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CHAPTER 7 – PUBLIC UTILITIES

Article 1 – Utilities Generally

SECTION 7-101: BILLING AND COLLECTIONS; DELINQUENCY; DISCONNECTION; RECONNECTION

A. The city clerk shall charge and collect from each customer for water and sewer use since the last examination, together with any other charges, properly itemized, due the City. Bills shall be due on the first day of each month and payable by the 15th of each month. Water and sewer bills shall be due the first day of each month and payable by the tenth day of each month at the office of the city clerk. Bills not paid by the 10th day of each month shall be deemed to be delinquent.

B. Upon being deemed to be delinquent, the city clerk shall give a written notice of delinquency to the customer, allowing said customer a period of seven working days to pay the bill. In the event the bill is not paid by the date specified on the disconnect notice, the water service may be disconnected. Disconnect procedures may be adopted by resolution and amended from time to time by the City Council. These procedures shall control the rights of subscribers to dispute any proposed termination of service. Rights of the consumer are set forth in Section 7-103.

C. The utilities superintendent shall assess an additional fee set by resolution of the City Council, on file at the office of the city clerk, in the event that water is shut off for the nonpayment of any water bill, to compensate the City for the additional hookup necessary to again provide water service to the delinquent customer. Service shall not be reconnected until all delinquent fees and charges, including any disconnect and reconnect fees, have first been paid in full.

D. Electrical service shall be as provided in Article 4.

(Neb. Rev. Stat. §17-542, 18-416) (Am. by Ord. Nos. 356, 5/7/90; 398, 8/21/95; 433, 5/15/00 480, 11/15/10)

SECTION 7-102: 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 rent which is hereby declared to be a lien upon the real estate for which the same was used. The city clerk shall notify in writing or cause to be notified in writing all owners of premises or their agents whenever their tenants or lessees are 60 days or more delinquent in the payment of utility services. It shall be the duty of the city clerk to report to the City Council a list of all unpaid accounts due, together with descriptions of the premises upon which the same were used. The report shall be examined and if approved by the Council, shall be certified by the city clerk to the county clerk to be collected as a special tax in the manner provided by law. (Neb. Rev. Stat. §17-538)

SECTION 7-103: DISCONTINUANCE OF SERVICE; NOTICE; PROCEDURE

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

B. The notice shall contain the following information:

1. The reason for the proposed disconnection;
2. A statement of the intention to disconnect unless the domestic subscriber either pays the bill or reaches an agreement with the City regarding payment of the bill;
3. The date upon which service will be disconnected if the domestic subscriber does not take appropriate action;
4. The name, address, and telephone number of the employee or department to whom the domestic subscriber may address an inquiry or complaint;
5. The domestic subscriber's right, prior to the disconnection date, to request a conference regarding any dispute over such proposed disconnection.
6. A statement that the City may not disconnect service pending the conclusion of the conference;
7. A statement to the effect that disconnection may be postponed or prevented upon presentation of a duly licensed physician's certificate which shall certify that the domestic subscriber or a resident within such subscriber's household has an existing illness or handicap which would cause such subscriber or resident to suffer an immediate and serious health hazard by the disconnection of the City's service to that household. Such certificate shall be filed with the City within five days of receiving notice under this section and will prevent the disconnection of service for a period of 30 days from such filing. Only one postponement of disconnection shall be allowed under this subsection for each inci-

dence of nonpayment of any past-due account;

8. The cost that will be borne by the domestic subscriber;
9. A statement that the domestic subscriber may arrange with the City for an installment payment plan;
10. A statement to the effect that those domestic subscribers who are welfare recipients may qualify for assistance in payment of their utility bill and that they should contact their caseworker in that regard; and
11. Any additional information not inconsistent with the section which has received prior approval from the City Council.

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

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

E. This section shall not apply to any disconnection or interruption of services made necessary by the City for reasons of repair or maintenance or that protect the health and safety of the domestic subscriber or of the general public.
(Neb. Rev. Stat. §70-1601 through §50-1615)

SECTION 7-104: DIVERSION OF SERVICES; DAMAGE TO UTILITY; PENALTY

A. The City may bring a civil action for damages against any person who commits, authorizes, solicits, aids, abets, or attempts (1) bypassing, (2) tampering, or (3) 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 the amount of the damage or loss is susceptible of reasonable calculation; or
2. Liquidated damages of \$750.00 if the amount of actual damage or loss is

not susceptible of reasonable calculation.

C. In addition to damage or loss under subdivision (B)(1) or (2) of this section, 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 attorneys' 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. §86-331.01 thru 86-331.04)

Article 2 – Water Department

SECTION 7-201: OPERATION AND FUNDING

The City owns and operates the Water Department through the utilities superintendent. The City Council, for the purpose of defraying the cost of the care, management, and maintenance of the Water Department, may each year levy a tax not exceeding the maximum limit prescribed by state law on the actual valuation of all real estate and personal property within the corporate limits that is subject to taxation. The revenue from the said tax shall be known as the Water Fund and shall remain in the custody of the city treasurer. The utilities superintendent shall have the direct management and control of the Water Department and shall faithfully carry out the duties of his office. The superintendent shall have the authority to adopt rules and regulations for the sanitary and efficient management of the department, subject to the supervision and review of the City Council. (Neb. Rev. Stat. §17-531, 17-534, 19-130)

SECTION 7-202: DEFINITIONS

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

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

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

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

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

SECTION 7-203: WATER CONTRACT; NOT TRANSFERABLE

A. The City through its Water Department shall furnish water to persons within its corporate limits whose premises abut a street or alley in which a commercial main now is or may hereafter be laid. The City may furnish water to persons within its corporate limits whose premises do not abut a street or alley in which a city commercial main is now or may hereafter be laid. The making of application on the part of any applicant or the use or consumption of water service by any present consumer thereof and the furnishing of water service to said consumer shall constitute a contract between the consumer and the City, to which said contract both parties are bound.

