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## **CHAPTER 7 – PUBLIC UTILITIES**

### **Article 1 – Utilities Generally**

#### **SECTION 7-101: CITY POWERS; RATE SETTING**

A. The City currently owns and operates a water supply and distribution system, a sanitary sewer disposal and treatment system, and an electricity distribution system. The latter is managed by Norris Public Power District. The City has the right and power to tax assets and collect from its residents payment for use of the water supplied to them by the water system and for use of the sewer system. The City Council is authorized to establish by ordinance such rates for water and sewer service as may be deemed fair and reasonable.

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

C. All such rates, taxes, or rent shall be a lien upon the premises or real estate for which the same is used or supplied and such rates, taxes, or rent shall be paid and collected and such lien enforced in such manner as the council shall by ordinance direct and provide. All such rates, taxes, or rent shall be kept on file in the office of the City Clerk for public inspection.

(Neb. Rev. Stat. §§17-538, 17-542, 17-925.1, 17-925.02, 18-509) (Am. Ord. No. 98-6, 6/25/98)

#### **SECTION 7-102: MANDATORY USE OF CITY SERVICES**

All residents of the City shall be required to subscribe to city utility services. Said residents shall be subject to the assessment and payment of charges for such utility services as set from time to time by the City Council. (Neb. Rev. Stat. §17-532)

#### **SECTION 7-103: SERVICE TO NONRESIDENTS**

Any person whose premises are located outside the corporate limits of the City and who desires to connect to city water and sewer service shall file a written application with the City Clerk for a permit for such connection, setting forth the name of the owner, occupant or lessee of the premises, the use to which the premises are devoted, and such other information as the City Council may require. The entire cost of pipe and other installation charges shall be paid by such consumer. Nonresidents shall pay such tap fees as have been set by the council by resolution. The extension of commercial mains into unsupplied territory within the corporate limits may be made by means of water extension districts. Nothing herein shall be construed to obligate the City to provide water and sewer service to nonresidents. (Neb. Rev. Stat. §§17-537, 18-508, 19-2701)

**SECTION 7-104: SERVICE CONTRACT; NOT TRANSFERABLE**

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

B. The making of application on the part of any applicant for the use of the city utilities by a new consumer thereof and the furnishing of utility services to said consumer shall constitute a contract between the consumer and the City, to which said contract both parties are bound. If the consumer shall violate any of the provisions of said contract or any reasonable rules and regulations that the City Council may hereafter adopt, the Public Works Director may cut off or disconnect the water service from the building or premises of such violation. No further connection for service to said building or premises shall again be made save or except by order of said director.

C. Contracts for utility services are not transferable. Any person wishing to change from one location to another shall make a new application and sign a new contract. If any consumer shall sell, dispose of, or move from the premises where service is furnished or if the said premises are destroyed by fire or other casualty, they shall at once inform the City Clerk, who shall cause the utility services to be discontinued at the said premises. If the consumer should fail to give such notice, they shall be charged for utility services monthly until the City is otherwise advised of such circumstances.

(Neb. Rev. Stat. §17-537)

**SECTION 7-105: CONSUMER'S APPLICATION**

A. Every person or persons desiring utility services must make application therefor to the City Clerk, who may require the applicant to make a nonrefundable application fee and tap fees for water and sewer service in such amounts as set by resolution by the City Council and kept on file at the city office.

B. The application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the City Clerk. Utility services shall not be supplied to any house or private service pipe except upon the order of the Public Works Director.

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

(Neb. Rev. Stat. §§17-537, 17-925.02, 19-2701, 70-1601) (Am. Ord. No. 98-6, 6/25/98)

**SECTION 7-106: BILLING AND COLLECTIONS; DELINQUENCY; DEFERRED PAYMENT OPTION**

A. Joint water and sewer bills shall be due and payable monthly at the office of

the City Clerk. Bills shall be due upon receipt and payable by the 20<sup>th</sup> day of each month.

B. Any bill not paid by 5:00 p.m. on the 20<sup>th</sup> day of the month or on the following business day if the 20<sup>th</sup> falls on a weekend or holiday, shall incur a late fee equal to 10% of the original bill and shall be deemed to be delinquent. If the bill and the penalty have not been paid by the last day of the same month, the Clerk shall include notice of the City's intent to discontinue water service to the delinquent customer with the next regular utility bill. Said disconnection shall be accomplished according to the procedures set forth in Section 7-107 (Discontinuance of Service). A copy of such termination procedures shall be furnished to the owner or occupant upon request. Upon restoration of service, a delinquency reconnection fee shall be assessed as set by ordinance by the City Council and kept on file in the office of the City Clerk. All amounts due shall be paid prior to reconnection.

C. A Deferred Payment Agreement (DPA) is hereby established to provide a mechanism and uniform procedure for residents experiencing financial hardship to maintain the essential services of water and sewer.

1. *Eligibility.* Any residential utility customer whose account is in a delinquent status and who has received a Notice of Disconnection shall be eligible to apply for a DPA, provided that:
  - a. The customer has not defaulted on a prior DPA within the previous 12-month period, and
  - b. The customer is the primary account holder or the legal property owner.
2. *Terms of Agreement.* All Deferred Payment Agreements shall be executed in writing on forms provided by the City Clerk or agent and shall adhere to the following standards:
  - a. *Down Payment.* A minimum down payment of 25% of the total delinquent balance is required at the time of signing.
  - b. *Repayment Period.* The remaining balance shall be amortized over a period not to exceed two months, unless otherwise approved by the City Administrator for extreme hardship.
  - c. *Future Billings.* The customer must pay all subsequent monthly utility bills in full and by the established due date. Failure to pay a current bill shall constitute a breach of the DPA.
  - d. *Grace Period.* Installment payments are due as specified in the DPA. A grace period of three business days shall be granted. If a payment is not received by the end of the grace period, the DPA shall be deemed

in default.

e. *Enforcement.* Upon default, the entire remaining balance of the delinquent account, plus any new charges, shall become immediately due and payable. The City is hereby authorized to proceed with the disconnection of service without further notice to the customer.

f. *Reconnection.* Service disconnected under this section shall not be restored until the full balance is paid, including all applicable reconnection fees.

(Neb. Rev. Stat. §§17-538, 17-542) (Ord. Nos. 2007-15, 9/11/07; 2010-04 and -05, 3/23/10)

## **SECTION 7-107: DISCONTINUANCE OF SERVICE; NOTICE; PROCEDURE**

A. The City shall not discontinue service to any domestic subscriber for nonpayment of any past due account unless notice is first given 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 days after notice is sent or given. Holidays and weekends shall be excluded from the seven days. The City shall not charge a fee for the discontinuance or reconnection of utility service that exceeds the reasonable costs of providing such service.

B. The notice required above shall contain the following information:

1. The reason for the proposed disconnection;
2. A statement of intention to disconnect unless the domestic subscriber either pays the bill or reaches an agreement with the utility regarding payment of the bill;
3. The date upon which service will be disconnected if the domestic subscriber does not take appropriate action;
4. The name, address, and telephone number of the utility's employee or department to whom the domestic subscriber may address any inquiry or complaint;
5. The domestic subscriber's right, prior to the disconnection date, to request a conference regarding any dispute over such proposed disconnection;
6. A statement that the utility may not disconnect service pending the conclusion of the conference;

7. A statement to the effect that disconnection shall be postponed or prevented upon presentation of a duly licensed physician's, physician assistant's, or advanced practice registered nurse's certificate, which shall certify that a domestic subscriber or resident within such subscriber's household has an existing illness or handicap which would cause such subscriber or resident to suffer an immediate and serious health hazard by the disconnection of the utility's service to that household. Such certificate shall be filed with the utility within five days of receiving notice under this section, excluding holidays and weekends, and will prevent the disconnection of the utility's service for a period of at least thirty days from such filing. Only one postponement of disconnection shall be required under this subdivision for each incidence of nonpayment of any past-due account;
8. The cost that will be borne by the domestic subscriber for restoration of service;
9. A statement that the domestic subscriber may arrange with the utility for a Deferred Payment Agreement (DPA) as defined in 7-106(c) ;
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 council.

