

Municipal Code of the City of Battle Creek, Nebraska

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CHAPTER 3 – DEPARTMENTS

Article 1 – Water Department

§3-101 OPERATION AND FUNDING.

The City owns and operates the City Water Department through the Water Superintendent. The City Council, for the purpose of defraying the cost of the care, management, and maintenance of the Water Department, may each year levy a tax not exceeding the maximum limit prescribed by state law on the actual valuation of all real estate and personal property within the corporate limits that is subject to taxation. The revenue from the said tax shall be known as the Water Fund and shall remain in the custody of the City Treasurer. The Water Superintendent shall have the direct management and control of the Water Department and shall faithfully carry out the duties of his office. The Water Superintendent shall have the authority to adopt rules and regulations for the sanitary and efficient management of the Water Department subject to the supervision and review of the City Council. The Council shall set the rates to be charged for ser-

vices rendered by ordinance and shall file a copy of the rates in the office of the City Clerk for public inspection at any reasonable time. (Ref. 17-531, 17-534, 19-1305 RS Neb.)

§3-102 DEFINITIONS.

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

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

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

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

§3-103 CONSUMER'S APPLICATION.

Every person or persons desiring a supply of water must make application therefor to the Water Superintendent, who may require any applicant to make a service deposit in such amount as has been set by the City Council and placed on file at the office of the City Clerk for public inspection during office hours. Water may not be supplied to any house or private service pipe except upon the order of the Superintendent. (Ref. 17-537 RS Neb.)

§3-104 SERVICE TO NON-RESIDENTS.

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

§3-105 WATER CONTRACT.

The City through its Water Department shall furnish water to persons within its corporate limits whose premises abut a street or alley in which a commercial main now is or may hereafter be laid. The City may furnish water to persons within its corporate limits whose premises do not abut a street or alley in which a city commercial main is now or may hereafter be laid and may also furnish water to persons whose premises are situated outside the corporate limits of the City, as and when, according to law, the City Council 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 City, to which said contract both parties are bound. If the consumer shall violate any of the provisions of said contract or any reasonable rules and regula-

tions that the City Council may hereafter adopt, the Water Superintendent or his agent may cut off or disconnect the water service from the building or premises or place of such violation. No further connection for water service to said building, premises, or place shall again be made save or except by order of said Superintendent or his agent.

§3-106 INSTALLATION PROCEDURE.

In making excavations in streets, alleys, or sidewalks for the purpose of installing pipe or making repairs, the paving, stones, and earth must be removed and de-posed in a manner that will occasion the least inconvenience to the public and provide for adequate drainage. No person shall leave an excavation made in the street, alley, or sidewalk open at any time without a barricade, and during the night, warning lights. After service pipes are laid, the streets, alleys, and sidewalks shall be restored to good condition. If the excavation in any street, alley, or sidewalk is left open or unfinished for a period of 24 hours or more, the Water Superintendent shall have the duty to finish or correct the work, and all expenses so incurred shall be charged to the consumer. All installation and repairs shall be done under the supervision and strictly in accordance with the rules, regulations, and specifications prescribed for such installation by the Water Superintendent, provided that the said rules, regulations, and specifications have been reviewed and approved by the City Council. (Ref. 17-537 RS Neb.)

§3-107 INSTALLATION EXPENSE.

(1) The owner or occupant of any premises who desires to make a tap onto the City's water system shall pay a tap fee to the City. A lesser fee shall be charged if a tap has already been made for such premises. Such fees shall be set by the City Council and placed on file at the office of the City Clerk for public inspection during office hours. Every water service pipe shall be provided with an easily accessible curb stop for each consumer at the lot line of the customer, and shall be so situated that the water can be conveniently shut off. The type of curb stop and valve system shall be approved by the Water Superintendent. The customer shall at his or her own expense bring water service from his or her own premises to the City's distribution main; this includes the curb stop and valve. The customer shall employ a plumber to install the water service as provided herein.

(2) Water meters may be required by the Water Superintendent for industrial or large water users. Where such meter is required, it shall be furnished by the City but shall be placed upon the water service line of the customer by a plumber approved by the Water Superintendent. (Am. by Ord. No. 299, 9/11/95)

§3-108 REPAIRS AND MAINTENANCE.

The City shall repair or replace, as the case may be, all water mains used to disperse water service to individual premises. The customer shall at his or her own expense repair or replace, as the case may be, the water meter when one is required, and all supply and/or service pipe from the customer's water service fixtures on the premises to the water mains, which shall include the curb stop itself. When leaks occur in the supply and/or service pipes between the customer's water service fixtures and the water main, the Water Superintendent shall shut off water service until the leak is repaired at the expense of the customer to the satisfaction of the said Superintendent. The City reserves the right to test any water service meter which is required by the Superintendent and if said meter is found to be beyond repair, the City shall have the right to require the cus-

tomers to place a new meter on the customer's water service fixtures at the customer's expense. Should a consumer's meter fail to register properly, the customer shall be charged for water during the time the meter is out of repair on the basis of the monthly consumption during the same month of the preceding year; provided, if no such basis for comparison exists, the customer shall be charged such amount as may be reasonably fixed by the Superintendent. It shall be unlawful for any person to tamper with any water meter or by any means or device to divert water from the service pipe so that the same shall not pass through the meter or while passing through said meter, to cause the same to register inaccurately. (Am. by Ord. No. 299, 9/11/95; 2010-010, 9/13/10)

§3-109 SINGLE PREMISES; DIVERSION OF WATER; METER TAMPERING.

No consumer shall supply water to other families or allow them to take water from his premises, nor after water is supplied into a building shall any person make or employ a plumber or other person to make a tap or connection with the pipe upon the premises for alteration, extension, or attachment without the written permission of the Water Superintendent. It shall further be unlawful for any person to tamper with any water meter or by means of any contrivance or device to divert the water from the service pipe so that the water will not pass through the meter or while passing through said meter to cause the meter to register inaccurately. (Ref. 17-537 RS Neb.)

§3-110 RESTRICTED USE.

The City Council or the Water Superintendent may order a reduction in the use of water or shut off the water on any premises in the event of a water shortage due to fire or other good and sufficient cause. The City shall not be liable for any damages caused by shutting off the supply of water of any consumer while the system or any part thereof is undergoing repairs or when there is a shortage of water due to circumstances over which the City has no control. See sections 3-138 through 3-140 for provisions concerning water emergencies and restrictions on use. (Ref. 17-537 RS Neb.)

§3-111 (Repealed)

§3-112 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 City Fire Department under the orders of the Fire Chief, Assistant Fire Chief, or members of the Water Department to open or attempt to open any of the hydrants and draw water from the same or in any manner to interfere with the hydrants.

§3-113 POLLUTION.

It shall be unlawful for any person to pollute or attempt to pollute any stream or source of water for the supply of the Water Department. (Ref. 17-536 RS Neb.)

§3-114 WATER SERVICE CONTRACTS; NOT TRANSFERABLE.

Contracts for water service are not transferable. Any person wishing to change from one location to another shall make a new application and sign a new contract. If any consumer shall move from the premises where service is furnished or if the said premises are destroyed by fire or other casualty, he shall at once inform the Water Superinten-

dent, 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 Superintendent is otherwise advised of such circumstances. (Ref. 17-537 RS Neb.)

§3-115 INSPECTION.

The Water Superintendent or his duly authorized agents shall conduct inspections and investigations necessary to enforce the sections of this Article and may at any reasonable time enter any parts of each premises and building to or in which water is delivered for the purpose of examining the pipes, fixtures, and other portions of the system to ascertain whether there is any disrepair or unnecessary waste of water. Inspections shall be conducted only after permission has been granted by the owner or occupant or after a warrant has been issued pursuant to Neb. Rev. Stat. §29-830 to §29-835. (Ref. 17-537 RS Neb.)

§3-116 WATER BILLS.

1. Water bills shall be due and payable monthly at the office of the City Clerk. It shall be the duty of the customers of the Water Department to mail in their assessment each month or to present themselves monthly at the office of the City Clerk to pay their bills in net cash: provided, where a water meter has been required by the Water Superintendent, the meter shall be read on or about the 20th day of March, June, September and December with a bill for one-third of the water consumed being sent out on or about the first of each of the three succeeding months. Bills shall be due on or about the first of each month. Bills shall be delinquent after the 10th day of each month. On or about the 10th day of each month, the City Clerk shall mail delinquency notices to said delinquent customers demanding payment as provided in section 3-401.

2. The Water Superintendent shall assess an additional fee set by resolution of the City Council and on file at the office of the City Clerk in the event that water is shut off for the non-payment of any water bill, to compensate the City for the additional hookup necessary to again provide water service to the delinquent customer. (Ref. 17-542, 18-416 RS Neb.)

§3-117 MINIMUM RATES.

All water consumers shall be liable for the minimum rate provided by ordinance unless and until the consumer shall, by written order, direct the Water Superintendent to shut off the water at the stop box, in which case he shall not be liable thereafter for water rental until the water is turned on again. (Ref. 17-542 RS Neb.)

§3-118 RATES.

1. The City Council has the power and authority to fix the rates to be paid by the water consumers for the use of water from the Water Department. All such fees shall be on file for public inspection at the office of the City Clerk during office hours. No water service shall be furnished to any customer at a rate that is different from other customers of the same class or type. Persons, firms, or corporations desiring to use water temporarily shall pay such rates as the Water Superintendent, with the approval of the City Council, shall set.

2. Without respect to schedule of rates for other customers, the Council may enter into special contracts with large consumers of water, but never at a rate less than the cost of production; provided, the contract shall always provide that the said large consumer shall always pay the minimum rate for other customers and the contract shall be made on the basis of water consumed in excess of said minimum. A meter may be attached to the water service of such contract consumer and read as provided in section 3-116.

3. Water service furnished to the other departments of the City and to other governmental subdivisions of the State of Nebraska shall be measured and billed for at such rates as the City Council shall set from time to time without respect to the schedule of rates on file at the office of the City Clerk, but never at rates that do not cover the cost of providing water.

