and include a sewer which carries sewage and to which storm, surface, and ground waters are not intentionally admitted.

STORM SEWER. The term "Storm Sewer" as used in this Code, shall mean and include a sewer which carries storm and surface drainage, but excludes sewage and polluted industrial wastes.

GARBAGE. The term "Garbage" as used in this Code, shall mean and include solid wastes from the preparation of cooking and dispensing of food and produce.

PROPERLY SHREDDED. The term "Properly Shredded" as used in this Code, shall mean and include shredding to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers with no particle larger than one-half (1/2") inch in diameter.

SUSPENDED SOLIDS. The term "Suspended Solids" as used in this Code, shall mean and include solids that either float on the surface of, or are in immersion in water, sewage, or other liquids, and are removable by filtering.

§3-203 MUNICIPAL SEWER DEPARTMENT; APPLICATION FOR PERMIT. Any person wishing to connect with the Sewer System shall make an application therefor to the Maintenance Superintendent. The Superintendent may require any applicant to make a service deposit in such amount as has been set by the Governing Body and placed on file at the office of the Municipal Clerk. Sewer service may not be supplied to any house or building except upon the order of the Superintendent. The Department shall not supply sewer service to any person outside the corporate limits without special permission from the Governing Body; provided,

that the entire cost of pipe and other installation charges shall be paid by such consumers. Nothing herein shall be construed to obligate the Municipality to provide sewer service to non-residents. *(Ref. 17-149, 19-2701 RS Neb.)*

§3-204 MUNICIPAL SEWER DEPARTMENT; SEWER CONTRACT. The Municipality through the Municipal Sewer Department shall furnish sewer services to persons within its corporate limits whose premises abut a street or alley in which a commercial main is now or may hereafter be laid. The Municipality may also furnish sewer service to persons whose premises are situated outside the corporate limits of the Municipality, as and when, according to law, the Governing Body may see fit to do so. The rules, regulations, and sewer rental rates hereinafter named in this Article, shall be considered a part of every application hereafter made for sewer service and shall be considered a part of the contract between every customer now or hereafter served. Without further formality, the making of the application on the part of any applicant or the use of sewer service by present customers thereof shall constitute a contract between the customer and the Municipality to which said contract both parties are bound. If the customer shall violate any of the provisions of said contract or any reasonable rules and regulations that the Governing Body may hereafter adopt, the Maintenance Superintendent, or his agent, may cut off or disconnect the sewer service from the building or premise of such violation. No further connection for sewer service to said building or premise shall again be made save or except by order of the Superintendent or his agent. *(Ref. 17-901, 17-902 RS Neb.)*

§3-205 MUNICIPAL SEWER DEPARTMENT; MANDATORY HOOK-UP. Upon written notice by the Superintendent the property owner, occupant, or lessee of any premise within three hundred (300') feet of any sewer main shall without delay cause the said building to be connected with the Sewer System and equipped with inside sewerage facilities. Every building hereafter erected shall be connected with the Sewer System at the time of its construction. In the event that any property owner, occupant, or lessee shall neglect, fail, or refuse, within a period of ten (10) days after notice has been given to him to do so by registered mail or by publication in a newspaper in or of general circulation in the Municipality, to make such connection, the Governing Body 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. *(Ref. 17-149, 17-149.01 RS Neb.)*

§3-206 MUNICIPAL SEWER DEPARTMENT; DIRECT CONNECTIONS. Each and every building must make a direct connection with the main sewer line. Under no circumstances will two (2) or more houses be allowed to make such connections through one (1) pipe. *(Ref. 18-503 RS Neb.)*

§3-207 MUNICIPAL SEWER DEPARTMENT; SERVICE CONTRACTS. Contracts for sewer service are not transferable. Any person wishing to change from one location to another shall make a new application and sign a new contract. If any customer shall move from the premise where service is furnished, or if the said premise is destroyed by fire or other casualty, he shall at once inform the Maintenance Superintendent who shall cause the sewer service to be shut off from

the said premise. If the customer should fail to give notice, he shall be charged for that period of time until the official in charge of sewers is otherwise advised of such circumstances. (Ref. 18-503 RS Neb.)

§3-208 MUNICIPAL SEWER DEPARTMENT; INSTALLATION PROCEDURE. In making excavations in streets, alleys, or sidewalks for the purpose of installing pipe, or making repairs, the paving, stones, and earth must be removed and deposited in a manner that will occasion the least inconvenience to the public and provide for adequate drainage. No person shall leave an excavation made in the street, alley, or sidewalk open at any time without a barricade, and during the night, warning lights. After the house sewer is laid, the public ways and property shall be restored to good condition. If the excavation in the public ways and property is left open or unfinished for a period of twenty-four (24) hours or more, the Maintenance Superintendent shall have the duty to finish or correct the work, and all expenses so incurred shall be charged to the owner, occupant, or lessee of the property. All installations or repairs of pipes require two (2) inspections by the Superintendent. The first (1st) inspection shall be made when connections or repairs are complete and before the pipes are covered. The second (2nd) inspection shall be made after the dirt work is completed and the service restored. It is the customers 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 for such installation prescribed by the Superintendent; provided, that the said rules, regulations, and specifications have been reviewed and approved by the Governing Body. (Ref. 18-503 RS Neb.)

§3-209 MUNICIPAL SEWER DEPARTMENT; INSTALLATION EXPENSE. The customer, upon approval of his application for sewer service, shall pay to the Maintenance Superintendent a tap fee which shall compensate the Municipality for the expense of processing his application and tapping the sewer main. The 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 as well as the services of a licensed plumber and shall pay all other costs of installation. (Ref. 18-503 RS Neb.)