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 the City and the consumer.

B. If the consumer shall violate any of the provisions of said contract or any reasonable rules and regulations that the City Council may hereafter adopt, the utilities superintendent or his agent may cut off or disconnect the water service from the building or premises or place of such violation. No further connection for water service to said building, premises, or place shall again be made save or except by order of said superintendent or his agent.

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

(Neb. Rev. Stat. §17-537)

SECTION 7-204: MANDATORY HOOKUP

All persons within 300 feet of a water main shall be required, upon notice by the City Council, to hook up with the city water system. (Neb. Rev. Stat. §17-539)

SECTION 7-205: SERVICE TO NONRESIDENTS

The Water Department shall not supply water service to any person outside the corporate limits without special permission from the City Council; provided, the entire cost of laying mains, service pipe, and supply pipe shall be paid by the consumer. Nothing herein shall be construed to obligate the City to provide water service to non-residents. (Neb. Rev. Stat. §19-2701)

SECTION 7-206: APPLICATION FOR SERVICE; DEPOSIT

A. All persons or entities desiring water service must make written application for service to the city clerk's office.

B. The City shall require a money deposit for water service from a property non-owner or any customer with a residential property not affixed to a permanent foundation unless the customer shall provide, in writing on letterhead of his or her immediate prior utility provider, proof of "Past Customer In Good Standing" to the City. The money deposit shall be as set by the City Council and may be adjusted by the City if the landlord or another responsible party provides a certificate of "Past Customer in Good Standing" and cosigns the tenant's application for water service,

which makes the water account the responsibility of either party. If such proof is provided, there shall be an adjusted amount as set by the City Council. A customer shall be deemed a "non-owner" until such time as his or her name appears on the property deed in the county records.

C. A customer shall be deemed a "homeowner" if his or her name appears on the property deed in county records, not including an owner of a mobile home which has not been placed on a permanent foundation with wheels removed, and shall pay a deposit of \$35.00 for water service. Water shall not be supplied to any building except upon order of the utilities superintendent after compliance with the provisions of this article. The security deposit is refundable on the final bill, less any unpaid balance on the account.

(Neb. Rev. Stat. §17-537, 19-2701) (Am. by Ord. Nos. 384, 8/16/93; 467, 7/3/06, 479, 11/1/10)

SECTION 7-207: METERS MANDATORY

Every water consumer shall be required to have a water meter approved by the city utilities superintendent installed at his or her point of service as a condition precedent to the right to use and consume city water. (Ord. No. 437, 6/19/00)

SECTION 7-208: PROHIBITION OF LEAD PIPES, SOLDER, AND FLUX

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: (A) solders and flux, not more than two-tenths percent lead, and (B) pipe and pipe fittings, not more than eight percent lead. (Neb. Rev. Stat. §71-5301) (Ord. No. 344, 5/2/88)

SECTION 7-209: PLUMBERS

Prior to commencing work on the system of waterworks, a plumber or pipefitter must contact the utilities superintendent and receive approval for such work. All plumbing shall be skillfully done and in the manner required by the superintendent. Plumbers shall be at all times subject to the inspection and approval of the superintendent, and it shall be further unlawful to cover or conceal willfully any defective or unsatisfactory plumbing work. The plumber or drainlayer who connects with the waterworks shall be held responsible for any damage he may cause to the pipes or the public ways and property. He shall restore to the complete satisfaction of the utilities superintendent all public ways and property that he has excavated and make good any settlement of the ground or pavement caused by his excavations. (Neb. Rev. Stat. §17-537)

SECTION 7-210: INSTALLATION PROCEDURE

A. The City shall install all water mains and supply lines from the main to or near the customer's property line, including stop cock and corporation cock. The customer shall then be responsible for installation of the service line from the lot line to the point of dispersement.

B. In making excavations in streets, alleys, or sidewalks for the purpose of installing pipe or making repairs, the paving and earth must be removed and deposited in a manner that will 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. All installations or repairs of pipes require inspection by the utilities superintendent. It is the customer's responsibility to notify the superintendent at the time the work is ready for inspection. All installation shall be done under the supervision and strictly in accordance with the rules, regulations, and specifications prescribed for such installation by the superintendent; provided, the said rules, regulations, and specifications have been reviewed and approved by the City Council. (Neb. Rev. Stat. §17-537)

SECTION 7-211: INSTALLATION EXPENSE

The customer is responsible for the payment of any and all installation fees from the water main to the end of the service line, including the expense of providing water service to the lot line, a tap fee to cover the costs of tapping the main, and the expense of furnishing and installing pipe, trenching, and the necessary labor to bring water service from said lot to the place of dispersement. The said fee shall be set by the City Council and filed in the office of the city clerk. (Neb. Rev. Stat. §17-542) (Am. by Ord. No. 319, 11/5/84)

SECTION 7-212: RATE SETTING

The City Council shall have the power and authority to fix the rates to be paid by consumers for the use of water from the Water Department. Such fees and charges shall be set by ordinance and may be revised from time to time by the City Council. (Neb. Rev. Stat. §17-540)

SECTION 7-213: BILLING AND COLLECTIONS; LIEN

Procedures for billing, collections, delinquency, disconnection and reconnection are provided in Section 7-101. Lien procedures are provided in Section 7-102.