4. Whenever water service is supplied to more than one customer through the same supply pipe, each customer shall pay the minimum water service charge each month.

5. The City may make a bulk sale of water from the city water system. Rates for such sale shall be set by ordinance of the City Council and on file in the office of the City Clerk.
(Ref. 17-540 RS Neb.)

§3-119 LIEN.

In addition to all other remedies, if a customer shall for any reason remain indebted to the City 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 City Clerk shall notify in writing or cause to be notified in writing all owners of premises or their agents whenever their tenants or lessees are 60 days or more delinquent in the payment of water rent. It shall be the duty of the Water Superintendent on the first day of June of each year to report to the City Council a list of all unpaid accounts due for water, together with a description of the premises upon which the same was used. The report shall be examined and if approved by the City Council shall be certified by the City Clerk to the County Clerk to be collected as a special tax in the manner provided by law. (Ref. 17-538 RS Neb.)

§3-120 POLICE REPORTS.

It shall be the duty of the City Police to report to the Water Superintendent all cases of leakage and waste in the use of water and all violations of the City Code relating to the Water Department. They shall have the additional duty of enforcing the observance of all such regulations.

§3-121 DESTRUCTION OF PROPERTY.

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

§3-122 FLUORIDE.

Fluoride shall not be added to the water supply of the City.

§3-123 MANDATORY HOOKUP.

All persons within 300 feet of a water main shall be required, upon notice by the City Council, to hook up with the city water system; provided, no person shall be allowed to hook up a mechanical heat pump device or other prohibited mechanical device with the city water system. (Ref. 17-539 RS Neb.) (Am. by Ord. No. 125, 4/23/84)

§3-124 WELLS; NECESSITY OF WELL PERMIT; NEBRASKA MINIMUM STANDARDS ADOPTED.

(1) *Well Permit.* It shall be unlawful for any person or persons to dig, drill or construct a well within the service area of the city water system without having first obtained a permit therefor from the City Council. Any application for a private well shall be submitted in writing and shall set forth:

- (a) Location of proposed well;
- (b) Intended use of the water;
- (c) Depth of the proposed well;
- (d) Size and kind of casing to be installed;
- (e) Pumping equipment to be used;
- (f) Name and address of well driller.

Such application shall be accompanied with an application fee to cover the cost of inspection and study of plans. Such fee shall be set by the City Council and shall be on file in the office of the City Clerk, available for public inspection during office hours. No part of such fee shall be refunded if the application is denied. The provisions of this section shall apply to test wells.

(2) *Wells; Location and Usage.* No well shall be located within 25 feet of any sewer line, private or public. No well will be permitted if a septic tank is in use on the premises. No water from any private well shall be used for domestic purposes governed by other sections of this Code.

(3) *Temporary Well Permit.* The City may grant a temporary well permit where an emergency is determined to exist for purposes other than lawn irrigation and garden irrigation. In granting said permit, the City may establish conditions under which said well is operated, including the purposes therefor, its location, the period of time during which such well shall be operated, conditions for the closing and capping of such well and such safety requirements as the Council may provide, and such other conditions as may protect the health and welfare of the City. The application for the temporary well permit shall be accompanied with an application fee which shall be set by the City Council and shall be on file in the office of the City Clerk, available for public inspection during office hours. No part of such fee shall be refunded if denied.

(4) *Wells; Cross-Connections Prohibited.* No cross-connections shall be allowed from a private well to or from the city water system. The Utility Superintendent may inspect the owner's premises when necessary to determine that no such cross-

connections exist. If the Utility Superintendent finds that a cross-connection exists, he shall order the use of the private well to be permanently discontinued. The owner, tenant and lessee shall be liable severally and jointly for all damages to the city water system and users caused by such cross-connection.

(5) *Wells; Registration.* All private water wells located within the service area of the city water system shall be registered with the City Clerk within 60 days of the effective date of this regulation. All registration forms shall be in writing and shall set forth:

- (a) Location of well;
- (b) Use of water from well;
- (c) Depth of well;
- (d) Size and kind of casing installed;
- (e) Pumping equipment used.

No private well shall be modified in any manner, without application for a well permit.

(6) *Wells; Specifications, Discontinuance By Council.* The City Council shall have power and authority to refuse to issue well drilling permits, if it appears that the plan of drilling and construction is not sound, the proposed driller does not have proper equipment, or it appears that such well may endanger, impair or in any way interfere with the city water system.

(7) *Wells. Nebraska Minimum Standards Adopted.* The "Minimum Standards for a Private Water Well in Nebraska," 1972 Edition, are hereby adopted and such minimum standards, including all subsequent editions, amendments, supplements or appendices thereto, are made a part of this section as fully as if set forth at length herein. Three copies of said Minimum Standards shall be placed on file with the City Clerk, and any and all subsequent additions, amendments or supplements or appendices thereto shall be placed on file with the Clerk.

(Ord. No. 124, 4/23/84)

§3-125 PROHIBITION OF LEAD PIPES, SOLDER, AND FLUX.

Any pipe, solders or flux used in the installation or repair of any residential or non-residential facility which is connected to the public water supply system shall be lead free. For purposes of this section, "lead free" shall mean (1) solders and flux, not more than two-tenths percent (.2%) lead, and (2) pipe and pipe fittings, not more than eight percent (8%) lead. (Ref. 71-5301 RS Neb.) (Ord. No. 179, 6/13/88)

[Editor's Note: Sections 3-126 through 3-137 were adopted by Ord. No. 240, 12/14/92]

§3-126 BACKFLOW/BACKSIPHONAGE PREVENTION; POLICY AND PURPOSE.

(1) The purpose of this ordinance is to protect the public water supply system of the City from the possibility of contamination or pollution which may backflow into the public water supply system. This ordinance provides for the maintenance of a continuing program of cross-connection control which will systematically and effectively prevent the contamination or pollution of the potable water supply systems.

(2) The Manager shall be responsible for the implementation of the backflow prevention program as outlined within this ordinance. If in the judgment of the Manager an

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

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

(4) For the purposes of this backflow prevention ordinance, whenever the Manager is to make any decision or interpretations, or whenever reference is made to the fact that the Manager is to exercise judgment, such decision, interpretation or judgment shall be in accordance with the provisions of this backflow prevention ordinance, and any other applicable provisions of the Battle Creek City Code and state and federal law.

§3-127 BACKFLOW/BACKSIPHONAGE PREVENTION; DEFINITIONS.

The following definitions shall apply in the interpretation and enforcement of this Article.

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

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

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

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

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

source of the potable water supply.

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

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

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

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

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

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

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

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

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

"Approved plumber" means a person who has obtained the approval from the Mayor and City Council to perform plumbing-related work within the city limits. A list of approved plumbers shall be kept by the City Clerk.

"Manager" means the Utilities Superintendent for the City or his authorized representative.

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

"Owner" means the person delivering water through a public water supply system. The owner is the City of Battle Creek.

"Person" means the state, any political subdivision, public or private corporation, individual, partnership, or other legal entity. When the term "he" or "his" is used, it shall mean any male or female person.

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

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

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

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

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

"Reduced pressure zone backflow prevention device" means a device containing a minimum of two independently acting check valves, together with an automatically operated pressure differential relief valve, located between two check valves. During normal flow and at the cessation of normal flow, the pressure between these two checks shall be less than the supply pressure. In case of leakage of either check valve, the differential relief valve, by discharging to the atmosphere, shall operate to maintain the pressure between the check valves at less than the supply pressure. The unit must include one-hundred-percent-closing shutoff ball valves located at each end of the device, and each device shall be fitted with properly located test cocks.

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

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

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

§3-128 BACKFLOW/BACKSIPHONAGE PREVENTION; SURVEYS AND INVESTIGATIONS.

(1) It shall be the responsibility of the water consumer to conduct or cause to be conducted periodic surveys of water use practices on his premises as necessary to determine whether there are actual or potential cross-connections in his water supply system. The Manager shall have the authority to conduct or cause to be conducted periodic

surveys and investigations, of a frequency as determined by the Manager, of water use practices within a consumer's premises to determine whether there are actual or potential cross-connections to the consumer's water supply system through which contaminants or pollutants could backflow into the public water supply system. The Manager may conduct these surveys to provide information in determining what level of protection will be necessary to protect the public health and safety.

(2) Consumers are required to assess and report potential backflow hazards on their premises and take any steps necessary for protection of public health and safety as often as reasonably requested by the Manager and which shall be no less often than every five years.

(3) On request by the Manager, the consumer shall furnish information on water use practices within the consumer's premises. If the consumer refuses to submit the proper information or to cooperate in obtaining the proper information, the Manager shall treat the premises as if no appropriate cross-connection survey has been completed, and in such event the consumer shall be required to install an approved backflow prevention device as required in section 3-129.

(4) The Manager shall have the right to enter a premises served by the public water supply system at all reasonable times for the purpose of making surveys and investigations of water use practices within the premises. In order to inspect a premises, the Manager shall give notice setting forth a proposed date and time to the consumer at least ten days in advance. If the consumer cannot make the premises available for inspection at the proposed date and time, the consumer shall contact the Manager and arrange for another date and time for the inspection. If the Manager and the consumer cannot agree on a date and time, then the Manager shall treat the premises as if no appropriate cross-connection survey has been completed, and in such event the consumer shall be required to install an approved backflow prevention device as required in section 3-129.

(5) The Light and Power Committee is hereby appointed as a hearing board to hear differences between the Manager and the consumer on matters concerning interpretation and execution of the provisions of this ordinance by the Manager. Any consumer aggrieved by being required to pay the expense of installing, furnishing, and or maintaining a backflow prevention device may, within 14 days of the act or event causing the grievance, request a hearing in writing to present those grievances to the Hearing Board, which shall schedule the matter for hearing within 30 days and provide written notice of the meeting by first class mail to the consumer. The notice shall be mailed to the consumer at least seven days and not more than 21 days before the hearing. At the hearing, the consumer shall first state the nature of the grievance and the Manager shall be entitled to respond thereto, whereupon the Hearing Board shall render its decision, which will be binding upon the consumer and the Manager.