§ 3-209.01 MUNICIPAL SEWER DEPARTMENT; SEWER CONNECTION FEES NOT IN A SEWER DISTRICT.

(1) Sewer Connection Fees. All applicants for connection to the sewer system which seek to connect to the system where a Sewer District, Sewer Extension District, or combined Sewer and Water District have not been created and whose property shall not have been charged by way of special assessments for said sewer service, shall pay, in addition to the deposit required by the Code of the City of Springfield, a sewer connection fee to the City Clerk-Treasurer, which sewer connection fee shall be based upon the following formula:

After any sewer line is constructed by the City, and all or part of the sewer line is outside of a Sewer District, Sewer Extension District, or combined Sewer and Water District, the City Engineer shall prepare an estimate of the cost of an installed eight (8) inch sewer main. In addition to the estimated cost of the eight (8) inch main, the City Engineer shall add a

factor to cover engineering fees, bonding fees, legal fees, and other miscellaneous expenses. Based on these estimates, the City Engineer shall then calculate a "per foot" estimated cost for the sewer main. The per foot cost shall then be kept on file in the City Clerk's office. The sewer connection fee shall be calculated by multiplying the number of linear feet of frontage of the applicant's lot parallel to the sewer line times the Engineer's estimate of the per foot sewer line cost.

(2) Provided that no connection shall be made to the sewer system until such deposit and appropriate sewer connection fee shall have been paid in full; and provided further that such sewer connection shall, when collected, be handled by the City Clerk-Treasurer as follows:

(a) The City Clerk-Treasurer shall apply all funds to the City Sewer Fund. (*Ord. No. 470, 9/1/98*)

§3-209.02 MUNICIPAL SEWER DEPARTMENT; SEWER CONNECTION FEES IN A SEWER DISTRICT.

(1) Fee base.

(a) All applicants for connection to the sewer system which seek to connect to the system where a Sewer District, Sewer Extension District, or combined Sewer and Water District have been created and whose property shall not have been charged by way of special assessments for said sewer service, shall pay, in addition to the deposit required by the code, a sewer connection fee to the City Treasurer, which sewer connection fee shall be based upon the following formula:

(b) The City Engineer shall prepare an estimate of the cost of an installed eight (8) inch sewer main. In addition to the estimated cost of the eight (8) inch main, the City Engineer shall add a factor to cover engineering fees, bonding fees, legal fees, and other miscellaneous expenses. Based on these estimates, the City Engineer shall then calculate a "per linear foot" estimated cost of the sewer main. The per linear foot cost shall be recalculated annually and be kept on file in the City Clerk's office.

(2) Application of fee base. The sewer connection fee shall be calculated by multiplying the number of linear feet of frontage of the applicant's lot parallel to the sewer line times the Engineer's estimate of the per linear foot sewer line cost.

(3) Alternate fee application. In cases where irregular lot configuration lends front footage connection calculations to be inequitable, the City Engineer, with approval of City Council, may use one of the following alternate methods of applying the fee base.

(a) The fee base may be applied prorata to the number of properties benefitted.

(b) The fee base may be applied on a square footage of benefitted properties basis or by a combination of square footage and front footage.

(4) No connection fee shall prohibit the Council from negotiating and entering into a developer subdivision agreement which may specify fees, assessments and other subsequent charges.

(5) Sewer connection fee is non-exclusive. Payment of a sewer connection fee under this section does not exclude the applicant from the responsibility of sewer connection-capital facilities fees which intent is to offset costs of treatment plants and supporting structures necessary to provide sewer service to the property.

(6) No connection shall be made to the sewer system until such deposit and appropriate sewer connection fees shall have been paid in full to the City Treasurer.

(7) The City Treasurer shall apply all fees collected to the City Sewer Fund. (*Ref. 18-503 RS Neb*) (*Ord. No. 701, 2/21/06*)

§3-209.03 MUNICIPAL SEWER DEPARTMENT; SEWER CONNECTION-CAPITAL FACILITIES FEES. (1) Amount of fee. The sewer connection-capital facilities fee shall be established and listed in the Springfield Fees Ordinance adopted by City Council and kept current in the City Clerk's Office.

(2) When applied. The sewer connection-capital facilities fee shall apply to all final plats which come before the Springfield City Council for approval, and which have not been previously platted; provided, however, that the City and a developer or subdivider of a residential subdivision may agree in a developer or subdivision agreement that residential sewer connection-capital facilities fees may be paid when building permits are issued for lots within the subdivision.

(3) Date due. The sewer connection-capital facilities fee shall be paid to the City Clerk prior to the Mayor signing the approved final plat or at the time agreed to in an approved developer or subdivision agreement.

(4) Distribution of funds. The City Treasurer shall apply the sewer connection-capital facilities fee to the Springfield Sewer Capital Facilities Fund.

(5) Sewer connection-capital facilities fee is non-exclusive. Payment of a sewer connection-capital facilities fee under this section does not exclude the applicant from the responsibility of sewer connection fees which intent is to offset costs of sewer main installation necessary to provide service to the property.

(6) No connection shall be made to the sewer system until such deposit and appropriate sewer connection fees shall have been paid in full to the City Treasurer.