C. Public utilities shall make the service termination information required under subdivisions (4), (5), (6), (7), (9), (10), and (11) of subsection (A) of this section readily accessible to the public on their website and available by mail upon request.

D. Each utility subject to subsection (A) herein 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.

E. A domestic subscriber may request a conference in regard to any dispute over a proposed discontinuance of service before an employee designated by the utility to hear such matters. The employee designated by the utility shall hear and decide all matters disputed by domestic subscribers. The subjects to be heard shall include matters relating to a disputed bill.

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

G. Upon notice to the employee designated by the utility of any request for a conference by a domestic subscriber, the employee shall:

1. Notify the domestic subscriber, in writing, of the time, place, and date scheduled for the conference; and
2. Hold a conference within 14 days of the receipt of the domestic subscriber's request. Such conference shall be informal and not governed by the Nebraska Evidence Rules. If the employee determines at the conference that the domestic subscriber did not receive proper notice or was denied any other right afforded under Neb. Rev. Stat. §§70-1605 to 70-1615, the employee shall recess and continue the conference at such time as the subscriber has been afforded his or her rights. Failure of a domestic subscriber to attend a scheduled conference shall relieve the utility of any further action prior to the discontinuance of service. If a domestic subscriber contacts the utility prior to the scheduled conference and demonstrates that failure to attend is for a legitimate reason, the utility shall make a reasonable effort to reschedule the conference.

H. The employee of the utility shall, based solely on the evidence presented at the conference, affirm, reverse, or modify any decision by the utility involving a disputed bill which results in a threatened termination of utility service. The employee shall allow termination of utility service only as a measure of last resort after the utility has exhausted all other remedies less drastic than termination.

I. Any domestic subscriber may appeal an adverse decision of the utility employee to the City Administrator or to the City Council when designated by the utility. Each utility shall establish a hearing procedure to resolve utility bills appealed by domestic subscribers. The procedure shall be in writing and a copy of such procedure shall be furnished upon the request of any domestic subscriber. Such appeal shall be filed with the City Clerk within the time specified in the procedures established by the utility. Nothing in this section shall prohibit any utility from providing such additional stages of appeal as it may deem appropriate.

J. At any hearing held pursuant to subsection (I), the domestic subscriber may:

1. Be represented by legal counsel or other representative or spokesperson;
2. Examine and copy, not less than three business days prior to such hearing, the utility's file and records pertaining to all matters directly relevant to the dispute or utilized in any way by the utility in reaching the decision to propose termination or to take other action which is the subject of the hearing;
3. Present witnesses and offer evidence;

4. Confront and cross-examine such other witnesses as may appear and testify at the hearing; and
5. Make or have made a record of the proceedings at his or her own expense.

K. In any appeal filed pursuant to subsection (I), the City Clerk shall notify the domestic subscriber of the time, place, and date scheduled for such hearing. The notice requirements, hearing procedures, and other rights of domestic subscribers shall be set forth in the procedures established under subsections (I) and (J).

J. The provisions of 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.

(Neb. Rev. Stat. §§70-1605 through 70-1615)

### **SECTION 7-108: LIEN**

In addition to all other remedies, if a customer shall for any reason remain indebted to the City for utility services furnished, such amount due, together with any rents and charges in arrears, shall be considered a delinquent utility rent which is hereby declared to be a lien upon the real estate for which the same was furnished. The City Clerk shall notify in writing or cause to be notified in writing, all owners of premises or their agents whenever their tenants or lessees are 60 days or more delinquent in the payment of utility charges. It shall be the duty of the City Clerk to report monthly to the Mayor and City Council a list of all unpaid accounts due for utility services, together with a description of the premises served. The report shall be examined and if approved by the council, shall be certified by the City Clerk to the county assessor to be collected as a special tax in the manner provided by law. (Neb. Rev. Stat. §§17-538, 17-925.01, 18-503)

### **SECTION 7-109: PLUMBERS' LIABILITY; PERMIT; COMPLIANCE WITH REGULATIONS**

A. The owners of any premises to which the city water and sewer systems are available may, in the discretion of the Public Works Director, employ a licensed plumber or drainlayer to make the necessary connections to said premises. The owner or his or her agent shall, before making any repair, replacement or connection to the said water and/or sewer system, procure through the office of the City Clerk a permit in writing to do so.

B. All work by plumbers shall be done in the manner required by the Public Works Director and shall be at all times subject to his inspection and approval. They shall comply with all rules and regulations of the director, provided that nothing herein shall be construed to apply to persons, firms or corporations under special contract with the City for the construction, extension or repair of the city water and/or sewer systems. Plumbers who connect with the public water and sewer systems shall be held

responsible for any damage to the pipes or the public ways and property and shall restore all excavated streets to the complete satisfaction of the Public Works Director. It shall be unlawful to cover or conceal willfully any defective or unsatisfactory work. (Neb. Rev. Stat. §17-537)

#### **SECTION 7-110: DIVERSION OF SERVICES; METER TAMPERING, UNAUTHORIZED RECONNECTION; EVIDENCE**

A. Any person who connects any instrument, device, or contrivance with any wire supplying or intended to supply electricity or electric current or connects any pipe or conduit supplying water without the knowledge and consent of the City, in such manner that any portion thereof may be supplied to any instrument by or at which electricity, electric current, or water may be consumed without passing through the meter provided for measuring or registering the amount or quantity passing through it, and any person who knowingly uses or knowingly permits the use of electricity, electric current, or water obtained in the above mentioned unauthorized ways, shall be deemed guilty of an offense.

B. When utility service has been disconnected by the City, any person who reconnects such service without the knowledge and consent of the City shall be deemed guilty of an offense.

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

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

(Neb. Rev. Stat. §§25-21,275 through 25-21,278, 28-515.02) (Am. Ord. No. 96-7, 2/22/96)

#### **SECTION 7-111: DIVERSION OF SERVICES; PENALTY**

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

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

1. The amount of actual damage or loss if such amount may be reasonably calculated; or
2. Liquidation damages of \$750 if the amount of actual damage or loss cannot be reasonably calculated.

C. In addition to damage or loss under subdivision (B)(1) or (2), the City may recover all reasonable expenses and costs incurred on account of the bypassing, tampering, or unauthorized metering, including but not limited to disconnection, reconnection, service calls, equipment, costs of the suit, and reasonable attorney's fees in cases within the scope of Neb. Rev. Stat. §25-1801.

D. There shall be a rebuttable presumption that a tenant or occupant at any premises where bypassing, tampering, or unauthorized metering is proven to exist caused or had knowledge of such bypassing, tampering, or unauthorized metering if the tenant or occupant (1) had access to the part of the utility supply system on the premises where the bypassing, tampering, or unauthorized metering is proven to exist and (2) was responsible or partially responsible for payment, either directly or indirectly, to the utility or to any other person for utility services to the premises.

E. There shall be a rebuttable presumption that a customer at any premises where bypassing, tampering, or unauthorized metering is proven to exist caused or had knowledge of such bypassing, tampering, or unauthorized metering if the customer controlled access to the part of the utility supply system on the premises where the bypassing, tampering, or unauthorized metering was proven to exist.