§3-129 BACKFLOW/BACKSIPHONAGE PREVENTION; WHERE PROTECTION IS REQUIRED.

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

(2) An approved backflow prevention device shall be installed when the following conditions are found by the Manager to exist:

(a) Premises on which any substance is handled in such a fashion as to create an actual or potential hazard to public water supply system. This shall include premises having sources or systems containing process fluids or waters originating from a public water supply system which are no longer under the sanitary control of the owner;

(b) Premises having internal cross-connections that, in the judgment of the Manager, are not correctable, or there exist intricate plumbing arrangements which make it impracticable to determine whether or not cross-connections exist.

(c) Premises where, because of security requirements or other prohibitions or restrictions, it is impossible or impractical to make a complete cross-connection survey;

(d) Premises having a repeated history of cross-connections being established or re-established;

(e) Premises having more than one customer service connection which could constitute a potential cross-connection.

(3) An approved backflow prevention device shall be installed on each service line to a customer's water supply system serving the following types of facilities.

- (a) Hospitals, mortuaries, dental clinics, nursing and convalescent homes, medical buildings;
- (b) Testing laboratories, film laboratories, film development facilities; pumping stations;
- (c) Sewage treatment plants, sewage pumping stations, or storm water pumping stations;
- (d) Food or beverage processing plants;
- (e) Chemical plants;
- (f) Metal de-greasing, plating industries, machine tool plants, dye and metal processing or productions;
- (g) Chemical and petroleum processing or storage plants;
- (h) Car washes, automobile servicing facilities;
- (i) Lawn irrigation systems and swimming pools;
- (j) Laundries and dry cleaners;
- (k) Packing houses;
- (l) Power plants;
- (m) Premises having radioactive materials such as laboratories, industries, hospitals;
- (n) Rendering plants;
- (o) Premises having water recirculating systems as used for boilers or cooling systems;
- (p) Veterinary establishments, kennels, feed yards, stables, rodeo grounds, stockyards, pet grooming salons;
- (q) Beauty salons, barbershops, massage parlors, health clubs;
- (r) Fire suppression systems;
- (s) Multi-storied buildings greater than three stories in height;
- (t) Schools, universities, colleges;

- (u) Other commercial or industrial facilities which may constitute potential cross-connection sites.

§3-130 BACKFLOW/BACKSIPHONAGE PREVENTION; TYPE OF PROTECTION REQUIRED.

(1) The type of protection required under section 3-129(1) and 3-129(2) of this Article shall depend on the degree of hazard that exists as follows:

(a) An approved air gap separation or an approved reduced pressure principle backflow prevention device shall be installed where a public water supply system may be contaminated with any substance that could cause a system hazard or health hazard;

(b) An approved double check valve assembly shall be installed where a public water supply system may be contaminated with any substance that could cause a pollution hazard;

(c) An approved reduced pressure principle backflow prevention device shall be installed at the service connection where there exists a plumbing hazard;

(d) In the case of any premises where, because of security requirements or other prohibitions, it is impossible or impractical to make a complete cross-connection survey of the consumer's potable water system, a reduced pressure principle backflow prevention device shall be installed at the service connection.

(2) An approved anti-siphon vacuum breaker may be used as a backflow prevention device where it is not subjected to back pressures. This device shall not be used for applications where water flow is expected to be continuous for 12 or more hours. The device shall be installed ahead of the potential source of contamination on the discharge side of the last control valve. It shall be placed at least 18" above the highest point reached by any water passing through the potential source of contamination. Typically this type of device is used for such equipment as lawn sprinklers, water-cooled compressors, or other water-cooled equipment.

§3-131 BACKFLOW/BACKSIPHONAGE PREVENTION; BACKFLOW PREVENTION DEVICES.

(1) Any approved backflow prevention device required by section 3-129 shall be installed at a location and in a manner approved by the Manager. The consumer, at his sole expense, shall obtain and install said approved backflow prevention device within 90 days of notice and as directed by the Manager.

(2) All backflow and backsiphonage protection devices equipped with test ports shall be tested as often as required by the Manager, but at least once each year by a backflow preventer test and repair technician certified by the Department of Health, with test results certified immediately to the Manager.

(3) Existing backflow prevention devices approved by the Manager prior to the effective date of this rule and which are properly maintained shall, except for inspection, testing, and maintenance requirements, be excluded from the requirements of section

3-131(1), but only if the Manager determines that the devices will satisfactorily protect the public water supply system. One-hundred-percent-closing shutoff ball valves for testing shall be provided on existing backflow prevention devices if deemed necessary for proper testing by the Manager. If deemed necessary by the Manager that an existing backflow prevention device requires replacement, it shall be replaced with an approved backflow prevention device.

§3-132 BACKFLOW/BACKSIPHONAGE PREVENTION; BOOSTER PUMPS.

No person shall install or maintain a water service connection to any premises where a booster pump has been installed on the service line to or within such premises, unless such booster pump is equipped with a low pressure 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 water customer to maintain the low pressure cut-off device in proper working order.

§3-133 BACKFLOW/BACKSIPHONAGE PREVENTION; YARD HYDRANTS.

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

§3-134 BACKFLOW/BACKSIPHONAGE PREVENTION; FIRE SUPPRESSION SYSTEM.

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

(2) All fire suppression systems as a minimum shall be equipped with backflow prevention devices as described in American Water Works Association (AWWA) Manual, M-14, Second Edition. Backflow preventers connected to fire suppression systems shall be considered part of those systems. As such, they shall not be installed, moved, removed, replaced, shut off or in any way altered unless in strict compliance with the rules and regulations promulgated by the Nebraska State Fire Marshal.

(3) All proposed fire suppression systems requiring an anti-freeze solution shall use pharmaceutical grade anti-freeze. The consumer shall provide to the manager a certification identifying the type of pharmaceutical grade anti-freeze which shall be used. A double check valve backflow prevention device shall be installed in an approved manner.

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

(5) All existing fire suppression systems shall meet the requirements of subsections (3) and (4) above, whichever applies. An inspection by a certified fire suppression

specialist shall be done to determine whether pharmaceutical grade anti-freeze(s) have been utilized. This shall be done at the expense of the consumer. If it cannot be certified that only pharmaceutical grade anti-freezes have been used, then a reduced pressure principle backflow prevention device shall be installed as approved by the Manager. This also shall be done at the expense of the consumer.

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

§3-135 BACKFLOW/BACKSIPHONAGE PREVENTION; VIOLATIONS.

(1) The Manager shall deny or discontinue, after notice to the consumer thereof, the water service to any premises wherein:

(a) Any backflow prevention device required by these regulations is not installed or maintained in a manner acceptable to the Manager;

(b) It is found that the backflow prevention device has been removed or bypassed:

(c) An unprotected cross-connection exists on the premises;

(d) A low pressure cut-off required by section 3-132 is not installed and maintained in working order; or

(e) The Manager is denied entry to determine compliance with these regulations.

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

(3) Water service to such premises shall not be restored until the consumer has corrected or eliminated such conditions or defects in conformance with these regulations and to the satisfaction of the Manager.

§3-136 BACKFLOW/BACKSIPHONAGE PREVENTION; APPROVAL STANDARDS.

(1) Any backflow prevention device required herein shall be of a model and size approved by the Manager. The term "approved backflow prevention device" shall mean a device that has been manufactured in full conformance with the standards established by the American Water Works Associations (AWWA) entitled: *AWWA C506-69 Standards for Reduced Pressure Principle and Double Check Valve Backflow Prevention Devices* and by the American Society of Sanitary Engineers (ASSE) entitled:

- No. 1001 Pipe Applied Atmospheric Type Vacuum Breakers - ANSI Approved - 1982 - Revised, 1988
- No. 1011 Hose Connection Vacuum Breakers - ANSI Approved 1982
- No. 1012 Backflow Preventer/Intermediate Atmospheric Vent - 1978
- No. 1013 Reduced Pressure Principle Backflow Preventer Revised 1988
- No. 1015 Double Check Backflow Prevention Assembly Revised 1988
- No. 1019 Wall Hydrants, Freezeless, Automatic Draining, Anti-Backflow Types - ANSI Approved 1978
- No. 1020 Vacuum Breakers, Anti-Siphon, Pressure Type – ANSI Approved 1982
- No. 1024 Dual Check Valve Type Backflow Preventers – ANSI Approved 1984 - Revised 1988
- No. 1032 Dual Check Valve Type Backflow Preventer for Carbonated Beverage Dispensers – 1980
- No. 1035 Laboratory Faucet Vacuum Breakers ANSI Approved 1984
- No. 1048 Double Check Detector Assembly Backflow Preventer - 1989

Said standards and specifications have been adopted by the Manager. Final approval shall be evidenced by a "certificate of approval" issued by an approved testing laboratory certifying full compliance with said standards and specifications.

(2) The Manager shall keep a current list of all certified suppliers and their appropriate list of makes and models of backflow prevention devices which the Manager has deemed approved.

(3) The Manager shall require a strainer of approved type and size to be installed in conjunction with required backflow prevention devices. The installation of strainers shall preclude the fouling of backflow device(s) due to foreseen and unforeseen circumstances occurring to the water main repairs, water main breaks, fires, periodic cleaning and flushing of mains. Such occurrences may cause debris such as scale deposits and sand to flush through the mains, causing fouling of backflow devices.

§3-137 BACKFLOW/BACKSIPHONAGE PREVENTION; LIABILITY CLAIMS.

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

§3-138 WATER EMERGENCY.

The Water Superintendent or his or her authorized representative may declare a water emergency. No person shall use water furnished by the City for the purposes of watering lawns, gardens, trees or shrubs during a declared water emergency. The water emergency declaration may restrict additional water uses as necessitated by the severity of the water emergency. The water use restrictions shall apply city-wide. (Ord. No. 2000-002, 4/10/00)

§3-139 WATER EMERGENCY RESTRICTION; ALTERNATE DAYS.