SECTION 7-214: INSPECTION

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

tion shall be in writing on a form furnished by the city clerk. Every application shall set forth the legal description and any other available information describing the location, the name of the owner and occupant of the real estate, the name of the proposed contractor, and any other information as may be requested thereon.

B. The city clerk shall review the application and either deny or approve the same. The burden is on the applicant to prove that the proposed well meets the criteria below and will be maintained, sampled, and tested in compliance with the municipal code. If the application is approved, a permit for the construction of such well shall be prepared by the city clerk.

C. Any person or entity, including any well contractor, who commences or engages in construction of a private domestic water well within the City without first obtaining a valid permit from the City shall be guilty of a misdemeanor and upon conviction shall be fined in an amount not exceeding \$1,000.00 for each such offense.

D. The application shall be denied and a permit refused upon a failure of the applicant to show that the water well will be maintained, tested, and sampled in compliance with the municipal code and that none of the following disqualifications apply:

1. The proposed water well will be located within the following distances from the named facilities:

Water well	1,000 feet
Sewage lagoon	1,000 feet
Land application of village/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

2. The applicant has failed to show the ability or willingness to comply with the provisions of the municipal code concerning the maintenance and operation of private wells as set forth herein.
3. The proposed well may adversely impact upon the integrity, quality, or quantity of the municipal public water supply or adversely impact the public health or safety of the City.

E. It shall be unlawful to maintain any private domestic water well within the corporate limits of the City which is not in compliance with the following requirements, in addition to the other provisions of the municipal code and state law:

1. Any person, firm, or corporation owning, maintaining, or using any domestic water well within the corporate limits of the City shall at once make or cause to be made and file with the city clerk a good and sufficient bond payable to the City in the sum of \$2,000.00, conditioned upon full and complete compliance with the requirements of this section and other provisions of the municipal code relating to private water wells and conditioned upon the said person, firm, or corporation safely plugging the said well upon abandonment (or failure to comply with regulations concerning operation) in full compliance with all current safety standards or provisions of law in existence at that time. The bond shall be written by a corporate surety licensed in the State and in a form acceptable to the City.
2. Each calendar quarter every private domestic water well within the corporate limits shall be sampled and tested for each of the contaminants for which public water supply systems are required to sample and test under the Nebraska Department of Health "Regulations Concerning Public Water Supply Systems," 179 NAC 2, as amended from time to time. Sampling and testing shall be done at the expense of the person, firm, or corporation owning or maintaining the well. Sampling shall be performed only by a person holding a current Grade V (or higher) water operator certificate of competency from the Department of Health. All testing shall be done by laboratories approved by the Department of Environmental Quality for conducting tests of water sampling for public water supply systems. Documentary proof of sampling and testing shall be supplied to the city clerk immediately upon receipt.
3. Each private domestic water well within the corporate limits shall have on file with the city clerk current proof of compliance with the sampling and testing requirements. The results of testing shall show conclusively that the water from such well does not contain any contaminant in excess of the maximum contaminant levels set by 179 NAC 2.
4. Any private domestic water well owner or operator failing to sample or test as required herein or failing to have on file current test results confirming that the produced water does not exceed any of the maximum contaminant levels set in 179 NAC 2 is hereby declared to be a danger to public health and a nuisance. It shall not be used in any manner, for any purpose, until proof of compliance with the requirements of sampling, testing, and proof of absence of contamination have been provided to the city clerk.

SECTION 7-215: REPAIRS

Repairs to the service pipe from the lot line to the place of dispersement shall be made by and at the expense of the customer. All other repairs to the property of the Water Department shall be made by the City. (Neb. Rev. Stat. §17-542)

SECTION 7-216: 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 Fire Department under the orders of the fire chief or the assistant chief or 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 7-217: SINGLE PREMISES

No consumer shall supply water to other persons or allow them to take water from his or her premises nor after water is supplied into a building shall any person make or employ a plumber or other person to make a tap or connection with the pipe upon the premises for alteration, extension, or attachment without the written permission of the utilities superintendent. (Neb. Rev. Stat. §17-537)

SECTION 7-218: DESTRUCTION OF PROPERTY

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

SECTION 7-219: RESTRICTED USE

The City Council or the utilities superintendent may order a reduction in the use of water or shut off the water on any premises in the event of a water shortage due to fire or other good and sufficient cause. The City shall not be liable for any damages caused by shutting off the supply of water of any consumer while the system or any part thereof is undergoing repairs or when there is a shortage of water due to circumstances over which the City has no control. In the event of drought or water shortage, the City Council may, by resolution of three-fourths of the members thereof, restrict particular uses of water during particular periods of time, including certain hours of the day or night, and shall publish notice thereof. Any failure to abide by such regulations shall be punishable as provided herein; provided, however, that the provisions of such resolution shall not be effective for more than 90 days but can be renewed from time to time or be terminated or amended at any time by the City Council by resolution. (Neb. Rev. Stat. §17-537) (Am. by Ord. No. 243, 8/15/77)

SECTION 7-220: BACKFLOW PREVENTION DEVICES REQUIRED; CUSTOMER INSTALLATION, MAINTENANCE, TESTING

A. A cross-connection control officer shall be appointed by the City Council to oversee enforcement of this ordinance. Such person shall be responsible for reviewing the surveys submitted by the customers of the municipal Water Department and determining if a backflow prevention device is required for compliance with Title 179, NAC 2, "Regulations Governing Public Water Supply Systems."

B. All customers of the Water Department shall be required to report to the cross-connection control officer any potential cross-connections which may be on their premises. The reports shall be made at least every 5 years.