F. The remedies provided by this section shall be deemed to be supplemental and additional to powers conferred by existing laws, and the remedies provided in this section are in addition to and not in limitation of any other civil or criminal statutory or common law remedies.

(Neb. Rev. Stat. §§25-21,276, 25-21,277)



## **Article 2 – Water Department**

### **SECTION 7-201: OPERATION AND FUNDING**

A. The City owns and operates the Water Department through the Public Works Director. The Mayor and City Council, for the purpose of defraying the cost of the care, management, and maintenance of the Water Department, may each year levy a tax not exceeding the maximum limit prescribed by state law on the actual valuation of all real estate and personal property within the corporate limits that is subject to taxation. The revenue from the said tax shall be known as the water fund and shall remain in the custody of the city treasurer.

B. The Public Works Director shall have the direct management and control of the Water Department and shall faithfully carry out the duties of their office. The director shall have the authority to adopt rules and regulations for the sanitary and efficient management of the Water Department, subject to the supervision and review of the Mayor and City Council. The council shall set the rates to be charged for services rendered by ordinance and shall file a copy of the rates in the office of the City Clerk for public inspection during office hours.

(Neb. Rev. Stat. §§17-531, 17-534, 19-1305)

### **SECTION 7-202: CONNECTION TO WATER SYSTEM: PRIVATE WELL REGULATIONS**

A. The City through its Water Department shall furnish water to persons within its corporate limits whose premises abut a street or alley in which a commercial main now is or may hereafter be laid. All persons whose property is within 300 feet of a main shall be required, upon notice by the Mayor and council, to hook up with the city water system.

B. The City may furnish water service to persons within its corporate limits whose premises are not within 300 feet of the said main; provided, the entire cost of pipe and other installation charges shall be paid by such consumer. Nothing herein shall be construed to obligate the City to provide water service to persons whose property line is not within 300 feet of the said main.

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

D. Private wells previously constructed and operating prior to the City's estab-

lishment of its water system shall be permitted to operate, providing that such wells comply with other existing, applicable ordinances and do not violate applicable state laws or regulations promulgated by the Nebraska Department of Health and Human Services.

E. A permit for a nonpotable irrigation well may be approved administratively by the Public Works Director after review of the application and consultation with the city engineer when technical review is determined necessary. The permit may be approved upon a finding that the proposed well complies with this Code and other applicable requirements. The permit shall identify the well as non-potable and shall require compliance with Sections 7-215 through 7-225 where applicable. The well shall not be connected to the City's potable water system or to a consumer's potable water supply system in a manner that creates an unprotected cross-connection. When the Public Works Director determines that an actual or potential cross-connection or other health, plumbing, pollution, or system hazard exists, an approved backflow prevention device shall be installed and maintained at the location and in the manner required by the Public Works Director.

F. Nothing in this section shall be construed to expand the class of existing wells permitted to continue under Section 7-202(D). A replacement, relocated, reconstructed, deepened, or substantially modified well shall be considered a new permit application for purposes of this section.

G. An application for a potable or domestic well, a requested exception from the adopted standards, or an appeal from an administrative denial shall be referred to the City Council for consideration.

(Neb. Rev. Stat. §§17-532, 17-537, 19-2701)

## **SECTION 7-203: INSTALLATION OR REPAIR PROCEDURE**

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

B. All installations or repairs of pipes require two inspections by the Public Works Director: (1) when connections or repairs are completed and before the pipes are covered; (2) after the dirt work is completed and the service is restored. It is the customer's responsibility to notify the director at the time the work is ready for each inspection. All installation shall be done under the supervision and strictly in accordance with the rules, regulations, and specifications prescribed for such

installation by the Public Works Director, provided that the said rules, regulations, and specifications have been reviewed and approved by the City Council.  
(Neb. Rev. Stat. §17-537, 71-5301)

#### **SECTION 7-204: INSTALLATION; EXPENSE**

A. The consumer shall be required to pay a tap fee prior to beginning installation. Such fees shall be set by resolution of the City Council, kept on file at the office of the City Clerk and available for public inspection. All costs and expenses of providing water service from the municipal main to the place of dispersement shall be paid by the consumer, including but not limited to tapping the main, trenching, furnishing and installing supply pipe, meter and service pipe, expenses of procuring the services of a plumber for required installations, all necessary labor, and all expenses required to restore streets, alleys, and sidewalks to good condition.

B. The hookup fees will include a remote meter, except for those taps with a line larger than one inch. Meters for lines larger than one inch shall be approved by the City prior to installation.

C. If municipal mains are not laid along the street abutting applicant's property and if a water main district is not created or extended, applicant may, at his or her own expense under the approval and direction of the Public Works Director, pay the costs of trenching, pipe installation, labor, and attachments necessary to bring water service from the nearest municipal main to applicant's premises.

(Neb. Rev. Stat. §17-542) (Am. Ord. No. 98-9, 6/25/98; 2005-10, 3/8/05)

#### **SECTION 7-205: METER PITS**

A. Any person desiring to construct a water meter pit and install a water meter therein shall do so only as herein provided. It shall be unlawful for any person to construct any water meter pit and install a water meter without first having obtained approval in writing from the Public Works Director. Application shall be made in writing to the director for such approval. Such application shall state the dimensions and location of the meter pit and the access thereto. The director shall grant approval for such construction and installation unless good cause shall appear why approval shall be denied. The owner shall assume all costs of construction of the meter pit and the piping and related installation; provided, however, the meter shall be furnished by the City at no cost to the owner.

B. Subject to the approval of the City Council, the Public Works Director may order the construction of a meter pit and the installation of a water meter and related piping and installations or, if any meter pit becomes unusable for any reason, the director may order the replacement thereof after approval of the City Council. The director's order to construct or reconstruct a meter pit and related piping and installations shall be given to the owner of the property served and shall contain the specifications to be followed in connection with such construction or reconstruction. Such order shall provide that (1) such construction or reconstruction shall be completed

within 30 days after the date of the service of said order upon the owner and (2) if the owner fails to construct or reconstruct said meter pit and related piping and Installations, the City will cause the same to be accomplished and the cost thereof will be levied and assessed as a special tax against the premises. The order shall contain an itemized estimate of the cost of such construction or reconstruction, and no special assessment in excess of such estimate shall be levied against the property. Such order shall be served upon the owner personally or by certified mail, postage prepaid, return receipt requested, to the last known address of the owner, which shall be that address listed on the current real estate tax rolls as of the date such order is issued.

#### **SECTION 7-206: MATERIAL SPECIFICATIONS**

A. All copper pipe used in the installation of water service shall be of "K" quality. All joints of copper pipe shall be either of the flared fittings type or if soldered, they shall be soldered with silver solder. If plastic pipe is used, it shall be first quality, 160 pound pressure tested or better. Joints on polyethylene pipe must be joined by brass fittings with all stainless steel clamps. Polyvinyl chloride pipe shall be glued together only with the proper glue as recommended by the manufacturer of the pipe.

B. Any pipe, solders or flux used in the installation or repair of any residential or nonresidential facility which is connected to the public water supply system shall be lead-free. For purposes of this section, "lead-free" shall mean: solders and flux, not more than .2% lead, and pipe and pipe fittings, not more than 8% lead.