(7) The sewer connection-capital facilities fee shall not create an obligation on behalf of the city to provide any services to the platted properties. (*Ref. 18-503 RS Neb.*) (*Ord. No. 702, 2/21/06*) (*Amended by Ord. No. 905, 10/20/15*)

§3-210 MUNICIPAL SEWER DEPARTMENT; REPAIRS AND MAINTENANCE. The Municipal Sewer Department may require the owner of any property which is within the Municipality and connected to the public sewers or drains to repair or replace any connection line which serves the owner's property and is broken, clogged or otherwise in need of repair or replacement. The property owner's duty to repair or replace such a connection line shall include those portions upon the owner's property and those portions upon public property or easements up to and including the point of junction with the public main.

The Municipal 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 thirty (30) days of mailing such notice the property owner fails or neglects to cause such repairs or replacements to be made, the Maintenance Superintendent may cause such work to be done and assess the cost upon the property served by such connection. (*Amended by Ord. No. 273, 12/4/84*)

§3-211 MUNICIPAL SEWER DEPARTMENT; CLASSIFICATION. The Governing Body may classify for the purpose of rental fees the customers of the Municipal Sewer Department; provided, that such classifications are reasonable and do not discriminate unlawfully against any consumer or group of consumers. *(Ref. 17-925.02 RS Neb.)*

§3-212 MUNICIPAL SEWER DEPARTMENT; RATE SETTING. Customers of the Municipal Sewer Department shall be charged a flat rate for the use of sewer service. Rates shall be set by ordinance and shall be on file at the office of the Municipal Clerk for public inspection at any reasonable time.

§3-213 MUNICIPAL SEWER DEPARTMENT; SERVICE DEPOSIT. The Governing Body, in its discretion, may require a service deposit from any or all customers of the Municipal Sewer and Water Department in a sum set by the Governing Body and filed in the office of the Municipal Clerk for public inspection at any reasonable time. From the said fund shall be deducted all delinquent sewer and/or water charges. The deposit shall be collected by the Municipal Clerk who shall immediately turn the same over to the Municipal Treasurer who shall keep the deposit in a trust fund for customers of the Municipal Sewer and Water Department. The said fund shall be put out at interest separate and apart from other funds. Interest arising therefrom shall be expended solely for the repair of equipment and property belonging to the Municipal Sewer and Water Department. *(Ref. 17-925.01 RS Neb.) (Amended by Ord. No. 535, 2/19/02)*

§3-214 MUNICIPAL SEWER DEPARTMENT; FEES AND COLLECTIONS. The Governing Body has the power and authority to fix the rates to be paid by the customers of the Sewer Department. All such fees shall be on file for public inspection at the office of the Municipal Clerk. Sewer fees shall be due and payable monthly at the office of the Municipal Clerk, or other depository as approved by the Governing Body. Sewer fees shall be due on the first (1st) day of the month following the month in which service has been provided and shall be considered delinquent after the fifth (5th) business day of the same month. Upon being deemed delinquent, as herein defined, the Municipal Clerk shall assess a delinquent fee as set by resolution of the Governing Body and on file at the office of the Municipal Clerk. If a customer shall for any reason remain delinquent after the fifteenth (15th) of the same month, the Municipal Clerk shall give a written notice to the customer of such delinquency and shall demand payment immediately. In the event that the delinquent bill is not paid, the customer will be subject to a Municipal Sewer Lien as provided by this Code. *(Amended by Ord. Nos. 505, 12/20/00; 624, 9/2/03; 632, 1/6/04; 708, 2/21/06)*

§3-214.01 MUNICIPAL SEWER DEPARTMENT; FEES; MULTIPLE UNITS. In such circumstances where individual consumers or separate premises do not have an individual water meter, minimum sewer charges shall be applied to each available consumer or premise and sewer overages shall be applied to the residential or non-residential unit as an accumulation of the entire residential or non-residential unit's usage. *(Ord. No. 560, 4/16/02)*

§3-215 MUNICIPAL SEWER DEPARTMENT; UNLAWFUL USE. It shall be unlawful for any person to discharge or cause to be discharged any storm water, surface water, ground water, roof runoff, surface drainage, or unpolluted industrial process waters into the sanitary sewer.

§3-216 MUNICIPAL SEWER DEPARTMENT; SPECIAL EQUIPMENT. In the event a customer of the Municipal Sewer Department discharges an unusually large amount of waste daily, an unusually large amount of grease or oil, or waste with an unusually high biochemical oxygen demand the chief sewer official may require the said customer to install interceptors or other preliminary treatment equipment to reduce the objectionable characteristics of the waste to within such maximum limits as he shall prescribe subject to the review of the Governing Body. All preliminary treatment facilities shall be purchased and maintained continuously in satisfactory and efficient operation at the customer's expense. Nothing herein shall be construed to prohibit a special agreement or arrangement between the Governing Body and an industrial concern whereby an industrial waste of unusual strength or character may be accepted by the Municipality for treatment subject to additional rental fees or other charges.

§3-217 MUNICIPAL SEWER DEPARTMENT; MANHOLES. Entrance into a manhole or opening for any purpose except by authorized persons is hereby 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.

§3-218 MUNICIPAL SEWER DEPARTMENT; INSPECTIONS. The chief sewer official or his authorized agents, shall have free access at any reasonable time to all parts of each premise and building which is connected with the Sewer System to ascertain whether there is any disrepair or violations of this Article therein.