C. A customer of the Water Department may be required by the cross-connection control officer to install and maintain a properly located backflow prevention device at the customer's expense, appropriate to the potential hazard as set forth in Title 179 NAC 2, "Regulations Governing Public Water Supply Systems," and approved by the cross-connection control officer.

D. The customer shall make application to the cross-connection control officer to install a required backflow prevention device on a form provided by the City. The application shall contain at a minimum the name and address of the applicant, the type of backflow prevention device to be installed, including make and model number, and the location of the proposed installation.

E. The cross-connection control officer shall approve or disapprove the application based on whether such installation will protect the municipal water distribution system from potential backflow and backsiphonage hazards.

F. When a testable backflow prevention device shall be required, the customer shall also certify to the City at least one time annually that the device has been tested by a Nebraska Health and Human Services System Grade VI certified water operator. Such certification shall be made on a form available at the office of the city clerk.

G. Any decision of the cross-connection control officer may be appealed to the City Council, whose decision shall be final.

H. Any customer refusing to report on possible cross-connections on his or her premises, refusing to install the necessary backflow prevention device, or failing to have a testable backflow prevention device tested at least annually shall be in violation of this ordinance and may have water service discontinued. Any customer who has had his or her service discontinued for violation of this ordinance shall be subject to a reconnect fee to have the service reinstated after supplying proof that the potential cross-connection has been eliminated or properly protected. Said fee shall be as set by the City Council by resolution and kept on file in the office of the city clerk.

(Ord Nos. 376, 12/7/92; 495, 8/17/15)

SECTION 7-221: WELLHEAD PROTECTION AREA

“Wellhead protection area” means the surface and subsurface area surrounding a water well or well field supplying a public water system through which contaminants are reasonably likely to move toward and reach such water or well field. The City Council has designated a wellhead protection area for the purpose of protecting the public water supply system. The boundaries of the wellhead protection area are based upon a map prepared by Nebraska Rural Water Association, presented to the City on March 13, 1998. (Ord. No. 420, 7/6/98)

SECTION 7-222: DOMESTIC WATER WELLS; PERMITS; SAFETY AND TESTING; FINANCIAL RESPONSIBILITY

A. It shall be unlawful to commence or engage in the construction of any water well in the City until such time as a permit has been issued. Any person or entity desiring to construct a water well within the corporate limits shall, prior to commencing any construction, file with the city clerk an application for a well permit. The application shall be in writing on a form furnished by the city clerk. Every application shall set forth the legal description and any other available information describing the location, the name of the owner and occupant of the real estate, the name of the proposed contractor, and any other information as may be requested thereon.

B. The city clerk shall review the application and either deny or approve the same. The burden is on the applicant to prove that the proposed well meets the criteria below and will be maintained, sampled, and tested in compliance with the municipal code. If the application is approved, a permit for the construction of such well shall be prepared by the city clerk.

C. Any person or entity, including any well contractor, who commences or engages in construction of a private domestic water well within the City without first obtaining a valid permit from the City shall be guilty of a misdemeanor and upon conviction shall be fined in an amount not exceeding \$1,000.00 for each such offense.

D. The application shall be denied and a permit refused upon a failure of the applicant to show that the water well will be maintained, tested, and sampled in compliance with the municipal code and that none of the following disqualifications apply:

1. The proposed water well will be located within the following distances from the named facilities:

Water well	1,000 feet
Sewage lagoon	1,000 feet
Land application of village/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

2. The applicant has failed to show the ability or willingness to comply with the provisions of the municipal code concerning the maintenance and operation of private wells as set forth herein.
3. The proposed well may adversely impact upon the integrity, quality, or quantity of the municipal public water supply or adversely impact the public health or safety of the City.

E. It shall be unlawful to maintain any private domestic water well within the corporate limits of the City which is not in compliance with the following requirements, in addition to the other provisions of the municipal code and state law:

1. Any person, firm, or corporation owning, maintaining, or using any domestic water well within the corporate limits of the City shall at once make or cause to be made and file with the city clerk a good and sufficient bond payable to the City in the sum of \$2,000.00, conditioned upon full and complete compliance with the requirements of this section and other provisions of the municipal code relating to private water wells and conditioned upon the said person, firm, or corporation safely plugging the said well upon abandonment (or failure to comply with regulations concerning operation) in full compliance with all current safety standards or provisions of law in existence at that time. The bond shall be written by a corporate surety licensed in the State and in a form acceptable to the City.
2. Each calendar quarter every private domestic water well within the corporate limits shall be sampled and tested for each of the contaminants for which public water supply systems are required to sample and test under the Nebraska Department of Health "Regulations Concerning Public Water Supply Systems," 179 NAC 2, as amended from time to time. Sampling and testing shall be done at the expense of the person, firm, or corporation owning or maintaining the well. Sampling shall be performed only by a person holding a current Grade V (or higher) water operator certificate of competency from the Department of Health. All testing shall be done by laboratories approved by the Department of Environmental Quality for conducting tests of water sampling for public wa-

ter supply systems. Documentary proof of sampling and testing shall be supplied to the city clerk immediately upon receipt.