(Neb. Rev. Stat. §71-5301, 71-5301.01)

#### **SECTION 7-207: REPAIRS AND MAINTENANCE**

A. Repairs to the stop box, supply pipes and service pipes shall be made by and at the expense of the customer. All other repairs to the property of the Water Department, including the meter, shall be made by the City. All water meters shall be kept in repair by the customer at his or her expense. When meters are worn out, they shall be replaced and reset by the City at the expense of the customer.

B. All water meters shall be kept in repair by the City at its expense. When meters are worn out, they shall be replaced and reset by the City at its expense; provided, if the customer permits or allows a water meter to be damaged, injured, or destroyed through his or her own recklessness, carelessness, or neglect so that the meter must be repaired or replaced, the Public Works Director shall bill and collect from the customer the cost of such meter repair or replacement in the same manner as water rent is collected. Permitting a water meter to be damaged or destroyed by freezing shall always be considered negligence on the part of the customer.

C. All meters shall be tested at the customer's request at their expense any reasonable number of times; provided, if the test shows the water meter to be running 2% or more fast, the City shall bear the expense of such test. The City reserves the right to test any water service meter at any time and if said meter is found to be beyond repair, the City shall always have the right to place a new meter on the customer's

water service fixtures at city expense. Should a consumer's meter fail to register properly, the customer shall be charged for water during the time the meter is out of repair on the basis of the monthly consumption during the same month of the preceding year; provided, if no such basis for comparison exists, the customer shall be charged such amount as may be reasonably fixed by the Public Works Director.  
(Neb. Rev. Stat. §17-537)

## **SECTION 7-208: DWELLING UNIT; RATES**

A. As used in this section, the term "dwelling unit" shall mean a structure consisting of one or more rooms, including a bathroom and complete kitchen facilities, which are arranged, designed or used as living quarters for one family or household.

B. Rate categories:

1. The residential rate shall be applicable when the building, premises or place receiving service is primarily used for dwelling or family living purposes. This includes multiple-meter residences used for this purpose.
2. The multi-family rate shall be applicable in cases where more than one residential dwelling is served by a single meter.
3. The commercial rate shall be applicable when the building, premises or place receiving service is primarily used for other than residential dwelling or family living purposes and includes municipal service.

B. Each dwelling unit, whether or not metered for water usage by the same meter as any other building unit, shall be assessed a monthly minimum charge for both water and sewer, with the minimum amounts as established by ordinance to be deducted from the total usage for the quarter. In the event the same property owner owns all of the dwelling units metered from the same water meter, such owner may elect to be assessed for the total usage without minimums if the metered water for that quarter exceeds the aggregate of the product of the minimum monthly charge times the number of dwelling units metered through the single water meter.

C. All water consumers shall be liable for the minimum rate provided by ordinance unless and until a consumer shall direct the Public Works Director to shut off the water at the stop box, in which case the consumer shall not be liable thereafter for water usage until the water is turned on again.  
(Neb. Rev. Stat. §§17-540, 17-542)

## **SECTION 7-209: RIGHT OF ENTRY FOR INSPECTION**

The Public Works Director or duly authorized agent shall have free access at any reasonable time to all parts of each premises and building to or in which water is delivered for the purpose of examining the pipes, fixtures, and other portions of the system to ascertain whether there is any disrepair or unnecessary waste of water. (Neb.

Rev. Stat. §17-537)

## **SECTION 7-210: DESTRUCTION OF PROPERTY**

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

## **SECTION 7-211: FIRE HYDRANTS**

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

## **SECTION 7-212: RESTRICTED USE**

The City Council or the Public Works Director may order a reduction in the use of water or shut off the water on any premises in the event of a water shortage due to fire or other good and sufficient cause. The City shall not be liable for any damages caused by shutting off the supply of water of any consumer while the system or any part thereof is undergoing repairs or when there is a shortage of water due to circumstances over which the City has no control. The following water restrictions shall apply in the enforcement of these regulations due to seasonal lack of sufficient pumping capacity and water supplied to the City's water storage facilities:

A. Lawn watering and lawn irrigation by consumers of city municipal water shall be restricted as follows during the period beginning May 1 and ending September 30 each year.

B. Consumers having odd-numbered street addresses shall be permitted to water or irrigate their lawns on Tuesdays, Thursdays and Saturdays.

C. Consumers having even-numbered street addresses shall be permitted to water or irrigate their lawns on Wednesdays, Fridays and Sundays.

D. No lawn watering or lawn irrigation shall be permitted on Mondays.

E. Penalties for noncompliance shall be as follows:

1. First offense shall result in a posted notification on the consumer's property;
2. Second offense shall result in a written warning mailed to the consumer by

USPS first class mail;

3. Third offense shall result in the imposition of a fee added to the consumer's monthly billing from the City;
4. Fourth and continual offenses shall result in the imposition of a fee equivalent to four times the third offense fee added to the consumer's monthly billing from the City;
5. Such fees shall be established by resolution and shall be on file in the City Clerk's office for public inspection during normal business hours.

F. Exemptions:

1. A 30-day exemption to the lawn watering and lawn irrigation regulation is available for those consumers establishing new grass and for seasonal reseeded. Registration is required.
2. Watering restrictions do not apply to washing of cars, driveways, houses, etc.
3. Consumers who irrigate with reclaimed water, well or pond water are not required to follow the alternate-day watering schedule.

(Neb. Rev. Stat. §17-537) (Am. Ord. No. 2021-13, 6/ /21)

## **SECTION 7-213: POLLUTION**

It shall be unlawful for any person to pollute or attempt to pollute any stream or source of water for the supply of the Water Department. The standards for water quality established or adopted by the State shall be presumptive evidence as to when the water is deemed to be polluted under this section. (Neb. Rev. Stat. §§17-536, 18-1720, 28-1321)

## **SECTION 7-214: BACKFLOW PREVENTION; DEFINITIONS**

The following definitions shall apply in the interpretation and enforcement of these regulations:

"Air gap separation" shall mean the unobstructed vertical distance through the free atmosphere between the lowest opening from any pipe or faucet supplying water to a tank, plumbing fixture or other device and the flood level rim of the receptacle. An approved air gap shall be at least double the diameter of the supply pipe, measured vertically, above the top of the rim of the receptacle and in no case less than one inch.

"Antisiphon vacuum breaker" is a device which restricts the backflow of water into a potable water system by a simple check valve. The vacuum is broken by allowing air to enter upstream of the check valve.

"Approved" means that a backflow prevention device or method has been accepted by the Public Works Director as suitable for the intended use.

"Auxiliary water system" means any water supply system available to the premises other than the public water supply system and includes the water supplied by such system. These auxiliary water systems may include water from another owner's public water supply system, polluted or contaminated water, process fluids, used water or other sources of water over which the City does not have sanitary control.

"Backflow" or "backsiphonage" means the flow of water or other liquids, mixtures or substances into the water distribution system from any other source than the intended source of the potable water supply.

"Backflow prevention device" means any device, method or type of construction intended to prevent backflow into a potable water system. Devices such as an approved air gap, double check valve assembly, antisiphon vacuum breaker or a reduced pressure principle device can be used. These devices must have been approved by the Public Works Director.

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

"Consumer's water supply system" means any water supply system located on the consumer's premises supplied by or in any manner connected to a public water supply system. A household plumbing system or a fire suppression system is considered to be a consumer's water supply system.

"Contamination" means an impairment of water quality by sewage or waste to a degree which could cause an actual hazard to the public health through poisoning or through spread of disease by exposure.

"Cross-connection" means any arrangement whereby contamination due to backflow or backsiphonage can occur.

"Degree of hazard" is a term derived from an evaluation of the potential risk to health and the adverse effects upon the potable water system.

"Director" means the director of public works or authorized representative.