§3-219 MUNICIPAL SEWER DEPARTMENT; LIEN. In addition to all other remedies, if a customer shall for any reason remain indebted to the Municipality for sewer service furnished, such amount due, together with any rents and charges in arrears shall be considered a delinquent sewer rent which is hereby declared to be a lien upon the real estate for which the same was furnished. The Municipal 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 delinquent after the fifteenth (15th) of the month following the month in which service has been provided. If payment is not remitted within seven (7) days after the mailing of such notice, the Municipal Clerk shall certify the delinquent amounts to the County Clerk to be collected as a special tax in the manner provided by law. (*Ref. 17-925.01 RS Neb.*) (*Amended by Ord. No. 625, 9/2/03*)

§3-220 MUNICIPAL SEWER DEPARTMENT; COMPLAINTS. Any consumer feeling himself aggrieved by reason of any controversy with the (Board of Public Works/Utilities Superintendent/Municipal Clerk) may appear before the Governing Body and present his grievance. Any consumer who considers himself aggrieved by being required to pay the charge demanded for the use of the sewer, or for the resumption of sewer service after the same shall have been shut off, shall pay such charge under protest, in which event the (Utilities Superintendent/Municipal Clerk) shall write on the receipt given such customer the words,

"Paid Under Protest." Such consumer may then present his verified claim in the manner provided for presenting claims to the Governing Body for a refund of the amount so paid under protest. Such claims shall then be considered by the Governing Body in the same manner as other claims against the Municipality. *(Amended by Ord. No. 212, 4/1/80)*

Article 3. Fire Department

§3-301 MUNICIPAL FIRE DEPARTMENT; OPERATION AND FUNDING. The Municipality operates the Municipal Fire Department through the Municipal Fire Chief and Firemen. The Governing Body, for the purpose of defraying the cost of the management, maintenance, and improving the Fire Department may each year levy a tax not exceeding the maximum limits prescribed by State law, on the actual valuation of all real estate and personal property within the Municipality that is subject to taxation. The revenue from the said tax shall be known as the Fire Department Fund. The Fund shall be at all times in the possession of the Municipal Treasurer. The Fire Chief shall manage the Fire Department and it shall be his duty to inform the Governing Body when any of the fire engines, hose, ladders, or other apparatus needs repair. Upon the written consent and directive of the Governing Body, the Fire Chief shall cause the repair, improvement, or maintenance of the said equipment and shall personally supervise and approve of the same. The Municipality is authorized to enter into an agreement with the appropriate Rural Fire District for mutual aid and protection. The Municipality may expend such sums of money and levy such taxes as are not in conflict with state law to support this mutual aid and protection. *(Ref. 17-147, 17-718, 17-953 RS Neb.)*

§3-302 MUNICIPAL FIRE DEPARTMENT; FIRE CHIEF. The Fire Chief shall manage the Fire Department and it shall be his duty to inform the Governing Body when any of the fire engines, hose, ladders, or other apparatus needs repair. Upon the written consent and directive of the Governing Body, the Fire Chief shall cause the repair, improvement, or maintenance of the said equipment and shall personally supervise and approve of the same. It shall be the duty of the Fire Chief to come before the Governing Body at the regular meeting in January of each year to give an annual report to the Governing Body of the general condition and the proposed additions or improvements recommended by him.

§3-303 MUNICIPAL FIRE DEPARTMENT; MEMBERSHIP. (A) The Fire Department shall consist of so many members as may be decided by the City Council. The members may organize themselves in any way they may decide, subject to the review of the City Council. The Fire Chief shall appoint no more than twenty-five (25) members for each fire department company subject to the review and approval of the City Council. All vacancies shall be filled in this manner.

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

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

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

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

(F) For purposes of section 33-139.01 RS Neb., volunteer firefighters and rescue squad members testifying as witnesses in that capacity alone shall not be deemed employees of the City. *(Ref. 33-139.01 RS Neb.) (Amended by Ord. No. 639, 1/6/04)*

§3-304 MUNICIPAL FIRE DEPARTMENT; RECORDS. The Fire Chief shall keep or cause to be kept a record of all meetings of the Fire Department, the attendance record of all members, a record of all fires, and shall make a full report of such records to the Municipal Clerk during the last week in April each year. The record of any fire shall include the cause, origin, circumstances, property involved, and whether criminal conduct may have been involved. In the event of sizable property damage, he shall include the information of whether such losses were covered by insurance, and if so, in what amount. All records shall be available to the public at any reasonable time.

§3-305 MUNICIPAL FIRE DEPARTMENT; FIRES. It shall be the duty of the Fire Department to use all proper means for the extinguishment of fires; to protect property within the Municipality; and to secure the observance of all ordinances, laws, and other rules and regulations with respect to fires and fire prevention.

§3-306 MUNICIPAL FIRE DEPARTMENT; FIGHTING DISTANT FIRES. The firefighters of the Municipality shall be considered as acting in the performance and within the scope of their duties in fighting fire or saving property or life outside the corporate limits of the Municipality when directed to do so by the Mayor or Chief of the Fire Department or some person authorized to act for such Chief and in so doing, may take such fire equipment of the Municipality as may be designated by the Governing Body.

§3-307 MUNICIPAL FIRE DEPARTMENT; PRESERVATION OF PROPERTY. Any official of the Municipal Fire Department shall have the power during the time of a fire to cause the removal of any private or public property whenever it shall become necessary to do so for the preservation of such property from fire, to prevent the spreading of fire, or to protect adjoining property. The said officials may direct the Municipal firefighters to remove any building, structure, or fence for the purpose of checking the progress of any fire, and the official in

charge of the fire fighting effort shall have the power to blow up, or cause to be blown up, with powder or otherwise, any building or erection during the progress of a fire for the purpose of extinguishing or checking the same.

