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CHAPTER 50: GENERAL PROVISIONS

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UTILITIES GENERALLY

§ 50.01 DISCONTINUANCE OF SERVICE; NOTICE PROCEDURE.

(A) The municipality 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.

(1) Before any termination, the municipality shall first give notice by first class mail or in person to any domestic subscriber whose service is proposed to be terminated.

(2) If notice is given by first-class mail, such mail shall be conspicuously marked as to its importance.

(3) Service shall not be discontinued for at least seven days, weekends and holidays excluded, after notice is sent or given.

(4) As to any subscriber who has previously been identified as a welfare recipient to the municipality by the Department of Health and Human Services, such notice shall be by certified mail and notice of such proposed termination shall be given to the Department of Health and Human Services.

(B) The notice shall contain the following information:

- (1) The reason for the proposed disconnection;
- (2) A statement of the intention to disconnect unless the domestic subscriber either pays the bill or reaches an agreement with the municipality regarding payment of the bill;
- (3) The date upon which service will be disconnected if the domestic subscriber does not take appropriate action;
- (4) The name, address and telephone number of the employee or department to whom the domestic subscriber may address an inquiry or complaint;
- (5) The domestic subscriber's right, prior to the disconnection date, to request a conference regarding any dispute over such proposed disconnection;
- (6) A statement that the municipality may not disconnect service pending the conclusion of the conference;
- (7) A statement to the effect that disconnection may be postponed or prevented upon presentation of a duly licensed physician's certificate which shall certify that the domestic subscriber or 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 municipality's service to that household. Such certificate shall be filed with the municipality within five days of receiving notice under this section and will prevent the disconnection of the municipality's service for a period of 30 days from such filing. Only one postponement of disconnection shall be allowed under this division (B)(7) for each incidence of nonpayment of any past-due account;
- (8) The cost that will be borne by the domestic subscriber for restoration of service;
- (9) A statement that the domestic subscriber may arrange with the municipality for an installment payment plan;
- (10) A statement to the effect that those domestic subscribers who are welfare recipients may qualify for assistance in payment of their utility bill and that they should contact their caseworker in that regard; and
- (11) Any additional information not inconsistent with this section which has received prior approval from the governing body.

(C) A domestic subscriber may dispute the proposed discontinuance of service by notifying the municipality 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 municipality may discontinue services.

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

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

(1993 Code, § 3-401) (Ord. 07-017-16, passed 7-1-1997)

Statutory reference:

Related provisions, see Neb. RS 70-1602 et seq.

§ 50.02 DIVERSION OF SERVICES; PENALTY.

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

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

(1) The amount of actual damage or loss if the amount of the damage or loss is susceptible of reasonable calculation; or

(2) Liquidated damages of \$750 if the amount of actual damage or loss is not susceptible of reasonable calculation.

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

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

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

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

(1993 Code, § 3-402)

Statutory reference:

Related provisions, see Neb. RS 25-21,275 through 25-21,278

§ 50.03 LIEN.

In addition to all other remedies, if a customer shall for any reason remain indebted to the municipality for utilities service furnished, such amount due, together with any rents and charges in arrears shall be considered a delinquent utility rent which is hereby declared to be a lien upon the real estate for which the same was furnished. The Municipal Clerk shall notify in writing or cause to be notified in writing, all owners of premises or their agents whenever their tenants or lessees are 60 days or more delinquent in the payment of the utilities rent. It shall be the duty of the Municipal Clerk to report to the governing body a list of all unpaid accounts due for utilities service together with a description of the premises served. The report shall be examined, and if approved by the governing body, shall be certified by the Municipal Clerk to the County Clerk to be collected as a special tax in the manner provided by law.

(1993 Code, § 3-403)

Statutory reference:

Related provisions, see Neb. RS 17-538, 17-925.01, 18-503

§ 50.04 DENIAL OF SERVICE FOR NONPAYMENT.

Whenever a utility customer of the city has unpaid utility statements and applies for service at a new address or reapplies for service at the same address, service shall not be extended to said utility customer until all outstanding charges for utilities have been paid in addition to account deposit requirements or any other requirements of the municipal utility with the exception that no applicant for utility services shall be denied service for unpaid bills for similar utility service which are not collectible at law because of statutes of limitations or discharge in bankruptcy proceedings.