3. Each private domestic water well within the corporate limits shall have on file with the city clerk current proof of compliance with the sampling and testing requirements. The results of testing shall show conclusively that the water from such well does not contain any contaminant in excess of the maximum contaminant levels set by 179 NAC 2.
4. Any private domestic water well owner or operator failing to sample or test as required herein or failing to have on file current test results confirming that the produced water does not exceed any of the maximum contaminant levels set in 179 NAC 2 is hereby declared to be a danger to public health and a nuisance. It shall not be used in any manner, for any purpose, until proof of compliance with the requirements of sampling, testing, and proof of absence of contamination have been provided to the city clerk.
5. The City Council may declare any water well for which a bond is not on file to secure financial responsibility as required herein or which is otherwise not in compliance with the municipal code, to be a nuisance, order the owner or operator to forthwith cease using said well, and to submit immediately proof of compliance with the requirements of the municipal code. Upon the failure of the owner or operator of the said private domestic water well to comply with these provisions of the code, any such well may be ordered to be plugged.
6. In addition to any other remedies, the City may pursue a suit in equity to enjoin the maintenance, use, or operation of any water well not in compliance with the municipal code or seek an order requiring it to be plugged.

(Ord. No. 435, 7/3/00) (Am. by Ord. No. 488, 12/3/12)

Article 3 – Sewer Department

SECTION 7-301: OPERATION AND FUNDING

The City owns and operates the city sewer system through the utilities superintendent. The City Council, for the purpose of defraying the cost of the management and maintenance of the city 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 utilities 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 City Council. (Neb. Rev. Stat. §17-149, 17-925.01)

SECTION 7-302: DEFINITIONS

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

"Biological oxygen demand" shall mean and include the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20° C., expressed in parts per million by weight.

"Garbage" shall mean and include solid wastes from the preparation of cooking and dispensing of food and produce.

"pH" shall mean and include the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

"Properly shredded" 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 inch in diameter.

"Sewage" 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.

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

"Storm sewer" shall mean and include a sewer which carries storm and surface drainage but excludes sewage and polluted, industrial wastes.

"Trap" shall mean and include a fitting or device so constructed as to prevent the pas-

sage of air or gas through a pipe without materially affecting the flow of sewage or waste through it.

"Suspended solids" 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.

SECTION 7-303: SEWER CONTRACT; NOT TRANSFERABLE

A. The City through the Sewer Department shall furnish sewer services to persons within its corporate limits whose premises abut a street or alley in which a commercial main is now or may hereafter be laid. The making of 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 City, to which said contract both parties are bound. 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 the City and the consumer.

B. If the customer shall violate any of the provisions of said contract or any reasonable rules and regulations that the City Council may hereafter adopt, the utilities superintendent or his agent may cut off or disconnect the sewer service from the building or premises of such violation. No further connection for sewer service to said building or premises shall again be made save or except by order of the superintendent or his agent.

C. 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 sell, dispose, or remove from the premises where service is furnished or if the said premises are destroyed by fire or other casualty, he or she shall at once inform the superintendent, who shall cause the sewer service to be shut off from the said premises. If the customer should fail to give notice, he or she shall be charged for that period of time until the superintendent is otherwise advised of such circumstances.

SECTION 7-304: MANDATORY HOOKUP

Upon written notice by the utilities superintendent, the property owner, occupant, or lessee of any premises within 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 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, to make such connection, the 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 pro-

vided for collection of other special taxes and assessments. (Neb. Rev. Stat. §17-149, 17-149.01)

SECTION 7-305: SERVICE TO NONRESIDENTS

Any person whose premises are located outside the corporate limits of the City and who desires to install a house or building sewer that will be connected with the city sewer system shall file a written application with the city clerk for a permit for such connection, setting forth the name of the owner, occupant, or lessee of the premises, the use to which the premises are devoted, and such other information as the City Council may require. (Neb. Rev. Stat. §17-149, 19-2701)

SECTION 7-306: APPLICATION FOR SERVICE

Any person wishing to connect with the sewer system shall make an application to the city clerk, who shall then forward the application to the utilities superintendent. Sewer service may not be supplied to any house or building except upon the order of the superintendent. (Neb. Rev. Stat. §17-149, 19-2701)

SECTION 7-307: DIRECT CONNECTIONS

Each and every building must make a direct connection with the main sewer line. Under no circumstances will two or more houses be allowed to make such connections through one pipe.

SECTION 7-308: PLUMBERS

Prior to commencing work on the sewer system, a plumber or pipefitter must contact the utilities superintendent and receive approval for such work. All plumbing shall be skillfully done and in the manner required by the superintendent. Plumbers shall be at all times subject to the inspection and approval of the superintendent, and it shall be further unlawful to cover or conceal willfully any defective or unsatisfactory plumbing work. The plumber or drainlayer who connects with the public sewer shall be held responsible for any damage he may cause to the sewers or the public ways and property. He shall restore to the complete satisfaction of the utilities superintendent all public ways and property that he has excavated and make good any settlement of the ground or pavement caused by his excavations.

SECTION 7-309: INSTALLATION PROCEDURE

The City shall install all sewer mains and service lines from the main up to or near the customer's property line. The customer shall then be responsible for installation of the service line from the lot line to the premises served. In making excavations in streets, alleys, or sidewalks for the purpose of installing pipe or making repairs, the paving and earth must be removed and deposited in a manner that will 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. All installations or repairs of pipes shall require inspection by the utilities superintendent. It is the customer's responsibility to notify the superintendent at the time the work is ready for each inspection. All installation shall be done under the supervision and strictly in accordance with the rules, regulations, and specifications for such installation prescribed by the superintendent; provided, the said rules, regulations, and specifications have been reviewed and approved by the City Council.

