

Chapter 3
DEPARTMENTS

Article 1. Water Department

§3-101 MUNICIPAL WATER DEPARTMENT; OPERATION AND FUNDING. The Municipality owns and operates the Municipal Water Department. The Governing Body, for the purpose of defraying the cost of the care, management, and maintenance of the Municipal Water Department may, each year, levy a tax not exceeding the maximum limit prescribed by State law, on the actual valuation of all real estate and personal property within the corporate limits that is subject to taxation. The revenue from the said tax shall be known as the Water Fund and shall remain in the custody of the Municipal Treasurer.

The City Administrator shall have the authority to adopt rules and regulations for the sanitary and efficient management of the Water Department, which regulations shall be submitted to the Governing Body and ratified by resolution. Such regulations shall not become effective until ratified by published resolution of the Governing Body. The Governing Body shall set the rates to be charged for services rendered by ordinance, and shall file a copy of the rates in the office of the Municipal Clerk for public inspection at any reasonable time. (*Amended by Ord. No. 01-04, 5/7/01*) (*Ref. 17-531, 17-534, 19-1305 RS Neb.*)

§3-102 MUNICIPAL WATER DEPARTMENT; GENERAL DEFINITIONS. The following definitions shall be applied throughout this Article.

- A. MAIN. The term “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 Municipality.
- B. SERVICE PIPE. The term “service pipe” is hereby defined to be any pipe tapped into a main and extending from there to the location on the premise where the water is to be dispersed.
- C. SEPARATE UNIT. The term “separate unit” is hereby defined to be a dwelling, business establishment, private, semi-private, or public institution, or other entity which has a separate and independent identity and/or location specifically excluding “home occupations” as defined in Section 11-611 of the Municipal Zoning Ordinance, which is served with water from the Municipal Water Department, regardless of whether or not such separate unit has an independent water meter.
- D. CURB STOP. The term “curb stop” is hereby defined to mean a protective device reaching from the supply or service pipe to the surface of the ground, of a suitable size to admit a stop key for turning on and off the water supply, with cast iron cover even with the pavement or ground line, and shall further include all internal working parts, including, but not limited to the curb stop. (*Amended by Ord. Nos. 85-5, 9/3/85; 01-04, 5/7/01*)

§3-103 MUNICIPAL WATER DEPARTMENT; CUSTOMER'S APPLICATION.

Every person or persons desiring a supply of water must make application therefore to the Municipal Clerk. The Water Department Superintendent may require any applicant to make a service deposit in such amount as has been set by the Governing Body and placed on file at the office of the Municipal Clerk. Water may not be supplied to any service pipe except upon the order of the Water Department. *(Amended by Ord. No.01-04, 5/7/01) (Ref. 17-537, RS Neb.)*

§3-104 MUNICIPAL WATER DEPARTMENT; SERVICE TO NON-RESIDENTS.

The Water Department shall not supply water service to any person outside the corporate limits without special permission from the Governing Body; Provided, the cost of laying mains shall be paid by the customer. Nothing herein shall be construed to obligate the Municipality to provide water service to non-residents. Such non-resident service shall be subject to any special rules and regulations the Governing Body may prescribe. The aforesaid rules and regulations shall not include any provision to set the rates lower than two (2) times the rates set for residents. *(Ref. 17-537, 19-2701 RS Neb.) (Amended by Ord. Nos. 85-5, 9/3/85; 01-04, 5/7/01)*

§3-105 MUNICIPAL WATER DEPARTMENT; WATER CONTRACT.

The Municipality, through its Water Department, shall furnish water to persons within its corporate limits whose premises abut a street or alley in which a commercial main now is, or may hereafter be, laid. The Municipality may furnish water to persons within its corporate limits whose premises do not abut a street or alley in which a Municipal commercial main is now, or may hereafter be, laid, and may also furnish water to persons whose premises are situated outside the corporate limits of the Municipality, as and when, according to law, the Governing Body may see fit to do so. The rules, regulations, and water rates hereinafter named in this Article, shall be considered a part of every application hereafter made for water service and shall be considered a part of the contract between every consumer now or hereafter served. Without further formality, the making of application on the part of any applicant or the use or consumption of water service by present consumers thereof and the furnishing of water service to said consumer shall constitute a contract between the consumer and the Municipality, to which said contract both parties are bound. If the consumer shall violate any of the provisions of said contract, or any reasonable rules and regulations that the Governing Body may hereafter adopt, the Water Department representative may, in compliance with Section 3-901, cut off or disconnect the water service from the building or premise or place of such violation. No further connection for water service to said building, premise, or place shall again be made save or except by order of said Water Department Representative. *(Amended by Ord. No.01-04, 5/7/01)*

§3-106 MUNICIPAL WATER DEPARTMENT; INSTALLATION PROCEDURE.

All tapping of the mains shall be done by or at the direction of water department personnel and a fee set by the council shall be charged for said service. Taps shall be made on the top of the main and no nearer than thirty-six inches (36") from the end of the main, from a pipe joint or from another tap.

Plumbing between the main and dwelling or other building may not be covered until inspected by authorized City personnel and approved by the same.

Backfill of trenches for service pipe shall consist of common subsoil fill from 6" above top of pipe compacted to the extent necessary to prevent future settlement. Backfill of trenches under roadways shall consist of select backfill from 6" above top of pipe to subgrade elevation,

compacted to 95%. Compaction is expressed as a percentage of maximum density and optimum moisture in comparison with ANSI/ASTM 0698.

The City will replace any roadway surfacing removed for water taps and/or service pipe installation or replacement. The City may require compaction tests of any backfill under the roadway surfacing.

No person shall have any excavation made in the street, alley, or highways open at any time without barricades, and during the night warning lights must be maintained at such excavations. No person shall make any excavation in any street, alley, or highway where the ground is frozen, or dig up or uncover so as to expose to frost any water pipes or sewer of the City, except under the directions of the responsible municipal employee.

If the excavation in any street, alley, or sidewalk is left open or unfinished for a period of twenty-four (24) hours or more, the City shall have the duty to finish or correct the work, and all expenses so incurred shall be charged to the customer. All installations or repairs of pipe shall require inspection by City personnel. Such inspection shall be made when repairs or connections are complete and before pipes are covered. It is the customer's responsibility to notify the City at the time the work is ready for inspection.

All pipes shall be laid four and one half feet (4½') below the established grade, or as low as the mains in the street, and shall be laid in such manner as to prevent rupture by settlement. All joints of pipe shall be made in accordance with the standards adopted by the American Water Works Association as the same are presently constituted or as amended from time to time or at any time. Unless otherwise permitted, stop boxes shall be placed in the service pipe. There shall be a stop and waste cock attached to every supply pipe in the building so as to permit the water to be shut off in freezing weather and the pipe to be emptied. A stop cock is required on each side of the meter.

The City shall supply the curb stop with box and water meter at prices set by regulation of the City Administrator and ratified by the Governing Body.

It shall be unlawful to use and install any of the above mentioned items unless the same are purchased from the City, or authorization is given by the City.

All installation shall be done under the supervision and strictly in accordance with the rules, regulations, and specifications prescribed for such installation by the Water Department; Provided, that the said rules, regulations, and specifications have been reviewed and approved by the Governing Body. (Ref. 17-537 RS Neb.) (Amended by Ord. Nos. 85-5, 9/3/85; 01-04, 5/7/01; 06-24, 11/6/06)

§3-107 MUNICIPAL WATER DEPARTMENT; INSTALLATION EXPENSE. The expense of providing water service by the Municipality shall not extend beyond the water main. The customer shall then pay the cost of the corporation stop, curb stop with box, meter, fittings and pipe from the water main to the place of disbursement and the cost of installing such items. No person other than the Water Department Representative or his or her duly authorized agent shall tap the water main. The consumer shall pay a tap fee before connection is made. Tap fees (per dwelling unit) shall be as follows:

1 inch tap.....	120.00
1¼ inch.....	145.00
1½ inch.....	160.00
2 inch tap.....	205.00

Taps over 2 inches shall be performed by experienced personnel who are authorized by the Water Department to perform these services. All taps over 2 inches shall pay a connection fee of \$300 (three- hundred dollars).

The fee for all water taps in areas not covered under a subdivision agreement shall be \$2,000.00

The customer shall at his, her, or its own expense bring water service from the water main to said customer's place of disbursement and shall employ a competent plumber who shall install water service to the place of disbursement. Nonresidents shall pay such tap fees and installation charges in such sums as the City Administrator, pursuant to resolution of the Governing Body, shall in each case fix. The extension of commercial mains into unsupplied territory within the corporate limits may be made by means of water extension districts. (*Ref. 17-542 RS Neb.*) (*Amended by Ord. Nos. 85-5, 9/3/85; 92-1, 3/2/92; 93-6, 12/6/93; 01-04, 5/7/01; 06-13, 8/7/06*)

§3-108 MUNICIPAL WATER DEPARTMENT; MAINTENANCE OF METERS BY PROPERTY OWNERS. As a condition precedent to the use of Municipal water, it shall be the responsibility of all real property owners to maintain a water meter in good working order for each subdivided parcel within the corporate limits of the Municipality.

In the event that any consumer of water for any purpose is utilizing a water meter which is not accessible to City officials and may not be read for three (3) consecutive monthly water meter reading periods, such consumer shall, within thirty (30) days of request by the Municipal Clerk, and at such consumer's own expense, install a radio read meter transceiver unit provided by the Municipality to permit the obtaining of a meter reading without entering the premises served by said meter. The radio read meter transceiver unit shall be located on the exterior of the structure in a location accessible to the Water Department. All water meters installed, whether in new structures or, as replacements to existing meters, on or after January 1, 2003 shall be equipped with a radio read meter system which may be read without entering the premises served by such meter. (*Amended by Ord. Nos. 85-5, 9/3/85; 91-4, 8/5/91; 01-04, 5/7/01; 02-25, 12/16/02*)

§3-109 MUNICIPAL WATER DEPARTMENT; REPAIRS. Repairs to the supply pipe, service pipe, stop box, and meter shall be made by and at the expense of the customer. For those customers with a service line on the opposite side of the street, the City shall bear the expense, if it becomes necessary to remove sidewalks, pavement, curb, and/or gutter. All repairs to the property of the Water Department shall be made by the Municipality.

When in the course of repairing a supply pipe, it becomes necessary to remove sidewalks, pavement, curb, and/or gutter, the cost of removing the sidewalk, pavement, curb, gutter, and earth shall be borne by the property owner served by the supply pipe which is repaired, unless the service line is on the opposite side of the street.

In the event the supply pipe repair becomes necessary as a result of the negligence of the property owner served by the supply pipe which is being repaired, or by the negligence of such property owner's predecessors in title, then and in that event, the Municipality shall assume no responsibility whatsoever for the cost of such repair.

Any touch read or radio read unit removed for repairs or improvements to the premises shall be reinstalled at the customer's expense.

When meters and/or stop boxes are worn out or in need of new parts, they shall be replaced and reset by the Municipality. Cost of the meter and/or stop box shall be at the expense of the customer. Labor incident to the repair or replacement of a meter or stop box shall be pro

vided by the Municipality. All meters shall be tested at the customer’s request, at the expense of the customer, any reasonable number of times; Provided, that if the test shows the water meter to be running two percent (2%) or more fast, the expense of such test shall be borne by the Municipality. The Municipality reserves the right to test any water service meter at any time, and if said meter is found to be beyond repair, the Municipality may place a new meter on the customer’s water service fixtures at the consumer’s expense. (Ref. 17-542 RS Neb.) (Amended by Ord. Nos. 85-5, 9/3/85; 91-9, 1/6/92; 98-2, 2/3/98; 01-04, 5/7/01; 01-17, 12/3/01; 02-25, 12/16/02)

§3-110 MUNICIPAL WATER DEPARTMENT: RATES. All water from the Municipal Water Department shall be furnished at metered rates unless otherwise provided herein. All consumers of water, except the Municipality, shall pay for water used or metered in accordance with the following schedule:

A. RATES APPLICABLE FOR EACH WATER METER WHERE WATER IS SUPPLIED TO ONE (1) OR MORE SEPARATE UNITS LOCATED WITHIN THE MUNICIPALITY:

1.	<u>Meter Size</u>	<u>Costs of Service Charge</u>
	5/8”	\$10.43
	3/4”	\$10.60
	1”	\$11.00
	1.5”	\$22.20
	2”	\$35.50
	3”	\$71.00
	4”	\$111.00

2. One dollar and sixty-four cents (\$1.64) shall be charged per thousand gallons of water used up to ten thousand (10,000) gallons multiplied by the number of separate units per billing month, and

3. Two dollars and ten cents (\$2.10) shall be charged per thousand gallons of water used in excess of ten thousand (10,000) gallons up to twenty thousand (20,000) gallons multiplied by the number of separate units per billing month, and

4. Two dollars and thirty-five cents (\$2.35) shall be charged per thousand gallons of water used in excess of twenty thousand (20,000) gallons multiplied by the number of separate units per billing month.

B. RATES APPLICABLE FOR EACH WATER METER WHERE WATER IS SUPPLIED TO ONE (1) OR MORE SEPARATE UNITS LOCATED OUTSIDE THE MUNICIPALITY:

1.	<u>Meter Size</u>	<u>Costs of Service Charge</u>
	5/8”	\$20.86
	3/4”	\$21.20
	1”	\$22.00
	1.5”	\$44.40
	2”	\$71.00
	3”	\$142.00
	4”	\$222.00

2. Three dollars and twenty-eight cents (\$3.28) shall be charged per thousand gallons of water used up to ten thousand (10,000) gallons multiplied by the number of separate units per billing month, and
3. Four dollars and twenty cents (\$4.20) shall be charged per thousand gallons of water used in excess of ten thousand (10,000) gallons multiplied by the number of separate units per billing month,
4. Four dollars and seventy cents (\$4.70) shall be charged per thousand gallons of water used in excess of twenty thousand (20,000) gallons multiplied by the number of separate units per billing month.

C. RATES APPLICABLE WHERE WATER IS SUPPLIED TO RESIDENTS OR SEPARATE UNITS LOCATED WITHIN THE MUNICIPALITY FOR LOADING INTO A TRANSPORT VEHICLE OR FOR ANY OTHER PURPOSE AND THE SAME IS NOT DELIVERED TO A STRUCTURE THROUGH THE MAINS, SUPPLY PIPES, AND SERVICE PIPES WHICH CONSTITUTE THE MUNICIPAL WATER SYSTEM:

1. Fifteen dollars (\$15.00) shall be charged per calendar month, and
2. One dollar and sixty-four cents (\$1.64) shall be charged per thousand gallons of water used up to ten thousand (10,000) gallons per calendar month, and
3. Two dollars and ten cents (\$2.10) shall be charged per thousand gallons of water used in excess of ten thousand (10,000) gallons per calendar month, and
4. Two dollars and thirty-five cents (\$2.35) shall be charged per thousand gallons of water used in excess of twenty thousand (20,000) gallons multiplied by the number of separate units per billing month and
5. A loading fee of fifteen dollars (\$15.00) shall be charged per transport vehicle or vessel loaded.

D. RATES APPLICABLE WHERE WATER IS SUPPLIED TO NON-RESIDENTS OR SEPARATE UNITS LOCATED WITHIN THE MUNICIPALITY FOR LOADING INTO A TRANSPORT VEHICLE OR FOR ANY OTHER PURPOSE AND THE SAME IS NOT DELIVERED TO A STRUCTURE THROUGH THE MAINS, SUPPLY PIPES, AND SERVICE PIPES WHICH CONSTITUTE THE MUNICIPAL WATER SYSTEM:

1. Thirty dollars (\$30.00) shall be charged per calendar month, and
2. Three dollars and twenty-eight cents (\$3.28) shall be charged per thousand gallons of water used up to ten thousand (10,000) gallons per calendar month, and
3. Four dollars and twenty cents (\$4.20) shall be charged per thousand gallons of water used in excess of ten thousand (10,000) gallons per calendar month, and

4. Four dollars and seventy cents (\$4.70) shall be charged per thousand gallons of water used in excess of twenty thousand (20,000) gallons multiplied by the number of separate units per billing month, and
 5. A loading fee of thirty dollars (\$30.00) shall be charged per transport vehicle or vessel loaded.
- E. All water sold pursuant to Paragraphs C and D of this section shall be sold in accordance with the following regulations:
1. Persons purchasing water pursuant to Section 3-110 C & D shall be issued a receipt by the office of the Municipal Clerk, which receipt shall state:
 - a. The date of purchase.
 - b. The number of gallons purchased (metered or estimated).
 - c. The dollar amount paid to the Municipality, and,
 - d. The name and address of the purchaser.
 2. In the event the metering of the water purchased is not feasible, the Water Department Representative, or his or her agent, shall estimate the capacity of the vessel to be filled and state the quantity purchased as an estimated quantity on the receipt issued to the purchaser. In no event shall any adjustment whatsoever be made, based upon the accuracy of such estimate, subsequent to issuance of the receipt and payment by the purchaser.
 3. It shall be the responsibility of the purchaser to prove prior purchase of water within the same calendar month in order for rates for quantities in excess of the monthly minimum to apply. For this purpose, an original receipt signed by the clerk in the same calendar month shall be conclusive.
 4. In the event of an actual or potential water shortage, the Mayor shall have absolute authority to suspend sales of water pursuant to paragraph 3-110 C & D of this code, as to residents, non-residents, or both.
- F. It shall be the responsibility of the water consumer to maintain a water meter in good working order. When a meter is temporarily out of service, the consumer shall be charged in accordance with his, her, or its past usage for comparable months. Should a customer'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 that if no such basis for comparison exists, the customer shall be charged such amount as may be reasonable fixed by the Water Department.
- G. Rate changes imposed by this article shall become effective for meter readings taken during the first month of the fiscal year. *(Amended by Ord. Nos 85-5, 9/3/85; 87-8, 6/15/87; 92-12, 9/21/92; 97-2, 2/3/97; 99-23, 9/7/99; 01-04, 5/7/01; 03-06, 9/15/03; 07-09, 9/17/07; 08-13, 9/15/08; 09-08, 9/21/09)*

§3-111 MUNICIPAL WATER DEPARTMENT; WATER BILLS. Water bills shall be due and payable monthly at the office of the Municipal Clerk. The Water Department shall read, or cause to be read, water meters monthly. It shall be the duty of the customers to pay their bills monthly in a manner approved by the Governing Body. The Water Department shall report to the Municipal Clerk the volume of water used by each customer each month, and the Clerk shall charge and collect from each customer for the amount of water consumed since the last examination, together with any other charges, properly itemized, due the Water Department. Bills shall be due on the fifteenth (15th) day of each month and shall be payable by the fifteenth (15th) of each month.