"Double check-valve assembly" means an assembly composed of two single, independently acting check valves including 100% closing shutoff ball valves located at each end of the assembly and suitable connections for testing the watertightness of each check valve.

"Health hazard" means any condition, device or practice in a water system or its operation that creates a real or potential danger to the health and well-being of the

consumer.

"Interchangeable connection" means an arrangement or device that will allow alternate but not simultaneous uses of two sources of water.

"Licensed plumber" means a person who has obtained the appropriate permit from the City Council to perform plumbing-related work within the city limits.

"Non-potable water" means water not safe for drinking or personal or culinary use or which does not meet the requirements of the Nebraska Department of Health and Human Services.

"Owner" means the entity delivering water through the public water supply system. The owner is the City of Hickman operating through the Public Works Director.

"Plumbing hazard" means a plumbing cross-connection in a consumer's potable water system that has not been properly protected by air gap separation or backflow prevention devices.

"Pollution" means the presence in water of any foreign substances (organic, inorganic, or biological) that degrade the quality of water to a degree which does not necessarily cause an actual hazard to the public health but which does adversely and unreasonably affect such waters for any desired use.

"Pollution hazard" means a condition through which an aesthetically objectionable or degrading material not dangerous to health may enter the public water supply system or the consumer's water supply system.

"Potable water" means water which is satisfactory for drinking, culinary and domestic purposes and meets the requirements of the Nebraska Department of Health and Human Services.

"Public water supply system" means a water supply system designed and intended to provide potable water to a designated consumer. The water supply shall include the water supply source and distribution piping network. "Water supply source" is defined as any artificial or natural accumulation of water used to supply the potable water system. The distribution piping network includes all piping, pumping and treatment devices used to convey an adequate quality and quantity of potable water to the consumer.

"Reduced pressure zone backflow prevention device" means a device containing a minimum of two independently acting check valves together with an automatically operated pressure differential relief valve located between two check valves. During normal flow and at the cessation of normal flow, the pressure between these two checks shall be less than the supply pressure. In case of leakage of either check valve, the differential relief valve, by discharging to the atmosphere, shall operate to maintain

the pressure between the check valves at less than the supply pressure. The unit must include one-hundred-percent-closing shutoff ball valves located at each end of the device, and each device shall be fitted with properly located test cocks.

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

"System hazard" means a condition posing an actual or potential threat of damage to the physical properties of the public's or the consumer's water supply system.

"Used water" means any water supplied by the public water supply system to a consumer's water supply system after it has passed through the service connection and is no longer under the sanitary control of the water supplier.

## **SECTION 7-215: BACKFLOW PREVENTION; POLICY AND PURPOSE**

A. The purpose of these backflow regulations is to protect the public water supply system of the City from the possibility of contamination or pollution which may backflow into the system. These regulations provide for the maintenance of a continuing program of cross-connection controls which will systematically and effectively prevent the contamination or pollution of the potable water supply system.

B. The Public Works Director shall be responsible for the implementation of the backflow prevention program as outlined within these regulations. If an approved backflow prevention device is required for the safety of the public water supply system in the judgment of the director, then they shall give notice in writing to the consumer to install said devices at each recommended location. The director shall inspect and approve all installations of the required backflow prevention devices. The costs for purchasing, installing and maintaining a backflow prevention device shall be the responsibility and sole expense of the consumer. The installation of backflow prevention devices, except for outlet fixture vacuum breakers, shall be by a licensed plumber. Annual testing of all double check valves and reduced pressure zone devices shall be performed by the director. If maintenance and repairs are deemed necessary by the director, the owner shall be contacted and issued an order to make all necessary repairs or maintenance. The owner shall complete all maintenance or repairs within 30 days; if not, the owner shall be considered in violation of the backflow regulations and will be subject to disconnection of municipal water service.

C. No person shall install or maintain a water service connection containing cross-connections to a public water supply system or a consumer's potable water supply system unless such cross-connections are abated or controlled in accordance with this rule and as required by the laws and regulations of the Nebraska Department of Health and Human Services.

D. For the purposes of these backflow prevention regulations, whenever the

Public Works Director is to make any decisions or interpretations or whenever reference is made to the fact that the director is to exercise judgment, such decision, interpretation or judgment shall be in accordance with the provisions of these backflow prevention regulations and any other applicable provisions of the municipal code and state and federal laws.

## **SECTION 7-216: BACKFLOW PREVENTION; SURVEYS AND INVESTIGATIONS**

A. It shall be the responsibility of the water consumer to conduct or cause to be conducted periodic surveys of water use practices on his or her premises as necessary to determine whether there are actual or potential cross-connections in the his or her water supply system. The Public Works Director shall have the authority to conduct or cause to be conducted periodic surveys and investigations of water use practices within a consumer's premises to determine whether there are actual or potential cross-connections to the consumer's water supply system through which contaminants or pollutants could backflow into the public water system. The director may conduct these surveys to provide information in determining what level of protection will be necessary to protect the public health and safety.

B. On request by the director, the consumer shall furnish information on water use practices within his or her premises. If the consumer refuses to submit the proper information or to cooperate in obtaining the proper information, the director shall treat the premises as if no appropriate cross-connection survey has been completed, and in such event the consumer shall be required to install an approved backflow prevention device as required herein.

C. The director shall have the right to enter any premises served by the public water supply system at all reasonable times for the purpose of making surveys and investigations of water use practices. In order to inspect any premises, the director shall give notice setting forth a proposed date and time to the consumer at least ten days in advance. If the consumer cannot make the premises available for inspection at the proposed date and time, the consumer shall contact the director and arrange for another date and time for the inspection. If the director and the consumer cannot agree on a date and time, then the director shall treat the premises as if no appropriate cross-connection survey has been completed, and in such event the consumer shall be required to install an approved backflow prevention device as required herein.

D. The City Council is hereby appointed as a hearing board to hear differences between the Public Works Director and any consumer on matters concerning interpretation and execution of the provisions of this ordinance by the director. Any consumer aggrieved by being required to pay the expense of installing, furnishing and/or maintaining a backflow prevention device may, within 14 days of the act or event causing the grievance, request a hearing in writing to present such grievance to the Hearing Board. Said board shall schedule the matter for hearing within 30 days and provide written notice of the meeting by first class mail to the consumer. The notice shall be mailed to the consumer at least seven days and not more than 21 days before

the hearing. At the hearing, the consumer shall first state the nature of the grievance and the director shall be entitled to respond thereto, whereupon the Hearing Board shall render its decision, which will be binding upon the consumer and the director.

#### **SECTION 7-217: BACKFLOW PREVENTION; WHERE PROTECTION IS REQUIRED**

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

B. An approved backflow prevention device shall be installed when the following conditions are found by the director to exist:

1. Premises on which any substance is handled in such a fashion as to create an actual or potential hazard to the public water supply system. This shall include premises having sources or systems containing process fluids or waters originating from the public water supply system which are no longer under the sanitary control of the owner;
2. Premises having internal cross-connections that, in the judgment of the director, are not correctable, or there exist intricate plumbing arrangements which make it impracticable to determine whether or not cross-connections exist;
3. Premises where, because of security requirements or other prohibitions or restrictions, it is impossible or impractical to make a complete cross-connection survey;
4. Premises having a repeated history of cross-connections being established or re-established;
5. Premises having more than one customer service connection, which could constitute a potential cross-connection.

C. An approved backflow prevention device shall be installed on each service line to a customer's water supply system serving the following types of facilities, unless the Public Works Director determines that no health, pollution or system hazard to the public water supply system exists:

1. Hospitals, mortuaries, dental clinics, nursing and convalescent homes, medical buildings.
2. Testing laboratories, film laboratories, film development facilities.
3. Sewage treatment plants, sewage pumping stations, or storm water pumping stations.