(Ord. 02-187-1, passed 2-18-1997)

Statutory reference:

Related provisions, see Neb. RS 70-1601

§ 50.05 MONTHLY DATES FOR UTILITY PAYMENTS; DELINQUENT CUSTOMER ACCOUNTS; DISCONNECTION OF UTILITIES POLICY.

(A) The City of Alma shall send its customers their utility bill for gas, sewer and water and solid waste service around the 1st of each month. The bill shall be due upon receipt and is delinquent after the close of business on the 15th of the month unless the 15th day of the month is on a weekend, legal holiday or on another day when the City Office is not open for business, in which event the payment will be due on the next day that the City Office is open for business. If payment is not received before it becomes delinquent, the City shall apply a 10% late charge and mail the customer a disconnect notice by first class mail. The disconnect notice shall state the customer will have their utilities discontinued in (7) business days. Within one to two (1-2) days prior to the end of this seven-day period, the City shall hang a final notice on the customer's door. The City shall assess a fee of \$25 to hang this notice or if customer requests to make payment arrangements. If payment is still not received at the end of those seven days, the City shall physically disconnect the service.

(B) If City Utility service is disconnected for delinquent payment, service shall not be reconnected or restarted until all delinquent charges have been paid in full and the City shall apply a reconnection fee of \$75 to first-time disconnects due to non-payment and a reconnection fee of \$150 for second and subsequent disconnects due to non-payment. Customers with their service disconnected due to non-payment shall arrange for reconnection by 3:00 p.m. on regular business days. The time required for reconnection and testing for gas leaks will require overtime by employees if started after 3:00 p.m. If reconnection starts after 3:00 p.m. on regular business days or anytime on weekends, the city shall assess an additional fee of \$75 to compensate the City for such overtime.

(Ord. 2016-10, passed 8-15-16; Ord. 2013-14, passed 2-6-2013; Ord. 2014-6, passed 10-16-2013)

§ 50.99 PENALTY.

Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this chapter, set forth at full length herein or incorporated by reference shall be deemed guilty of an offense and, upon conviction thereof, shall be fined not more than \$500 for each offense. A new violation shall be deemed to have been committed every 24 hours of such failure to comply.

(1993 Code, § 3-901) (Ord. 10-0708-2, passed 10-7-2008)

CHAPTER 51: SOLID WASTE; GARBAGE DISPOSAL

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- 51.02 Garbage, trash and waste
- 51.03 Dead animals
- 51.04 Burning prohibited
- 51.05 Collection
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- 51.14 Hazardous items and items requiring special handling or disposal
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§ 51.01 DEFINITIONS.

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

GARBAGE. Kitchen refuse, decayed waste, dead animals or anything that may decompose and become offensive to the public health.
(1993 Code, § 4-301)

HAZARDOUS WASTE. A solid or liquid waste, or combination of solid and liquid wastes, which because of its quantity, concentration or physical, chemical or infectious characteristics may cause or

significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitated reversible, illness or pose a substantial present or potential hazard to human or animal health or the environment when improperly treated, stored, transported, disposed of or otherwise managed.
(1993 Code, § 4-307)

RUBBISH or TRASH. Discarded machinery, chips, pieces of wood, sticks, dead trees; branches, bottles, broken glass, crockery, tin cans, boxes, papers, rags or any other litter or debris that is not an immediate hazard to the health of the residents of the municipality.
(1993 Code, § 4-302)

SOLID WASTE. All garbage, trash, rubbish or refuse commonly generated by residential, commercial, institutional or governmental activities.
(1993 Code, § 4-307)

WASTE. Cinders, ashes, plaster, brick, stone, sawdust or sand.
(1993 Code, § 4-303)

§ 51.02 GARBAGE, TRASH AND WASTE.

It shall be unlawful for any person to keep in, on or about any dwelling, building or premise, or any other place in the municipality, decayed vegetable or animal substance, garbage or refuse matter of any kind that may be injurious to the public health or offensive to the residents of the municipality unless the same is kept in receptacles provided by the contracted garbage hauler for the city. It shall be unlawful to throw or sweep into the streets, alleys, parks or other public grounds any dirt, paper, nails, pieces of glass, refuse, waste or rubbish of any kind. No person may permit garbage, rubbish, waste or refuse to collect and all persons shall remove the same from their property within 24 hours after being notified to do so by the Municipal Police Chief, or the County Sheriff in the event that the city has contracted for police service from the County Sheriff's office, who shall represent the Board of Health. Any person having garbage, rubbish, waste or refuse that is subject to decay or fermentation within a short period of time shall be required to place the same in a receptacle provided by the garbage hauler under contract with the municipality.