Bills not paid by the fifteenth (15th) day of each month shall be deemed to be delinquent. Customers whose bills are thirty (30) days delinquent shall be given written notice of such delinquency. Disconnection procedures in compliance with section 3-901 shall be commenced. A twenty-five dollar (\$25.00) fee shall be added to the water bill for service disconnection. This fee shall be added and collected if City personnel are dispatched to disconnect the water, even if the bill is paid before disconnection is physically accomplished. An additional twenty-five dollar (\$25.00) fee shall be collected before water service will be reconnected during the City's regular business hours. . (Ref. 17-542, 18-416 RS Neb.) (Amended by Ord. No. 85-5, 9/3/85; 01-04, 5/7/01; 02-06, 2/18/02; 09-01, 1/19/09)

§3-112 MUNICIPAL WATER DEPARTMENT; RESPONSIBILITY FOR WATER CHARGES. In all cases property owners, rather than their tenants, shall be ultimately responsible for all water and sewer charges which accrue against property to which they hold record title.

§3-113 MUNICIPAL WATER DEPARTMENT; LIEN. In addition to all other remedies, if a customer shall for any reason remain indebted to the Municipality for water service furnished, such amount due, together with any rents and charges in arrears, shall be considered a delinquent water rent which is hereby declared to be a lien upon the real estate for which the same was used. The Municipal Clerk shall notify in writing or cause to be notified in writing, all owners of premises or their agents whenever their tenants or lessees are forty-five (45) days or more delinquent in the payment of water rent. It shall be the duty of the Municipal Clerk on the first (1st) day of each month to report to the Governing Body a list of all unpaid accounts due for water together with a description of the premise upon which the same was used. The report shall be examined, and if approved by the Governing Body, shall be certified by the Municipal Clerk to the County Clerk to be collected as a special tax in the manner provided by law. The City Treasurer is authorized and directed to expend the funds necessary to file such liens with the appropriate authorities. (Ref. 17-538 RS Neb.)

§3-114 MUNICIPAL WATER DEPARTMENT; SUPPLY RESTRICTED TO SINGLE PREMISE. No consumer shall supply water to other persons, nor allow them to take water from his, hers, or its premises, or 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 Municipality. It shall further be unlawful for any person to tamper with any water meter or by means of any contrivance or device to divert the water from the service pipe so that the water will not pass through the meter or while passing through said meter to cause the meter to register inaccurately. (Amended by Ord. No. 01-04, 5/7/01) (Ref. 17-537 RS Neb.)

§3-115 MUNICIPAL WATER DEPARTMENT; RESTRICTED USE. The Governing Body or the Water Department may order a reduction in the use of water or shut off the water supply to any premises in the event of a water shortage due to fire or other good and sufficient cause. The Municipality shall not be liable for any damages caused by shutting off the supply of water of any consumer while the system or any part thereof is undergoing repairs or when there is a shortage of water due to circumstances over which the Municipality has no control. *(Amended by Ord. No. 01-04, 5/7/01) (Ref. 17-537 RS Neb.)*

§3-116 MUNICIPAL WATER DEPARTMENT; FIRE HYDRANTS. All hydrants for the purpose of extinguishing fires are hereby declared to be public hydrants, and it shall be unlawful for any person other than members of the Waverly Fire Department under the orders of the Fire Chief, or the Assistant Fire Chief, or members of the Water Department to open or attempt to open any of the hydrants and draw water from the same, or in any manner to interfere with the hydrants. No member or representative of the Waverly Fire Department or any fire or police organization shall open any fire hydrant or draw any water there from in non-emergency situations without prior approval from the City and supervision by City personnel. *(Amended by Ord. No. 98-10, 7/20/98)*

§3-117 MUNICIPAL WATER DEPARTMENT; POLLUTION. It shall be unlawful for any person to pollute or attempt to pollute any stream or source of water for the supply of the Municipal Water Department. In order to prevent the pollution of the Municipal water supply through plumbing facilities connected thereto, the following regulations concerning cross-connection and back flow prevention are hereby adopted and appear in section 3-118 to 3-122, inclusive. *(Ref. 17-536 RS Neb.)*

§3-118 MUNICIPAL WATER DEPARTMENT; AUTHORITY.

- A. **RESPONSIBILITY OF THE UTILITIES SUPERINTENDENT.** Water Department personnel, or a designated agent, shall inspect the plumbing in every structure in the Municipality as frequently as in his or her judgment may be necessary to insure that such plumbing has been installed in such a manner as to prevent the possibility of pollution of the water supply of the Municipality by the plumbing facilities connected thereto. The Water Department shall notify or cause to be notified in writing the owner or authorized agent of the owner of any such structure, to correct, within a reasonable time set by the Utilities Superintendent, any plumbing installed or existing contrary to or in violation of this Article, and which in his or her judgment, may, therefore, permit the pollution of the Municipal water supply, or otherwise adversely affect the public health.
- A. **INSPECTION.** The Water Department personnel, or his or her designated agent, shall have the right of entry into any structure, during reasonable hours, for the purpose of making inspection of the plumbing systems installed in such structure; Provided, that with respect to the inspection of any single family dwelling, consent to such inspection shall first be obtained from a person of suitable age and discretion therein or in control thereof. *(Amended by Ord. No. 01-04, 5/7/01)*

§3-119 MUNICIPAL WATER DEPARTMENT; CONNECTION CONTROL. General policy and purpose:

- A. Purpose. The purpose of this section is to:

1. Protect the public potable water supply of the city water system from the possibility of contamination or pollution by isolating real or potential sources of contamination or pollutants which may backflow or cause backsiphonage through the service connection into the public potable water supply system, as required by Title 179, NAC 2 "Regulations Governing Public Water Supply Systems."
 2. Promote the elimination, containment, isolation, or control of existing cross connections, actual or potential, between the public or consumer's potable water systems and nonpotable water systems, plumbing fixtures and industrial process systems.
 3. Provide for the maintenance of a continuing program of cross connection control which will systematically and effectively prevent the contamination or pollution of all potable water systems.
- B. Applicability. This section shall apply to all premises serviced by the public potable water system of the city.
- C. Policy.
1. This section will be reasonably interpreted as the city's intent to recognize the varying degrees of hazard and to apply the principle that the degree of protection shall be commensurate with the degree of hazard.
 2. The Municipal Water Department shall be primarily responsible for protection of the public potable water distribution system from contamination or pollution due to backflow of contaminants or pollutants through the water service connection. The cooperation of consumers is required to implement and maintain the program to control cross connections. The consumer is responsible for preventing contamination of the water system within the consumer's own premises.
 3. If, in the judgment of the Water Department or the state department of health or their authorized representative, cross connection protection is required through either piping modification or installation of an approved backflow prevention device, 30 day's notice shall be given to the consumer. The failure, refusal, or inability on the part of the consumer to provide requested protection within 30 days shall make the consumer subject to discontinuance of water service at the discretion of the Water Department according to the degree of hazard, without further notice. *(Amended by Ord. No. 99-17, 6/21/99)*

§3-120 MUNICIPAL WATER DEPARTMENT; CROSS CONNECTION CONTROL; DEFINITIONS.

- A. The following definitions shall apply in the interpretation and enforcement of this ordinance:
1. "Air gap separation" means the unobstructed vertical distance through the free atmosphere between the lowest opening from any pipe or faucet supplying water to a tank, plumbing fixture, or other device, and the flood-level rim of the receptacle.

2. "Auxiliary water supply" means any water source or system, other than the public water supply, that may be available in the building or premises.
3. "Backflow" means the flow other than the intended direction of flow, of any foreign liquids, gases, or substances into the distribution system of a public water supply.
4. "Backflow prevention device" means any device, method, or type of construction intended to prevent backflow into a potable water system provided backflow preventers have been tested and approved by a reputable testing laboratory.
5. "Consumer" means the owner or person in control of any premises supplied by or in any manner connected to a public water system.
6. "Containment" means protection of the public water supply by installing a cross connection control device or air gap separation on the main service line to a facility, or as an installation within equipment handling potentially hazardous materials.
7. "Contamination" means an impairment of the quality of the water by sewage, process fluids, or other wastes to a degree which could create an actual hazard to the public health through poisoning or through spread of disease by exposure.
8. "Cross connection" means any physical link, between a potable water supply and any other substance, fluid, or source which makes possible contamination of the potable water supply due to the reversal of flow of the water in the piping or distribution system.
9. "Hazard, Degree of" means an evaluation of the potential risk to public health and the adverse effect of the hazard upon the potable water system.
 - a. Hazard-Health - any condition, device, or practice in the water supply system and its operation which could create or may create a danger to the health and well-being of the water consumer.
 - b. Hazard-Plumbing - a plumbing type cross connection in a consumer's potable water system that has not been properly protected by a vacuum breaker, air-gap separation, or backflow prevention device.
 - c. Hazard-Pollutional - an actual or potential threat to the physical properties of the water system or to the potability of the public or the consumer's potable water system but which would constitute a nuisance or be aesthetically objectionable or could cause damage to the system or its appurtenances, but would not be dangerous to health.
 - d. Hazard-System - an actual or potential threat of severe damage to the physical properties of the public potable water system or the consumer's potable water system, or of a pollution or contamination which would have a protracted effect on the quality of the potable water in the system.
10. "Industrial Process System" means any system containing a fluid or solution, which may be chemically, biologically, or otherwise contaminated or polluted in a form or

concentration such as would constitute a health, system, pollutional or plumbing hazard if introduced into a potable water supply.

11. "Isolation" means protection of a facility service line by installing a cross connection control device or air gap separation on an individual fixture, appurtenance, or system.
12. "Pollution" means the presence of any foreign substance (organic, inorganic, or biological) in water which tends to degrade its quality so as to constitute a hazard or impair the usefulness of the water to a degree which does not create an actual hazard to the public health but which does adversely and unreasonably affect such waters for domestic use.
13. "Public Potable Water System" means any publicly or privately owned water system supplying water to the general public which is satisfactory for drinking, culinary, and domestic purposes and meets the requirements of the Nebraska Department of Health.
14. "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, then the service connection means the downstream end of the meter.
15. "Water Department" means the owner, operator, or individual in responsible charge of a public water system. *(Amended by Ord. No. 99-17, 6/21/99)*

§3-121 MUNICIPAL WATER DEPARTMENT; CROSS CONNECTIONS PROHIBITED.

- A. No water service connection shall be installed or maintained to any premises where actual or potential cross connections as required by the laws and regulations of the state to the public potable or consumer's water system may exist.
- B. No connection shall be installed or maintained whereby an auxiliary water supply may enter a public potable or consumer's water system.
- C. No water service connection shall be installed or maintained to any premises in which the plumbing system, facilities, and fixtures have not been constructed and installed using acceptable plumbing practices of the latest edition of the Uniform Plumbing Code as considered by the Municipal Water Department as necessary for the protection of health and safety. *(Amended by Ord. No. 99-17, 6/21/99)*

§3-122 MUNICIPAL WATER DEPARTMENT; SURVEYS AND INVESTIGATIONS; RESPONSIBILITIES OF CONSUMER.

- A. The consumer shall provide access to the premises at reasonable times to the Municipal Water Department, or its authorized representative, for the conduction of surveys and investigations of water use practices within the consumer's premises to determine whether there are actual or potential cross connections to the consumer's water system through which contaminants or pollutants could backflow into the public potable water system.

- B. On request by the Municipal Water Department or its authorized representative, the consumer shall furnish information on water use practices within his premises.
- C. It shall be the responsibility of the water consumer to conduct periodic surveys of water use practices on his premises to determine whether there are actual or potential cross connections to his water system through which contaminants or pollutants could backflow into his or the public potable water system. *(Amended by Ord. No. 99-17, 6/21/99)*

§3-123 MUNICIPAL WATER DEPARTMENT; TYPE OF PROTECTION REQUIRED. The type of protection required by this section shall depend on the degree of hazard which exists, as follows: An approved air gap separation, or an approved reduced pressure principle backflow prevention device, or an approved double checkvalve assembly shall be installed where the public potable water system may be polluted with substances that could cause a health hazard. *(Amended by Ord. No. 99-17, 6/21/99)*

§3-124 MUNICIPAL WATER DEPARTMENT; PREMISES WHERE PROTECTION IS REQUIRED.

- A. An approved backflow prevention device shall be installed in the service connection line to a consumer's water system or within any premises where actual or potential hazards to the public potable water system exist. The type and degree of protection required shall commensurate with the degree of hazard.
- B. An approved air gap separation or reduced pressure principle backflow prevention device shall be installed at the service connection or within any premises where the nature and extent of activities on the premises, or the materials used in connection with the activities, or materials stored on the premises, would present an immediate and dangerous hazard to health should a cross connection occur, even though such cross connection may not exist at the time the backflow prevention device is required to be installed. This includes but is not limited to the following situations:
 - 1. Premises having an auxiliary water supply.
 - 2. Premises having internal cross connections that are not correctable, or intricate plumbing arrangements which make it impractical to ascertain whether or not cross connections exist.
 - 3. Premises where entry is restricted so that inspections for cross connections cannot be made with sufficient frequency or at sufficiently short notice to ensure that cross connections do not exist.
 - 4. Premises that, although not covered by this division, are subject to frequent modification which would change their status, or premises that have had violations of this division.
 - 5. Premises on which any substance is handled under pressure so as to permit entry into the public water supply, or where a cross connection could reasonably be expected to occur. This shall include the handling of process waters and cooling waters.

6. Premises where materials of a toxic or hazardous nature are handled such that, if back siphonage or back pressure should occur, a serious health hazard may result.
- C. The following types of facilities must install or have in operation an approved air gap separation, atmospheric vacuum breaker, pressure vacuum breaker, double check valve assembly, or reduced pressure principle backflow prevention device as required by the Municipal Water Department to protect the public water supply, and such equipment must be installed at these facilities unless all hazardous or potentially hazardous conditions have been eliminated or corrected:
1. Auxiliary water systems.
 2. Beverage bottling plants and food processing plants.
 3. Canneries, packing houses, and reduction plants.
 4. Car washing facilities and automobile servicing facilities.
 5. Chemical manufacturing, processing, compounding, or treatment plants.
 6. Chemically contaminated water systems.
 7. Dairies and cold storage plants.
 8. Film laboratories, film development facilities, and testing laboratories.
 9. Fire protection systems.
 10. Hazardous waste storage and disposal.
 11. Hospitals, mortuaries, clinics, nursing and convalescent homes, and medical facilities.
 12. Sprinkler systems and hose connections injecting directly material of a toxic or hazardous nature.
 13. Laundries and dye works, and dry cleaners.
 14. Metal manufacturing, cleaning, processing, and fabricating plants.
 15. Oil and gas production, storage, or transmission properties.
 16. Plating plants.
 17. Printing and publishing facilities.
 18. Research and analytical laboratories.
 19. Sewage and storm drainage facilities.
 20. Zoological and horticultural gardens.
 21. All cemetery sprinkler systems.
 22. Pet grooming and veterinarian facilities, kennels, stockyards, and feedyards.
 23. Swimming pools.
 24. Cooling coil service lines (refrigeration, air conditioning, etc.)
 25. All hot water and steam boiler heating systems with water recirculating.
 26. Lawn irrigation systems. All lawn irrigation systems must have a pressure vacuum breaker or reduced pressure zone backflow prevention device. Backflow devices must be tested at the time of installation and at least every 36 months there after.
 27. Hose connections. All garden hose type connections must have hose bib vacuum breakers.
 28. Yard hydrants. The installation of new or replacement yard hydrants where water is available or accessible for drinking or culinary purposes, and which have a drip opening below the ground surface, is prohibited unless such hydrants are equipped with an approved device to prevent entrance of groundwater 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.

29. 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 cutoff 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 cutoff device in proper working order. The utilities superintendent may require testing at any time if it is suspected that a problem exists with the device.
30. Multistoried buildings greater than three stories. These facilities, falling into one or more of the categories listed in this section, will be given six months after passage of the ordinance from which this division is derived to comply with this division, except those facilities or systems which are determined by the Municipal Water Department to be an immediate or severe health hazard, in which case that system or facility shall be required to comply immediately with this division. *(Amended by Ord. No. 99-17, 6/21/99)*

§3-125 MUNICIPAL WATER DEPARTMENT; APPROVED BACKFLOW PREVENTION DEVICES.

- A. Any backflow prevention device required by this section shall be of a model or construction approved by the Municipal Water Department.
 1. An air gap separation, to be approved, shall be at least double the diameter of the supply pipe measured vertically above the flood level rim of the vessel, but in no case less than one inch.
 2. A double check valve assembly or a reduced pressure principle backflow prevention device shall be approved by the Municipal Water Department and shall appear on the current list of approved backflow prevention devices established by the Water Department.
- B. Existing testable backflow prevention devices approved by the water purveyor at the time of installation and properly maintained shall, except for inspection and maintenance requirements, be excluded from the requirements of this division so long as the Municipal Water Department is assured that they will satisfactorily protect the water system. Whenever the existing device is moved from its present location, or requires more than minimum maintenance, or when the Water Department finds that the maintenance constitutes a hazard to health, the unit shall be replaced by a backflow prevention device meeting the requirement of this division. *(Amended by Ord. No. 99-17, 6/21/99)*

§3-126 MUNICIPAL WATER DEPARTMENT; INSTALLATION OF BACKFLOW PREVENTION DEVICES.

- A. Backflow prevention devices required by this section shall be installed by licensed state-certified tester/repair technicians at a location and in a manner approved by the Municipal Water Department or according to the latest addition of the Uniform Plumbing Code, and shall be installed at the expense of the water consumer.

- B. Backflow prevention devices installed on the service line to the consumer's water system shall be located on the consumer's side of the water meter, and prior to any other connection.
- C. Backflow prevention devices shall be located so as to be readily accessible for maintenance and testing, and protected from freezing, and where no part of the device will be submerged or subject to flooding by any fluid.
- D. Backflow prevention devices for underground sprinklers that have an opening to the atmosphere shall be located at least 12 inches from the bottom of the valve above the highest ground served by the sprinkler system. *(Amended by Ord. No. 99-17, 6/21/99)*

§3-127 MUNICIPAL WATER DEPARTMENT; INSPECTION AND MAINTENANCE OF BACKFLOW PREVENTION DEVICES.

A. It shall be the duty of the consumer at any premises on which backflow prevention devices required by this division are installed to have inspections, tests, and overhauls made by licensed state-certified backflow tester/repair technicians in accordance with the following schedule, or more often where inspections indicate a need:

1. Air gap separations shall be inspected at the time of installation and at least every 12 months thereafter.
2. Double check valve assemblies shall be inspected and tested for tightness at the time of installations and at least every twelve (12) months thereafter. They shall be dismantled, inspected internally, cleaned, and repaired whenever needed and at least every five (5) years.
3. Reduced pressure principal backflow prevention devices shall be inspected and tested for tightness at the time of installation and at least every twelve (12) months thereafter. They shall be dismantled, inspected internally, cleaned, and repaired whenever needed and at least every five (5) years.

B. Overhauls of backflow prevention devices shall be made at the expense of the water consumer and shall be performed by a State of Nebraska Certified Backflow Prevention Device Tester.

C. Backflow prevention devices designed with testing cocks shall be inspected and tested each year and those tests performed by a Nebraska Certified Backflow Prevention Device Tester and will be at the expense of the water consumer.

D. Whenever backflow prevention devices required by this ordinance are found to be defective, they shall be repaired, or replaced at the expense of the consumer without delay.