(1) All city water customers whose street address ends in an even number may use city water upon their premises for the purpose of watering lawns, gardens, trees or shrubs on even-numbered days of the week only, with the exception of the time period between 12:00 o'clock p.m. and 6:00 o'clock p.m., for which watering shall not be authorized; and

(2) All city water customers whose street address ends in an odd number may use city water upon their premises for the purpose of watering lawns, gardens, trees or shrubs on odd-numbered days of the week only, with the exception of the time period between 12:00 o'clock p.m. and 6:00 o'clock p.m., for which watering shall not be authorized.

(Ord. No. 299, 9/11/95; 2012-003, 7/9/12)

§3-140 WATER EMERGENCY; VIOLATION; PENALTY.

Violations of sections 3-138 and 3-139 of this Code shall constitute an offense, and upon conviction thereof shall be punishable by the general penalty provision found at section 3-1001 of this Code. (Ord. No. 299, 9/11/95) (Am. by Ord. No. 2000-002, 4/10/00)

§3-141 DRILLING OR INSTALLATION OF OTHER FACILITIES WITHIN DESIGNATED DISTANCES FROM MUNICIPAL WATER SOURCES.

(1) Under no circumstances shall the City Council approve any permit to drill or operate any of the following described facilities within the indicated number of feet from any city water well:

<i>Use or Facility</i>	<i>Distance From Well</i>
Potable water well	1,000 feet
Any other well	1,000 feet
Sewage lagoon	1,000 feet
Absorption or disposal field for water	500 feet
Cesspool	500 feet
Dumping grounds	500 feet
Feedlot or feedlot runoff	500 feet
Livestock pasture or corral	500 feet
Chemical product storage facility	500 feet
Petroleum product storage facility	500 feet
Pit toilet	500 feet
Sanitary landfill (solid waste facility)	500 feet
Septic tank	500 feet
Sewage (solid waste) treatment plant	500 feet
Sewage wet well	500 feet
Sewer connection	100 feet
Sewer manhole	100 feet
Sewer line	50 feet

(2) Any violation of this section shall be deemed a nuisance and subject to the penalties and the abatement procedures outlined in sections 3-1001 and 3-1002 and

Article 2 – Sewer Department

§3-201 OPERATION AND FUNDING.

(1) The City owns and operates the city sewer system through the Water and Sewer Director.

(2) For the purpose of defraying the cost of the maintenance and repairing of any sewer or water utilities in the City, the City Council may each year levy a tax not exceeding the maximum limit prescribed by state law on the taxable value of all taxable property in the City. The revenue from the tax shall be known as the Water and Sewer Maintenance Fund and shall be used exclusively for the purpose of maintenance and repairs of the water and sewer system.

(3) The Water and Sewer Director shall have the direct management and control of the Sewer Department, shall faithfully carry out the duties of the office, and shall have the authority to adopt rules and regulations for the sanitary and efficient management of the Department subject to the supervision and review of the City Council.

(Ref. 17-149, 17-925.01 RS Neb.) (Am. by Ord. No. 98-354, 11/9/98)

§3-202 APPLICATION FOR PERMIT.

Any person wishing to connect with the sewer system shall make an application therefor to the Waste Water Superintendent, who may require any applicant to make a service deposit in such amount as set by the City Council and placed on file at the office of the City Clerk. Sewer service may not be supplied to any house or building except upon the order of the Superintendent. The Department shall not supply sewer service to any person outside the corporate limits without special permission from the City Council; provided, the entire cost of pipe and other installation charges shall be paid by such consumers. Nothing herein shall be construed to obligate the City to provide sewer service to non-residents. (Ref. 17-149, 19-2701 RS Neb.)

§3-203 SEWER CONTRACT.

The City through the City 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 City may also furnish sewer service to persons whose premises are situated outside the corporate limits of the City as and when, according to law, the City Council may see fit to do so. The rules and regulations 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 City to which said contract both parties are bound. If the customer shall violate any of the provisions of said contract or any reasonable rules and regulations that the City Council may hereafter adopt, the Waste Water Superintendent or his agent may cut off or disconnect the sewer service from the building or premises of such violation. No further connection for sewer service to said building or premises shall again be made save or except by order

of the Superintendent or his agent.

§3-204 PUBLIC SEWERS REQUIRED; 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.

§3-205 PUBLIC SEWERS REQUIRED; MANDATORY HOOKUP.

The owner of all houses, buildings, or properties used for human employment, recreation, or other purposes, situated within the City and abutting on any street, alley, or right-of-way in which there is now located or may in the future be located a public sanitary or combined sewer of the City is hereby required at his 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 90 days after date of official notice to do so, provided said public sewer is within 100 feet (30.5 meters) of the property line.

§3-206 PRIVATE SEWAGE DISPOSAL; WHEN APPLICABLE.

Where a public sanitary or combined sewer is not available under the provisions of section 3-205, 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 3-205, a direct connection shall be made to the public sewer within 90 days 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.

§3-207 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 Superintendent. The application for such permit shall be made on a form furnished by the City, which the applicant shall supplement by any plans, specifications, and other information as are deemed necessary by the Superintendent. A permit and inspection fee in a sum set by ordinance of the City Council shall be paid to the City at the time the application is filed.

§3-208 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 Superintendent. He shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for the permit shall notify the Superintendent when the work is ready for final inspection, and before any underground portions are covered. The inspection shall be made within 24 hours of the receipt of notice by the Superintendent.

§3-209 PRIVATE SEWAGE DISPOSAL SYSTEM; SPECIFICATIONS.

The type, capacities, location, and layout of a private sewage disposal system shall

comply with all recommendations of the Department of Public Health 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 10,000 square feet. No septic tank or cesspool shall be permitted to discharge to any natural outlet.

§3-210 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 City.

§3-211 DIRECT CONNECTIONS.

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

§3-212 SERVICE CONTRACTS.

Contracts for sewer service are not transferable. Any person wishing to change from one location to another shall make a new application and sign a new contract. If any customer shall move from the premises where service is furnished, or if the said premises are destroyed by fire or other casualty, he shall at once inform the Waste Water Superintendent, who shall cause the sewer service to be shut off from the said premises. If the customer should fail to give notice, he shall be charged for that period of time until the official in charge of sewers is otherwise advised of such circumstances.

§3-213 INSTALLATION PROCEDURE.

In making excavations in streets, alleys, or sidewalks for the purpose of installing pipe or making repairs, the paving, stones, and earth must be removed and deposited in a manner that will occasion the least inconvenience to the public and provide for adequate drainage. No person shall leave an excavation made in the street, alley, or sidewalk open at any time without a barricade, and during the night, warning lights. After the house sewer is laid, the public ways and property shall be restored to good condition. If the excavation in the public ways and property is left open or unfinished for a period of 24 hours or more, the Waste Water Superintendent shall have the duty to finish or correct the work, and all expenses so incurred shall be charged to the owner, occupant, or lessee of the property. All installation and repairs shall be done under the supervision and strictly in accordance with the rules, regulations, and specifications for such installation prescribed by the Waste Water Superintendent, provided that the said rules, regulations, and specifications have been reviewed and approved by the City Council.

§3-214 INSTALLATION EXPENSE.

The owner or occupant of any premises who desires to make a tap onto the City's sewer system shall pay a tap fee to the City. A lesser fee shall be charged if a tap has already been made for such premises. Such fees shall be set by the City Council and placed on file at the office of the City Clerk for public inspection during office hours. The customer shall at his or her own expense connect his or her sewer service from his or her own premises to the City's collection main. The customer shall employ a plumber, approved by the Waste Water Superintendent, who shall install the sewer service as provided herein. (Am. by Ord. Nos. 235, 6/8/92; 299, 9/11/95)

§3-215 REPAIRS AND MAINTENANCE.

The City shall repair or replace, as the case may be, all pipe constituting major sewer mains. It shall be the responsibility of the customer to repair or replace all other sewer pipe and appurtenances from the main to and including the customer's property. All replacements and repairs made by the customer shall be done in the manner and with the materials approved by the Waste Water Superintendent, provided that the same have been previously approved by the City Council.

§3-216 CLASSIFICATION.

The City Council may classify the customers of the City Sewer Department for the purpose of rental fees provided that such classifications are reasonable and do not discriminate unlawfully against any consumer or group of consumers. (Ref. 17-925.02 RS Neb.)

§3-217 FEES AND COLLECTIONS.

The City Council has the power and authority to fix the rates to be paid by the customers of the Sewer Department. All such fees shall be on file for public inspection at the office of the City Clerk. The City Clerk shall have the duty of collecting the rental fees of the customers of the Sewer Department monthly on the first day of the month. Bills shall be delinquent after the 10th day of each month. On or about the 10th day of each month, the City Clerk shall mail a delinquency notice to said delinquent customers demanding payment as provided in Section 3-401.

§3-218 OLD HOUSE SEWERS.

Old house sewers and drains may be used in connection with new buildings or new plumbing only when they are found, on examination by the Waste Water Superintendent, to conform in all respects to the requirements governing new sewers and drains. If the old work is found defective or otherwise unsatisfactory, the owner shall be notified to make the necessary changes to conform to the provisions of the City Code.

§3-219 PROHIBITED DISCHARGES; STORM WATER, SURFACE WATER, GROUNDWATER, COOLING WATER AND PROCESS WATER.

(1) 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. No person shall discharge or cause to be discharged into any sanitary sewer water from any mechanical usage, including water heat pumps and water-cooled air conditioners, other than specifically exempted industrial use, as defined in this Section.