§3-308 MUNICIPAL FIRE DEPARTMENT; IMPERSONATING FIREMEN. It shall be unlawful for any person to falsely personate a fireman by wearing a badge or other apparel usually worn by a fireman for the purpose of obtaining any benefit whatsoever. Nothing herein shall be construed to prohibit the theatrical representation of a fireman for bona fide entertainment purposes when there is no intent to defraud. (*Ref. 28-609 RS Neb.*)

§3-309 MUNICIPAL FIRE DEPARTMENT; MANDATORY ASSISTANCE. Any official of the Municipal Fire Department may command the assistance and services of any person present at a fire to help in extinguishing the fire, or in the removal and protection of property. In the event that a spectator refuses, neglects, or fails to assist the Fire Department after a lawful order to do so, he shall be deemed guilty of a misdemeanor.

§3-310 MUNICIPAL FIRE DEPARTMENT; POWER OF ARREST. The Municipal Fire Chief or the assistant Fire Chief shall have the power during the time of a fire and for a period of thirty-six (36) hours after its extinguishment, to arrest any suspected arsonist, or other person hindering or resisting the fire fighting effort, or any person who conducts himself in a noisy or disorderly manner. The said officials shall be severally vested with the usual powers and authority of Municipal Policemen to command all persons to assist them in the performance of their duties.

§3-311 MUNICIPAL FIRE DEPARTMENT; FIRE INVESTIGATION. It shall be the duty of the Fire Department to investigate or cause to be investigated, the cause, origin, and circumstances of every fire occurring in the Municipality in which property has been destroyed or damaged in excess of fifty (\$50.00) dollars. All fires of unknown origin shall be reported, and such officers shall especially make an investigation and report as to whether such fire was the result of carelessness, accident, or design. Such investigation shall be begun within two (2) days of the occurrence of such fire and the State Fire Marshal shall have the right to supervise and direct the investigation whenever he deems it expedient or necessary. The officer making the investigation of fires occurring within the Municipality shall immediately notify the State Fire Marshal and shall, within one (1) week of the occurrence of the fire, furnish him with a written statement of all the facts relating to the cause and origin of the fire, and such further information as he may call for. (*Ref. 81-506 RS Neb.*)

Article 4. Police Department

§3-401 POLICE DEPARTMENT; DUTIES. The Police Department shall consist of the Chief of Police and such further number of regular policemen as may be duly ordered by resolution of the Council. The Chief of Police shall, subject to the direction of the Mayor, have control and management of all matters relating to the Police Department, its officers and members, and shall have the custody and control of all property and books belonging to the department. He shall devote his whole time to the municipal affairs, interests of the Municipality, and to the preservation of peace, order, safety, and cleanliness thereof. The Department shall execute and enforce all laws and also the orders of the Mayor. It shall be the duty of the Department to protect the rights of persons and property. There shall be a proper police force at all fires. The Department shall take notice of all nuisances, impediments, obstructions, and defects in the streets, avenues, alleys, business places, and residences of the Municipality. The Department shall execute, or cause to be executed, the processes issued and shall cause all persons arrested to be brought before the proper court for trial as speedily as possible. The Chief of Police and all regular and special policemen shall become thoroughly conversant with the laws of the Municipality, and shall see that the same are strictly enforced and shall make sworn complaints against any person or persons for violation of the same.

§3-402 POLICE DEPARTMENT; CONTRACTING FOR SERVICES. The Mayor and City Council, in lieu of creating and maintaining a municipal Police Department, may contract with another duly authorized law enforcement agency for the performance of all or a part of the services required to carry out and enforce all laws of the Municipality, and orders of the Mayor, for the preservation of peace, order, health, safety, and welfare thereof. (*Ord. No. 693, 9/20/05*)

§3-403 POLICE DEPARTMENT; ARREST AND ENFORCEMENT JURISDICTION. (A) The police officers of the city shall have the power to arrest all offenders against the laws of the state or of the city, by day or by night, in the same manner as the County Sheriff and to keep such offenders in the city prison, county jail or other place of confinement to prevent their escape until trial can be had before the proper officer. (*Ref. 17-118 RS Neb.*)

(B) Every city law enforcement officer has the power and authority to enforce the laws of this state and the city or otherwise perform the functions of that office anywhere within his or her primary jurisdiction.

(C) For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

LAW ENFORCEMENT OFFICER IN NEED OF ASSISTANCE.

- (a) A law enforcement officer whose life is in danger; or
- (b) A law enforcement officer who needs assistance in making an arrest and the

suspect:

1. Will not be apprehended unless immediately arrested;
2. May cause injury to himself or herself or others or damage to property unless immediately arrested; or
3. May destroy or conceal evidence of the commission of a crime.

PRIMARY JURISDICTION. The geographic area within territorial limits of the city.