E. The water consumer must maintain a complete record of each backflow prevention device that has test cocks from purchase to retirement. Records of inspections, tests, repairs, and overhauls performed by others shall be submitted to the Municipal Water Department annually.

F. Backflow prevention devices shall not be by-passed, made inoperative, removed, or otherwise made ineffective.

G. Further regulations concerning the installation of sprinkler systems and backflow prevention devices are found in the latest edition of the Uniform Plumbing Code. (*Amended by Ord. No. 99-17, 6/21/99*)

§3-128 MUNICIPAL WATER DEPARTMENT; CROSS CONNECTIONS; BACK-FLOW PREVENTION DEVICES; VIOLATIONS.

- A. The Municipal Water Department shall have the right to deny or discontinue after ten (10) days notice to the occupants thereof, the water service to any premises wherein any backflow prevention device required by this ordinance is not installed, tested, and maintained in a manner acceptable to the Municipal Water Department, or if it is found that the backflow prevention device has been removed or by-passed or if an unprotected cross connection exists on the premises.
- B. Water service to such premises shall not be restored until the consumer has corrected or eliminated such conditions or defects in conformance with this ordinance to the satisfaction of the Municipal Water Department.
- C. The appropriate state or local regulatory agency, the Mayor and City Council shall be advised of inspection findings, and the violation abatement action pursued by the Municipal Water Department, and consulted prior to violation abatement action on items having to do with public health significance. (*Amended by Ord. Nos. 99-17, 6/21/99; 01-04, 5/7/01*)

§3-129 MUNICIPAL WATER DEPARTMENT; MANDATORY HOOK-UP. All persons within three hundred feet (300') of a water main shall be required, upon notice by the Governing Body, to hook-up with the Municipal Water System. No private water wells shall be allowed:

- (1) within the corporate limits; Provided, however, that any private water wells in existence within the corporate limits prior to January 1, 1990, shall be permitted to continue operating until the first transfer or conveyance of the property served by such water well to occur after January 1, 1990, at which time the well must be closed, at the owner's expense, and the property shall be hooked up to the Municipal Water System as provided herein. Existing private water wells may be repaired, but such repairs shall be limited to replacement or reconstruction of the electrical and mechanical components of the well. Replacement of the casing or reconstruction of the well shall not be permitted without a permit; or
- (2) within one-half (½) mile of the corporate limits; Provided, however, that any private water wells in existence within one-half (½) mile of the corporate limits prior to May 1, 2000, shall be permitted to continue operating until the first transfer or conveyance of the property served by such water well to occur after May 1, 2000, at which time the well must be closed, at the owner's expense, and the property shall be hooked-up to the Municipal Water System as provided herein. Existing water wells may be repaired, but such repairs shall be limited to replacement or reconstruction of the electrical and mechanical

components of the well. Replacement of the casing, or reconstruction of the well shall not be permitted without a permit.

Any person using a private water well and requests, or is required by the Governing Body, to connect to the Municipal Water System must disconnect the private water well from the system. No cross connections are permitted with the Municipal Water System.

Any well that penetrates the aquifer for purposes of extracting water or injecting water or any other substance, or for purposes of testing or monitoring ground water must have a permit issued by the City. Ground source heat pumps with closed loop systems used for heating and cooling of facilities are exempt from the permit requirement. (*Ref. 17-539 RS Neb.*) (*Amended by Ord. Nos. 90-6, 6/18/90; 99-17, 6/21/99; 00-2, 4/3/00*)

§3-130 MUNICIPAL WATER DEPARTMENT; WATER SERVICE CONTRACTS.

Contracts for water service are not transferable. Any person wishing to change from one location to another shall make a new application and sign a new contract. If any consumer shall move from the premises where service is furnished, or if the said premise is destroyed by fire or other casualty, he shall at once inform the Water Department who shall cause the water service to be shut off at the said premises. If the consumer should fail to give such notice, he shall be charged for all water used on the said premises until the Water Department is otherwise advised of such circumstances. (*Ref. 17-537 RS Neb.*) (*Amended by Ord. Nos. 99-17, 6/21/99; 01-04, 5/7/01*)

§3-131 MUNICIPAL WATER DEPARTMENT; INSPECTION. (*Repealed by Ord. No. 01-104, 5/7/01*)

§3-132 MUNICIPAL WATER DEPARTMENT; DESTRUCTION OF PROPERTY. It shall be unlawful for any person to willfully or carelessly break, injure, or deface any building, machinery, apparatus, fixture, attachment, or appurtenance of the Municipal Water Department. No person may deposit anything in a curb stop or commit any act tending to obstruct or impair the intended use of any of the above mentioned property without the written permission of the Water Department. (*Amended by Ord. Nos. 99-17, 6/21/99; 01-04, 5/7/01*)

§3-133 MUNICIPAL WATER DEPARTMENT; HOURS. Except in the case of emergency, all taps or plumbing work done on or to the Municipal Water System shall be done during normal business hours of the Municipal Water Department. (*Ref. 17-537 RS Neb.*) (*Amended by Ord. No. 99-17, 6/21/99*)

§3-134 MUNICIPAL WATER DEPARTMENT; FLUORIDE PERMITTED. Fluoride shall be added for dental health benefits to the water supply of the City of Waverly, Nebraska in the amount and manner prescribed by the rules and regulations of the Nebraska Department of Health and Human Services. (*Amended by Ord. Nos. 98-5, 3/16/98; 99-17, 6/21/99*)

§3-135 MUNICIPAL WATER DEPARTMENT; BOILERS. All house boilers shall be constructed with one (1) or more air holes near the top of the inlet pipe and sufficiently strong to bear the pressure of the atmosphere under the vacuum, the stop cock and all other apparatus must be sufficiently strong to bear the pressure of water in the mains. All persons taking the water shall keep the service pipes, stock cock, and other apparatus in good order and repair and protect the same from frost at their own risk and expense. (*Amended by Ord. No. 99-17, 6/21/99*)

§3-136 MUNICIPAL WATER DEPARTMENT; SEPARATE SHUT OFFS. When one (1) service pipe supplies two (2) or more customers, except four plex or larger residential buildings, there shall be provided, subject to the supervision of the Water Department, a separate stop cock and meter for each of said customer's, so that water supplies may be shut off from one without interfering with the supply of the others. *(Amended by Ord. Nos. 99-17, 6/21/99; 01-04, 5/7/01; 08-01, 2/4/08)*

§3-137 MUNICIPAL WATER DEPARTMENT; VIOLATIONS AND PENALTIES.

- A. NOTIFICATIONS OF VIOLATION OF 3-117 TO 3-128. The Water Department shall notify the owner, or authorized agent of the owner, of the structure in which there is found a violation of Section 3-117 to and including Section 3-128 of this Code, of such violation. The Water Department shall set a reasonable time for the owner to have the violation removed or corrected. Upon failure of the owner to have the defect corrected by the end of the specified time interval, the Water Department may, if in his or her judgment an imminent health hazard exists, cause the water service to the structure to be terminated, and/or recommend such additional fines or penalties to be invoked as herein may be provided.
- B. FINES ESTABLISHED FOR VIOLATION OF 3-117 TO 3-128. The owner or authorized agent of the owner for the maintenance of the plumbing systems in the structure who knowingly permits a violation of 3-117 to 3-128 of this Code to remain uncorrected after the expiration of time set by the Water Department shall, upon conviction thereof by the Court, be deemed guilty of an infraction, be required to pay a fine of not less than one hundred dollars (\$100.00) for each violation, and stand committed to jail until such fine and costs of prosecution are paid. Each day of failure to comply with the requirements of this Section, after the specified time provided herein, shall constitute a separate violation. If such violation is disposed of pursuant to a waiver of appearance and plea of guilty, the fine shall be fifty dollars (\$50.00).
- C. FINES ESTABLISHED FOR VIOLATION OF 3-116. Any person upon whom a duty is placed by the provisions of 3-116 of this Code, and who shall violate any of the provisions of said Section, shall be deemed guilty of an infraction and upon conviction thereof, shall be fined in the sum of not less than ten dollars (\$10.00) nor more than one hundred dollars (\$100.00), and shall stand committed to jail until such fine and costs of prosecution are paid. If such violation is disposed of pursuant to a waiver of appearance and plea of guilty, the fine shall be ten dollars (\$10.00).
- D. FINES ESTABLISHED FOR VIOLATION OF 3-114 AND 3-132. Any person upon whom a duty is placed by the provisions of 3-114 or 3-132 of this Code, and who shall fail, neglect, or refuse to perform such duty, or who shall violate any of the provisions of said Sections, shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be fined in the sum of not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100.00), and shall stand committed to jail until such fine and costs of prosecution are paid. If such violation is disposed of pursuant to a waiver of appearance and plea of guilty, the fine shall be twenty-five dollars (\$25.00). *(Amended by Ord. Nos. 99-17, 6/21/99; 01-04, 5/7/01)*

§3-138 (Reserved for future use)

§3-139 (Reserved for future use)

§3-140 MUNICIPAL WATER DEPARTMENT: AUTHORIZES THE DECLARATION OF A WATER WATCH, WARNING, OR EMERGENCY; ESTABLISHING PROCEDURES AND VOLUNTARY AND MANDATORY CONSERVATION MEASURES; AUTHORIZING THE ISSUANCE OF ADMINISTRATIVE REGULATIONS; AND PRESCRIBING CERTAIN PENALTIES.

Section 1. Purpose. The purpose of this ordinance is to provide for the declaration of a water supply watch, warning or emergency and the implementation of voluntary and mandatory water conservation measures throughout the city in the event such a watch, warning or emergency is declared.

Section 2. Classes of uses of water.

Class 1:

Water used for outdoor watering; either public or private, for gardens, lawns, trees, shrubs, plants, parks, golf courses, playing fields, swimming pools, or other recreational areas; or other recreational areas; or the washing of motor vehicles, boats, trailers, or the exterior of any building or structure.

Class 2:

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

Class 3:

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

Class 4:

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

Section 3. Declaration of Water Watch. Whenever the City finds that conditions indicate that the probability of a drought or some other condition causing a major water supply shortage is rising, the Mayor shall be empowered to declare that a water watch exists and that steps will be taken to inform the public and ask for voluntary reductions in water use. Such a watch shall be deemed to continue until it is declared by the Mayor to have ended.

Triggers

This stage is triggered by any one of the following conditions:

1. The City pumping ability has fallen below 85 percent capacity;
2. Groundwater levels have fallen five feet below the normal seasonal level; or
3. Daily demand is in excess of 800,000 gallons per day based on a three-day average.

Section 4. Declaration of Water Warning. Whenever the City finds that conditions are such that a major water supply shortage exists and supplies are starting to decline, the Mayor shall be empowered to declare that a water warning exists and that it will recommend restrictions on nonessential uses during the period of warning. Such a warning shall be deemed to continue until it is declared by the Mayor to have ended.

Triggers

This stage is triggered by any one of the following conditions:

1. The City pumping ability has fallen below 70 percent capacity;
2. Groundwater levels have fallen ten feet below the normal seasonal level; or
3. Daily demand is in excess of 900,000 gallons per day based on a three-day average.

Section 5. Declaration of Water Emergency. Whenever the City finds that an emergency exists by reason of a shortage of water supply needed for essential uses, the Mayor shall be empowered to declare that a water supply emergency exists and that it will impose mandatory restrictions on water use during the period of the emergency. Such an emergency shall be deemed to continue until it is declared by the Mayor to have ended.

Triggers

This stage is triggered by any one of the following conditions:

1. The City pumping ability has fallen below 50 percent capacity.
2. Groundwater levels have fallen fifteen feet below the normal seasonal level.
3. Pumping lowers water levels to within five feet of the top of the well screens.
4. Demand for one day is in excess of 1,000,000 gallons per day based on a three-day average.

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

- (a) Sprinkling of water on lawns, shrubs or trees (including golf courses), that users are voluntarily asked to conserve water by rotating water use on an even, odd system. Tuesday, Thursday, and Saturday addresses ending in Even numbers, are asked to water on these days only. Wednesday, Friday, and Sunday, addresses ending in Odd numbers, are asked to water on these days only...
- (b) Limit washing of automobiles.
- (c) Limited use of water in swimming pools, fountains and evaporative air conditioning systems.
- (d) Waste of water on sidewalks, driveways, and streets.

Section 7. Mandatory Conservation Measures. Upon the declaration of a water supply emergency as provided in Section 5, the Mayor is also authorized to implement certain mandatory water conservation measures, including, but not limited to, the following:

- (a) Sprinkling of water on lawns, shrubs, or trees (including golf courses), that users are mandatorily restricted to conserve water by rotating water use on and even, odd system. Tuesday, Thursday, and Saturday addresses ending in even numbers, are restricted to watering on these days only. Wednesday, Friday, and Sunday, addresses ending in Odd numbers, are restricted to watering on these days only. (Anyone found not following these restrictions is subject to penalties under Section 11 of this ordinance.)
- (b) Limit washing of automobiles.
- (c) Limit of water in swimming pools, fountains and evaporative air conditioning systems. Waste of water on sidewalks, driveways, and streets is strictly prohibited. Suspension of new connections to the City's water distribution system, except connections of fire hydrants and those made pursuant to agreement entered into by the City prior to the effective date of the declaration of the emergency.
- (d) Restrictions on the uses of water in one or more classes of water use, wholly or in part;
- (e) Restrictions on the sales of water at coin-operated car wash facilities or sites;
- (f) The imposition of water rationing based on any reasonable formula including, but not limited to, the percentage of normal use and per capita or per consumer restrictions;
- (g) Complete or partial bans on the waste of water; and
- (h) Any combination of the forgoing measures.

Section 8. Emergency Water Rates. Upon the declaration of a water supply emergency as provided in Section 5, the Governing Body of the City shall have the power to adopt emergency water rates by ordinance designed to conserve water supplies.

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

Section 10. Violations, Disconnections and Penalties. Upon any violation of any water use restrictions imposed pursuant to this ordinance, a written notice of the violation shall be affixed to the property where the violation occurred and the customer of record and any other person known to the City who is responsible for the violation or its correction shall be provided with either actual or mailed notice. Said notice shall describe the violation and order that it be corrected, cured or abated immediately or within such specified time as the City determines is reasonable under the circumstances. If the order is not complied with, the City may terminate water service to the customer.

- (a) A fee of \$50 shall be paid for the reconnection of any water service terminated pursuant to Section 10. In the event of subsequent violations, the reconnection fee shall be \$200 for the second reconnection and \$300 for any additional reconnections.

- (b) Any person who shall violate or refuse to comply with the enforcement of any provision in this ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than \$100 for each offense. A new violation shall be deemed to have been committed every twenty-four (24) hours of such violation or failure to comply.

Section 11. Emergency Termination. Nothing in this ordinance shall limit the ability of any properly authorized city official from terminating the supply of water to any or all customers upon the determination of such city official that emergency termination of water service is required to protect the health and safety of the public.

Section 12. Severability. If any provision of this ordinance is declared unconstitutional, or the application thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the ordinance and its applicability to other persons and circumstances shall not be affected thereby. (*Ord. No. 00-06, 8/7/00; Ord. No. 03-02, 4/7/03; Ord. No. 06-16, 9/5/06*)

§3-141 **WELL – HEAD PROTECTION: PURPOSE.** The intent of this Article is to establish control by the City of Waverly, Lancaster County, Nebraska over the location of future potential sources of contamination within the proximity of the City’s drinking water system, so as to prevent or minimize any hazard to the safety of the City’s drinking water. (*Amended by Ord. No. 02-18, 06/17/02*)

§3-142 **WELL – HEAD PROTECTION: DEFINITIONS.** For purposes of this Article, “water well” shall mean any excavation that is drilled, cored, bored, washed, driven, dug, jetted, or otherwise constructed for the purpose of exploring for ground water, monitoring ground water, utilizing the geothermal properties of the ground or extracting water from or injecting water into the underground water reservoir. Water wells shall not include any excavation made for obtaining or prospecting for oil, natural gas, minerals, or products mined or quarried or inserting media to repressure oil or natural gas-bearing formations. (*Amended by Ord. No. 02-18, 06/17/02*)

§3-143 **WELL – HEAD PROTECTION: PLACEMENT, MAINTENANCE AND CONSTRUCTION; PROHIBITIONS.** It shall be unlawful to place, maintain, construct, or replace any of the following structures or conduct any of the following activities within the distance specified below from existing Municipal water well:

<u>CATEGORY</u>	<u>DISTANCE</u>	
	Feet	Meters
Absorption of Disposal Field for Waste:		
A. <u>Receiving 2000 or more Gallons per day (gpd)</u>	1,000	300
B. <u>Receiving less than 2000 (gpd)</u>	500	150
Cesspool	500	150
Chemical or Petroleum Product Storage	1,000	300
Corral	500	150

Domestic Water Well	1,000	300
Dump	1,000	300
Feedlot or Feedlot Runoff	1,000	300
Nonpotable Water Well	1,000	300
Pit Toilet	500	150
Sanitary Landfill	1,000	300
Sanitary Sewer Connection	100	30
Sanitary Sewer Line	50	15
Sanitary Sewer Line (permanently watertight)	10	3
Sanitary Sewer Manhole	100	30
Septic Tank	500	150
Sewage Lagoon	1,000	300
Sewage Treatment Plant	500	150
Sewage Wet Well	500	150
Storm Sewer	50	15
Closed-Loop Food Grade Heat Pump <i>(Amended by Ord. No. 02-18, 06/17/02; 05-13, 07/18/05)</i>	500	150

§3-144 WELL – HEAD PROTECTION: APPLICATIONS; APPROVAL REQUIRED. The Governing Body may consider allowing placement of water wells, as defined by Nebraska Regulations governing public water supply systems (Title 179, NAC 2) and Nebraska Regulations governing water well construction, pump in stallion and water well abandonment standards (Title 178, NAC 12) as amended from time to time, closer to a Municipal water well than the limitations set forth in section 3-143 hereof. Closer placement shall be allowed only under the following conditions:

(a) An application must first be filled with the City showing the type of water well to be installed, the materials used, the operation of the proposed unit, and the person responsible for the actual installation of the water well. Preference, for approval, will be given to installations that do not disturb any bearing strata.

The City shall refer the application to its engineer for evaluation and report. The estimated cost of the engineer's fees must be paid at the time of filing the application. Any additional costs, which are reasonably incurred by the engineer in making his examination and report shall be paid by the applicant, in addition to any previously paid estimated cost.

(b) The Governing Body shall consider the engineer's report and any additional information submitted by the applicant. In reaching its decision on whether to allow the placement of a water well, as above defined, the Governing Body must act to prevent all sources of possible or likely water contamination.

If the Governing Body approves the installation, it shall submit the application, together with the engineer's report to the Department of Health of the State of Nebraska for final approval or denial.