(2) Storm water and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as combined sewers or storm sewers, or to a natural out-let approved by the Superintendent. Industrial cooling water or unpolluted process water may be discharged, on approval of the Superintendent, to a storm sewer, combined sewer, or natural outlet. The contributor of any identifiable discharge of polluted water to the sanitary sewer system shall be held responsible for reimbursing the City for such costs. The costs shall be determined by the Superintendent with the ap-

proval of the City Council. (Am. by Ord. No. 124, 4/23/84)

§3-220 HAZARDOUS AND PROHIBITED DISCHARGES; FLAMMABLE, TOXIC, CORROSIVE AND OBSTRUCTIVE SUBSTANCES; PRELIMINARY TREATMENT.

(A) No person shall discharge or cause to be discharged 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 wastewater treatment plant.

(3) Any waters or wastes having a pH lower than 5.5, or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage works.

(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, ungrounded 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 waters or wastes having:

- (a) A five-day BOD greater than 300 parts per million by weight or,
- (b) Containing more than 350 parts per million by weight of suspended solids, or
- (c) Having an average daily flow greater than 2% of the average sewage flow of the City, or
- (d) A chlorine requirement greater than demanded by normal sewage as evaluated by the City's consulting engineer shall be subject to the review of the Superintendent.

(B) Where necessary in the opinion of the Superintendent, the owner shall provide, at his expense, such preliminary treatment as may be necessary to:

- (1) Reduce the biochemical oxygen demand to 300 parts per million by weight, or
- (2) Reduce the suspended solids to 350 parts per million by weight, or
- (3) Control the quantities and rates of discharge of such waters or wastes, or
- (4) Reduce the chlorine requirement to conform to normal sewage.

(C) Plans, specifications, and other pertinent information relating to proposed

preliminary treatment facilities shall be submitted for the approval of the Superintendent and no construction of such facilities shall be commenced until said approvals are obtained in writing.

§3-221 HAZARDOUS AND PROHIBITED DISCHARGES; SPECIFIC PROHIBITIONS AS DETERMINED BY SUPERINTENDENT.

No person shall discharge or cause to be discharged the following described substances, materials, waters, or wastes if it appears likely in the opinion of the Superintendent 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 opinion as to the acceptability of these wastes, the Superintendent 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 sewage treatment plant, and other pertinent factors. The substances prohibited are:

- (1) Any liquid or vapor having a temperature higher than 150° Fahrenheit (65° C).
- (2) Any water or waste containing fats, wax, grease, or oils, whether emulsified or not, in excess of 100 mg/l or containing substances which may solidify or become viscous at temperatures between 32° and 150° F (0° and 65° C).
- (3) Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor three-fourths horsepower (0.76 hp metric) or greater shall be subject to the review and approval of the Superintendent.
- (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 at the sewage treatment works exceeds the limits established by the Superintendent 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 Superintendent as necessary, after treatment of the composite sewage, to meet the requirements of state, federal, or other public agencies of jurisdiction for 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 Superintendent in compliance with applicable state or federal regulations.
- (8) Any waters of 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 sewage treatment works.

(d) Unusual volume of flow or concentration of wastes constituting "slugs" as defined herein.

(10) Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to such degree that the sewage treatment plant effluent can-not meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

**§3-222 DISCHARGE OF HAZARDOUS AND PROHIBITED SUBSTANCES;
REJECTION, PRETREATMENT, CONTROL OF DISCHARGE RATE OR
USE FEE SURCHARGE.**

(A) 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 3-221, and which in the judgment of the Superintendent, may have a deleterious effect upon the sewage works, processes, equipment, or receiving waters, or which otherwise create a hazard to life to constitute a public nuisance, the Superintendent 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 Section 3-224.

(B) If the Superintendent permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the Superintendent, and subject to the requirements of all applicable codes, ordinances and laws.

§3-223 SPECIAL EQUIPMENT.

In the event a customer of the City Sewer Department discharges an unusually large amount of waste daily, an unusually large amount of grease or oil, or waste with an unusually high biochemical oxygen demand the Wastewater Superintendent may require the said customer to install interceptors or other preliminary treatment equipment to reduce the objectionable characteristics of the waste to within such maximum limits as he shall prescribe subject to the review of the City Council. All preliminary treatment facilities shall be purchased and maintained continuously in satisfactory and efficient operation at the customer's expense.

§3-224 HAZARDOUS AND PROHIBITED SUBSTANCES; SPECIAL EXCEPTIONS PERMITTED; USE FEE SURCHARGE.

No statement contained in this Article shall be construed as preventing any special agreement or arrangement between the City and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the City for treatment, subject to additional rental fees or other charges.

§3-225 LIEN.

In addition to all other remedies, if a customer shall for any reason remain indebted to the City for sewer service furnished, such amount due, together with any rents and charges in arrears shall be considered a delinquent sewer rent which is hereby declared to be a lien upon the real estate for which the same was furnished. The City Clerk shall notify in writing or cause to be notified in writing all owners of premises or their agents whenever their tenants or lessees are 60 days or more delinquent in the payment of sewer rent. It shall be the duty of the Utilities Superintendent on the first day of June of each year to report to the City Council a list of all unpaid accounts due for sewer service, together with a description of the premises served. The report shall be examined and if approved by the City Council shall be certified by the City Clerk to the County Clerk to be collected as a special tax in the manner provided by law. (Ref. 17-925.01 RS Neb.)

Article 3 – Electrical System

§3-301 OWNERSHIP.

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

§3-302 CONSUMER'S APPLICATION.

Every person or persons desiring electrical service must make application therefor to the Electrical Superintendent. Any applicant may be required to make a service deposit in such amount as has been set by the City Council and on file at the office of the City Clerk. Electricity may not be supplied to any house or building except upon the order of the Electrical Superintendent.

§3-303 CONTRACTS AND TERMS.

The City through its Electrical Department shall furnish electric current for light and power purposes to persons whose premises abut on any supply wire of the distribution

system and may furnish electric current to such other persons within or without its corporate limits, as and when, according to law, the City Council may see fit to do so. The making of application on the part of any applicant or the use or consumption of electric energy by present customers and the furnishing of electric service to said applicant or customer shall constitute a contract between applicant or customer and the City, to which both parties are bound. The rules, regulations, and rates for electric service hereinafter named in this Article shall be considered a part of every application hereafter made for electric service and shall be considered a part of the contract between the consumer and the Electrical Department. If any customer should violate any of the provisions of said contract or any reasonable rules and regulations that the City Council may hereafter adopt, the Electrical Superintendent or his agent shall cut off or disconnect the electric service from the building or place of such violation and no further connection of electric service for such building or place shall again be made save or except by order of the Superintendent or his agent.

§3-304 CONTRACTS; NOT TRANSFERABLE.

Contracts for electrical service are not transferable. Any person wishing to change from one location to another shall make a new application and sign a new contract. If any consumer shall sell, dispose, or remove from the premises where service is furnished in his name, or if the said premises is destroyed by fire or other casualty, he shall at once inform the Electrical Superintendent, who shall cause the electrical service to be shut off from the said premises. If the consumer should fail to give such notice, he shall be charged for all electricity used on the said premises until the Electrical Superintendent is otherwise advised of such circumstances. (Ref. 17-902 RS Neb.)

§3-305 LICENSED ELECTRICIAN.

Under no circumstances shall connections be made between the wires of the electrical distribution system of this City and the meter of the consumer except by an employee of the City or a licensed electrician authorized to do so by the Electrical Superintendent. The consumer may have wiring done by any competent licensed electrician from the meter to the points of distribution. All wiring, equipment, and apparatus shall be installed according to the electrical code duly adopted by the City. All installation shall be done under the supervision and strictly in accordance with the rules, regulations, and specifications for such installation prescribed by the Electrical Superintendent and Building Inspector, provided that such rules, regulations, and specifications have been reviewed and approved by the City Council. (Ref. 17-902 RS Neb.)

§3-306 INSTALLATION EXPENSE.

The expense of installation and equipment from the transmission line to the electrical meter shall be paid by the consumer. The cost of the electrical meter and its installation shall be paid by the City. The expense of installation and wiring from the meter to the points of distribution shall be the responsibility of the consumer. Maintenance and replacement expense shall be apportioned in the same manner. (Ref. 17-902 RS Neb.)

§3-307 METERS.

All electrical meters shall be read at least one time each month during which electrical service is used between the 19th day and the first day of the succeeding month. The City Council shall provide for the method of determining how bills shall be calculated

when a meter is in disrepair. Meter tests will be conducted by the City at the customer's request for a fee set by resolution of the City Council.

§3-308 FEES AND COLLECTIONS.

The City Council has the power and authority to fix the rates to be paid by electrical consumers for the use of electricity. All rates shall be on file for public inspection at the office of the City Clerk. The amount due from customers of the Electrical Department shall be due and payable on the first day of each month. Said amounts shall be payable at the office of the City Clerk. All electric bills shall be delinquent if not paid by the 10th day of the billing month. If the electric bill remains unpaid, service may be discontinued as provided under Section 3-401. A penalty charge of 1% per month shall be added to all delinquent bills. The Electrical Superintendent shall assess an additional fee set by resolution of the City Council and on file at the office of the City Clerk in the event the electricity is shut off for the non-payment of any electric bill to compensate the City for the additional hookup necessary to again provide electric service to the delinquent customer. (Ref. 17-902 RS Neb.)

§3-309 MINIMUM RATES; CONSUMER LIABLE.

All electrical consumers shall be liable for the minimum rate provided by resolution unless and until the consumer shall, by written order direct the Electrical Superintendent to shut off the electricity in which case he shall not be liable thereafter for electrical service until the electricity is turned on again. (Ref. 17-902 RS Neb.)

§3-310 RESTRICTED USE.

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

§3-311 BUILDING MOVING.

Should any house or building moving occur or be necessary and it becomes necessary in said work to remove or disturb any of the property or wires of the city electrical system, the same should not be done except upon written permission received from the Electrical Superintendent, who shall then order paid in advance the actual cost of moving the said wires and such cost shall be paid by the applicant prior to the moving of the building or house. All expense of removing, changing, and replacing the said wires or apparatus of the electrical system shall be paid out of the deposit made prior to moving and any surplus remaining after all expenses are paid shall be returned to the applicant. If in the course of moving the said building or house it becomes apparent that additional expense will be incurred, such additional deposit as deemed necessary may be demanded. (Also see Chapter 9, Article 2)

§3-312 TRIMMING TREES.