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

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

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

(3) Any city law enforcement officer has this enforcement and arrest and detention authority when responding to a call in which a local, state, or federal law enforcement officer is in need of assistance; and

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

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

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

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

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

(F) If city law enforcement personnel are rendering aid in their law enforcement capacity outside the limits of the city in the event of disaster, emergency, or civil defense emergency or in connection with any program of practice or training for a disaster, emergency, or civil defense emergency when that program is conducted or participated in by the Nebraska

Emergency Management Agency or with any other related training program, the law enforcement personnel have the power and authority to enforce the laws of this state or any legal ordinances or resolutions of the local government where they are rendering aid or otherwise perform the functions of their office, including the authority to arrest and detain suspects, as if enforcing the laws or performing the functions within their primary jurisdiction. The city shall self-insure or contract for insurance against any liability for personal injuries or property damage that may be incurred by it or by its personnel as the result of any movement made pursuant to this division. *(Ref. 81-829.65 RS Neb.) (Ord. No. 988, 8/7/18)*

Article 5. Parks

§3-501 MUNICIPAL PARKS; OPERATION AND FUNDING. The Municipality owns and operates the Municipal Parks and other recreational areas through the Board of Park Commissioners. The Governing Body, for the purpose of defraying the cost of the care, management, and maintenance of the Municipal Park may each year levy a tax not exceeding the maximum limit prescribed by State law, on the actual valuation of all real estate and personal property within the corporate limits that is subject to taxation. The revenue from the said tax shall be known as the Park Fund and shall remain in the custody of the Municipal Treasurer. The Board shall have the authority to adopt rules and regulations for the efficient management of the Municipal Parks and other recreational areas of the Municipality. The Board shall not enter into a contract of any nature which involves an expenditure of funds, except for ordinary operating expenses, unless the contract has been approved by resolution of the majority of the members of the Governing Body prior to the contractual agreement. *(Ref. 17-948 through 17-952 RS Neb.)*

§3-502 MUNICIPAL PARKS; INJURY TO PROPERTY. It shall be unlawful for any person to maliciously or willfully cut down, injure, or destroy any tree, plant, or shrub. It shall be unlawful for any person to injure or destroy any sodded or planted area, or injure or destroy any building, structure, equipment, fence, bench, table, or any other property of the Municipal Parks and recreational areas. No person shall commit any waste on or litter the Municipal Parks or other public grounds.

§3-503 MUNICIPAL PARKS; RECREATIONAL TRAILS; REGULATION AND CONTROL. The governing body shall have the power to enact by resolution, rules and regulations for the protection, preservation, and operation of the city's recreational trails. They may also provide suitable penalties for the violation of such rules and regulations. *(Ref. 13-304, 17-948, and 17-949 RS Neb.) (Ord. No. 669, 1/4/05)*

§3-504 MUNICIPAL PARKS; CLOSING TIME. Unless otherwise provided and posted all parks, playground areas and recreational trails in the City shall be closed to the public between the hours of 11:00 p.m. and 5:00 a.m. daily. Exceptions to such closing time may be granted to supervised or organized activities sponsored by or permitted by the City Council. *(Ord. No. 944, 2/7/17)*

Article 6. Library

§3-601 MUNICIPAL LIBRARY; OPERATION AND FUNDING. The Municipality owns and manages the Municipal Library through the Library Board. The Governing Body, for the purpose of defraying the cost of the management, purchases, improvements, and maintenance of the Library 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 Municipality that is subject to taxation. The revenue from the said tax shall be known as the Library Fund and shall include all gifts, grants, deeds of conveyance, bequests, or other valuable income-producing personal property and real estate from any source for the purpose of endowing the Municipal Library. The Library Fund shall at all times be in the custody of the Municipal Treasurer. The Board shall have the power and authority to appoint the librarian and to hire such other employees as they may deem necessary and may pass such other rules and regulations for the operation of the Library as may be proper for its efficient operation. All actions by the Board shall be under the supervision and control of the Governing Body. *(Ref. 51-201, 51-202, 51-211 RS Neb.)*

§3-602 MUNICIPAL LIBRARY; BOOKS. The Library Board may authorize the sale, exchange, or disposal of any surplus, damaged, defective, obsolete, or duplicate books in the Library. Records shall be kept of any such surplus, damaged, defective, obsolete, or duplicate books so disposed of. *(Ref. 51-207 RS Neb.)*

§3-603 MUNICIPAL LIBRARY; RULES AND REGULATIONS. The Library Board shall establish rules and regulations for the governing of the Municipal Library for the preservation and efficient management thereof. They shall fix and impose by general rules, penalties and forfeitures for injury to the Library grounds, rooms, books, or other property, or for failure to return a book. All fees, penalties, and forfeitures may be collected in civil action in the event of failure, neglect, or refusal to pay the said assessments. *(Ref. 51-205, 51-214 RS Neb.)*

§3-604 MUNICIPAL LIBRARY; BOOKS ISSUED. The Librarian shall keep, or cause to be kept, a register of all books issued and returned at the time they shall so be issued and returned. None of the books shall be detained more than fourteen (14) days without being renewed. No book may be renewed more than two (2) consecutive times by any person without the special permission of the Librarian or an authorized employee of the Municipal Library. *(Ref. 51-211 RS Neb.)*

§3-605 MUNICIPAL LIBRARY; DAMAGED AND LOST BOOKS. Any person who injures or fails to return any book taken from the Library shall forfeit and pay to the Library not less than the value of the book in addition to any replacement costs and penalty which the Library Board may assess. *(Ref. 51-211 RS Neb.)*

§3-606 MUNICIPAL LIBRARY; BOOK REMOVAL. It shall be unlawful for any person not authorized by the regulations made by the Library Board to take a book from the Library, without the consent of the Librarian, or an authorized employee of the Library. Any person

removing a book from the Library without properly checking it out shall be deemed to be guilty of a misdemeanor. *(Ref. 51-211 RS Neb.)*

§3-607 MUNICIPAL LIBRARY; COST OF USE. (A) Except as provided in division (B) of this section, the Municipal Library and reading room shall be forever free to the use of the inhabitants of the Municipality, subject always to such reasonable regulations as the Library Board may adopt to render the Library of the greatest use to such inhabitants. The Library Board may exclude from the use of the Library and reading rooms any person who willfully violates or refuses to comply with rules and regulations established for the government thereof. *(Ref. 51-212 RS Neb.)*

(B) The Library shall make its basic services available without charge to all residents of the Municipality. The Library Board may fix and impose reasonable fees, not to exceed the library's actual cost, for nonbasic services. *(Ref. 51-211 RS Neb.)*

(C) For purposes of this section:

(1) Basic services shall include, but not be limited to, free loan of circulating print and nonprint materials from the local collection and general reference and information services; and

(2) Nonbasic services shall include, but not be limited to, use of:

(a) Photocopying equipment;

(b) Telephones, facsimile equipment, and other telecommunications equipment;

(c) Media equipment;

(d) Personal computers; and

(e) Videocassette recording and playing equipment.