No installation shall be made without the approval of both the Governing Body and the Department of Health of the State of Nebraska. *(Amended by Ord. No. 02-18, 06/17/02)*

§3-145 **WELL – HEAD PROTECTION: EXISTING WELLS.** Water wells in existence and use, as of the effective date of this Article, shall continue to be permitted unless such a continued existence or use presents a hazard to the quality or quantity of the drinking water for public use. The owner of any water well shall have the burden of establishing the existence and use of such well at the time of effective date of this Article. *(Amended by Ord. No. 02-18, 06/17/02)*

§3-146 **WELL – HEAD PROTECTION: VIOLATIONS; PENALTY.** Any person found violating any provision of this Article shall be subject to a fine, not to exceed \$100.00. The continuation of a violation of this Article shall be deemed an additional offense for every twenty-four (24) hours of such continued violation. In addition, the City may obtain injunctive relief, and sue for damage and remediation, and pursue any other remedy available to it under the laws of the State of Nebraska, the ordinances of the City of Waverly, or other authority having jurisdiction over such matter. *(Amended by Ord. No. 02-18, 06/17/02)*

§3-147 **WELL – HEAD PROTECTION: VIOLATIONS; DESIGNATION OF WELL-HEAD PROTECTION AREA.** The City Council designates a Well –Head Protection Area for the purpose of protecting the public water supply system. The boundaries of the Well-Head Protection Area are referenced by the map attached to Ordinance 02-18, passed May 20, 2002. This delineation is based upon a map prepared by the Nebraska Department of Environmental Quality and presented to the City on May 20, 2002. *(Amended by Ord. No. 02-18, 06/17/02)*

Article 2. Sewer Department

§3-201 **MUNICIPAL SEWER DEPARTMENT; OPERATION AND FUNDING.** The Municipality owns and operates the Municipal Sewer System. The Governing Body, for the purpose of defraying the cost of the operation, maintenance, and replacement (OM&R) of the Municipal Waste Water System may establish a user charge system based on estimated use and revise the charges, if necessary, to accomplish the following:

1. Maintain the proportional distribution of operation, maintenance, and replacement (OM&R) costs among users and user classes;
2. Generate adequate revenues to pay the costs of operation and maintenance, repair, and waste water treatment facility bond retirement;

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. The revenue from the said user charge system use shall be known as the Waste Water System Maintenance Fund, which fund shall be maintained and accounted for by the Municipal Treasurer in accordance with the Waverly Municipal Code. The Waste Water Operator shall have direct management and control of the Sewer Department and shall faithfully carry out the duties of his or her office. He or she shall function within the policy guidelines established by the Governing Body for the operation and maintenance of the Municipal Waste Water System and shall operate the Sewer Department under the direct control of the City Administrator. He or she shall have the authority to promulgate rules and regulations for the sanitary and efficient management of the Department subject to the supervision, review and approval of the Governing Body. (Ref. 17-149, 17-925.01 RS Neb.) (Amended by Ord. No. 87-9, 7/20/87,01-08,7/2/01) (Ref. 17-149, 17-925.01 RS Neb.)

§3-202 MUNICIPAL SEWER DEPARTMENT; DEFINITION OF TERMS. Unless the context specifically indicates otherwise, the meaning of terms used in this Article shall be as follows:

A. **CARBONACEOUS BIOCHEMICAL OXYGEN DEMAND.** The term "Carbonaceous Biochemical Oxygen Demand" (CBOD) shall mean and include the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at twenty degrees (20°) C., expressed in milligrams per liter.

B. **BUILDING DRAIN.** The terms "Building Drain" shall mean and include that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, or other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five (5) feet outside the inner face of the building wall.

C. **BUILDING SEWER.** The term "Building Sewer" shall mean the extension from the building drain to the public sewer or other place of disposal.

D. **CHEMICAL OXYGEN DEMAND.** The term "Chemical Oxygen Demand" (COD) shall mean and include the oxygen equivalent of that portion of an organic matter in a sample that is susceptible to oxidation by strong chemical oxidant, expressed in milligrams per liter.

E. **CHLORINE REQUIREMENT.** The term "Chlorine Requirement: shall mean the amount of chlorine, in parts per million by weight, which must be added to sewage to produce a specified residual chlorine content, or to meet the requirements of some other objective, in accordance with the procedures set forth in "Standard Methods."

F. **COMMERCIAL USER.** The term "Commercial User" shall constitute a class of users and shall mean and include: All governmental subdivisions and all users who or which are neither "industrial" nor "residential" users as defined in this Article.

G. **FLOATABLE OIL.** The term "Floatable Oil" shall mean and include: oil, fat, or grease in a physical state such that it will separate by gravity from wastewater by treatment in an approved pretreatment facility. A wastewater shall be considered free of floatable oil if it is properly pretreated and the wastewater does not interfere with the collection system.

H. GARBAGE. For purposes of this Article, the term "Garbage" shall mean solid wastes from the domestic and commercial preparation, cooking, and dispensing of food, and from the handling, storage, and sale of produce.

I. HAZARDOUS WASTE. The term "Hazardous Waste" shall mean a solid, semi-solid, or liquid waste which because of its quantity, concentration, or physical, chemical, or infectious characteristics may:

1. cause, or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible illness; or,
2. pose a substantial present or potential hazard to human or animal health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed.

"Rules and Regulations Governing Hazardous Waste Management in Nebraska," the "Nebraska Department of Environmental Control Rules and Regulations Pertaining to the Pretreatment Program" as amended from time to time and at any time, the "Solid Waste Disposal Act: as amended by the "Resource Conservation and Recovery Act (RCRA) of 1976," 42 U.S.C. §6901 et seq. and the "Nebraska Environmental Protection Act," RS Neb. §81-1501 to 81-1532, (Reissue 1981), as amended from time to time and at any time.

J. HIGH POLLUTANT SEWAGE. The term "High Pollutant Sewage" shall mean and include sewage which when analyzed shows, or which, due to the nature of a commercial activity or the types of waste water receptacles connected to a building drain and with consideration of the volume of waste water discharged, has the potential to show, by weight a daily average of more than 250 parts per million of suspended solids, more than 250 parts per million CBOD, or when Carbonaceous Biochemical Oxygen Demand cannot accurately be determined a Chemical Oxygen Demand of more than 400 parts per million, and more than 100 parts per million of the soluble matters of grease or oil.

K. INDUSTRIAL USER. The term "Industrial User" shall constitute a class of users and shall mean and include all users who or which are identified in the Standard Industrial Classification Manual, 1972, or any updated revisions, as published by the United States Office of Management and Budget. A user shall be excluded from this Industrial Classification and placed instead in the appropriate commercial classification if it is determined that such user will introduce primarily segregated domestic wastes or wastes from sanitary conveniences. Any industry which discharges waste to the sewer system other than restroom/kitchen wastes shall be included as an industrial user.

L. INDUSTRIAL WASTES. The term "Industrial Wastes" shall mean the liquid wastes from industrial manufacturing processes, trade, or business as distinct from sanitary sewage.

M. NATURAL OUTLET. The term "Natural Outlet" shall mean any outlet into a watercourse, pond, ditch, lake, or other body of surface or groundwater.

N. NORMAL SEWAGE. The term "Normal Sewage" shall mean and include sewage which when analyzed shows by weight a daily average of not more than 250 parts per million of suspended solids, not more than 250 parts per million CBOD, or when Carbonaceous Biochemical

Oxygen Demand cannot accurately be determined a Chemical Oxygen Demand of not more than 400 parts per million, and not more than 100 parts per million of the soluble matters of grease or oil.

O. PARTS PER MILLION. The term "Parts Per Million" shall mean a weight-to-weight ratio; the parts-per-million value multiplied by the factor 8.345 shall be equivalent to pounds per million gallons of water.

P. pH. The term "pH" shall mean the logarithm of the reciprocal of the hydrogen-ion concentration. The concentration is the weight of hydrogen ions, in grams, per liter of solution. Neutral water, for example, has a pH value of 7 and a hydrogen-ion concentration of 10^{-7} .

Q. PROPERLY SHREDDED GARBAGE. The term "Properly Shredded Garbage" shall mean the wastes from the preparation, cooking, and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one and $\frac{27}{100}$ centimeters (1.27 cm) in any dimension.

R. PUBLIC SEWER. The term "Public Sewer" shall mean a sewer in which all owners of abutting properties have equal rights, and which is controlled by public authority.

S. RESIDENTIAL USER. The term "Residential User" shall constitute a class of users and shall mean and include all users of the Municipal Waste Water System to the extent such use is confined to sewer service to real property which is within any Residential Zone of the Municipality and on which no commercial activity takes place except for "home occupations" as defined in Section 11.611 of the Municipal Zoning Ordinance.

T. REPLACEMENT. The term "Replacement" shall mean expenditures for obtaining and installing equipment, accessories, or appurtenances which are necessary so long as the waste water treatment facility remains in operation, to maintain the capacity and performance for which such system was designed and constructed.

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

V. SEPARATE UNIT. The term "Separate Unit" shall mean a dwelling, business establishment, private, semi-private or public institution or other entity which has a separate and independent identity and/or location, specifically excluding "home occupations" as defined in Section 11.611 of the Municipal Zoning Ordinance, which is served with water from Municipal Water Department, regardless of whether or not such separate unit has an independent water meter, and/or which is provided with sewer service from the Municipal Sewer Department.

W. SEWAGE. The term "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.

X. SEWER. The term "Sewer" shall mean a pipe or conduit for carrying sewage.

Y. SLUG. The term "Slug" shall mean any discharge of water, sewage, or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration of flows during normal operation.

Z. STANDARD METHODS. The term "Standard Methods" shall mean the examination and analytical procedures set forth in the most recent editions of "Standard Methods for the Examination of Water, Sewage, and Industrial Waste," published jointly by the American Public Health Association, the American Water Works Association, and the Water Environmental Federation.

AA. STORM SEWER. The term "Storm Sewer" shall mean a sewer which carries storm and surface waters and drainage, but excludes sewage and industrial wastes, other than unpolluted cooling water.

BB. SUSPENDED SOLIDS. The term "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.

CC. WASTEWATER. The term "Wastewater" shall mean the spent water of a community. From the standpoint of source, it may be a combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions, together with any groundwater, surface water, and storm water that may be present.

DD. WASTE WATER OPERATOR. The term "Waste Water Operator" shall mean and include the Municipal employee who is primarily responsible for the operation and management of the Municipal Waste Water System Treatment Facility or his or her authorized deputies, assistants, or representatives.

EE. WASTE WATER TREATMENT PLANT. The term "Waste Water Treatment Plant" shall mean any arrangement of devices and structures owned and operated by the City of Waverly and used for treating sewage.

FF. WATERCOURSE. The term "Watercourse" shall mean a natural or artificial channel for the passage of water either continuously or intermittently. (*Amended by Ord. No. 87-9, 7/20/87, 01-08, 7/2/01; 06-17, 9/5/06*)

§3-203 MUNICIPAL SEWER DEPARTMENT; SEWER CONTRACT; SHUT-OFF.

The Municipality through the Municipal Sewer Department shall furnish sewer services to persons within its corporate limits whose premises abut a street or alley in which a commercial main is now or may hereafter be laid. The Municipality may also furnish sewer service to persons whose premises are situated outside the corporate limits of the Municipality, as and when, according to law, the Governing Body may see fit to do so. The rules, regulations, and sewer service rates hereinafter named in this Article, shall be considered a part of every application hereafter made for sewer service and shall be considered a part of the contract between every customer now or hereafter served. Without further formality, the making of the application on the part of any applicant or the use of sewer service by present customers thereof shall constitute a contract between the customer and the Municipality to which contract both parties are bound. If the customer shall violate any of the provisions of said contract or any reasonable rules and regulations that the Governing Body may hereafter adopt, the Municipality, or his or her agent, may, in com

pliance with Section 3-901 of this Code, cut off or disconnect the sewer service from the building or premise of such violation. No further connection for sewer service to said building or premise shall again be made save or except by order of the Municipality. (*Amended by Ord. No. 01-08, 7/2/01*)

§3-204 MUNICIPAL SEWER DEPARTMENT; SERVICE CONTRACTS; TRANSFER; TERMINATION. Contracts for sewer service are not transferable. Any person wishing to change from one location to another shall make a new application and sign a new contract. If any customer shall move from the premise where service is furnished, or if the said premise is destroyed by fire or other casualty, he or she shall at once inform the Sewer Department who shall cause the sewer service to be shut off from the said premise. If the customer should fail to give notice, he or she shall be charged for that period of time until the Sewer Department is otherwise advised of such circumstances. (*Amended by Ord. No. 01-08, 7/2/01*)

§3-205 MUNICIPAL SEWER DEPARTMENT; WASTE WATER SYSTEM; MAINTENANCE FUND. The operation and maintenance, and replacement and waste water system bond retirement portions of the total sewer user charges shall be accounted for in two (2) separate non-lapsing Waste Water System Maintenance Funds, within the general ledger of the Municipality, and the revenues so deposited will be used only for the purposes of defraying the operation and maintenance. Funds transferred from other revenue sources to meet temporary shortages in the operation and maintenance, and bond retirement accounts shall be refunded following an appropriate adjustment in the user charges for operation and maintenance and bond retirement. The Waste Water System Maintenance Fund will have a separate O&M account with provision for carry-over of the fiscal year end balance to meet the overall O&M costs in the subsequent fiscal year. (*Amended by Ord. No. 01-08, 7/2/01*)

§3-206 MUNICIPAL SEWER DEPARTMENT; CLASSIFICATION. The Governing Body may classify for the purpose of service fees the customers of the Municipal Sewer Department; Provided, that such classifications are reasonable and do not discriminate unlawfully against any consumer or group of consumers. (*Ref. 17-925.02 RS Neb.*)

§3-207 MUNICIPAL SEWER DEPARTMENT; COLLECTION OF SEWER USE FEES. Sewer service bills shall be due and payable at the same time and in the same manner as water bills are due and payable. All penalties and procedures concerning delinquent accounts with the Municipal Water Department shall also be applicable to delinquent accounts with the Municipal Sewer Department, to the extent the same are consistent with the provisions of this Article.

§3-208 MUNICIPAL SEWER DEPARTMENT; LIENS FOR UNPAID SEWER CHARGES. Delinquent sewer use fees shall become a lien on the property served. Whenever necessary, a sewer lien shall be filed against the property served at the same time a lien for unpaid water charges is filed. Liens for delinquent sewer use charges shall be filed in accordance with the provisions of Neb. Rev. Stat. §18-509 (Reissue 1977), as the same may be amended from time to time and at any time. Liens shall be filed against the property served; but charges may be collected either from the owner or the person receiving the services.

§3-209 PUBLIC SEWERS REQUIRED; UNLAWFUL DEPOSIT OF WASTES. It shall be unlawful for any person to place, deposit, or permit to be deposited on public or private property within the Municipality or in any area under the jurisdiction of said Municipality, any human or animal excrement, garbage, hazardous waste, or materials which are potentially damaging to the environment or human life or otherwise objectionable.

§3-210 PUBLIC SEWERS REQUIRED; UNLAWFUL DISCHARGE OF UNTREATED SEWAGE. It shall be unlawful to discharge to any natural outlet within the Municipality, or in any area under the jurisdiction of said Municipality, any sewage, polluted waters, or materials enumerated in §3-209, except where suitable treatment has been provided in accordance with provisions of this Article.

§3-211 MUNICIPAL SEWER DEPARTMENT; CESSPOOLS, PRIVIES AND SEPTIC TANKS PROHIBITED. Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage within the Municipality.

§3-212 PUBLIC SEWERS REQUIRED; MANDATORY HOOK-UP. The owner of all houses, buildings, or properties used for human employment, recreation, or other purposes, situated within the Municipality 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 of the Municipality, is hereby required at his or her expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this Article within ninety (90) days after date of official notice to do so; Provided, that said public sewer is within three hundred (300) feet of the property line. *(Amended by Ord. No. 01-08, 7/2/01)*

§3-213 MUNICIPAL SEWER DEPARTMENT; PROHIBITION OF PRIVATE SEWAGE DISPOSAL SYSTEMS; WHEN APPLICABLE. Where a public sanitary is not available under the provisions of Section 3-212, the building sewer shall be connected to a private sewage disposal system complying with the provisions of this Article.

At such time as a public sewer becomes available to a property served by a private wastewater disposal system, as provided in Section 3-212, a direct connection shall be made to the public sewer within sixty (60) days of such availability in compliance with this Article, and any septic tanks, cesspools, and similar private wastewater disposal facilities shall be cleaned of sludge and filled with suitable material. *(Amended by Ord. No. 01-08, 7/2/01)*

§3-214 MUNICIPAL SEWER DEPARTMENT; PRIVATE SEWAGE DISPOSAL SYSTEM; PERMIT REQUIRED, FEE. Before commencement of construction of a private sewage disposal system the owner shall first obtain a written permit signed by the Sewer Department. The application for such permit shall be made on a form furnished by the Municipality, which the applicant shall supplement by any plans, specifications, and other information as are deemed necessary by the Sewer Department. A permit and inspection fee of fifteen dollars (\$15.00) shall be paid to the Municipality at the time such application is filed. *(Amended by Ord. No. 01-08, 7/2/01)*

§3-215 MUNICIPAL SEWER DEPARTMENT; PRIVATE SEWAGE DISPOSAL SYSTEM; PERMIT, WHEN EFFECTIVE; INSPECTIONS. A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of

the Sewer Department. He or she shall be allowed to enter the property at any reasonable time to inspect the work at any stage of construction and, in any event, the applicant for the permit shall notify the Sewer Department when the work is ready for final inspection, and before any underground portions are covered. The inspection shall be made within twenty-four (24) hours of the receipt of notice by the Sewer Department. *(Amended by Ord. No. 01-08, 7/2/01)*

§3-216 MUNICIPAL SEWER DEPARTMENT; PRIVATE SEWAGE DISPOSAL SYSTEMS; SPECIFICATIONS. The type, capacities, location, and layout of a private sewage disposal system shall comply with all recommendations of the Department of Environmental Quality of the State of Nebraska. No permit shall be issued for any private sewage disposal system employing subsurface soil absorption facilities when the area of the lot is less than ten thousand (10,000) square feet. No septic tank or cesspool shall be permitted to discharge to any natural outlet. *(Amended by Ord. No. 01-08, 7/2/01)*

§3-217 MUNICIPAL SEWER DEPARTMENT; PRIVATE SEWAGE DISPOSAL SYSTEM; MAINTENANCE. The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the Municipality.