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

§3-313 DESTRUCTION OF PROPERTY.

It shall be unlawful for any person to willfully or carelessly break, injure, or deface any building, machinery, apparatus, fixture, attachment, or appurtenance of the city electrical system. (Ref. 28-512 RS Neb.)

§3-314 COGENERATION; PURPOSE.

In order to comply with Sections 201 and 210 of the Public Utility Regulatory Policies Act of 1978 and with the rules and regulations of the Federal Energy Regulatory Commission pertaining thereto, the following policies relating to interconnections of the electric system of the City with cogeneration and small power production facilities, rates for sales of electric energy to such facilities, and rates for purchases of electric energy from such facilities are hereby established.

§3-315 COGENERATION; DEFINITIONS.

For the purpose of this Article the following definitions will apply.

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

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

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

“Qualifying small power production facility” means a small power production facility that meets the requirements of the Federal Energy Regulatory Commission regarding ownership, fuel use, fuel efficiency, and reliability.

“Interconnection costs” means the reasonable costs of connection, switching, metering, transmission, distribution, safety provisions, and administrative costs incurred by the electric utility directly related to the installation and maintenance of the physical facilities necessary to permit interconnected operations with a qualifying facility, to the extent such costs are in excess of the corresponding costs which the electric utility would have

incurred if it had not engaged in interconnected operations, but instead generated an equivalent amount of electric energy itself or purchased an equivalent amount of electric energy or capacity from other sources. (Interconnection costs do not include any costs involved in the calculation of avoided costs.)

“Avoided costs” means the incremental costs to an electric utility of electric energy or capacity or both which, but for the purchase from qualifying facilities, such utility would generate itself or purchase from another source.

§3-316 COGENERATION; INTERCONNECTIONS WITH QUALIFYING FACILITIES.

(1) Qualifying facilities desiring to interconnect with the electric system of the City shall make application to the Department of Utilities for such interconnection. Applicants shall use such forms as are prescribed by the City and shall furnish all information requested.

(2) The City shall establish reasonable standards to be met by qualifying facilities to ensure system safety and reliability of interconnected operations. Such standards may include but shall not be limited to the following areas: power factor; voltage regulations; fault, over-current and over-under voltage protection; harmonics; synchronization; and isolation.

(3) Interconnection costs associated with the interconnection with a qualifying facility shall be paid for by such qualifying facility. Qualifying facilities shall be required to execute contractual agreements with the City before any interconnection is established.

§3-317 COGENERATION; RATES FOR SALES OF ELECTRIC ENERGY TO QUALIFYING FACILITIES.

Rates for sales of electric energy to qualifying facilities shall be those current standard rates adopted from time to time by resolution of the Mayor and City Council which apply to other customers of the utility in the same classification(s) of electric service.

§3-318 COGENERATION; RATES FOR PURCHASES OF ELECTRIC ENERGY FROM QUALIFYING FACILITIES.

(1) Rates for purchases of electric energy from qualifying facilities shall be established by resolution of the Mayor and City Council. Such rates shall be just and reasonable to the electric consumer of the utility and in the public interest, shall not discriminate against qualifying cogeneration and small power production facilities, and shall be related to avoided costs; however, in no case is the utility required to pay more than the avoided costs.

(2) Standard rates shall be established for purchases from qualifying facilities with a design capacity of 100 kilowatts or less. Rates for purchases from qualifying facilities with a design capacity over 100 kilowatts may be standard rates or may be by individual contracts, the terms of which are fair and reasonable.

Article 4 – Utilities Generally

§3-401 DISCONTINUANCE OF SERVICE, NOTICE PROCEDURE.

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

(2) The notice shall contain the following information:

(a) The reason for the proposed disconnection;

(b) A statement of the intention to disconnect unless the domestic subscriber either pays the bill or reaches an agreement with the City regarding payment of the bill;

(c) The date upon which service will be disconnected if the domestic subscriber does not take appropriate action;

(d) The name, address, and telephone number of the employee or department to whom the domestic subscriber may address an inquiry or complaint;

(e) The domestic subscriber's right, prior to the disconnection date, to request a conference regarding any dispute over such proposed disconnection;

(f) A statement that the City may not disconnect service pending the conclusion of the conference;

(g) A statement to the effect that disconnection may be postponed or prevented upon presentation of a duly licensed physician's certificate which shall certify that the domestic subscriber or a resident within such subscriber's household has an existing illness or handicap which would cause such subscriber or resident to suffer an immediate and serious health hazard by the disconnection of the City's service to that household. Such certificate shall be filed with the City within five days of receiving notice under this section and will prevent the disconnection of the City's service for a period of 30 days from such filing. Only one postponement of disconnection shall be allowed under this subsection for each incidence of nonpayment of any past-due account;

(h) The cost that will be borne by the domestic subscriber for restoration of service;

(i) A statement that the domestic subscriber may arrange with the City for an installment payment plan;

(j) A statement to the effect that those domestic subscribers who are welfare

recipients may qualify for assistance in payment of their utility bill and that they should contact their caseworker in that regard; and

(k) Any additional information not inconsistent with this section which has received prior approval from the City Council.

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

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

(5) This section shall not apply to any disconnections or interruptions of services made necessary by the City for reasons of repair or maintenance or to protect the health or safety of the domestic subscriber or of the general public.

(Ref. 70-1602 et seq. RS Neb.) (Am. by Ord. No. 97-339, 7/14/97)

§3-402 DIVERSION OF SERVICES, METER TAMPERING, UNAUTHORIZED RECONNECTION, PROHIBITED; EVIDENCE.

(A) It is an offense for any person:

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

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

(3) To reconnect electrical or water service without the knowledge and consent of the City if the service has been disconnected pursuant to Neb. Rev. Stat. §70-1615 or section 3-401 of this code; or

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

(B) Proof of the existence of any wire, pipe, or conduit connection or reconnection or of any injury, alteration, interference, or obstruction of a meter is prima facie evidence of the guilt of the person in possession of the premises where such connection, reconnection, injury, alteration, interference, or obstruction is proved to exist. (Neb. RS 25-515.02) (Ord No. 2003-015, 12/8/03)

§3-403 DIVERSION OF SERVICES; CIVIL ACTION.

(A) For purposes of this section, the definitions found in Neb. Rev. Stat. §25-21, 275 shall apply.

(B) (1) The City may bring a civil action for damages against any person who commits, authorizes, solicits, aids, abets, or attempts (a) bypassing, (b) tampering, or (c) unauthorized metering when such act results in damages to a municipal utility. The City may bring a civil action for damages pursuant to this section against any person receiving the benefit of utility service through means of bypassing, tampering or unauthorized metering.

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

- (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 \$750.00 if the amount of actual damage or loss is non susceptible of reasonable calculation.

(3) In addition to damage or loss under subdivision (2)(a) or (b), the City may recover all reasonable expenses and costs incurred on account of the bypassing, tampering, or unauthorized metering including, but not limited to, disconnection, reconnection, service calls, equipment, costs of the suit, and reasonable attorneys fees in cases within the scope of Neb. Rev. Stat. §25-1801.
(Neb. RS 25-21,276)

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

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

(D) The remedies provided by this section shall be deemed to be supplemental and additional to powers conferred by existing laws. The remedies provided in this section are in addition to and not in limitation of any other civil or criminal statutory or common-law remedies. (Neb. RS 25-21,278)
(Ord. No. 2003-015, 12/8/03)

Article 5 – Fire Department

§3-501 OPERATION AND FUNDING.

The City of Battle Creek and the Rural Fire District, according to their merger agreement, operate the Fire Department through the Fire Chief and Firemen. The District for the purpose of defraying the cost of the management, maintenance, and improving the Fire Department may each year levy a tax not exceeding the maximum limits prescribed by state law on the actual valuation of all real estate and personal property within the District that is subject to taxation. The revenue from the said tax shall be known as the Fire Department Fund. The District may also enter into agreements with other Rural Fire Districts for cooperation providing mutual aid and protection for all of the residents therein. (Ref. 17-149, 17-953, 35-513, 35-518, 35-530 thru 35-536 RS Neb.)

§3-502 FIRE CHIEF.

The Fire Chief shall manage the Fire Department and it shall be his duty or the duty of the Assistant Chiefs to cause the repair, improvement, or maintenance of the equipment and shall personally supervise and approve of the same. It shall be the duty of the Fire Chief or a representative appointed by him to attend each meeting of the City Council to report on matters pertaining to the Fire Department.

§3-503 MEMBERSHIP.

(A) The Fire Department shall consist of so many members as may be decided by the City Council. The members may organize themselves in any way they may decide, subject to the review of the City Council. The Fire Chief shall appoint no more than 25 members for each Fire Department company subject to the review and approval of the City Council. All vacancies shall be filled in this manner.

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

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

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

(E) The City Council shall purchase and maintain in force a policy of group term life insurance to age 65 covering the lives of all of the City's active volunteer fire and rescue personnel, except that when any such person serves more than one municipality or rural or suburban Fire Protection District, the policy shall be purchased only by the first municipality or district which he or she serves. The policy shall provide a minimum death benefit of \$10,000.00 for death from any cause and shall, at the option of the insured, be convertible to a permanent form of life insurance at age 65. The coverage of

such policy shall terminate as to any individual who ceases to be an active volunteer member of the Fire Department. (Neb. RS 35-108)

(F) For purposes of Neb. Rev. Stat. §33-139.01, volunteer firefighters and rescue squad members testifying as witnesses in that capacity alone shall not be deemed employees of the City. (Neb. RS 33-139.01)
(Am. by Ord. Nos. 145, 11/11/85; 2004-001, 1/12/04)

§3-504 FIRES.