(Ref. 51-201.01 RS Neb.) (Amended by Ord. No. 554, 4/2/02)

§3-608 MUNICIPAL LIBRARY; MONEY COLLECTED. Any money collected by the Library shall be turned over monthly by the Librarian to the Municipal Treasurer along with a report of the sources of the revenue. *(Ref. 51-209 RS Neb.)*

§3-609 MUNICIPAL LIBRARY; DISCRIMINATION PROHIBITED. No library service shall be denied to any person because of race, sex, religion, age, color, national origin, ancestry, physical handicap, or marital status. *(Ref. 51-211 RS Neb.) (Ord. No. 554, 4/2/02)*

§3-610 MUNICIPAL LIBRARY; BOARD; ANNUAL REPORT. The Library Board shall, on or before the second Monday in February in each year, make a report to the City Council of the condition of its trust on the last day of the prior fiscal year. The report shall show all money received and credited or expended; the number of materials held, including books, video and audio materials, software programs, and materials in other formats; the number of periodical subscriptions on record, including newspapers; the number of materials added and the number withdrawn from the collection during the year; the number of materials circulated during the year and other statistics, information, and suggestions as the Library Board may deem of general interest, or as the City Council may require. The report shall be verified by affidavit of the President and Secretary of the Library Board. *(Ref. 51-213 RS Neb.) (Ord. No. 554, 4/2/02) (Amended by Ord. No. 656, 11/2/04)*

§ 3-611 MUNICIPAL LIBRARY; PENALTIES; RECOVERY; DISPOSITION. Penalties imposed or accruing by any bylaw or regulation of the Library Board and any court costs and attorney's fees may be recovered in a civil action before any court having jurisdiction, such action to be instituted in the name of the Library Board. Money, other than any court costs and attorney's fees, collected in such actions shall be placed in the treasury of the municipality to the credit of the Library Fund. Attorney's fees collected pursuant to this section shall be placed in the treasury of the Municipality and credited to the budget of the Municipal Attorney's office. *(Ref. 51-214 RS Neb.) (Ord. No. 554, 4/2/02)*

Article 7. Auditorium

§3-701 MUNICIPAL AUDITORIUM; OWNERSHIP. The Municipality owns and manages the Municipal Auditorium through the Auditorium Committee. The Governing Body, for the purpose of defraying the cost of the management, maintenance, and improvements on the Municipal Auditorium 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 Municipality that is subject to taxation. The revenue from the said tax shall be known as the Auditorium Fund and shall include all gifts, grants, deed of conveyance, bequests, or other valuable income-producing personal property and real estate from any source for the purpose of endowing the Municipal Auditorium. The Auditorium Fund shall at all times be in the custody of the Municipal Treasurer. The Committee shall have the power to hire and supervise such employees as they may deem necessary and shall pass such rules and regulations for the operation of the Auditorium as may be proper for its efficient management. All actions by the Committee shall be under the supervision and control of the Governing Body and in the event that the Governing Body should fail or neglect to appoint an Auditorium Committee, the Governing Body shall be the Auditorium Committee ex officio. *(Ref. 17-953 through 17-955 RS Neb.)*

§3-702 MUNICIPAL AUDITORIUM; RENTALS. The Auditorium Committee may, for the purpose of defraying the expenses involved in maintaining, improving, managing, and beautifying the Auditorium, make a reasonable rental charge for the use by any person or organization of the Auditorium. The Committee shall prescribe rules and regulations for such rentals subject to the review of the Governing Body. Rental rates may be structured for classes of persons and organizations in a reasonable manner; provided, that nothing herein shall be construed to permit or allow discrimination on the basis of race, creed, color, or national origin in the classification of persons and organizations for rental purposes. *(Ref. 17-953 RS Neb.)*

§3-703 MUNICIPAL AUDITORIUM; RULES AND REGULATIONS. The Auditorium Committee shall have the power and authority to enact bylaws, rules, and regulations for the protection of the Municipal Auditorium and the safety of those using the Auditorium facilities. They may provide suitable penalties for the violation of such bylaws, rules, and regulations subject to the supervision and review of the Governing Body. All damage suffered by the Auditorium during any rental shall be assessed against the person or organization responsible for the rental thereof, or shall be deducted from the damage deposit which the Auditorium Committee may in their discretion have required prior to the said rental. The Committee may require during any rental, persons deputized as Municipal Police to insure that the said rules and regulations, and the Municipal Code is not violated. The wages of such persons shall be set by the Auditorium Committee and shall be paid prior to the beginning of the rental period. All rental fees, rules, and regulations shall be on file for public inspection at the office of the Municipal Clerk at any reasonable time. *(Ref. 17-953 RS Neb.)*

Article 8. Utilities Generally

§3-801 UTILITIES GENERALLY; DIVERSION OF SERVICES; CIVIL ACTION. (A) For purposes of this section, the definitions found in section 25-21,275 RS Neb. shall apply.