§3-218 MUNICIPAL SEWER DEPARTMENT; PRIVATE SEWAGE DISPOSAL SYSTEM; ADDITIONAL REQUIREMENTS. No statement contained in Sections 3-213 through 3-217, inclusive, shall be construed to interfere with any additional requirements that may be imposed by the Sewer Department. *(Amended by Ord. No. 01-08, 7/2/01)*

§3-219 MUNICIPAL SEWER DEPARTMENT; APPLICATION FOR PERMIT; PRE-TREATMENT QUESTIONNAIRES. Any person wishing to connect with the Waste Water System shall make an application therefore to the Sewer Department, in accordance with the provisions of this Article. Current industrial waste pre-treatment questionnaires shall be filed with the Sewer Department by all users discharging industrial wastes within thirty (30) days of the effective date of this section and annually thereafter, on or before July 1, of each year. Said questionnaires shall be updated periodically and kept continuously current through amendments filed before changes occur in the character of wastes discharged by each user discharging industrial wastes. Prior to the connection the Clerk shall require applicants to make a service Deposit in an amount consistent with the prevailing policy of the Governing Body. All such permits shall be approved by the Sewer Department. The Department shall not supply sewer service to any person outside the corporate limits without special permission from the Governing Body; Provided, that the entire cost of pipe and other installation charges shall be paid by such consumer. Nothing herein shall be construed to obligate the Municipality to provide sewer service to non-residents. *(Amended by Ord. No. 01-08, 7/2/01) (Ref. 17-149, 192701 RS Neb.)*

§3-220 MUNICIPAL SEWER DEPARTMENT; ALTERATION OR USE OF PUBLIC SEWER; PERMIT REQUIRED. No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Sewer Department. *(Amended by Ord. No. 01-08, 7/2/01)*

§3-221 MUNICIPAL SEWER DEPARTMENT; CLASSIFICATION; PERMIT APPLICATION, FEE. . There shall be two (2) classes of building sewer permits:

- A. For ordinary residential and ordinary commercial service, and
- B. For service to industrial users and other users discharging industrial wastes.

In either case, the owner or his or her agent shall make application on a special form furnished by the Municipality. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the Sewer Department. Users discharging "industrial wastes" shall, in every case, file a "pre-treatment questionnaire" as a part of the application form.

All permits shall be approved by the Sewer Department.

A permit and inspection fee shall be paid to the Municipality at the time the application is filed. The following fees shall apply:

For each connection:

- 1. Residential users\$25.00
- 2. Commercial users.....\$25.00
- 3. Industrial users\$50.00

- 4. Users of any class discharging industrial wastes\$50.00

(Amended by Ord. No. 01-08, 7/2/01)

§3-222 MUNICIPAL SEWER DEPARTMENT; INSTALLATION PROCEDURE; EXCAVATIONS; INSPECTIONS; TAP FEES.

All tapping of the mains shall be done by a licensed plumber under the direction of sewer department personnel. Taps shall be made on the top of the main and no nearer than twenty-four inches (24") from the end of the main, from a pipe joint or from another tap.

Building Sewers between the main and dwelling or other building may not be covered until inspected by authorized City personnel and approved by the same.

Backfill of trenches for service pipe shall consist of common subsoil fill from 6" above top of pipe compacted to the extent necessary to prevent future settlement. Backfill of trenches under roadways shall consist of select backfill from 6" above top of pipe to sub grade elevation, compacted to 95%. Compaction is expressed as a percentage of maximum density and optimum moisture in comparison with American National Standards Institute/American Society for Testing and Materials 0698.

The City will replace any roadway surfacing removed for sewer taps and/or Building Sewer installation or replacement. The City may require compaction tests of any backfill under the roadway surfacing.

No person shall have any excavation made in the street, alley, or highways open at any time without barricades, and during the night warning lights must be maintained at such excavations. No person shall make any excavation in any street, alley, or highway where the ground is frozen, or dig up or uncover so as to expose to frost any water pipes or sewer of the City, except under the directions of the responsible municipal employee.

If the excavation in any street, alley, or sidewalk is left open or unfinished for a period of twenty-four (24) hours or more, the City shall have the duty to finish or correct the work, and all expenses so incurred shall be charged to the customer. All installations or repairs of pipe shall require inspection by City personnel. Such inspection shall be made when repairs or connections

are complete and before pipes are covered. It is the customer's responsibility to notify the City at the time the work is ready for inspection.

Building sewer pipe shall be Polyvinyl Chloride Pipe meeting the requirements of American Society for Testing and Materials D1785, schedule 40. Pipe shall be laid to a minimum grade of 1/8" per foot. All pipe shall be properly bedded.

All installation shall be done under the supervision and strictly in accordance with the rules, regulations, and specifications prescribed for such installation by the Sewer Department; provided, that the said rules, regulations, and specifications have been reviewed and approved by the Governing Body.

The fee for all sewer taps in areas not covered under a subdivision agreement shall be \$4,000.00 (*Amended by Ord. No. 01-08, 7/2/01; 05-10, 7/18/05; 06-14, 8/7/06*)

§3-223 BUILDING SEWER INSTALLATION; CONSTRUCTION CODES.

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 Municipality. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the American Society for Testing and Materials and Recommended Standards for Wastewater Facilities shall apply.

B. Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.

C. 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 Municipality, or the procedures set forth in the appropriate specifications of the American Society for Testing and Materials and the Recommended Standards for Wastewater Facilities. 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 Sewer Department before installation. (*Amended by Ord. No. 01-08, 7/2/01*)

§3-224 MUNICIPAL SEWER DEPARTMENT; UNLAWFUL CONNECTION; REQUIRED CONNECTION.

A. 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 Sewer Department for purposes of disposal of polluted surface drainage.

B. All drainage systems, pits, or other reservoirs intended for collection, retention, or discharge of surface run-off or ground water which are located within a building, structure or other improvement shall be equipped with a pump, sump pump or other mechanical means of discharging the run-off or ground water from the drainage system, pit, or other reservoir and shall be plumbed to the exterior of the building, structure or other improvements my

- C. means other than the public sanitary sewer system. *(Amended by Ordinance Nos. 98-3, 2/3/98; 98-15, 9/8/98, 01-08, 7/2/01)*

§3-225 MUNICIPAL SEWER DEPARTMENT; REPAIRS AND MAINTENANCE.

The Municipality shall repair or replace, as the case may be, all pipe constituting major sewer mains (Public Sewer) to include up to the approximately property line, and shall bear the entire cost thereof.

It shall be the responsibility of the user to bear the cost of repair or replacement of all other sewer pipe and appurtenances from the approximate property line to and including the customer's property (Building sewer).

All replacements and repairs of the building sewer made by the customer shall be done in manner and with the materials approved by the Public Works Employee. *(Amended by Ord. No. 01-08, 7/2/01; 01-17, 12/3/01)*

§3-226 MUNICIPAL SEWER DEPARTMENT; SINGLE PREMISE, SEPARATE BUILDING SEWERS.

A separate and independent building sewer and a separate tap into the public sewer shall be provided for every building; and for every unit within one (1) building which is or may be conveyed without a conveyance of the entire building; Provided, however, that a variance from the foregoing policy may be granted by the Municipality on a showing by the property owner that it is not feasible to construct such a separate building sewer. When such variance is granted, no connection shall be made without the express written consent of the Sewer Department and the Municipality does not and will not assume any obligation or responsibility

whatsoever for damage caused by or resulting from any such connection. *(Amended by Ord. No. 01-08, 7/2/01)*

§3-227 MUNICIPAL SEWER DEPARTMENT; USE OF EXISTING SEWERS. Old building sewers may be used in connection with new buildings only when they are found, on examination and testing by the Sewer Department, to meet all requirements of this Article. No such use shall be made without the express written consent of the Sewer Department. *(Amended by Ord. No. 01-08, 7/2/01)*

§3-228 MUNICIPAL SEWER DEPARTMENT; STORM WATER, SURFACE WATER, GROUNDWATER, COOLING WATER AND PROCESS WATER.

No person shall discharge or cause to be discharged any storm water, surface water, groundwater, roof runoff, subsurface drainage, including interior and exterior foundation drains, uncontaminated cooling water, or unpolluted industrial waters to any sanitary sewer.

Storm water and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers, or to a natural outlet approved by the Sewer Department. Industrial cooling water or unpolluted process water may be discharged, on approval of the Sewer Department, to a storm sewer, or natural outlet. The contributor of any identifiable discharge of polluted water to the Municipal waste water system shall be held responsible for reimbursing the Municipality for such costs. The costs shall be determined by the City Administrator with the approval of the Governing Body. *(Amended by Ord. No. 01-08, 7/2/01)*

§3-229 MUNICIPAL SEWER DEPARTMENT; HAZARDOUS AND PROHIBITED DISCHARGES; FLAMMABLE, TOXIC, CORROSIVE AND OBSTRUCTIVE SUBSTANCES; PRELIMINARY TREATMENT.

No person shall discharge or cause to be discharged any hazardous wastes as defined by the "Rules and Regulations Governing Hazardous Waste Management in Nebraska," the "Nebraska Department of Environmental Control Rules and Regulations Pertaining to the Pretreatment Program," the "Resource Conservation and Recovery Act (RCRA) of 1976," 42 U.S.C. §6901 et. Seq., and the "Nebraska Environmental Protection Act," as amended from time to time and at any time, or any of the following described waters or wastes to any public sewers:

1. Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas.
2. Any waters or wastes containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any waste treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the waste water treatment facility.
3. Any waters or wastes having a pH lower than 6.5, or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the wastewater system.
4. Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage facilities such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails, and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.
5. Any water or wastes having:
 - a) a five (5) day CBOD greater than 300 parts per million by weight, or,
 - b) a COD greater than 480 parts per million by weight or suspended solids, or,
 - c) containing more than 350 parts per million by weight of suspended solids, or,
 - d) having an average daily flow greater than two percent (2%) of the average sewage flow of the Municipality, or,
 - e) a chlorine requirement greater than demanded by normal sewage as evaluated by the Municipality's consulting engineer shall be subject to the review of the Waste Water Operator.

Required Preliminary Treatment- When preliminary treatment of the hazardous and prohibited discharges is required in the opinion of the Waste Water Operator, the owner shall provide, at his or her expense, such preliminary treatment as may be necessary to accomplish any or all of the following:

- a) reduce the biochemical oxygen demand to 300 parts per million by weight, or,
- b) reduce the chemical oxygen demand to 480 parts per million by weight,
- c) reduce the suspended solids to 350 parts per million by weight, or,
- d) control the quantities and rates of discharge of such waters or wastes, or

- e) reduce the chlorine requirement to conform with normal sewage,
 f) adhere to the following limits for industrial discharges expressed in milligram per liter:

	ELEMENT	Mg/L
1.	As	0.050
2.	Ba	5.000
3.	Cd	0.020
4.	Cr+6	5.000
5.	CrT	5.000
6.	Cu	1.000
7.	CNT	2.000
8.	Fe	5.000
9.	Pb	0.100
10.	Hg	0.005
11.	Ni	1.000
12.	Ag	0.100
13.	Zn	5.000

Plans, specifications, and other pertinent information relating to proposed preliminary treatment facilities shall be submitted for the approval of the Waste Water Operator and no construction of such facilities shall be commenced until said approval is obtained in writing. *(Amended by Ord. No. 01-08, 7/2/01)*

§3-230 MUNICIPAL SEWER DEPARTMENT; HAZARDOUS AND PROHIBITED DISCHARGES; SPECIFIC PROHIBITIONS AS DETERMINED BY WASTE WATER OPERATOR. No persons shall discharge or cause to be discharged any hazardous wastes as defined by the "Rules and Regulations Governing Hazardous Waste Management in Nebraska," the "Nebraska Department of Environmental Control Rules and Regulations Pertaining to the Pretreatment Program," the "Resource Conservation and Recovery Act (RCRA) of 1976," 42 U.S.C. §6901 et. Seq., and the "Nebraska Environmental Protection Act," as amended from time to time and at any time, or any of the following described substances, materials, water, or wastes if it appears likely in the opinion of the Waste Water Operator that such wastes can harm either the sewers, sewage treatment process, or equipment, have an adverse effect on the receiving stream, or can otherwise endanger life, limb, public property, or constitute a nuisance.

In forming his or her opinion as to the acceptability of these wastes, the Waste Water Operator will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the waste water system plant, and other pertinent factors. The substances prohibited are:

1. Any liquid or vapor having a temperature higher than one hundred fifty degrees (150°) Fahrenheit [65 degrees (65°) Centigrade].
2. Any water or waste containing fats, wax, grease, or oils, whether emulsified or not, in excess of one hundred (100) mg/l or containing substances which may solidify or become viscous at temperatures between thirty-two degrees (32°) and one hundred fifty degrees (150°) Fahrenheit [zero degrees (0°) and sixty-five degrees (65°) Centigrade].
3. Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor three-fourths horsepower ($\frac{3}{4}$ hp) [0.76 hp metric] or greater shall be subject to the review and approval of the Waste Water Operator.
4. Any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solutions whether neutralized or not.
5. Any water or wastes containing iron, chromium, copper, zinc, and similar objectionable or toxic substances; or wastes exerting an excessive chlorine requirement, to such degree that any such material received in the composite sewage by the waste water system exceeds the limits established by the Waste Water Operator for such materials.
6. Any waters or wastes containing phenols or other taste- or odor-producing substances, in such concentrations exceeding limits which may be established by the Waste Water Operator as necessary, after treatment of the composite sewage, to meet the requirements of State, Federal, or other public agencies of jurisdiction of such discharge to the receiving waters.
7. Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Waste Water Operator in compliance with applicable State or Federal regulations.
8. Any waters or wastes having a pH in excess of 9.5.
9. Materials which exert or cause:
 - a) Unusual concentrations of inert suspended solids (such as, but not limited to, Fuller's earth, lime slurries, and lime residues) or of dissolved solids (such as but not limited to, sodium chloride or sodium sulfate.)
 - b) Excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions.)
 - c) Unusual BOD, chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the wastewater system.

d) Unusual volume of flow or concentration of wastes constituting "slugs" as defined herein, except when such slugs are permitted in accordance with the provisions of §3-241 of this code.

10. Waters or wastes containing substances which are not amenable to treatment or reduction by the waste water system processes employed, or are amenable to treatment only to such degree that the waste water system plant effluent cannot meet the requirement of other agencies having jurisdiction over discharge to the receiving waters. *(Amended by Ord. No. 01-08, 7/2/01)*

§3-231 MUNICIPAL SEWER DEPARTMENT; DISCHARGE OF HAZARDOUS AND PROHIBITED SUBSTANCES; REJECTION, PRETREATMENT, CONTROL OF DISCHARGE RATE OR USE FEE SURCHARGE. If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in Section 3-230, and which in the judgment of the Waste Water Operator, may have a deleterious effect upon the waste water system, processes, equipment, or receiving waters, or which otherwise create a hazard to life to constitute a public nuisance, the Waste Water Operator may:

1. Reject the wastes,
2. Require pretreatment to an acceptable condition for discharge to the public sewers,
3. Require control over the quantities and rates of discharge, and/or
4. Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of this Article.

If the pretreatment or equalization of waste flows is permitted, the design and installation of the plants and equipment shall be subject to the review and approval of the Waste Water Operator, and subject to the requirements of all applicable codes, ordinances and laws. *(Amended by Ord. No. 01-08, 7/2/01)*

§3-232 MUNICIPAL SEWER DEPARTMENT; GREASE, OIL, AND SAND INTERCEPTORS; WHEN REQUIRED. Grease, oil, and sand interceptors shall be provided when, in the opinion of the Waste Water Operator, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand, or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the Waste Water Operator and shall be located so as to be readily and easily accessible for cleaning and inspection. In the maintaining of these interceptors the owner(s) shall be responsible for the proper removal and disposal by appropriate means of the captured material and shall maintain records of the dates, and means of disposal which are subject to review by the Waste Water Operator. Any removal and hauling of the collected materials not performed by owner(s)' personnel must be performed by currently licensed waste disposal firms. *(Amended by Ord. No. 01-08, 7/2/01)*

§3-233 MUNICIPAL SEWER DEPARTMENT; PRELIMINARY TREATMENT OR FLOW EQUALIZING FACILITIES; MAINTENANCE BY OWNER. Where preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his or her expense.

§3-234 MUNICIPAL SEWER DEPARTMENT; CONTROL MANHOLES; FLOW RECORDERS, SAMPLING STATIONS; WHEN REQUIRED; INSTALLATION AND MAINTENANCE. The owner of each building within the Municipality or of any property serviced by a separate building sewer (1) reasonably believed to be regularly carrying industrial wastes, whether or not an industrial user, or (2) with a supply of water other than from the Municipal Water Department and without separate plumbing systems to accurately record the volume of water discharged into the waste water system, shall install a suitable control manhole together with a flow recorder capable of accurately recording the volume of water discharged into the waste water systems, and such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes as may be required by the Waste Water Operator. Such manhole, when required, shall be accessibly and safely located, and shall be constructed in accordance with plans approved by the Waste Water Operator. The manhole shall be installed by the owner at his or her expense, and shall be maintained by the owner so as to be safe and accessible at all times. Owners of such control manholes shall, as a condition of use of the waste water system, allow the Waste Water Operator or his or her designated agent(s) access to such sampling manholes at any time with or without notice to the owner for the purpose of sampling and inspections as required herein. (*Amended by Ord. No. 87-9, 7/20/87, 01-08, 7/2/01*)

§3-235 MUNICIPAL SEWER DEPARTMENT; CONTROL MANHOLES, FLOW RECORDERS, SAMPLING STATIONS; METHOD. All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this Article, shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater," published by the American Public Health Association, and shall be determined at the control manhole provided, or upon suitable samples taken at said control manhole. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the waste water system and to determine the existence of hazards to life, limb, and property. (The particular analyses involved will determine whether a twenty-four (24) hour composite of all outfalls of a premise is appropriate or whether a grab sample or samples should be taken. Normally, but not always, BOD, COD, and suspended solids analyses are obtained from twenty-four (24) hour composites of all outfalls whereas pH's are determined from periodic grab samples.)

§3-236 MUNICIPAL SEWER DEPARTMENT; HAZARDOUS AND PROHIBITED SUBSTANCES; SPECIAL EXCEPTIONS PERMITTED; USE FEE SURCHARGE. Except where the wastes in question have been identified as "Hazardous Wastes" as defined by the "Rules and Regulations Governing Hazardous Waste Management in Nebraska," the "Nebraska Department of Environmental Control Rules and Regulations Pertaining to the Pretreatment Program," the "Resource Conservation and Recovery Act (RCRA) of 1976," 42 U.S.C. §6901 et. seq., and the "Nebraska Environmental Protection Act," as amended from time to time and at any time, no statement contained in this Article shall be construed as preventing any special agreement or arrangement between the Municipality and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the Municipality for treatment, subject

to payment therefore, by the industrial concern. In every case, the industrial concern shall comply with this article prior to discharging its waste to the waste water system.