It shall be the duty of the Fire Department to use all proper means for the extinguishment of fires; to protect property within the district; and to secure the observance of all ordinances, laws, and other rules and regulations with respect to fires and fire prevention.

§3-505 DISTANT FIRES.

Upon the permission of the Fire Chief, such fire equipment of the Fire District as may be designated by the Board of Directors may be used beyond the district limits to extinguish reported fires.

§3-506 FIGHTING DISTANT FIRES.

The firefighters of the district shall be considered as acting in the performance and within the scope of their duties in fighting fires or saving property or life outside the district limits when directed to do so by the Chief of the Fire Department or some person authorized to act for such Chief, or pursuant to any agreement with another Rural Fire District for mutual aid and protection, and in so doing, may take such fire equipment of the Department as may be designated by the Board of Directors.

§3-507 PRESERVATION OF PROPERTY.

Any official of the District Fire Department shall have the power during the time of a fire to cause the removal of any private or public property whenever it shall become necessary to do so for the preservation of such property from fire, to prevent the spreading of fire, or to protect adjoining property. The said officials may direct the firefighters to remove any building, structure, or fence for the purpose of checking the progress of any fire, and the official in charge of the firefighting effort shall have the power to blow up or cause to be blown up with powder or otherwise any building or structure during the progress of a fire for the purpose of extinguishing or checking the same.

§3-508 HOSE TESTED.

All fire hose shall be pressure tested at least one time each year.

§3-509 INSPECTIONS.

It shall be the duty of the Fire Chief, when directed to do so by the City Council, to inspect or cause to be inspected by Fire Department officers, members, or some other official as often as may be necessary, but not less than two times a year in outlying districts and four times a year within the fire limits, all buildings, premises and public thoroughfares, except the interiors of private dwellings, for the purpose of ascertaining and

causing to be corrected any conditions liable to create a fire hazard. The inspection shall be of the (1) storage, sale and use of flammable liquids, combustibles, and explosives; (2) electric wiring and heating; (3) means and adequacy of exits, in case of fire in schools, churches, hotels, halls, theatres, factories, hospitals, and all other buildings in which numbers of persons congregate from time to time for any purpose, whether publicly or privately owned; (4) design, construction, location, installation, and operation of equipment for storing, handling, and utilizing of liquefied petroleum gases, specifying the odorization of said gases and the degree thereof and chemicals, prozolin plastics, nitrocellulose films, or any other hazardous material that may now or hereafter exist. (Ref. 81-512 RS Neb.)

§3-510 NOTICE OF VIOLATION.

Upon the finding that the City Code has been violated, the Fire Chief shall notify or cause to be notified the owner, occupant, or manager of the premises where a violation has occurred. Notice may be made personally or by delivering a copy to the premises and affixing it to the door of the main entrance of the said premises. Whenever it may be necessary to serve such an order upon the owner, such order may be served personally, or by mailing a copy to the owner's last known post office address if the said owner is absent from the jurisdiction. Any such order shall be immediately complied with by the owner, occupant, or manager of the premises or building. The owner, occupant, or manager may, within five days after such order by the Chief of the Fire Department or his agent, appeal the order with the City Council requesting a review. It shall be the duty of the City Council to hear the same within not less than five days nor more than ten days from the time when the request was filed in writing with the City Clerk. The City Council shall then affirm, modify, or rescind the said order as safety and justice may require and the decision shall then be final, subject only to any remedy which the aggrieved person may have at law or equity. The said order shall be modified or rescinded only where it is evident that reasonable safety exists and that conditions necessitate a variance due to the probable hardship in complying literally with the order of the Fire Chief. A copy of any decision so made shall be sent to both the Fire Chief and the owner, occupant, or manager making the appeal.

§3-511 IMPERSONATING FIREMEN.

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

§3-512 MANDATORY ASSISTANCE.

Any official of the City Fire Department may command the assistance and services of any person present at a fire to help in extinguishing the fire or in the removal and protection of property. In the event that a spectator refuses, neglects, or fails to assist the Fire Department after a lawful order to do so, he shall be deemed guilty of a misdemeanor.

§3-513 POWER OF ARREST.

The Fire Chief or the assistant Fire Chief shall have the power during the time of a fire

and for a period of 36 hours after its extinguishment to arrest any suspected arsonist or other person hindering or resisting the firefighting effort, or any person who conducts himself in a noisy or disorderly manner. The said officials shall be severally vested with the usual powers and authority of City Policemen to command all persons to assist the in the performance of their duties.

§3-514 FIRE INVESTIGATION.

It shall be the duty of the Fire Department to investigate or cause to be investigated, the cause, origin, and circumstances of every fire occurring in the District in which property has been destroyed or damaged in excess of \$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 days of the occurrence of such fire and the State Fire Marshal shall have the right to supervise and direct the investigation whenever he deems it expedient or necessary. The officer making the investigation of fires occurring within the District shall immediately notify the State Fire Marshal and shall, within one week of the occurrence of the fire, furnish him with a written statement of all the facts relating to the cause and origin of the fire and such further information as he may call for. (Ref. 81-506 RS Neb.)

§3-515 RESCUE UNIT.

The Fire Department may also operate a rescue unit for the benefit of those within the Fire Protection District. (Ref. 35-514.02 RS Neb.)

Article 6 – Police Department

§3-601 DUTIES.

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

§3-602 POLICE OFFICERS; DISCIPLINE OR REMOVAL FROM DUTY; NOTICE AND HEARING; DETERMINATION.

(A) No Police Officer, including the Chief of Police, shall be disciplined, suspended, demoted, removed, or discharged except upon written notice stating the reasons for such disciplinary action, suspension, demotion, removal, or discharge. Such notice shall also contain a statement informing the Police Officer of his or her right to a hearing before the City Council.

(B) Any Police Officer so disciplined, suspended, demoted, removed, or discharged may, within ten days after being notified by of such disciplinary action, suspension, demotion, and removal, or discharge, file with the City Clerk a written demand for a hearing before the City Council, which shall set the matter for hearing not less than ten nor more than 20 days after the filing of the written demand for a hearing. The City Council shall give the police officer written notice of the hearing not less than seven nor more than 14 days prior to the hearing.

(C) At the hearing, the police officer shall have the right to:

- (a) Respond in person to the charges and to present witnesses and documentary evidence;
- (b) Confront and cross-examine available adverse witnesses; and
- (c) Be represented by counsel.

(D) Not later than 30 days following the adjournment of the meeting at which the hearing was held, the City Council shall vote to uphold, reverse, or modify the disciplinary action, suspension, demotion, removal, or discharge. The failure of the City Council to act within 30 days or the failure of a majority of the elected council members to vote to reverse or modify the disciplinary action, suspension, demotion, removal, or discharge shall be construed as a vote to uphold the disciplinary action, suspension, demotion, removal, or discharge. The decision of the City Council shall be based upon its determination that, under the facts and evidence presented at the hearing, the challenged disciplinary action, suspension, demotion, removal, or discharge was necessary for the proper management and the effective operation of the Police Department in the performance of its duties under the state statutes.

(E) Nothing in this section shall be construed to prevent the preemptory suspension or immediate removal from duty of an officer, pending the hearing authorized by this section, in cases of gross misconduct, neglect of duty, or disobedience of orders. (Ref. 17-107 RS Neb.) (Ord. No. 96-307, 3/11/96)

§3-603 ARREST ENFORCEMENT JURISDICTION.

(A) Every city law enforcement officer has the power and authority to enforce the laws of this state and the City or otherwise perform the functions of that office anywhere within his or her primary jurisdiction. "Primary jurisdiction" means the geographic area within territorial limits of the City.

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

laws or performing the functions within his or her primary jurisdiction in the following cases:

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

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

(3) Any city law enforcement officer has such enforcement and arrest and detention authority when responding to a call in which a local, state, or federal law enforcement officer is in need of assistance. A "law enforcement officer in need of assistance" shall mean:

(a) A law enforcement officer whose life is in danger; or

(b) A law enforcement officer who needs assistance in making an arrest and the suspect (i) will not be apprehended unless immediately arrested; (ii) may cause injury to himself or herself or others or damage to property unless immediately arrested; or (iii) may destroy or conceal evidence of the commission of a crime; and

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

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

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

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

(3) With respect to such person, perform other procedures or functions outside of the law enforcement officer's primary jurisdiction which are directly and solely

related to enforcing the laws that concern a person operating or being in the actual physical control of any motor vehicle, motorboat, or aircraft while under the influence of alcoholic liquor or of any other drug or otherwise in violation of Neb. Rev. Stat. §28-1465, 28-1466, 28-1472, 37-1254.01, 37-1254.02, 60-4,163, 60-4,164, 60-6,196, 60-6,197, 60-6,211.01, or 60-6,211.02. (Neb. RS 29-215)

(D) If city law enforcement personnel are rendering aid in their law enforcement capacity outside the limits of the City in the event of disaster, emergency, or civil defense emergency or in connection with any program of practice or training for such disaster, emergency, or civil defense emergency when such program is conducted or participated in by the Nebraska Emergency Management Agency or with any other related training program, the law enforcement personnel have the power and authority to enforce the laws of this state or any legal ordinances or resolutions of the local government where they are rendering aid or otherwise perform the functions of their office, including the authority to arrest and detain suspects, as if enforcing the laws or performing the functions within their primary jurisdiction. The City shall self-insure or contract for insurance against any liability for personal injuries or property damage that may be incurred by it or by its personnel as the result of any movement made pursuant to this division. (Neb. RS 81-829.65)

(Ord. No. 285, 3/13/95) (Am. by Ord. Nos. 98-355, 11/9/98; 2004-001, 1/12/04)

Article 7 – Parks Department

§3-701 OPERATION AND FUNDING.

The City owns and operates the city parks and other recreational areas through the Park Superintendent. The City Council, for the purpose of defraying the cost of the care, management, and maintenance of the city 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 City Treasurer. The Superintendent shall have the authority to adopt rules and regulations for the efficient management of the city parks and other recreational areas of the City. The Superintendent shall not enter into a contract of any nature which involves an expenditure of funds, except for ordinary operating expenses, unless the contract has been approved by resolution of the majority of the City Council prior to the contractual agreement. (Ref. 17-948 through 17-952 RS Neb.)