4. Food or beverage processing plants.
5. Chemical plants.
6. Metal degreasing, plating industries, machine tool plants, die and metal processing or productions.
7. Chemical and petroleum processing or storage plants.
8. Car washes, automobile servicing facilities.
9. Lawn irrigation systems and swimming pools.
10. Laundries and dry cleaners.
11. Packing houses.
12. Power plants.
13. Premises having radioactive materials such as laboratories, industries, hospitals.
14. Rendering plants.
15. Premises having a water recirculating system as used for boilers or cooling systems.
16. Veterinary establishments, kennels, feedyards, stables, rodeo grounds, stockyards, pet grooming salons.
17. Beauty salons, barbershops, massage parlors, health clubs.
18. Fire suppression systems.
19. Multi-storied buildings greater than three stories in height.
20. Schools, universities, colleges.
21. Other commercial or industrial facilities which may constitute potential cross-connection sites.

#### **SECTION 7-218: BACKFLOW PREVENTION; TYPE OF PROTECTION REQUIRED**

A. The type of protection required under this article shall depend on the degree of hazard that exists, as follows:

1. An approved air gap separation or an approved reduced pressure principle backflow prevention device shall be installed where a public water supply system may be contaminated with any substance that could cause a system hazard or health hazard.
2. An approved double check valve assembly shall be installed where a public water supply system may be contaminated with any substance that could cause a pollution hazard.
3. An approved reduced pressure principle backflow prevention device shall be installed at the service connection where a plumbing hazard exists.
4. In the case of any premises where, because of security requirements or other prohibitions, it is impossible or impractical to make a complete cross-connection survey of the consumer's potable water system, a reduced pressure principle backflow prevention device shall be installed

at the service connection.

B. An approved antisiphon vacuum breaker may be used as a backflow prevention device where it is not subjected to back pressures. This device shall not be used for applications where water flow is expected to be continuous for 12 or more hours. The device shall be installed ahead of the potential source of contamination on the discharge side of the last control valve. It shall be placed at the least 6" above the highest point reached by any water passing through the potential source of contamination. Typically this type of device is used for such equipment as lawn sprinklers, water-cooled compressors or other water-cooled equipment.

#### **SECTION 7-219: BACKFLOW PREVENTION; BACKFLOW PREVENTION DEVICES**

A. Any approved backflow prevention device required by this article shall be installed at a location and in a manner approved by the Public Works Director. The consumer, at his or her sole expense, shall obtain and install said approved backflow prevention device(s) within 90 days of notice and as directed by the director.

B. Existing backflow prevention devices approved by the director prior to the effective date of this rule and which are properly maintained shall, except for inspection, testing and maintenance requirements, be excluded from the requirements of this article, but only if the devices will satisfactorily protect the public water supply system. One-hundred-percent-closing shutoff ball valves for testing shall be provided on existing backflow prevention devices, if deemed necessary for proper testing by the director. If he deems it necessary that an existing backflow prevention device be replaced, it shall be replaced with an approved backflow prevention device.

#### **SECTION 7-220: BACKFLOW PREVENTION; APPROVAL STANDARDS**

A. Any backflow prevention device required herein shall be an "approved backflow prevention device," which shall mean a device that has been manufactured in full conformance with the most current edition of standards established by the American Water Works Association (AWWA) and by the American Society of Sanitary Engineers (ASSE), which are hereby incorporated by reference in addition to all amendments thereto. Final approval shall be evidenced by a Certificate of Approval issued by an approved testing laboratory, certifying full compliance with said standards and specifications.

B. The Public Works Director shall keep a current list of all local certified backflow operators and an appropriate list of makes and models of backflow prevention devices which meet the requirements of this article.

C. The director shall require a strainer of approved type and size to be installed in conjunction with a required backflow prevention device. The installation of a strainer shall preclude the fouling of a backflow device due to foreseen and unforeseen

circumstances occurring to the water supply system such as water main repairs or breaks, fires, or periodic cleaning and flushing of mains. These occurrences may cause debris such as scale deposits and sand to flush through the mains, causing fouling of backflow prevention devices.

#### **SECTION 7-221: BACKFLOW PREVENTION; BOOSTER PUMPS**

No person shall install or maintain a water service connection to any premises where a booster pump has been installed on the service line to or within such premises unless such booster pump is equipped with a low pressure cut-off designed to shut off the booster pump when the pressure in the service line on the suction side of the pump drops to 20 pounds per square inch gauge or less. It shall be the duty of the customer to maintain the low pressure cut-off device in proper working order.

#### **SECTION 7-222: BACKFLOW PREVENTION; YARD HYDRANTS, SPRINKLER SYSTEMS**

A. The installation of yard hydrants where water is available or accessible for drinking or culinary purposes and which have drip openings below the ground surface is prohibited unless such hydrants are equipped with an approved device to prevent entrance of ground water into chambers connected with the water supply. Yard hydrants or hose bibs which would be used by the consumer to provide water to mix pesticides, fertilizer or other chemicals for direct use or aerial application to surface areas shall be equipped with an antisiphon vacuum breaker.

B. All underground lawn and garden sprinkler systems shall be equipped with approved backflow prevention devices.

#### **SECTION 7-223: BACKFLOW PREVENTION; FIRE SUPPRESSION SYSTEMS**

A. All proposed installations of fire suppression systems shall be reviewed by the Public Works Director to determine the appropriate type of backflow prevention device(s) required.

B. All proposed fire suppression systems requiring an antifreeze solution shall use a pharmaceutical-grade antifreeze. The consumer shall provide to the director a certification identifying the type of pharmaceutical-grade antifreeze which will be used. A double check valve backflow prevention device shall be installed in an approved manner.

C. A double check valve of an approved type shall be installed on all proposed fire suppression systems not utilizing antifreeze, but this may be done only when there are no other cross-connections.

D. All existing fire suppression systems shall meet the requirements of subsections (B) and (C) above, whichever applies. An inspection by a certified fire

suppression specialist shall be done at the expense of the consumer to determine whether pharmaceutical-grade antifreeze has been utilized. If it cannot be certified that only pharmaceutical-grade antifreeze has been used, then a reduced pressure principle backflow prevention device shall be installed as approved by the director. This also shall be done at the expense of the consumer.

E. In the event cross-connections, such as those found in using auxiliary water supply systems or in providing other water additives such as foaming agents, are necessary for the proper operation of the fire suppression system, then reduced pressure zone backflow prevention devices shall be installed in an approved manner.

#### **SECTION 7-224: BACKFLOW PREVENTION; VIOLATIONS**

A. The Public Works Director shall deny or discontinue the water service to any premises, after notice to the consumer thereof, wherein:

1. Any backflow prevention device required by these regulations is not installed or maintained in a manner acceptable to the Public Works Director.
2. It is found that the backflow prevention device has been removed or bypassed.
3. An unprotected cross-connection exists on the premises.
4. A low pressure cut-off as required herein is not installed and maintained in working order.
5. The director is denied entry to determine compliance with these regulations.

B. The director shall immediately, without notice to the consumer thereof, deny or discontinue the water service to any premises wherein a severe cross-connection exists which constitutes an immediate threat to the safety of the public water system. The director shall notify the consumer within 24 hours of said denial or discontinuation of service.

C. Water service to such premises shall not be restored until the consumer has corrected or eliminated such conditions or defects in conformance with this article.