§3-237 MUNICIPAL SEWER DEPARTMENT; COMPLIANCE WITH ARTICLE; INSPECTIONS GENERALLY. The Waste Water Operator and other duly authorized employees of the Municipality bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling, and testing in accordance with the provisions of this Article. The Waste Water Operator or his or her representatives shall have no authority to inquire into any processes including metallurgical, chemical, oil, refining, ceramic, paper, or other industries beyond that point having a direct bearing on the kind and source of discharge to the waste water system. *(Amended by Ord. No. 01-08, 7/2/01)*

§3-238 MUNICIPAL SEWER DEPARTMENT; COMPLIANCE WITH ARTICLE; INSPECTIONS; INJURY LIABILITY. While performing the necessary work on private properties referred to above, the Waste Water Operator or duly authorized employees of the Municipality shall observe all safety rules applicable to the premises established by the company and the company shall be held harmless for injury or death to the Municipal employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions as required hereunder. *(Amended by Ord. No. 01-08, 7/2/01)*

§3-239 MUNICIPAL SEWER DEPARTMENT; COMPLIANCE WITH ARTICLE; INSPECTIONS; EASEMENTS. The Waste Water Operator, other duly authorized employees of the Municipality; and/or agents for the Municipality bearing proper credentials and identification shall be permitted to enter all private properties through which the Municipality holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the waste water system lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved. *(Amended by Ord. No. 01-08, 7/2/01)*

§3-240 MUNICIPAL SEWER DEPARTMENT; BASE RATES. Except for the Municipality, all customers of the Municipal Sewer department shall be charged a base rate to be set by ordinance of the Governing Body. The sewer base rates shall be as follows for:

A.	<u>Meter Size</u>	<u>Costs of Service Charge</u>
	5/8"	\$17.56
	3/4"	\$17.56
	1"	\$17.56
	1.5"	\$21.13
	2"	\$24.50
	3"	\$32.00
	4"	\$50.00

Both multiple housing units and multiple commercial units on a single water meter for use of the waste water system shall be charged the base rate for each separate unit served by said meter.

B. Non-Resident Users

Wastewater system users located outside the corporate limits of the Municipality shall be charged double the base rates set for residents of the Municipality under the classification that the non-resident may be placed. *(Amended by Ord. No. 01-13, 9/4/01; 01-08, 7/2/01; 99-24, 9/7/99; 09-09, 9-21-09)*

§3-241 MUNICIPAL SEWER DEPARTMENT: SURCHARGE RATES. Except for the Municipality, all customers of the Municipal Sewer Department for the use of sewer service for volume, high pollutant, or industrial waste discharges shall be charged, in addition to other wastewater system use fees imposed by this Article, a surcharge at rates to be set by ordinance of the Governing Body. In the absence of either separate plumbing systems or flow recording equipment acceptable to the Wastewater Operator sufficient to clearly show the volume of water discharged into the waste water system, all users shall be presumed to discharge into the wastewater system all of the water purchased from the Municipality. The sewer surcharge rates shall be as follows:

A. Residential Volume Surcharge

All residential users for volume use of the wastewater system shall be charged monthly a surcharge of two dollars and forty cents (\$2.40) per one thousand (1,000) gallons of water used and discharged into the waste water system as determined by a monthly average of water supplied by the Municipal water Department during the winter quarter, and for which billings are made by the Municipality in January, February, and March.

B. Commercial Volume Surcharge

All commercial users, except industrial level commercial users, for volume use of the waste water system shall be charged monthly a surcharge of two dollars and eighty-one (\$2.81) per one thousand (1,000) gallons of water used and discharged into the waste water system as determined by a monthly average of water supplied by the Municipal water department during a twelve (12) month period and for which billings are made by the Municipality from October through September.

C. Industrial Pollutant Surcharge

All commercial users, except industrial level commercial users, who introduce into the waste water system any sewage other than “normal sewage” shall be charged monthly a surcharge of three dollars and twenty-five cents (\$3.25) per one thousand (1,000) gallons of water used and discharged into the wastewater system and determined by a monthly average of water supplied by the Municipal water Department during a twelve (12) month period and for which billings are made by the Municipality from October through September.

D. Industrial Level Commercial and Industrial Surcharge

All users who discharge “High Pollutant Wastes” into the waste water system shall be charged monthly a surcharge, which shall be computed in accordance with the following schedule:

1. Fifty-six cents (\$.56) per pound of BOD, or
 2. Thirty-five cents (\$.35) per pound of COD, whichever is greater, and
 3. Twenty-nine cents (\$.29) per pound of suspended solids.
 4. Grease disposal Clause – The City requires that customers with the waste water discharges that have high concentrations of grease and oil as determined by the City will install city approved grease traps in drains. Failure to install such traps and proper disposal of grease will result in a Grease Penalty Charge of 25% of the total wastewater bill to be added to each monthly bill until traps are installed and approved by the City.
- E. The surcharge imposed in Paragraph “D” of this Section shall be based on the high three (3) daily averages for each such user based upon a sampling program which includes sampling by the Municipality over four (4), four (4) day periods during each calendar year. One (1) of said sampling periods shall fall within each quarter of the calendar year but sampling dates within each quarter shall be selected at random by the Wastewater Operator.
- F. The surcharge applicable to any “slug” which is introduced into the wastewater system shall be computed at four (4) times the rates specified in paragraph “D” of this Section, provided, however that the surcharge applicable to any “slug” which is introduced into the wastewater system shall be computed at two (2) times the rates specified in paragraph “D” of this Section, if the user shall:
5. Provide the Municipality an opportunity to sample the “slug” no less than twenty-four (24) hours prior to its introduced into the wastewater system, and
 2. Provide the Municipality with a written “slug” discharge request no less than twenty-four (24) hours prior to its introduction into the wastewater system, and
 - a. A brief statement, acceptable to the wastewater Operator, as to the composition of the “slug”, and
 - b. A statement as to the time and rate at which the “slug” will be introduced into the wastewater system,
 - c. In every case, actual laboratory fees shall be assessed to the user to reimburse the Municipality for the cost of handling the laboratory tests for each individual “slug” tested at the request of any user.
- G. Users who have not installed a control manhole and flow recorder, if required under this Article, and a sampling station, on or before the effective date of this Article, shall be assessed a surcharge based on the best estimate of the Wastewater Operator derived from samples taken from the nearest available manhole and estimates of flow.

- H. It shall be the duty of each user to install a suitable control manhole, flow recorder, and all other equipment required under this Article within thirty (30) days of the effective date of this Article.
- I. The laboratory analysis required in order to evaluate the samples taken in order to determine the surcharges imposed by this Section shall be performed by the Municipality at no charge whenever possible, but where the Municipality lacks the necessary equipment, users shall pay the cost of all testing which must be done by independent laboratories.
- J. The Wastewater Operator, or any law enforcement officer, for the purpose of enforcing this Article, or abating any nuisance existing hereunder, may enter private premises.
- K. Wastewater system users located outside the corporate limits of the Municipality shall be charged double the surcharge rates set for residents of the Municipality under the classification that the non-residents may be placed. *(Amended by Ord. Nos. 85-6, 9/3/85; 87-9, 7/20/87; 92-13, 9/21/92; 97-1, 2/3/97; 99-24, 9/7/99; 01-08, 7/2/01; 07-10, 9/17/07; 08-14, 9/17/08; 09/09, 9/21/09)*

§3-242 MUNICIPAL SEWER DEPARTMENT; HAZARDOUS POLLUTANT SURCHARGES. In addition to other elements of the total user charge system contained in this Article:

- A. The authority and intent shall be established to require each user generating any hazardous waste to render the waste non-hazardous in accordance with the "Rules and Regulations Governing Hazardous Waste Management in Nebraska," the "Nebraska Department of Environmental Control Rules and Regulations Pertaining to the Pretreatment Program," the "Resource Conservation and Recovery Act (RCRA) of 1976," 42 U.S.C. 6901 et. Seq., and the "Nebraska Environmental Protection Act," as amended from time to time and at any time, prior to discharge to the waste water system.
- B. The authority and intent shall be established to require each user discharging any hazardous pollutants to pay the increased cost of managing the effluent or the sludge of the waste water system resulting from such discharge.*(Amended by Ord. No. 87-9, 7/20/87)*

§3-243 MUNICIPAL SEWER DEPARTMENT; USER CLASSIFICATION PROCEDURE; NOTICE; HEARING.

- A. Within fifteen (15) days of the effective date of this Article, the Sewer Department shall make a determination as to the appropriate user classification for each waste water system user. Such determination shall be approved by the Mayor and communicated to the Governing Body. Thereafter, the Municipal Clerk shall mail notice to all users of the Municipal Waste Water System and to all owners of property served by the Municipal Waste Water System specifying the user classification which such owner and/or user has been assigned together with a copy of the rate section(s) of this Article. Provided, however, that residential users need not be notified of their classification.

- B. Within thirty (30) days of receipt of such notice, such users and property owners may file a written appeal of their waste water system use classification and request a hearing before the Governing Body. Such hearing shall be held within thirty (30) days of the date of the request for hearing. The Governing Body may request the attendance of the Waste Water Operator and a consulting engineer. If the objecting party is not in attendance at such hearing, the Governing Body may rule in his or her absence.
- C. In the case of an appeal, rates shall be charged in accordance with the initial determination of the Sewer Department pending a final ruling by the Governing Body. When a change of classification is granted by the Governing Body, rates shall be adjusted retroactively.
- D. No user classification shall be changed by the Governing Body unless a timely appeal and request for hearing is filed.
- E. New waste water system users shall be assigned a user classification at the time of application and shall have a period of thirty (30) days thereafter to appeal the determination of the Sewer Department in the same manner provided in the case of original classification.
- F. Whenever the Waste Water Operator has reason to believe that the character of the waste water discharged by any waste water system user has changed significantly in strength, flow, or both since the time of original classification, he or she shall review the classification of such users and recommend such changes of body in the same manner established for initial classification. In the event the classification of any user is changed subsequent to such review, said user shall have the right to utilize the same appeal procedure set forth hereunder in the case of original classification. *(Amended by Ord. No. 01-08, 7/2/01)*

§3-244 MUNICIPAL SEWER DEPARTMENT; USER CHARGE REVIEW. The Governing Body shall review, at least annually, in connection with the budget process, the user charge system and revise the charges, if necessary, to accomplish the following:

- A. Maintain the proportional distribution of operation, maintenance and replacement (OM&R) costs among users and user classes;
- B. Generate adequate revenues to pay the costs of OM&R and waste water system bond retirement;
- C. Apply excess revenues collected from a class of users to the costs of operation and maintenance, and replacement attributable to that class for the next year and adjust the rates accordingly.

As part of the annual user charge review, the Governing Body shall make a public statement in its minutes specifying the percentage distribution of the OM&R costs of the waste water treatment facility among the various classes of users, and shall incorporate into the minutes of their proceedings a summary of the date on which rate-setting was based.

§3-245 MUNICIPAL SEWER DEPARTMENT; WASTE WATER SYSTEM; DESTRUCTION OF PROPERTY. No person or persons shall maliciously, willfully or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment which is part of the waste water system.

§3-246 MUNICIPAL SEWER DEPARTMENT; VIOLATION; NOTICE AND LIABILITY.

- A. Except as otherwise provided herein, and excluding violations of §3-245 of this code, any person upon whom a duty is placed by the provisions of this Article and who shall fail, neglect, or refuse to perform such duty, or who shall violate any of the provisions of this Article, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in a sum of one hundred dollars (\$100.00), and shall stand committed to jail until such fine and costs of prosecution are paid.
- B. Any person who shall violate Section 3-245 of this code shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in a sum not less than fifty dollars (\$50.00) nor more than one hundred dollars (\$100.00) and shall stand committed to jail until such fine and costs of prosecution are paid. If such violation may be and is disposed of pursuant to a waiver of appearance and plea of guilty, the fine shall be fifty dollars (\$50.00).
- C. Each day that a violation of any section of this Article continues shall constitute a separate and distinct offense and shall be punishable as such. The penalties herein provided shall be cumulative with and in addition to any penalty provided elsewhere in this Article.
- D. In addition to the penalties provided above, any person violating any of the provisions of this Article may be ordered by the Court to make restitution to the Municipality for any expenses, loss, or damage suffered by the Municipality as the result of such violation.

§3-247 MUNICIPAL SEWER DEPARTMENT; EFFECTIVE DATE. Waste water system user charge changes resulting from average winter consumption (AWC) calculations affected by this Article shall take effect with the April statements. Any rate changes in user charges required by this Article shall take effect beginning with the first (1st) statements issued in each fiscal year. *(Amended by Ord. Nos. 85-6, 9/3/85; 87-9, 7/20/87; 92-13, 9/21/92; 99-24, 9/7/99 and 01-08, 7/2/01)*

Article 3. Emergency Services Departments

[Editor's Note: Article 3 was amended in its entirety by Ordinance No. 96-3 passed on February 5, 1996]

§3-301 EMERGENCY SERVICES. The Municipality operates and administers the Waverly Fire/Rescue Department to provide fire protection and emergency rescue services within the City's corporate limits. *(Amended by Ord. 03-05, 7/7/03)*

§3-301.01 MUNICIPAL FIRE DEPARTMENT; ALTERNATIVE MEANS TO PROVIDE SERVICES. In lieu of having its own Fire Department as provided in this Article, the Municipality may provide fire protection services via contract with another agency authorized to provide fire protection services as provided by Neb. Rev. Stat. 13-801 through 13-807 (Reissue 1991). *(Ord. No. 96-10, 10/7/96)*

§3-301.02 EMERGENCY RESCUE SERVICES; ALTERNATIVE MEANS TO PROVIDE SERVICES. In lieu of having its own Rescue Squad as provided in this Article, the Municipality may provide emergency rescue services via contract with another agency authorized to provide emergency rescue services as provided by Neb. Rev. Stat. 13-303 (Reissue 1991). (*Ord. No. 96-11, 10/7/96*)

§3-302 WAVERLY FIRE/RESCUE DEPARTMENT; OPERATION AND FUNDING. The Municipality operates the Waverly Fire/Rescue Department through the Emergency Services Coordinator, the Municipal Fire/Rescue Chief, volunteer firefighters and emergency rescue squad members. The Governing Body, for the purpose of defraying the cost of the management, maintenance, and improving the Waverly Fire Department may each year levy a tax not exceeding the maximum limits prescribed by State Law, on the actual valuation of all real estate and personal property within the Municipality that is subject to taxation. The revenue from said tax shall be known as the Fire Department Fund. The Fund shall be at all times in the possession of the Municipal Treasurer. The Municipality may enter into an agreement with the appropriate rural fire district for mutual aid, sharing of costs and authorizing the Waverly Fire/Rescue Department to provide protection and services for all the residents therein. (*Amended by Ord. 03-05, 7/7/03*)

§3-303 WAVERLY FIRE DEPARTMENT; FIRE/RESCUE CHIEF. The Municipal Fire/Rescue Chief shall manage the Waverly Fire/Rescue Department and it shall be his/her duty to command all firefighting/rescue activities; interview and recommend appointment of firefighters; maintain departmental discipline and order; enforce rules and regulations; recommend disciplinary actions; regularly inspect readiness of personnel and equipment; participate in the formulation of departmental policies and procedures, including policies and procedures for the recruitment and retention of volunteer firefighters; participate in the preparation and administration of the fire department budget; and prepare and submit necessary statistical and operation reports as are requested by the Mayor, the Governing Body, and the Emergency Services Coordinator. (*Amended by Ord. 03-05, 7/7/03*)

§3-304 WAVERLY FIRE/RESCUE DEPARTMENT; FIREFIGHTERS/RESCUE PERSONNEL. The Mayor, based upon recommendations of the Emergency Services Coordinator and the Fire/Rescue Chief, shall appoint, subject to the review and approval of the Governing Body, no more than seventy-five (75) persons as firefighters/rescue personnel to the Waverly Fire and Rescue Department. A City Council Member shall serve as a nonvoting ex officio member of the Department and shall not propose department action by motion. The members of the Department shall serve without compensation. A current list of firefighters approved by resolution by the Governing Body will be filed and maintained at the office of the City Administrator/Clerk and with the Fire/Rescue Chief. All prospective firefighter/rescue members shall complete a Membership Application form approved by the City. The duties and responsibilities of firefighter/rescue members shall be adopted as policy by the Governing Body from time to time. The duly appointed firefighter/rescue members shall be considered to be employees of the Municipality for the purpose of providing them with worker's compensation and life insurance. Each firefighter/rescue member shall be entitled to a term life insurance policy in the amount of at least ten thousand dollars (\$10,000) for death from any cause to age sixty-five (65). After the age of sixty-five (65) the life insurance benefits will be determined by the policy. The policy, at the option of the individual, may be converted to a permanent form of life insurance at age sixty-five (65); Provided, that the firefighters covered are actively and faithfully performing the duties of their position, including, but not limited to, traveling from any place from which they have been called

to active duty, to a fire station or other place where firefighting equipment that their company or unit is to use is located, or to any emergency that the firefighters may be officially called to participate in, attending drills, meetings, seminars, or training related to the duties as firefighters as may be decided by the Governing Body subject to the limitations above. Except as otherwise provided herein, the Department shall function in accordance with its own procedural rules. The Waverly Fire/Rescue Chief shall have direct responsibility for the organization, administration, and operation of the Department, subject to the direction and control of the Emergency Services Coordinator and the Mayor. The Department shall propose to the Governing Body appropriate rules and regulations for Fire and Rescue Safety for the Municipality. All actions of the Department shall be subject to review and control of the Governing Body. The Department shall be responsible for making such reports and performing such other duties as the Governing Body may from time to time designate. *(Amended by Ord. No. 99-18, 6/21/99; 03-05, 7/7/03)*

§3-305 WAVERLY FIRE/RESCUE DEPARTMENT; FIRES. It shall be the duty of the Waverly Fire/Rescue Department to use all proper means for the extinguishment of fires; to protect property within the Municipality; and to secure the observance of all ordinances, laws, and other rules and regulations with respect to fires and fire prevention. *(Amended by Ord. 03-05, 7/7/03)*

§3-306 WAVERLY FIRE DEPARTMENT; PRESERVATION OF PROPERTY.
(Repealed by Ord. No. 02-15, 6/03/02)

§3-307 WAVERLY FIRE/RESCUE DEPARTMENT; IMPERSONATING FIRE-FIGHTER/RESCUE PERSONNEL. It shall be unlawful for any person to falsely impersonate a firefighter/rescue member by wearing a badge or other apparel usually worn by a firefighter/rescue member for the purpose of obtaining any benefit whatsoever. Nothing herein shall be construed to prohibit the theatrical representation of firefighter/rescue personnel for bona fide entertainment purposes when there is no intent to defraud. *(Ref. 28-609 RS Neb.) (Amended by Ord. 03-05, 7/7/03)*

§3-308 WAVERLY FIRE DEPARTMENT; MANDATORY ASSISTANCE. Any official of the Waverly Fire Department may command the assistance and services of any person present at a fire to help in extinguishing the fire, or in the removal and protection of property. In the event that a spectator refuses, neglects, or fails to assist the Waverly Fire Department after a lawful order to do so, he/she shall be deemed guilty of a misdemeanor.