SECTION 7-310: INSTALLATION EXPENSE

The customer, upon approval of his or her application for sewer service, shall pay to the city clerk a tap fee as set by the City Council which shall compensate the City for the expense of processing the application and tapping the sewer main. In addition, the customer shall reimburse the City for all labor performed by the City in installing the service pipe to the lot line, plus the cost incurred by the City for supplies and materials. The customer shall then be required to pay the expense of installing the service line from the lot line to his or her premises. The customer shall also be responsible for the service line from the end of the sewer service to the sewer main. (Am. by Ord. No. 319, 11/5/84)

SECTION 7-311: REPAIRS AND MAINTENANCE

The City shall repair or replace, as the case may be, all pipe constituting major sewer mains. The consumer shall be responsible for the repair or replacement of all other sewer pipe and appurtenances from the sewer main to the end of the sewer service. All replacements and repairs made by the customer shall be done in the manner and with the materials approved by the utilities superintendent, provided that the same have been previously approved by the City Council.

SECTION 7-312: INSPECTIONS

The superintendent or his authorized agents shall have free access between the hours of 8:00 a.m. and 6:00 p.m. to all parts of each premises and building connected with the sewer system to ascertain whether there is any disrepair or violation of this article therein.

SECTION 7-313: PRIVATE SEWAGE DISPOSAL SYSTEM; PERMIT; REQUIREMENTS

A. Where a public sanitary or combined sewer is not available, the building sewer shall be connected to a private sewage disposal system complying with the provisions of this article. Before commencement of construction of a private sewage disposal system, the owner shall first obtain a written permit signed by the utilities superintendent. The application for such permit shall be made on a form furnished by the City, which the applicant shall supplement by any plans, specifications, and other

information that shall be deemed necessary by the superintendent. A permit and inspection fee as set by the City Council shall be paid to the City at the time the application is filed.

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

C. The type, capacity, location and layout of a private sewage disposal system shall comply with all setback distances, review distances, and recommendations of the State Department of Public Health. Leach field requirements shall be a minimum of two lines, each being a minimum of 50 feet, to a maximum of 100 feet in length. No septic tank or cesspool shall be permitted to discharge to any natural outlet or be within 50 feet of any well in the City.

D. 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 within 60 days in compliance with this article; and any septic tank, cesspool, and similar private sewage disposal system shall be cleaned of sludge and filled with suitable material by the owner at the his or her expense.

(Ord. No. 404, 7/15/96) (Am. by Ord. No. 407, 9/3/96)

SECTION 7-314: RATE SETTING

The City Council shall have the power and authority to fix the rates to be paid by users of the municipal sewer system. Such fees and charges shall be set by ordinance and may be revised from time to time by the City Council.

SECTION 7-315: CLASSIFICATION

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

SECTION 7-316: BILLING AND COLLECTIONS; LIEN

Procedures for billing, collections, delinquency, disconnection and reconnection are provided in Section 7-101. Lien procedures are provided in Section 7-102.

SECTION 7-317: 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 re-

ceptacle connected with the sewer system any substance which is not the usual and natural waste carried by the system.

SECTION 7-318: UNLAWFUL DISCHARGES

A. Except for substructures prohibited by subsection (B), it shall be unlawful for any person or entity to allow or permit the discharge of any household wastewater or sewage of any nature other than to the municipal sanitary sewer system. In addition to the definition of "sewage" in this article, "household wastewater" shall mean all waters other than clean, potable, unadulterated water from the city water supply and shall include but not be limited to wastewaters from washing clothes, dishes, bathing, and any similar domestic use. (Ord. No. 449, 3/15/04)

B. 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. Except as hereinafter provided, no person shall discharge or cause to be discharged any of the following described waters or wastes into the sewer system:

1. Liquids or vapors having a temperature higher than 150° F.
2. Water or waste which may contain more than 100 parts per million by weight of fat, oil or grease.
3. Gasoline, benzene, naphtha, fuel oil, other flammable or explosive liquid, solid, or gas.
4. Garbage that has not been properly shredded.
5. Sand, mud, metal, rags, paper, or other solid or viscous substance capable of causing obstruction to the flow in the sewer system.
6. Toxic or poisonous substances in sufficient quantity to interfere with or injure the sewage treatment process, constitute a hazard to humans, animals, or fish or create any hazard in the receiving area of the sewage treatment plant.
7. Suspended solids of such character and quantity that unusual attention or expense is required to handle such materials.
8. Waters or wastes having a pH lower than 5.5 or higher than 9.0 or having other corrosive properties capable of causing damage to the structures, equipment, and personnel of the Sewer Department.
9. Any noxious or malodorous gas or substance capable of creating a public nuisance. (Neb. Rev. Stat. §17-145)

SECTION 7-319: SPECIAL EQUIPMENT

In the event a customer of the 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 utilities superintendent 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 City Council. 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 council and an industrial concern whereby an industrial waste of unusual strength or character may be accepted by the City for treatment subject to additional rental fees or other charges.

Article 4 – Electric Department

SECTION 7-401: OWNERSHIP

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

SECTION 7-402: ELECTRICAL CONTRACT; NOT TRANSFERABLE

A. The City through its Electric Department shall furnish electric current for light and power purposes to persons whose premises abut on any supply wire of the distribution system. The making of application on the part of any applicant or the use or consumption of electric energy by any present customer and the furnishing of electric service to said applicant or customer shall constitute a contract between applicant or customer and the City, to which both parties are bound. The rules, regulations, and rates for electric service hereinafter named in this article shall be considered a part of every application hereafter made for electric service and shall be considered a part of the contract between the City and the consumer.

B. If the consumer should violate any of the provisions of said contract or any reasonable rules and regulations that the City Council may hereafter adopt, the utilities superintendent or his agent shall cut off or disconnect the electric service from the building or place of such violation and no further connection of electric service for such building or place shall again be made save or except by order of the superintendent or his agent.