(B) (1) The Municipality may bring a civil action for damages against any person who commits, authorizes, solicits, aids, abets, or attempts:

- (a) Bypassing,
- (b) Tampering, or
- (c) Unauthorized metering when such act results in damages to a municipal utility.

The Municipality may bring a civil action for damages pursuant to this section against any person receiving the benefit of utility service through means of bypassing, tampering or unauthorized metering.

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

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

(3) In addition to damage or loss under subdivision (2)(a) or (b), the Municipality 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 attorneys' fees in cases within the scope of section 25-1801 RS Neb. (*Ref. 25-21,276 RS Neb.*)

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

- (a) Had access to the part of the utility supply system on the premises where the bypassing, tampering, or unauthorized metering is proven to exist and
- (b) Was responsible or partially responsible for payment, either directly or indirectly, to the utility or to any other person for utility services to the premises.

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

(D) The remedies provided by this section shall be deemed to be supplemental and additional to powers conferred by existing laws. The remedies provided in this section are in addition to and not in limitation of any other civil or criminal statutory or common-law remedies. (*Ref. 25-21,278 RS Neb.*) (*Ord. No. 256, 11/1/83*) (*Amended by Ord. No. 610, 4/1/03*)

§3-802 UTILITIES GENERALLY; DISCONTINUANCE OF SERVICE, NOTICE PROCEDURE. (A) For the purpose of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning.

DOMESTIC SUBSCRIBER. Shall not include municipalities, cities, villages, political subdivisions, companies, corporations, partnerships, limited liability companies, or businesses of any nature. (*Ref. 70-1602 RS Neb.*)

(B) No public or private utility company, including any utility owned and operated by the City, furnishing water, natural gas, or electricity at retail in this City shall discontinue service to any domestic subscriber for nonpayment of any past-due account unless the utility company first gives notice to any subscriber whose service is proposed to be terminated. Such notice shall be given in person, by first-class mail, or by electronic delivery, except that electronic delivery shall only be used if the subscriber has specifically elected to receive such notices by electronic delivery. If notice is given by first-class mail or electronic delivery, such notice shall be conspicuously marked as to its importance. Service shall not be discontinued for at least seven (7) days after notice is sent or given. Holidays and weekends shall be excluded from the seven (7) days. (*Ref. 70-1605 RS Neb.*)

(C) The notice required by division (A) 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 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 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 utility 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 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 (5) days of receiving notice under this section and will prevent the disconnection of the utility's service for a period of thirty (30) days from such filing. Only one (1) postponement of disconnection shall be allowed under this division 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 City Council or Board of Public Works, in the case of a City utility, or the board of directors or administrative board of any other utility. *(Ref. 70-1606 RS Neb.)*

(D) The utility shall establish a third-party notice procedure for the notification of a designated third party of any proposed discontinuance of service and shall advise its subscribers, including new subscribers, of the availability of such procedures. *(Ref. 70-1607 RS Neb.)*

(E) The provisions of sections 70-1608 through 70-1614 RS Neb. shall apply to disputes over a proposed discontinuance of service.

(F) The procedures adopted for resolving utility bills by the City Council or Board of Public Works for any City utility, One (1) copy of which is 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 utility for reasons of repair or maintenance or to protect the health or safety of the domestic subscriber or of the general public. *(Ref. 70-1615 RS Neb.) (Ord. No. 211, 4/1/80) (Amended by Ord. Nos. 274, 12/4/84; 425, 6/17/97; 924, 5/17/16)*

§3-803 UTILITIES GENERALLY; DIVERSION OF SERVICES, METER TAMPERING, UNAUTHORIZED RECONNECTION, PROHIBITED; EVIDENCE.

(A) It is an offense for any person:

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

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

(3) To reconnect water service without the knowledge and consent of the municipality if the service has been disconnected pursuant to sections 70-1601 to 70-1615 RS Neb.; or

(4) To willfully injure, alter, or by any instrument, device, or contrivance in any manner interfere with or obstruct the action or operation of any meter made or provided for measuring or registering the amount or quantity of water passing through it, without the knowledge and consent of the Municipality.

(B) Proof of the existence of any 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. *(Ref. 28-515.02 RS Neb.) (Ord. No. 386, 12/19/95) (Amended by Ord. No. 609, 4/1/03)*

§ 3-804 UTILITIES GENERALLY; DENIAL OF UTILITY SERVICE; WHEN PROHIBITED. No applicant for the services of a public or private utility company furnishing water, natural gas, or electricity in this Municipality shall be denied service because of unpaid bills for similar service

which are not collectible at law because of statutes of limitation or discharge in bankruptcy proceedings. (*Ref. 70-1601 RS Neb.*) (*Ord. 481, 4/7/99*)

Article 9. Penal Provision

§3-901 VIOLATIONS; PENALTY. (1) Any person, or any person's agent or servant, who violates any of the provisions of this chapter, unless otherwise specifically provided herein, shall be deemed guilty of an offense and upon conviction thereof shall be fined in any sum not exceeding five hundred dollars (\$500.00) A new violation shall be deemed to have been committed every twenty-four (24) hours of failure to comply with the provisions of this chapter.

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

(b) Whenever, in any action, it is established that a nuisance exists, the court may, together with the fine or penalty imposed, enter an order of abatement as a part of the judgment in the case. (*Ref. 17-505, 18-1720, 18-1722 RS Neb.*) (*Amended by Ord. No. 495, 7/5/00*)