§3-309 WAVERLY FIRE DEPARTMENT; FIRE INVESTIGATION. It shall be the duty of the Waverly Fire Department to investigate or cause to be investigated, the cause, origin, and circumstances of every fire occurring in the Municipality in which property has been destroyed or damaged in excess of fifty dollars (\$50.00). All fires of unknown origin shall be reported, and such officers shall especially make an investigation and report as to whether such fire was the result of carelessness, accident, or design. Such investigation shall be begun within two (2) days of the occurrence of such fire and the State Fire Marshall shall have the right to supervise and direct the investigation whenever he/she deems it expedient or necessary. The officer making the investigation of fires occurring within the Municipality shall immediately notify the State Fire Marshall and shall, within one (1) week of the occurrence of the fire, furnish him/her with a written statement of all the facts relating to the cause and origin of the fire, and such further information as he/she may call for. *(Ref. 81-506 RS Neb.)*

§3-310 WAVERLY FIRE DEPARTMENT; REMOVAL OF FIREFIGHTERS. The Mayor shall have the duty to remove or suspend firefighters who (1) act with gross or willful negligence in the performance of their duties; (2) display grossly immoral or dishonorable conduct evidencing unfitness for service as a firefighter; (3) have been convicted of a Class I or II misdemeanor or a felony under state law; or (4) otherwise fail to perform duties in accordance with this Code. Gross or willful negligence includes but is not necessarily limited to (a) a deliberate act, (b) such conduct as evidences reckless indifference to safety, or (c) intoxication or being under the influence of any drug which would impair physical or mental faculties while on fire duty.

§3-311 WAVERLY RESCUE SQUAD; OPERATION AND FUNDING. The City of Waverly shall oversee the Waverly Rescue Squad for ambulance and rescue services through the Emergency Services Coordinator, the Rescue Squad President, and Squad. The Governing Body, for the purpose of defraying the cost of the maintenance, management, and improvements relating to the Waverly Rescue Squad and equipment attendant thereto, may each year levy tax not exceeding the maximum limits prescribed by State Law, on the actual valuation of all real estate and personal property within the Municipality that is subject to taxation. The Municipality may enter into an agreement with the appropriate rural fire district for mutual aid, sharing of costs, and authorizing the Waverly Rescue Squad to provide protection and services for all the residents therein. *(Amended by Ord. No. 99-19, 7/6/99)*

§3-312 WAVERLY RESCUE SQUAD; RESCUE PRESIDENT. The Rescue President shall manage the Waverly Rescue Squad and it shall be his/her duty to oversee all ambulance and rescue activities. The President shall participate in the preparation and administration of the rescue squad budget; and prepare and submit necessary statistical and operational reports as are requested by the Mayor, the Governing Body, and the Emergency Services Coordinator. *(Amended by Ord. No. 99-19, 7/6/99)*

§3-313 WAVERLY RESCUE SQUAD; PERSONNEL. *(Repealed by Ord. 03-05, 7/7/03)*
(Amended by Ord. Nos. 99-19, 7/6/99; and 00-07, 10/2/00)

§3-314 WAVERLY FIRE/RESCUE DEPARTMENT; REMOVAL OF VOLUNTEER MEMBERS. The Mayor shall, after consulting with the Emergency Services Coordinator and Fire/Rescue Chief, have the duty to remove or suspend any fire/rescue personnel who (1) act with gross or willful negligence in the performance of their duties; (2) display grossly immoral or dishonorable conduct evidencing unfitness for service as a volunteer fire/rescue member; (3) have been convicted of a Class I or II misdemeanor or a felony under state law; or (4) otherwise fail to perform duties in accordance with this Code. Gross or willful negligence includes, but is not necessarily limited to (a) a deliberate act; (b) such conduct as evidences reckless indifference to safety; or (c) intoxication or being under the influence of any drug which would impair physical or mental faculties while performing active duty. *(Amended by Ord. No. 99-19, 7/6/99; 03-05, 7/7/03)*

Article 4. Police Department

§3-401 POLICE DEPARTMENT; CONTRACT WITH COUNTY SHERIFF'S OFFICE. The City of Waverly may enter into a contract with the County Board of Lancaster County for police services to be provided by the County Sheriff's office. Whenever any such contract has been entered into, the Sheriff shall, in addition to his other powers and duties, have all the powers and duties of peace officers within and for the City of Waverly. *(Ref. 19-3801 RS Neb.)*

Article 5. Parks

§3-501 MUNICIPAL PARKS; OPERATION AND FUNDING. The Municipality owns and operates the Municipal Parks and other Recreational Areas. The Governing Body, for the purpose of defraying the cost of the care, management, and maintenance of the Municipal Park may each year levy a tax not exceeding the maximum limit prescribed by State law, on the actual valuation of all real estate and personal property within the corporate limits that is subject to taxation. The revenue from the said tax shall be known as the Park Fund and shall remain in the custody of the Municipal Treasurer. The Park Committee shall have the authority to adopt rules and regulations for the management, use and operation of all parks and recreational facilities belonging to the Municipality. The Governing Body retains the authority to adopt all rules and regulations for the management, use and operation of all parks and recreational facilities belonging to the Municipality. *(Ref. 17-948 through 17-952 RS Neb.) (Amended by Ord. No. 92-4, 5/4/92)*

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

§3-110 MUNICIPAL PARKS; HOURS. Municipal Parks shall be closed to all vehicular traffic, except law enforcement vehicles, from the hours of ten o'clock (10:00) p.m. to six o'clock (6:00) a.m. between Labor Day and Memorial Day, and from eleven o'clock (11:00) p.m. to six o'clock (6:00) a.m. between Memorial Day to Labor Day. *(Amended by Ord. No. 08-17, 10/6/08)*

§3-504 MUNICIPAL PARKS; ALCOHOLIC BEVERAGES PROHIBITED. It shall be unlawful to possess or consume alcoholic beverages, including beer, in the Municipal Parks or on other municipally owned property.

§3-505 MUNICIPAL PARKS; VEHICLES REGULATED. It shall be unlawful to operate a motorized vehicle of any kind or description or a bicycle in the Municipal parks, except upon established, improved roadways or other areas of the parks designated for such use.

§3-506 MUNICIPAL PARKS; SPEED LIMITS. Speed limits for motor vehicles within park boundaries are hereby established at fifteen (15) miles per hour.

Article 6. Swimming Pool

§3-601 MUNICIPAL SWIMMING POOL; OPERATION AND FUNDING. The Municipality owns and manages the Municipal Swimming Pool. The Governing Body, for the purpose of defraying the cost of the management, maintenance, and improvements of the Swimming Pool may each year levy a tax not exceeding the maximum limit prescribed by State law, on the actual valuation of all real estate and personal property within the Municipality that is subject to taxation. The revenue from the said tax shall be known as the Swimming Pool Fund and shall include all gifts, grants, deeds of conveyance, bequests, or other valuable income-producing personal property and real estate from any source for the purpose of endowing the Swimming Pool. The Swimming Pool Fund shall at all times be in the custody of the Municipal Treasurer. *(Ref. 17-948, 17-951, 17-952 RS Neb.) (Amended by Ord. No. 92-5, 5/4/92)*

§3-602 MUNICIPAL SWIMMING POOL; ADMISSION CHARGE. The Park Committee shall annually review and recommend to the Governing Body a reasonable admission charge at the Municipal Swimming Pool for the use by any person of the Municipal Swimming Pool. The Governing Body retains the authority to adopt a reasonable admission charge at the Municipal Swimming Pool for the use by any person of the Pool. The said charges shall be on file at the office of the Municipal Clerk and shall also be posted in a conspicuous place at the Municipal Swimming Pool for public inspection. Such charges may be structured for classes of persons in a reasonable manner; Provided, that nothing herein shall be construed to permit or allow discrimination on the basis of race, creed, color, or national origin in the classification of persons for admission charges. *(Ref. 17-949 RS Neb.) (Amended by Ord. No. 92-5, 5/4/92)*

§3-603 MUNICIPAL SWIMMING POOL; RULES AND REGULATIONS. The Park Committee shall annually review and recommend to the Governing Body appropriate rules and regulations for the management, use and operation of the Municipal Swimming Pool. The Governing Body retains the power to adopt rules and regulations for the management, use, and operation of the Municipal Swimming Pool. *(Ref. 17-949 RS Neb.) (Amended by Ord. No. 92-5, 5/4/92)*

Article 7. Municipal Landfill

§3-701 MUNICIPAL LANDFILL; DEFINITION OF HAZARDOUS WASTE. The words hazardous waste shall be defined to include all materials which are identified by the United States Environmental Protection Agency (hereinafter referred to as EPA) within the regulations promulgated by the EPA pursuant to the Resource and Conservation Recovery Act of 1976 (hereinafter referred to as RCRA) (appearing at the time this Article is enacted at 40 CFR parts 260 to 265, inclusive, and 122 to 124, inclusive), as the same are presently constituted and as the same may be amended from time to time and at any time. *(Amended by Ord. No. 87-6, 6/1/87)*

§3-702 MUNICIPAL LANDFILL; OPERATION AND FUNDING. *(Repealed by Ord. No. 87-6, 6/1/87)*

§3-703 MUNICIPAL LANDFILL; PERMITS; ISSUANCE; PRESUMPTIONS. *(Repealed by Ord. No. 87-6, 6/1/87)*

§3-704 MUNICIPAL LANDFILL; FORM OF AFFIDAVIT OF INTENTION AND AGREEMENT NOT TO UTILIZE MUNICIPAL LANDFILL. *(Repealed by Ord. No. 87-6, 6/1/87)*

§3-705 MUNICIPAL LANDFILL; FAILURE TO PAY PERMIT FEE; SURRENDER OF PERMIT - WHEN REQUIRED. *(Repealed by Ord. No. 87-6, 6/1/87)*

§3-706 MUNICIPAL LANDFILL; COMMERCIAL REFUSE HAULERS - DISPOSAL - RESTRICTIONS; NOTICE TO REFUSE HAULERS. *(Repealed by Ord. No. 87-6, 6/1/87)*

§3-707 MUNICIPAL LANDFILL; COMMERCIAL REFUSE HAULERS - DUTIES.
Each locally franchised commercial refuse hauler shall, on or before, July fifteenth (15th) of each year, file with the City Clerk, a statement which shall show the name and addresses of all private individuals (itemized by individual dwelling unit) and all business entities residing or located outside of the Municipality who or which subscribe to said commercial refuse hauler's service at the time such statement is filed. Such statements shall be kept continuously current and the Municipal Clerk shall be promptly notified as to any increase in the list of subscribers maintained by each such commercial refuse hauler. The Municipal Clerk may require supplemental statements whenever he or she deems the same to be necessary and appropriate.

§3-708 MUNICIPAL LANDFILL; PERMITS - NOT TRANSFERABLE. *(Repealed by Ord. No. 87-6, 6/1/87)*

§3-709 MUNICIPAL LANDFILL; PERMITS; DISPLAY; FORM; IDENTIFICATION REQUIRED - WHEN. *(Repealed by Ord. No. 87-6, 6/1/87)*

§3-710 MUNICIPAL LANDFILL; PERMITS; FEES - WHEN PAYABLE; NOT SUSPENDED DURING VACANCIES; PERSONS RESPONSIBLE FOR PAYMENT. *(Repealed by Ord. No. 87-6, 6/1/87)*

§3-711 MUNICIPAL LANDFILL; PERMITS - FEES. *(Repealed by Ord. No. 87-6, 6/1/87)*

§3-712 MUNICIPAL LANDFILL; SCHEDULE OF OPERATION. *(Repealed by Ord. No. 87-6, 6/1/87)*

§3-713 MUNICIPAL LANDFILL; CERTIFICATE OF COMPLIANCE WITH FEDERAL LAW AND AGREEMENT; FILING WITH CITY CLERK - WHEN REQUIRED.
All persons who or which are engaged in businesses involving the use of material which when disposed of may possibly be classified as hazardous wastes by the EPA and persons who otherwise regularly handle such substances and persons who are requested to do so by the City Clerk shall file a Certificate of Compliance with Federal Law and Agreement with the City Clerk on or before August first (1st) of each year or within thirty (30) days after written notice by the City Clerk that the same shall be required; Provided, however, that such certificates shall be filed with the Waverly City Clerk on or before January 1, during the calendar year 1981. The following form shall be utilized for such certificates:

CERTIFICATE OF COMPLIANCE WITH FEDERAL LAW AND AGREEMENT CONCERNING DISPOSAL OF 'HAZARDOUS WASTES'

STATE OF _____)
) §
COUNTY OF _____)

I, the undersigned, _____, hereby affirm and agree that ___ I (or) ___ my company, (company name) _____, am/is familiar with the regulations promulgated by the United States Environmental Protection Agency (EPA), pursuant to the Resource Conservation and Recovery Act of 1976 (RCRA), concerning the disposal of hazardous waste; that I/we have secured a CURRENT copy of such regulations; and, that I/we shall not dispose of or attempt to dispose of such hazardous wastes within the City of Waverly, Nebraska, or within or near the Waverly Municipal Landfill.

In the event that I/we intentionally or accidentally dispose of such hazardous waste within the City of Waverly or within or near the Waverly Municipal landfill, I/we agree to remove all traces of such hazardous waste at my/our own expense and cause the same to be immediately transported to an approved hazardous waste disposal area.

Affiant

Subscribed and sworn to before me this _____ day of _____, 20 _____.

Notary Public

SEAL

§3-714 **MUNICIPAL LANDFILL; CITY CLERK - DUTY TO REQUIRE FILING OF CERTIFICATE OF COMPLIANCE AND AGREEMENT.** It shall be the duty of the City Clerk to require any persons who might reasonably be expected to be involved in handling hazardous waste within or near the City of Waverly, Nebraska, to file a certificate and agreement as required under §3-713 of this Code. (Amended by Ord. No. 87-6, 6/1/87)

§3-715 **MUNICIPAL LANDFILL; FILING OF CERTIFICATE OF COMPLIANCE AND AGREEMENT - PREREQUISITE TO SUE OF MUNICIPAL LANDFILL.** (Repealed by Ord. No. 87-6, 6/1/87)

§3-716 **MUNICIPAL LANDFILL; SURRENDER OF LANDFILL USE PERMIT UPON FAILURE TO FILE CERTIFICATE - WHEN REQUIRED.** (Repealed by Ord. No. 87-6, 6/1/87)

§3-717 **MUNICIPAL LANDFILL; REFUSE HAULERS PROHIBITED FROM DISPOSING OF HAZARDOUS WASTE IN OR NEAR MUNICIPAL LANDFILL OR WITHIN CITY LIMITS.** (Repealed by Ord. No. 87-6, 6/1/87)

§3-718 MUNICIPAL LANDFILL; REMOVAL OF HAZARDOUS WASTE - WHEN REQUIRED. Persons who or which intentionally or accidentally dispose of hazardous waste within the City Limits of Waverly, Nebraska, shall remove all traces of such hazardous waste at his, her, or its own expense and cause the same to be immediately transported to an approved hazardous waste disposal area. Failure to remove such hazardous wastes as required under this Section shall be deemed a misdemeanor. *(Amended by Ord. No. 87-6, 6/1/87)*

§3-719 MUNICIPAL LANDFILL; VIOLATION; PENALTY. *(Repealed by Ord. No. 87-6, 6/1/87)*

Article 8. Municipal Auditorium

§3-801 MUNICIPAL AUDITORIUM; OWNERSHIP. *(Repealed by Ord. 01-09, 7/2/01) (Ref. 170953 through 17-955 RS Neb.)*

Article 9. Utilities Generally

§3-901 MUNICIPAL UTILITIES; DISCONTINUANCE OF SERVICE, NOTICE PROCEDURE. The Municipality shall have the right to discontinue services if the charges for such services are not paid within thirty (30) days after the date that the charges are deemed delinquent. Before any termination, the Department of Utilities 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 (7) days. The Department of Utilities shall then provide a second notice with a door hanger, and/or a phone call to the residence, that service will be terminated within twenty-four (24) hours. If payment is not made, then the service connection shall be terminated. Termination of service shall only occur on a Monday, Tuesday, or Wednesday, absent extenuating circumstances. No termination of service shall occur on a holiday or within two (2) days preceding such City holiday. Water reconnections shall only be made during the City's normal business hours from Monday through Friday between 8 a.m. and 4:30 p.m. at the City Office at 14130 Lancashire Street. Water service shall not be reinstated until the bill has been paid in full. As to any subscriber who has previously been identified as a welfare recipient to the Municipality 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 the Department.

All notices shall contain the following information:

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

7. A statement to the effect that disconnection may be postponed or prevented upon presentation of a duly licensed physician's certificate which shall certify that the domestic subscriber or resident within such subscriber's household has an existing illness or handicap which would cause such subscriber or resident to suffer an immediate and serious health hazard by the disconnection of the utility's service to that household. Such certificate shall be filed with the Department of Utilities within five (5) days of receiving notice under this Section and will prevent the disconnection of the Department's services for a period of thirty (30) days from such filing. Only one (1) postponement of disconnection shall be allowed under this sub-section for each incidence of non-payment of any 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 Utilities Department 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 case worker in that regard.
11. Any additional information not inconsistent with this Section which has received prior approval from the Governing Body.

A domestic subscriber may dispute the proposed discontinuance of service 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 services.

The procedures adopted by the Governing Body for resolving utility bills, one (1) copy of which is on file in the office of the Municipal Clerk , are hereby incorporated by reference in addition to any amendments thereto and is made a part hereof as though set out in full.

This Section shall not apply to any disconnections or interruptions of services made necessary by the utility for reasons of repair or maintenance or to protect the health or safety of the domestic subscriber or of the general public. *(Ref. 19-2601 et seq. RS Neb.)(Amended by Ord.02-06, 2/18/02; 09-01, 1/19/09)*

§3-902 UTILITIES GENERALLY; DIVERSION OF SERVICES; PENALTY. The Municipality may bring a civil action for damages against any person who commits, authorizes, solicits, aids, abets, or attempts (a) bypassing, (b) tampering, or (c) unauthorized metering when such act results in damages to a Municipal Utility. A Municipality may bring a civil action for damages pursuant to this Section against any person receiving the benefit of utility service through means of bypassing, tampering, or unauthorized metering.

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

- A. The amount of actual damage or loss if the amount of the damage or loss is susceptible of reasonable calculation; or
- B. Liquidated damages of (i) until July 1, 1985, five hundred dollars (\$500.00) and (ii) on July 1, 1985, and thereafter, seven hundred fifty dollars (\$750.00) if the amount of actual damage or loss is not susceptible of reasonable calculation.

In addition to damage or loss under subdivision A or B of this Section the Municipality may recover all reasonable expenses and costs incurred on account of the bypassing, tampering, or unauthorized metering including, but not limited to, disconnection, reconnection, service calls, equipment, costs of the suit, and reasonable attorneys' fees in cases within the scope of Section 25-1801 Reissue Revised Statutes of Nebraska 1943.

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

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.

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. (*Ref. 86-331.01 through 86-331.04 RS Neb.*) (*Ord. No. 83-20, 10/17/83*)

Article 10. Peoples Natural Gas

[Editor's Note: Article 10 was amended in its entirety by Ordinance No. 96-4 passed on February 5, 1996]

§3-1001 PEOPLES NATURAL GAS; GENERAL PROVISION. An Article of the City of Waverly, Lancaster County, Nebraska, establishing classes of gas service and rates to be charged for gas service within the City of Waverly, Nebraska, and repealing ordinance No. 91-8 and all other ordinances and parts of ordinances in conflict with the provisions of this Article.