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

(Neb. Rev. Stat. §17-902, 19-1404)

SECTION 7-403: SERVICE TO NONRESIDENTS

The Electric Department shall not supply power to any person outside the corporate limits without special permission from the City Council; provided, the entire cost of wire, installation, and other expenses shall be paid by the consumer. Nothing herein shall be construed to obligate the City to supply electrical service to nonresidents. (Neb. Rev. Stat. §17-902, 19-2701)

SECTION 7-404: APPLICATION FOR SERVICE; DEPOSIT

A. All persons or entities desiring electrical service must make written application for service to the village clerk's office.

B. The City shall require a money deposit for electrical service from a property non-owner or any customer with a residential property not affixed to a permanent foundation, unless the customer shall provide, in writing on letterhead of his or her immediate prior utility provider, proof of "Past Customer in Good Standing" to the City. The money deposit shall be as set by the City Council and may be adjusted by the City if the landlord or another responsible party provides a certificate of "Past Customer in Good Standing", and co-signs the tenant's application for electrical service, which makes the electric account the responsibility of either party. If such proof is provided, there shall be an adjusted deposit as set by the City Council. A customer shall be deemed a "non-owner" until such time as his or her name appears on the property deed in county records.

C. A customer shall be deemed a "homeowner" if his or her name appears on the property deed in county records, not including an owner of a mobile home which has not been placed on a permanent foundation with wheels removed, and shall pay a security deposit for electrical service. Electricity shall not be supplied to any building except upon order of the utilities superintendent after compliance with the provisions of this article. The said deposit, set by the City Council and placed on file in the office of the city clerk, is refundable on the final bill, less any unpaid balance on the account.

(Neb. Rev. Stat. §17-902, 19-2701) (Am. by Ord. Nos. 384, 8/16/93; 401, 12/18/95; 416, 3/17/98; 427, 10/4/99)

SECTION 7-405: INSTALLATION EXPENSE

A. All new services constructed shall be required to pay a one-time basic service charge and any line extension charge. Basic residential and commercial service charges shall be set by the City Council and filed in the office of the city clerk for public inspection.

B. No kilowatt hours will be allowed for line extension charges or basic service charges.

C. The expense of installation and equipment up to and including the electric-

al meter shall be paid by the City. The expense of installation and wiring from the meter to the points of distribution shall be the responsibility of the consumer. The point of metering shall be left to the discretion of the utilities superintendent. Said installation by the consumer shall be done under the supervision of the superintendent and shall meet any of his requirements; provided, said specifications have been first approved by the City Council. Maintenance and replacement expense shall be apportioned in the same manner.

(Neb. Rev. Stat. §17-902, 19-1404) (Am. by Ord. No. 417, 3/17/98)

SECTION 7-406: RATE SETTING

The City Council shall have the power and authority to set and fix all rates and charges for electrical service, usage, and consumption. These rates and charges may be set by resolution and may be revised from time to time by the council. All rates shall be on file for public inspection at the office of the city clerk. (Neb. Rev. Stat. §17-902)

SECTION 7-407: METERS

All electrical meters shall be read at least one time each month during which electrical service is used between the 25th day of the month and the first day of the succeeding month. In the event a meter is broken or otherwise fails to register accurately, the use of electricity by any consumer shall be calculated for billing purposes by using the six-month average of the season one year previous to such breakage. (Neb. Rev. Stat. §19-1404)

SECTION 7-408: BILLING AND COLLECTIONS; DELINQUENCY; DISCONNECTION; RECONNECTION

A. The city clerk shall bill the consumers and collect all money received by the City on the account of the Electric Department. He or she shall faithfully account for and pay over the same to the city treasurer all revenue collected, making a receipt in duplicate, filing one with the department and keeping the other on file in the official records. (Neb. Rev. Stat. §17-902, 19-1404)

B. Electrical bills shall be due and payable monthly at the office of the City clerk. The net charge for electrical fees shall be due and payable from the first day of each month until the 10th day of each month. Bills shall be payable in cash and the city clerk shall have the discretion whether to accept personal checks for payment of electrical fees. No user may make a partial payment unless agreed to as part of an installment payment plan or dispute conference decision.

C. Bills not paid by the 10th day of each month shall be deemed to be delinquent. Upon being deemed to be delinquent, as herein defined, 10% of the net charge shall be added to the electrical fee. The city clerk shall give written notice of delinquency to the customer, allowing him or her a period of seven working days to pay for delinquent electrical service. If said bill is not paid by the date specified on the

disconnect notice, said electrical service may be disconnected.

D. Disconnect procedures may be adopted by resolution and amended from time to time by the City Council. Such procedures shall control the rights of subscribers to dispute any proposed termination of service. If service is disconnected, it shall not be reconnected until all charges are paid, including any reasonable charges for the disconnection and reconnection of electrical service. Said charges shall be set by the City Council and there shall be a greater amount for disconnection or reconnection performed outside of business hours.

SECTION 7-409: RESTRICTED USE

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

SECTION 7-410: TRIMMING TREES

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

SECTION 7-411: INSPECTIONS

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

SECTION 7-412: 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 city electrical system. (Neb. Rev. Stat. §28-512)

SECTION 7-413: BULK POWER PARTICIPATION

Pursuant to Ordinance No. 367, the City has adopted and executed Service Schedule "K" to the Electrical Resource Pooling Agreement with the Municipal Energy Agency of Nebraska as a bulk power participant. Service Schedule "K" and other documents relating to the Electrical Resource Pooling Agreement shall be on file with the city clerk and available for inspection during office hours. (Ord. No. 367, 1/20/92)

SECTION 7-414: COGENERATION; PURPOSE

In order to comply with Sections 201 and 210 of the Public Utility Regulatory Policies Act of 1978 and with the rules and regulations of the Federal Energy Regulatory Commission pertaining thereto, the following policies relating to interconnections of the electric system of the City with cogeneration and small power production facilities, rates for sales of electric energy to such facilities, and rates for purchases of electric energy from such facilities are hereby established. (Ord. No. 310, 12/20/82)

SECTION 7-415: COGENERATION; DEFINITIONS

For the purpose of this article, the following definitions shall apply.