#### **SECTION 7-225: BACKFLOW PREVENTION; LIABILITY CLAIMS**

The City shall hold harmless the Public Works Director, when acting in good faith and without malice, from all personal liability for any damage that may occur to any person or property as a result of any act required or authorized by this code or by reason of any act or omission of the director in the discharge of his or her duties hereunder. Any suit brought for carrying out the provisions of the code shall be defended by the City or the City's insurance carrier, if any, through final determination of such proceeding.

## **SECTION 7-226: WELLS AND OTHER UNDERGROUND FACILITIES; DISTANCE FROM CITY WATER SOURCES; PERMIT**

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

|                                                         |            |
|---------------------------------------------------------|------------|
| Water well                                              | 1,000 feet |
| Sewage lagoon                                           | 1,000 feet |
| Land application of municipal/industrial waste material | 1,000 feet |
| Feedlot or feedlot runoff                               | 1,000 feet |
| Underground disposal system (septic system, etc.)       | 500 feet   |
| Corral                                                  | 500 feet   |
| Pit toilet, vault toilet                                | 500 feet   |
| Wastewater holding tank                                 | 500 feet   |
| Sanitary landfill/dump                                  | 500 feet   |
| Chemical or petroleum product storage                   | 500 feet   |
| Sewage treatment plant                                  | 500 feet   |
| Sewage wet well                                         | 500 feet   |
| Sanitary sewer connection                               | 100 feet   |
| Sanitary sewer manhole                                  | 100 feet   |
| Sanitary sewer line                                     | 50 feet    |

(Nebraska DHHS 4/4/10)

B. It shall be unlawful for any person, corporation, or other legal entity to drill and/or operate a potable water well within the corporate limits of the City or its extraterritorial jurisdiction without first having obtained the proper permit pursuant to Section 7-202 of these regulations. In order to construct or operate any other facility as set forth above, the owner of the property on which the proposed facility is to be located must make application for a construction and operation permit on the proper forms provided by the City. Such permit application shall set forth all information concerning such proposed facility as required by the city engineer or Public Works Director and shall be approved or denied by the Public Works Director.

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

## **SECTION 7-227: DROUGHT EMERGENCY CONTINGENCY PLAN**

The City shall address any short-term water shortage problems through a series of stages based on conditions of supply and demand with accompanying triggers, goals

and actions. Each stage is more stringent in regard to water use than the previous stage, since there will be greater deterioration in water supply conditions. The Mayor is hereby authorized to implement the appropriate conservation measures as set forth in this section, when any of the conditions have been reached which would qualify for any of the specific stages. The Mayor is given discretion to declare any stage as deemed appropriate by him or her by reviewing the severity of the trigger conditions and other additional information and is further authorized to implement conservation measures within the guidelines provided for each particular stage.

## **SECTION 7-228: STAGE ONE, WATER WATCH**

### *A. Triggers:*

1. Ground water levels have fallen five feet below normal seasonal levels.
2. System pressure falls below 35 pounds per square inch.
3. Demand for one day is in excess of 1.4 million gallons per day.

*B. Goals:* The goals of this stage are to heighten awareness of the public of the water conditions and to maintain the integrity of the system.

*C. Management Actions:* (1) Leaks will be repaired within 48 hours of detection; (2) The City will monitor its use of water and will curtail activities such as hydrant flushing and street cleaning.

*D. Regulation Actions:* The public will be informed through the local media of the water watch and be asked to voluntarily reduce outdoor water use and to efficiently use water for indoor purposes, for example, washing full loads of clothing and/or dishes, limiting the length and frequency of showers, checking for leaks and dripping faucets, to prevent unnecessary use of water.

## **SECTION 7-229: STAGE TWO, WATER WARNING**

### *A. Triggers:*

1. Ground water levels have fallen ten feet below normal seasonal levels.
2. System pressure falls below 35 pounds per square inch.
3. Plant operations are at 80% capacity for more than three consecutive days.
4. Demand for one day is in excess of 1.4 million gallons per day.

*B. Goals:* The goals of this stage are to reduce peak demands by 20% and to reduce over all weekly consumption by 10%.

### *C. Management Actions:*

1. Water supply will be monitored daily.
2. Leaks will be repaired within 24 hours of detection.

3. Pumping at wells will be reduced to decrease drawdown and to maintain water levels over well screens.
4. The City will curtail its water usage, including watering of city grounds and washing vehicles.

D. *Regulation Actions:* In addition to the regulation actions of Stage One, the following regulatory authority may be exercised by the Mayor.

1. An odd/even lawn watering system will be imposed on city residents. Those with odd-numbered houses will water on odd days and those with even-numbered houses will water on even days.
2. Outdoor water use, including watering lawns and washing cars will be restricted to before 10:00 a.m. and after 9:00 p.m.
3. Refilling of swimming pools or hot tubs will be limited to one day a week after sunset.
4. Excess water use charges for usage of water over the amount used in the winter will be imposed at a rate twice the normal rate for water usage.
5. Waste of water will be prohibited (i.e. water running down the street).

## **SECTION 7-230: STAGE THREE, WATER EMERGENCY**

### *A. Triggers:*

1. Ground water levels have fallen 15 feet below normal seasonal levels.
2. System pressure falls below 35 pounds per square inch.
3. Any pumping lowers water levels to within five feet of the top of the well screens.
4. Plant operations are at 90% capacity for more than three consecutive days.
5. Demand for one day is in excess of 1.4 million gallons per day.

B. *Goals:* The goals of this stage are to reduce peak demands by 50% and to reduce overall consumption by 25%.

### *C. Education Actions:*

1. The City will make news releases to local media describing current conditions and indicate the water supply outlook for the City.
2. The City will hold public meeting(s) to discuss the emergency, the status of the water supply and further actions to be taken.

### *D. Management Actions:*

1. The city water supplies will be monitored daily.
2. Leaks will be repaired within 24 hours of detection.
3. Standby wells will be activated for contingency operation.
4. Pumping at wells will be reduced to decrease drawdown and to maintain water levels over well screens.
5. The City will seek additional emergency supplies from other users, the state or federal government.

E. *Regulation Actions:* In addition to the regulation actions available under Stage Two, the following regulatory authority may be exercised by the Mayor:

1. Outdoor water use will be banned, except for businesses which require outdoor water use to operate.
2. Waste of water will be prohibited.

F. *Enforcement:* In the event that any water consumer fails to comply with regulatory action taken by the City, then the Mayor may direct immediate discontinuance of water service to the location which is not in compliance with the restrictions imposed. Water service may be resumed by the Mayor after being provided adequate evidence to show that compliance has been instituted and that compliance will continue under the restrictions imposed.

## **Article 3 – Sewer Department**

### **SECTION 7-301: OPERATION AND FUNDING; AUTHORITY**

A. The City owns and operates the city sewer system through the Public Works Director. The City Council, for the purpose of defraying the cost of the operation, maintenance and replacement (OM&R) of the city sewer system may establish a user charge system based on actual use and revise the charges, if necessary, to accomplish the following:

1. Maintain the proportional distribution of operation, maintenance and replacement (OM&R) cost among users and user classes;
2. Generate adequate revenues to pay the costs of OM&R;
3. Apply excess revenues collected from a class of users to the costs of OM&R attributable to that class for the next year and adjust the rates accordingly.

B. The revenue from the said user charge system based on actual use shall be known as the sewer maintenance fund. The Public Works Director 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 City Council.