§3-1002 PEOPLES NATURAL GAS; APPLICABILITY AND CLASSIFICATION. This Article shall apply to any person, firm, or corporation supplying gas service to the City of Waverly, Nebraska, and the inhabitants thereof. Any such person, firm, or corporation shall be hereinafter referred to as the gas distribution company or company.

The gas distribution company shall provide two (2) classes of service to its customers as hereinafter specified and defined:

Firm Gas Service. The term "firm gas service" is hereby defined as gas service that is supplied on a noninterruptible basis. Firm gas service shall be made available to all customers whose maximum space heating requirements are less than 1,000 cubic feet per hour.

Interruptible Gas Service. The term "interruptible gas service" is hereby defined as gas service that is supplied on an interruptible basis. It shall be subject to curtailment or interruption on demand of the gas distribution company whenever necessary to protect the service to its firm gas customers.

§3-1003 PEOPLES NATURAL GAS; RATE SCHEDULE, MONTHLY CHARGE; HEAT VALUE, BASIS OF; ADJUSTMENT; PENALTY FOR DELINQUENCY; ADJUSTMENT FOR COST OF PURCHASED GAS AND TAXES. Grantee, its successors or assigns, shall file and make effective initially a schedule of rates for gas service and shall furnish gas at the schedule of rates hereafter set forth or at such other reasonable rates as may be hereafter established from time to time under the Nebraska Municipal Natural Gas Regulation Act, Nebr. Rev. Stat. 19-4601, et seq. (1943).

(1) FIRM GAS SERVICE RATES

AVAILABILITY - These rates are available only to domestic and commercial customers whose maximum requirements for natural gas are less than one hundred thousand (100,000) cubic feet per day. Grantee shall not be required to serve any customer at the following rates whose requirements amount to one hundred thousand (100,000) cubic feet or more per day. Grantee may negotiate price and other contract terms with customers whose natural gas requirements exceed fifty thousand (50,000) cubic feet per day.

RESIDENTIAL CUSTOMERS	AMOUNT
Monthly Customer Charge.....	\$8.25 and
Rate Per Hundred Cubic Feet.....	\$0.1153170

COMMERCIAL CUSTOMERS	AMOUNT
Monthly Customer Charge.....	\$13.25 and
Rate Per Hundred Cubic Feet.....	\$0.1567016

The foregoing rates apply only when bills are paid on or before twenty (20) days after the monthly billing date. When not so paid, a one percent (1%) per month late fee will apply on the unpaid amount.

The above and foregoing rate shall be understood to be based upon natural gas of the British Thermal Unit (BTU) heating value of 1,000 BTUs per cubic foot of gas. If in any monthly period the average heating value of gas sold and delivered to the customers shall vary from 1,000 BTUs, then the volumes of gas billed to the customers during the month shall be multiplied by the factor of average heating value in BTUs ÷ 1,000 to adjust for the variance.

TURN-ON AND RECONNECT FEE

In addition to the other rates set forth in this Ordinance, Grantee may charge a \$26.00 fee to initiate service ("turn-on fee") for each customer account and a \$30.00 fee ("reconnect fee") to reconnect service that has been discontinued or terminated for non-payment.

(2) ADJUSTMENT FOR COST OF PURCHASED GAS

In addition to the Firm Gas Service Rates set forth in Sub-Section (1) of this Ordinance, a separate charge per Therm may be made for the monthly cost of purchased gas in the Purchased Gas

Cost Adjustment, if the Grantee (or any predecessor of Grantee) has properly filed a natural gas supply-cost-adjustment rate schedule pursuant to Neb. Rev. Stat. 19-4609(1). Such Purchased Gas Cost Adjustment shall be computed monthly pursuant to the natural gas supply-cost-adjustment rate schedule filed by the Grantee (or any predecessor of Grantee) pursuant to Neb. Rev. Stat. 19-4609(1).

Any refund including interest thereon, if any, received by the Company from its supplier in respect of increased rates paid by Grantee subject to refund and applicable to natural gas purchased on a firm supply basis for resale in Waverly, Nebraska shall be refunded to its gas customers in the form of credits on such customers' bills, or in cash, to the extent that such increased rates paid by the Company were passed on to such firm gas customers.

(3) ADJUSTMENT FOR TAXES

If, after the effective date of this ordinance, the business of Grantee in Waverly, Nebraska, shall be subjected to any taxes measured by its gross revenues from the operation of such business, or the volume of such business, or constituting a fee for carrying on such business, or in the event that (a) the rate of any such tax or (b) the amount of any such fee shall be increased after the effective date of this ordinance, the gas distribution company shall be entitled to increase its charges under the aforesaid rates so as to offset such imposition or impositions of such increase.

(4) GENERAL RATE ADJUSTMENT

The above provided for cost of purchased gas and tax adjustments are apart from and shall not in any manner limit or abridge either Grantee's right to request or the Mayor and City Council's authority to grant general rate adjustments increasing or decreasing such rates.

(5) INTERRUPTIBLE GAS SERVICE RATE

AVAILABILITY - This rate is available only on a contract basis to commercial or industrial customers whose use of natural gas is subject to interruption and periods of curtailment for reasons including, but not limited to, protecting the service of Grantee's firm gas users.

RATE - The rate of interruptible gas service shall be such rate as may be mutually agreed upon between the customer and the gas service company.

(6) ENVIRONMENTAL COSTS

Grantee may defer expenses reasonably incurred after December 1, 1999, as a result of monitoring, testing, cleanup, and the cost of reasonable efforts made by Grantee to recover remediation costs (herein after referred to generally as "manufactured gas plant" costs), if any, at the five manufactured gas plant sites allocated to Rate Area Three. No carrying costs will be calculated on any such balance of deferred manufactured gas plant costs. At the time of its next general rate case, Grantee may request recovery of any deferred manufactured gas plant costs and, if recovery is sought, must demonstrate in its rate application or sixty (60) days prior to the deadline for filing the Municipal Report that the manufactured gas plant costs were prudently incurred and reasonable, and that Grantee made reasonable efforts to recover remediation costs from potentially

responsible third parties (which may include, but are not limited to, Grantee's predecessors in interest.)

In any future rate application, Grantee will reduce any deferred manufactured gas plant costs by the proportional amount of manufactured gas plant costs previously recovered (i.e., \$62,846 per year from December 1, 1999) from Rate Area Three as a credit to the deferred expenses allocated to Rate Area Three. Issues as to whether the deferred remediation costs were prudently incurred

and reasonable; and whether the length of the amortization period for "past" manufactured gas plant costs requested by Grantee for recovering any such deferred remediation expenses is reasonable will be determined in the next rate case following the incurrence of such deferred manufactured gas plant costs.

Seventy-five percent (75%) of any funds (or the value of any other benefits) recovered from third parties by or on behalf of Grantee which are attributable to remediation of any or all of the five manufactured gas plant sites allocated to Rate Area Three shall be credited to the deferred account. Grantee may keep twenty-five percent (25%) of any funds (or the value of other benefits) recovered from third parties.

(7) GENERAL TERMS AND CONDITIONS

The General Terms and Conditions and associated Rate Schedule Tariff Sheets applicable to the natural gas service subject to the Municipal Natural Gas Regulation Act and provided for under this ordinance will be kept on file with the Municipal Clerk. The General Terms and Conditions may be changed from time to time by Grantee unless contrary provision is made by an ordinance adopted in the course of future rate proceedings.

(8) FINDING OF FACT AND CONCLUSIONS OF LAW

The Finding of Fact and Conclusions of Law, which were made a part of the official record at an Area Rate Hearing, are hereby adopted.

(Amended by Ord. No. 00-1, 2/21/00)

Article 11. Natural Gas Regulations

§3-1101 NATURAL GAS; FRANCHISE. The Governing Body has granted to Peoples Natural Gas Company, Division of Utilicorp United Inc., the right, permission, and authority to lay, install, maintain, and operate a gas transmission and distribution system within the Municipality. Actual details of the franchise are available at the Municipal Clerk's office. *(Amended by Ord. No. 98-7, 5/4/98)*

§3-1102 NATURAL GAS; RATES. Regulatory Authority. The Franchisee shall at all times be subject to all rights, power and authority now or hereafter possessed by the City to regulate and control and direct the rates and tariffs charged for natural gas service in the City, as more specifically set forth in Chapter 3, Article 10 of the Waverly Municipal Code as amended from time to time.

§3-1103 NATURAL GAS; RATE SCHEDULES. The Franchisee shall provide to the City, for informational purposes, copies of all rate schedules and contracts for all rates charged and the requirements for service under each schedule within the City. It shall also show separately the base rate and the purchased gas rate. The base rate shall be based on the Franchisee's cost of providing service to the City and shall exclude all purchased gas costs and purchased gas adjustments shall be collected solely through the purchased gas rate. Such rates shall not be in conflict with Chapter 3, Article 10 of the Waverly Municipal Code as amended from time to time.

§3-1104 NATURAL GAS; REFUND. Any refund, including interest thereon, if any, received by the Franchisee from its supplier related to increased rates paid by the Franchisee subject to refund and applicable to natural gas purchased for resale within the City shall be passed on to presently served customers by an appropriate adjustment shown as a credit on subsequent bills during a period selected by the Franchisee, not to exceed twelve (12) months from the date the Franchisee received the refund, or by a single cash refund at the Franchisee's option within three (3) months from the date the Franchisee received the refund or by such other method as may be established by ordinance.

§3-1105 NATURAL GAS; ADJUSTMENT FOR PURCHASED GAS COST. The purchased gas cost prescribed in the foregoing rate schedules shall reflect all purchased gas costs and purchased gas adjustments (PGA's) incurred by the Franchisee for resale in the City. The purpose of the PGA is as follows:

1. To allow the Franchisee to recover all purchased gas costs.
2. To prevent a continuing over or under collection of purchased gas costs.
3. To provide an equitable method of returning to the ratepayers any over-collected purchased gas costs and refunds plus interest received by the Franchisee from its suppliers.
4. To provide an equitable method of recovering from the ratepayers any under-collected purchased gas costs.

In the event the rates authorized to be charged the Franchisee for any natural gas purchased for resale within the City are increased or decreased, either temporarily or permanently, the purchased gas cost portion of the retail gas rates in effect may be increased or shall be decreased correspondingly to reflect the change in the cost of purchased gas. The Franchisee may change the purchased gas cost portion of the retail gas rates by filing documentation detailing the change with the City Clerk.

On or before October 31, 1988 and each October thereafter during the Franchise term, the Franchisee shall file a "Cost of Purchased Gas Reconciliation" with the City. The filing shall compare the net cost of gas purchased with actual billed revenue arising from the purchased gas cost portion of the retail rates and shall apply to the 12-month period ending the immediately preceding August 31st. The filing shall specify a reconciliation rate adjustment resulting from any over or under recovered gas costs. Such adjustment shall be made effective as of the following December 1.

§3-1106 NATURAL GAS; OTHER RATE CHANGES. In the event the Franchisee desires to change its rates for firm natural gas service within the City other than to reflect an adjustment for the cost of purchased gas, the Franchisee will present to the City copies of present and proposed rate schedules and information supporting the proposed rates to be charged for firm natural gas service within the City. The rate schedules and information submitted with the rate sche-

dules shall be referred to as the Rate Filing. Any such Rate Filing shall be deemed filed upon receipt of the same by the City Clerk. A filing fee in the amount of \$300.00 shall be paid to the City with the Rate Filing. Such fee will be considered as an operating cost of the Franchisee and shall not be separately itemized on any customer billings.

The Governing Body of the City shall have the right to select and engage rate consultants, accountants, auditors, attorneys, engineers, and other experts as deemed necessary and desirable to advise and represent the Governing Body in evaluating any proposed rate change. The Franchisee shall reimburse the City within ninety (90) days of the presentation of a bill by the City for the reasonable costs of those services only to the extent that said costs exceed the filing fee for the Rate Filing.

If the proposed rates sought by the Franchisee in its Rate Filing have not been passed on final reading by the City Council within ninety (90) days after it was filed, the proposed rates shall be put into effect as interim rates, and shall be collected subject to refund pursuant to section 18-415 of the Nebraska Revised Statutes, 1943, as the same may be amended from time to time. Such interim rates shall remain in effect pending final determination by the City, which determination shall be made within one hundred eighty (180) days after the Rate Filing is filed, or in the event of litigation, final rate determination by the Courts. Proposed increased rates shall become final and no longer subject to refund if the City Council has not taken final action within one hundred eighty (180) days after the Rate Filing is filed.

The rates proposed to be charged for firm natural gas service within the City shall be based on the Franchisee's cost of providing service to the City or the representative costs in that part of the Franchisee's service area which includes the City. The period for which the cost of service is to be recognized is to be a projected twelve (12) month period commencing not later than the proposed effective date of the increase. The cost of service shall be determined in a manner consistent with regulated public utility practices and shall include (1) appropriate costs as defined and set forth in the Federal Energy Regulatory Commission Uniform System of Accounts Prescribed for Natural Gas Companies FERC Accounts, and (2) a reasonable return on the Franchisee's rate base.

In determining a reasonable return, a rate (percentage) shall be employed that is representative of the Franchisee's cost of debt, preferred stock, and common equity capital. The rate base shall consist of the applicable net investment in utility plant (as defined in the FERC Accounts), allowance for working capital, and such other items as may reasonably be included; less such investment as may, unless otherwise prevented by law, be attributed to other than investor capital.

The Franchisee's appropriate costs and items of rate base shall include allocated or apportioned expenses and rate base items, when such allocations or apportionments are reasonably representative of assigned common costs and arise from the manner in which the Franchisee's operations are conducted or from an avoidance of excessive and costly financial recordkeeping.

Rate filings, not including rate adjustments permitted for changes in the purchased gas cost, shall be limited to a maximum of one (1) in twelve (12) calendar month period.

§3-1107 NATURAL GAS; INFORMATION TO BE PROVIDED. The Franchisee shall provide in its Rate Filing three (3) copies of the most recent annual report to the stockholders and three (3) signed copies of a summary of the proposed rate change which shall include the information outlined in Subparagraphs A through G hereunder.

- A. A financial summary showing aggregate rate base, operating revenues, operating expenses, dollar return on rate base and rate of return on rate base:
 1. Actual for the most recent calendar year preceding the date of submission.

2. For the projected twelve (12) month period using natural gas rates currently in effect.
 3. For the projected twelve (12) month period using the proposed natural gas rates.
- B. Rate base schedules, on an original cost basis, showing for the most recent twelve month period available and for the projected 12-month period:
1. For utility plant and accumulated depreciation and amortization components - the beginning and end of period balances by account, explanations of changes in balances during the period, and calculated rate base amounts.
 2. For cash working capital - the manner in which rate base amounts are calculated.
 3. For other rate base components - beginning and end of period amounts, explanations of changes in balances during the period, and calculated rate base amounts.
 4. Explanations and calculations of allocated amounts included in (1), (2), and (3) above.
- C. Operating expense schedules, showing:
1. Expenses by FERC accounts or their equivalent for the most recent calendar year including filing fees and occupation taxes paid to the City.
 2. Explanations and calculations of allocated amounts included in (1).
 3. Expenses by FERC accounts or their equivalent for the projected twelve (12) month period.
 4. Explanation of methods employed to develop projected expenses.
 5. Explanations and calculations of allocated amounts included in (3).
- D. Rate of return/cost of capital schedules showing debt, preferred stock, and common equity amounts at the beginning and end of the projected twelve (12) month period, explanations of changes during the period, methods used to calculate or otherwise determine cost of capital, and table showing the requested and approved rate of return on rate base and common equity on all cases filed by the Franchisee during the previous five (5) years.
- E. Operating revenue schedules, showing:
1. Number of customers, volume of sales, and operating revenue by customer classes for the most recent calendar year.
 2. Number of customers and volume of sales by customer classes for the projected twelve (12) month period.
 3. Operating revenues by rate schedules for the projected twelve (12) month period using current rates.
 4. Operating revenue by customer classes for the projected twelve (12) month period using proposed rates.
 5. Detailed rates and calculations for (4) and (5), including customer usages (consumption analysis) data, peak demand, and load factor data by customer class, allocation methods and justifications, etc.
- F. Information Schedules showing for the City as a whole:
1. Cost of distribution plant.

2. Number of customers, volume of sales, and operating revenue by customer classes for the most recent calendar year.

G. The Franchisee shall clearly designate as part of its expenses, all expenditures for business gifts and entertainment, institutional, consumption inducing, and other advertising or public relations expenses, and legislative-advocacy expenses. The City may not allow, for rate making purposes, any of such expenditures which the City determines not to be in the public interest. Franchisee has the burden of showing such expenses are in the public interest.

§3-1108 NATURAL GAS; NOTICE OF APPLICATION. Other than to reflect an adjustment for purchased gas cost, the Franchisee shall not make changes in its rates except by a Rate Filing properly filed with the City Clerk at least ninety (90) days prior to the proposed effective date of the requested change. Notice of the filing shall be given within thirty (30) days of the date of filing by placing a notice to the public of the proposed change in a newspaper having general circulation in the City. however, notwithstanding the above, instead of the publication of newspaper notice stipulated above, the Franchisee may provide notice to the public by mailing such notice by United States mail, postage prepaid, to the billing address of each directly affected customer, or by including the notice in such customer's bill in a conspicuous form. By either method, publication or mailing, the notice must be in substantially the following form:

NOTICE OF RATE INCREASE

(Name of Franchisee) proposes to increase your rates by (amount of total annual increase requested) dollars per year, which is an overall increase of (percentage of increase over all revenues during the applicable test year) percent and is an increase in base rate of (percentage of increase over all revenues during the applicable test year which are not subject to escalation through some form of automatic adjustment clause) percent. Further information may be obtained from (name and address of an official of the Franchisee) or the application on file with the City Clerk.

An affidavit signed by an official of the Franchisee and describing the method of publication or of mailing of the notice shall be filed with the City Clerk within sixty (60) days or a rate filing being filed.

§3-1109 NATURAL GAS; PROVIDING OF GENERAL INFORMATION. The Franchisee shall provide the City, at the request of the City, on a regular continuing basis, within thirty (30) days of publication, copies of documents, information, and data listed below for the Franchisee or its parent company as applicable:

Annual Report to Stockholders.

Quarterly Report to Stockholders.

Securities and Exchange Commission Form 10-K, as the same may be changed from time to time.

Securities and Exchange Commission Form 10-Q, as the same may be changed from time to time.

Prospectus for Debt Securities to be Issued.

Prospectus for Equity Securities to be Issued.

Distribution System Map of the City.

Article 12. Rescue Squad

§3-1201 RESCUE SQUAD; CONTRACT WITH RURAL BOARD. *(Repealed by Ord. No. 96-3, 2/5/96)*

§3-1202 RESCUE SQUAD; MEMBERSHIP. *(Repealed by Ord. No. 96-3, 2/5/96)*

§3-1203 RESCUE SQUAD; REMOVAL OF MEMBERS. *Repealed by Ord. No. 96-3, 2/5/96)*

Article 13. Penal Provision

§3-1301 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 one hundred dollars (\$100.00) for each offense. A new violation shall be deemed to have been committed every twenty-four (24) hours of such failure to comply.