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

"Qualifying cogeneration facility" means a cogeneration facility that meets the requirements of the Federal Energy Regulatory Commission regarding ownership, fuel use, and operating and efficiency standards.

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

"Qualifying small power production facility" means a small power production facility that meets the requirements of the Federal Energy Regulatory Commission regarding ownership, fuel use, fuel efficiency, and reliability.
(Ord. No. 310, 12/20/82)

SECTION 7-416: COGENERATION; INTERCONNECTIONS WITH QUALIFYING FACILITIES; APPLICATION; HEARING

A. Persons wishing to construct a qualifying facility and desire to interconnect with the electrical system of the City shall make application to the City Council for such interconnection prior to construction. Applicants shall use such forms as are prescribed by the City and shall furnish all information requested.

B. After an application is made for a proposed facility, the City Council shall order that a public hearing be held at which the said application for the proposed facility shall be discussed. The council must make an order setting a date and time for said public hearing within 30 days and said hearing must be scheduled within 90 days from the receipt of an application from a proposed facility. Notice of said public hearing must be published in a legal newspaper in Red Willow County for three consecutive weeks prior to said public hearing. Costs for such publication shall be paid by the applicant. However, if said applicant's application is denied, the City shall reimburse the applicant for such publication costs and the said costs shall be borne by the City.

C. At the public hearing, the following procedures shall take place:

1. The applicant shall disclose publicly detailed plans, in writing, for the proposed facility, including the exact location for the proposed facility. The applicant shall be prepared to present detailed information regarding the noise levels expected to be created by the proposed facility, pollution (air or water) levels expected to be created by the proposed facility and any other adverse effects to the public health and welfare which may be a result of the proposed facility.
2. The City Council shall make a preliminary determination as to whether the proposed facility will be a qualifying facility as defined in Section 7-414.
3. Persons wishing to speak in favor of the proposed facility, giving their reasons therefor, shall be heard.
4. Persons wishing to speak in opposition to the proposed facility, giving their reasons therefor, shall be heard.
5. Before the close of the public hearing, the City Council shall vote in the usual manner and approve or deny the application of the proposed facility, stating the reason for such approval or denial. An application may be denied only for the following reasons: (a) the council has determined that the proposed facility, from the information provided, will not be a qualifying facility as defined by Section 7-414; or (b) there is a strong likelihood that the proposed facility, if constructed, would be a public nuisance contrary to the health and welfare of the citizens of the community.

(Ord. No. 310, 12/20/82)

SECTION 7-417: COGENERATION; STANDARDS

The City shall establish reasonable standards to be met by qualifying facilities to ensure system safety and reliability of interconnected operations. Such standards may include but shall not be limited to the following areas: power factor; voltage regulation; fault, overcurrent and over/under voltage protection; harmonics; synchronization; and isolation. If the tower for a wind generation facility causes interference in electrical, television or radio reception for any persons or residences within the City, such interference must be completely corrected within three days of notice of such in-

terference by the City or the tower will be removed at the expense of its owner. If said owner refuses to remove the tower in such instance, the City may remove said tower and charge the owner for such removal. (Ord. No. 310, 12/20/82)

SECTION 7-418: COGENERATION; COSTS

Interconnection costs associated with the interconnection with a qualifying facility shall be paid for by such qualifying facility. Qualifying facilities shall be required to execute contractual agreements with the City before any interconnection is established. (Ord. No. 310, 12/20/82)

SECTION 7-419: COGENERATION; RATES FOR SALES TO QUALIFYING FACILITIES

Rates for sales of electric energy to qualifying facilities shall be those current standard rates, adopted from time to time by resolution of the mayor and City Council, which apply to other customers of the utility in the same classification(s) of electric service. (Ord. No. 310, 12/20/82)

SECTION 7-420: COGENERATION; RATES FOR PURCHASES FROM QUALIFYING FACILITIES

A. Rates for purchases of electric energy from qualifying facilities shall be established by resolution of the mayor and City Council. In no event shall a qualifying facility be allowed to serve more than one residence.

B. Such rates shall be just and reasonable to the electric consumer of the utility and, in the public interest, shall not discriminate against qualifying cogeneration and small power production facilities. Said rates shall be related to avoided costs; however, in no case is the utility required to pay more than the avoided costs. (Ord. No. 310, 12/20/82)

SECTION 7-421: COGENERATION; WIND GENERATOR FACILITIES

A. Wind generators located within the service limits of the City must be located in such manner so that the structure upon which the propeller is installed is a minimum of three times the structure's length distance from buildings, power lines, television antennas and adjacent property lines.

B. A wind generator and component parts must be totally surrounded by a chain link fence having a minimum height of 6 feet.

C. The height of the tower for a wind generator system shall be at least twice as high as the length of the propellers, with such tower to have a minimum height of 15 feet and a maximum height of 45 feet. However, towers with a height of more than 45 feet may be erected with express prior permission of the City Council. The tips of the propellers shall be a minimum of 10 feet above any accessible pedestrian area.

D. The owner of a wind generator facility shall assume all liability incidents occurring during the installation and operation of such facility and the City shall be held harmless by such owner from all liabilities resulting from the installation and operation of the wind generator system.

(Ord. No. 310, 12/20/82)

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 a misdemeanor 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.