C. The City has the legal authority to enforce its system of user charges, industrial cost recovery charge, and sewer use regulations on all existing or future users of the system, whether located inside or outside the city limits.  
(Neb. Rev. Stat. §§17-574, 17-925.01)

### **SECTION 7-302: UNLAWFUL DEPOSITS AND DISCHARGES; PROHIBITED FACILITIES**

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

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

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

of sewage.

D. Storm water and all other unpolluted drainage including surface water, subsurface drainage, ground water, and roof runoff shall be discharged to specifically designated combined sewers or storm sewers or to a natural outlet approved by the Public Works Director. Industrial cooling water or unpolluted process water may be discharged, on approval of the director, to a storm sewer, combined sewer, or natural outlet. The contributor of any identifiable discharge of polluted water to the sanitary sewer system shall be held responsible for reimbursing the City for such costs, which shall be as determined by the Public Works Director. It shall further be unlawful to connect or maintain connected to the sanitary sewer system any pump which pumps any of the above-identified kinds of water for any purpose whatsoever.

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

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

(Am. Ord. No. 89-10, 10/12/89)

### **SECTION 7-303: CONNECTION TO SEWER SYSTEM**

A. The owner of any house, building, or property used for human employment, recreation, or other purposes situated within the City and abutting on any street, alley, or right-of-way in which there is now located or may in the future be located a public sanitary sewer line of the City is hereby required at the owner's expense to install suitable toilet facilities therein and to connect such facilities directly with the said public sewer in accordance with the provisions of this article within ten days after date of official notice to do so, provided that said public sewer is within 300 feet of the property line.

B. The City may furnish sewer service to persons within its corporate limits whose property line is not within 300 feet of the said public sewer with permission from the Mayor and City Council, provided that the entire cost of pipe and other installation charges shall be paid by such consumer. Nothing herein shall be construed to obligate the City to provide sewer service to persons whose property line is not within 300 feet of the said public sewer.

C. Each building hereafter erected shall be connected with the sewer system at the time of its erection. In the event that any property owner, occupant, or lessee shall neglect, fail, or refuse to make such a connection with the public sewer within a period of ten days after notice has been given to him or her to do so by registered mail or by publication in a newspaper in or of general circulation in the City, the Mayor and City

Council shall have the power to cause the same to be done, to assess the cost thereof against the property, and to collect the assessment thus made in the manner provided for collection of other special taxes and assessments or to collect in the manner provided for the collection of sewer bills as provided herein.

(Neb. Rev. Stat. §§17-575, 18-503)

#### **SECTION 7-304: INSTALLATION EXPENSE**

The customer, upon approval of his application for sewer service, shall pay a tap fee which compensates the City for the expense of processing his application and tapping the sewer main. Such tap fee shall be set by ordinance of the City Council, on file at the office of the City Clerk and available for public inspection during office hours. The Public Works Director, 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 the licensed plumber and shall pay all other costs of installation. The owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer. (Neb. Rev. Stat. §18-503)

#### **SECTION 7-305: REPAIRS AND MAINTENANCE**

A. The Sewer Department may require the owner of any property which is connected to the public sewers or drains to repair or replace any connection line which serves the owner's property and is broken, clogged, or otherwise in need of repair or replacement. The property owner's duty to repair or replace such a connection line shall include those portions upon the owner's property and those portions upon public property or easements up to and including the point of junction with the public main. All replacements and repairs made by the customer shall be done in the manner and with the materials approved by the Public Works Director, provided the same have been previously approved by the City Council.

B. The City Clerk shall give the property owner notice by registered letter or certified mail, directed to the last known address of such owner or the agent of such owner, directing the repair or replacement of such connection line. If within 30 days of mailing such notice the property owner fails or neglects to cause such repairs or replacements to be made, the Public Works Director shall complete the work and charge the cost of such repairs or replacement to the customer.

(Neb. Rev. Stat. §18-1748)

#### **SECTION 7-306: INSTALLATION OR REPAIR; PROCEDURE**

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

apply public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.

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

C. 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.

D. 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.

E. After the house sewer is laid, the public ways and property shall be restored to good condition. If the excavation in the public ways and property is left open or unfinished for a period of 24 hours or more, the Public Works Director 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.

F. All installations or repairs of pipes require two inspections by the director: (1) when connections or repairs are complete and before the pipe is covered; (2) after the dirt work is completed and the service restored. It is the customer's responsibility to notify the director at the time the work is ready for each inspection.

G. All installation or repair of any part of the sewerage system shall be done under the supervision of the Public Works Director and strictly in accordance with the rules, regulations, and specifications on file with the City Clerk and prescribed for such installation by the city engineer, provided that the said rules, regulations, and specifications have been reviewed and approved by the Mayor and City Council. Where the material proposed to be used for sewerage system installation or repairs is not among those on file in the Clerk's office, a determination shall be made and expense paid using the same procedures as prescribed for determinations of materials for water mains, supply lines, and service lines.

(Neb. Rev. Stat. §18-503)

## **SECTION 7-307: INSTALLATION; USE OF EXISTING SEWERS**

Old building sewers and drains may be used in connection with new buildings or new plumbing only when they are found, on examination by the Public Works Director, to conform in all respects to the requirements governing new sewers and drains. If the old work is found defective or otherwise unsatisfactory, the director shall notify the

owner to make the necessary changes to conform to the provisions of the municipal code.

#### **SECTION 7-308: INSTALLATION; INDEPENDENT CONNECTION; EXCEPTION**

A separate and independent building sewer shall be provided for every building. Where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer; but the City does not and will not assume any obligation or responsibility for damage caused by or resulting from any such single connection aforementioned. (Neb. Rev. Stat. §18-503)

#### **SECTION 7-309: INSTALLATION; UNLAWFUL CONNECTION; POLLUTED DRAINAGE**

No person shall make connection of roof downspouts, interior and exterior foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer unless such connection is approved by the Public Works Director for purposes of disposal of polluted surface drainage. If responsibility can be determined, the party responsible for disposal of polluted surface drainage into the public sanitary sewer shall pay a user charge equivalent to the cost of treating the polluted drainage.

#### **SECTION 7-310: MANHOLES**

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

#### **SECTION 7-311: PRIVATE SEWAGE DISPOSAL; PERMIT**

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

B. Before commencement of construction of a private sewage disposal system, the owner shall first obtain a written permit signed by the Public Works Director. The application for such permit shall be made on a form furnished by the City, which the applicant shall supplement by any plans, specifications, and other information as deemed necessary by the director. A permit and inspection fee, as set by resolution of the City Council and kept on file, shall be paid to the City Clerk at the time the application is filed.

C. A permit for a private sewage disposal system shall not become effective

until the installation is completed to the satisfaction of the Public Works Director. He shall be allowed to inspect the work at any stage of construction and in any event, the applicant for the permit shall notify the director when the work is ready for final inspection and before any underground portions are covered. The inspection shall be made within 48 hours of the receipt of notice by the director.

D. The type, capacity, location, and layout of a private sewage disposal system shall comply with the rules and regulations of the state Department of Health and Human Services as well as the Department of Water, Energy and Environment's Title 124 *Rules and Regulations for the Design, Operation and Maintenance of Onsite Waste-water Treatment Systems*. No permit shall be issued for any private sewage disposal system employing subsurface soil absorption facilities where the area of the lot is less than 10,000 square feet. No septic tank or cesspool shall be permitted to discharge to any natural outlet.

E. At such time as a public sewer becomes available to a property served by a private sewage disposal system, a direct connection shall be made to the public sewer in compliance with this chapter within 60 days and the private sewage system shall be abandoned in accordance with Title 124, Chapter 7.

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

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

## **Article 5 – Penal Provision**

### **SECTION 7-501: VIOLATION; PENALTY**

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