§3-702 INJURY TO PROPERTY; LITTERING.

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 city parks and recreational areas. No person shall commit any waste on or litter the city parks or other public grounds.

Article 8 – Swimming Pool

§3-801 OPERATION AND FUNDING.

The City owns and manages the city swimming pool. The City Council, 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 City 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 City Treasurer. The Park Superintendent shall manage the swimming pool. The Superintendent shall have the power and authority to hire and supervise the Swimming Pool Manager and such employees as may be deemed necessary and shall pass such rules and regulations for the operation of the swimming pool as may be proper for its efficient operation. All actions by the Superintendent shall be under the supervision and control of the City Council. (Ref. 17-948, 17-951, 17-952 RS Neb.)

§3-802 ADMISSION CHARGE.

The City Council may, for the purpose of defraying the expenses involved in maintaining, improving, managing, and beautifying the swimming pool, make a reasonable admission charge for its use by any person. The said charges shall be on file at the office of the City Clerk and shall also be posted in a conspicuous place at the swimming pool for public inspection. Such rates may be structured for classes of persons in a reasonable manner; provided, 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.)

§3-803 RENTALS.

The Park Superintendent shall have the authority to rent the swimming pool to such organizations and other persons as he may see fit, subject to the review of the City Council. The Superintendent shall prescribe rules and regulations for such rentals and shall require an appropriate number of qualified lifeguards to be in attendance during the rental period. Rental fees shall be set by the City Council and shall be on file at the office of the City Clerk and posted in a conspicuous place at the swimming pool. (Ref. 17-949 RS Neb.)

§3-804 RULES AND REGULATIONS.

The Park Superintendent shall have the power and authority to enact bylaws, rules, and regulations for the protection of those using the swimming pool and for the efficient management thereof. He may provide suitable penalties for the violation of such bylaws, rules, and regulations subject to the review and supervision of the City Council. (Ref. 17-949 RS Neb.)

Article 9 – Library

§3-901 OPERATION AND FUNDING.

(A) The City owns and manages the city library through the Library Board.

(B) The City Council, for the purpose of defraying the cost of the management, purchases, improvements, and maintenance of the library may each year levy a tax not exceeding the maximum limit prescribed by state law on the taxable value of all the taxable property within the City. The amount collected from the levy shall be known as the Library Fund. (Ref 51-201 RS Neb)

(C) The Fund shall also 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 city library.

(D) All taxes levied or collected and all funds donated or in any way acquired for the erection, maintenance, or support of the city library shall be kept for the use of the library separate and apart from all other funds of the City, shall be drawn upon and paid out by the City Treasurer upon vouchers signed by the President of the Library Board and authenticated by the Secretary, and shall not be used or disbursed for any other purpose or in any other manner. The City Council may establish a public library sinking fund for major capital expenditures. (Ref. 51-209 RS Neb.)

(E) Any money collected by the library shall be turned over monthly by the Librarian to the City Treasurer along with a report of the sources of the revenue. (Am. by Ord. No. 2002-024, 10/16/02)

§3-902 through §3-906 (Repealed)

§3-907 IMPROPER BOOK REMOVAL.

It shall be unlawful for any person not authorized by the regulations made by the Library Board to take a book or any other material from the library without the consent of the Librarian or an authorized employee of the library. Any person removing a book or other material from the library without properly checking it out shall be deemed to be guilty of an offense. (Am. by Ord. No. 2002-024, 10/16/02)

§3-908 COST OF USE.

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

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

(C) For purposes of this section:

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

(2) "Non-basic services" shall include, but not be limited to, use of:

- (a) Photocopying equipment;
- (b) Telephones, facsimile equipment, and other telecommunications equipment;
- (c) Media equipment;
- (d) Personal computers; and
- (e) Videocassette recording and playing equipment.

(Ref. 51-201.01 RS Neb.) (Am. by Ord. No. 2002-024, 10/16/02)

§3-909 (Repealed)

§3-910 LIBRARY BOARD; GENERAL POWERS AND DUTIES.

(A) The Library Board shall have the power to make and adopt such bylaws, rules, and regulations for its own guidance and for the government of the library and reading room as it may deem expedient, not inconsistent with Neb. Rev. Stat. §51-201 through 51-219. (Ref. 51-205 RS Neb.)

(B) The Library Board shall have exclusive control of expenditure of all money collected or donated to the credit of the Library Fund, of the renting and construction of any library building, and the supervision, care, and custody of the grounds, rooms, or buildings constructed, leased, or set apart for that purpose. (Ref. 51-207 RS Neb.)

(C) The Library Board shall have the power to appoint a suitable Librarian and assistants, to fix their compensation, and to remove such appointees at pleasure. It shall have the power to establish rules and regulations for the government of the library as may be deemed necessary for its preservation and to maintain its usefulness and efficiency. It shall have the power to fix and impose, by general rules, penalties and forfeitures for trespasses upon or injury to the library grounds, rooms, books, or other property, for failure to return any book, or for violation of any bylaw, rule, or regulation. The Board shall have and exercise such power as may be necessary to carry out the spirit and intent of Neb. Rev. Stat. §51-201 through 51-219 in establishing and maintaining the library and reading room. (Ref. 51-211 RS Neb.) (Ord. No. 2002-024, 10/16/02)

§3-911 GROUNDS AND BUILDING.

(A) The Library Board may purchase or lease grounds, exercise the power of eminent domain, and condemn real estate for the purpose of securing a site for a library building. The procedure to condemn property shall be exercised in the manner set forth in Neb. Rev. Stat. §76-704 through 76-724. (Ref. 51-210 RS Neb.)

(B) The Board may erect, lease, or occupy an appropriate building for the use of the library. (Ref. 51-211 RS Neb.)
(Ord. No. 2002-024, 10/16/02)

§3-912 SALE AND CONVEYANCE OF REAL ESTATE.

The Library Board may, by resolution, direct the sale and conveyance of any real estate owned by the Board or by the city library, which is not used for library purposes, or of any real estate so donated or devised to the Board or to the library upon such terms as the Board may deem best and as otherwise provided in Neb. Rev. Stat. §51-216. (Ref.

§3-913 MORTGAGES; RELEASE OR RENEWAL.

The President of the Library Board shall have the power to release, upon full payment, any mortgage constituting a credit to the Library Fund and standing in the name of the Library Board. The signature of the President on any such release shall be authenticated by the Secretary of the Board. The President and Secretary in like manner, upon resolution duly passed and adopted by the Board, may renew any such mortgage. (Ref. 51-206 RS Neb.) (Ord. No. 2002-024, 10/16/02)

§3-914 DISCRIMINATION PROHIBITED.

No library service shall be denied to any person because of race, sex, religion, age, color, national origin, ancestry, physical handicap, or marital status. (Ref. 51-211 RS Neb.) (Ord. No. 2002-024, 10/16/02)

§3-915 LIBRARY BOARD; ANNUAL REPORT.

The Library Board shall, on or before the second Monday in February in each year, make a report to the City Council of the condition of its trust on the last day of the prior fiscal year. The report shall show all money received and credited or expended; the number of materials held, including books, video and audio materials, software programs, and materials in other formats; the number of periodical subscriptions on record, including newspapers; the number of materials added and the number withdrawn from the collection during the year; the number of materials circulated during the year; and other statistics, information, and suggestions as the Library Board may deem of general interest or as the City Council may require. The report shall be verified by affidavit of the President and Secretary of the Library Board. (Neb. RS 51-213) (Am. by Ord. Nos. 2002-024, 10/16/02; 2005-003, 5/9/05)

§3-916 DONATIONS.

Any person may make donation of money, lands, or other property for the benefit of the city library. The title to property so donated may be made to and shall vest in the Library Board members and their successors in office, and the Board shall thereby become the owners thereof in trust to the uses of the city library. (Ref. 51-215 RS Neb.) (Ord. No. 2002-024, 10/16/02)

§3-917 PENALTIES IMPOSED.

Penalties imposed or accruing under any bylaw, rule or regulation adopted by the Library Board or City Council may be recovered in a civil action before any court having jurisdiction thereof. Such action shall be instituted and maintained in the name of the City. This remedy shall be in addition to that provided in section 3-918. (Ref. 51-214 RS Neb.) (Ord. No. 2002-04, 10/16/02) (Am. by Ord. No. 2006-003, 3/13/06)

§3-918 UNLAWFUL CONDUCT.

It shall be unlawful for any person to take or retain possession beyond the due date of, or to remove from the city library building, in violation of any bylaw, rule or regulation adopted by the Library Board or City Council for the protection and government of the city library or in violation of any agreement entered into by any person concerning utili-

zation of the library, or to willfully and maliciously write upon, deface, injure or destroy any book, periodical, record, film or other property owned by, or in custody of, the library. Any person who shall violate the terms of any agreement concerning utilization of the library, or who unlawfully takes or retains possession beyond the due date of, or removes from the public library building, writes upon, defaces, injures or destroys any book, periodical, record, film or other property owned by or in the custody of the public library, shall be guilty of an offense. (Ord. No. 2006-003, 3/13/06)

Article 10 – Penal Provisions

§3-1001 VIOLATION; PENALTY.

Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this Chapter, set forth at full length herein or incorporated by reference shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be fined not more than \$500.00 for each offense. A new violation shall be deemed to have been committed every 24 hours of such failure to comply. (Am. by Ord. No. 2009-007, 6/8/09)

§3-1002 ABATEMENT OF NUISANCE.

Whenever a nuisance exists as defined in this Chapter, the City may proceed by a suit in equity to enjoin and abate the same, in the manner provided by law. Whenever in any action it is established that a nuisance exists, the court may, together with the fine or penalty imposed, enter an order of abatement as a part of the judgment in the case. (Ref. 18-1720, 18-1722 RS Neb.)