(1993 Code, § 4-304) Penalty, see § 51.99

Statutory reference:

Related provisions, see Neb. RS 19-2106

§ 51.03 DEAD ANIMALS.

All dead animals shall be immediately removed by the owner of such animals; and if the owner of such animal cannot be found within two hours after discovering the same, then such animal shall be

removed by and at the expense of the municipality. Dead animals shall be disposed of consistent with the provisions of § 51.10.

(1993 Code, § 4-305) Penalty, see § 51.99

§ 51.04 BURNING PROHIBITED.

No person shall burn trash, garbage, leaves, brush or any other solid waste of any kind out of doors within the city limits of the city.

(1993 Code, § 4-306) Penalty, see § 51.99

§ 51.05 COLLECTION.

The city shall provide for the collection and disposal of non-hazardous solid wastes from residential, commercial, institutional and governmental premises within the municipal limits of the city. Such wastes shall be collected on a regularly scheduled basis and shall be disposed of only in a licensed landfill facility which meets all state and federal criteria.

(1993 Code, § 4-308) Penalty, see § 51.99

§ 51.06 COLLECTION EQUIPMENT REQUIRED.

Solid waste shall be collected only in vehicles equipped with a trash bed constructed of substantial metal material, and such bed shall be completely enclosed. The body and bed of any vehicle used in the collection or transportation of solid wastes shall be maintained in a clean and odor-free condition. Before any person, firm or corporation may engage in the business of collecting, hauling or transporting non-hazardous solid waste within the city, they shall demonstrate to the Mayor and Council that they currently own or have made proper provision for all required equipment.

(1993 Code, § 4-309) Penalty, see § 51.99

§ 51.07 CONTRACTS FOR SERVICE.

(A) The city may contract with an independent contractor to provide for the collection and disposal of non-hazardous solid waste.

(B) Such contractor may be selected by competitive bidding and the length of such contract shall be determined by the Mayor and Council, not to exceed five years.

(C) Any such contractor shall enter into a written agreement with the city, which agreement shall provide for the rate to be charged by the contractor and such other terms as may be required by the Mayor and Council.

(D) The contractor shall be responsible for selection of a licensed disposal facility in which to dispose of non-hazardous solid waste collected within the city, and for any contract for disposal service in such facility.

(1993 Code, § 4-310) (Ord. 10-04-05-1, passed 10-4-2005)

§ 51.08 LICENSED FACILITIES.

All non-hazardous solid waste collected within the city shall be disposed of only in a licensed solid waste facility. Any hazardous waste shall be disposed of only in the manner provided by state or federal laws and regulations.

(1993 Code, § 4-311) Penalty, see § 51.99

§ 51.09 PRIVATE COLLECTION SERVICES PROHIBITED.

No person, firm or corporation who is not under contract with the city shall collect or dispose of non-hazardous solid waste within the city, except yard wastes, grass clippings, tree branches or materials which are collected for recycling.

(1993 Code, § 4-312) Penalty, see § 51.99

§ 51.10 DISPOSAL OF HAZARDOUS WASTE OR WASTE REQUIRING SPECIAL HANDLING.

Any person, firm or corporation within the city who generates or creates hazardous waste or waste requiring special handling or disposal as specified in §§ 51.03 or 51.14 shall be responsible for the transportation and disposal of the same. All such handling and disposal shall in all respects comply with state and federal laws and regulations pertaining to the specific type of waste generated.

(1993 Code, § 4-313) Penalty, see § 51.99

§ 51.11 BILLS.

(A) Bills for solid waste removal service shall be due and payable monthly at the office of the Municipal Clerk. Bills shall be prepared on the first business day of each month and shall be immediately due and payable. Bills which are not paid before the fifteenth calendar day of the month shall have added to their amount a penalty for late payment of 10%. Bills not paid by the fifteenth calendar day of the month shall be deemed to be delinquent. When a bill is deemed delinquent, the Clerk shall give a written notice to the customer of such delinquency and shall demand payment immediately.

(B) If the bill is not paid within seven days after notice is sent, it shall be discretionary with the Municipal Clerk to order a discontinuance of service at any time; provided, if the delinquent customer

is a known welfare recipient, it shall be the duty of the Clerk to notify the customer and also the Nebraska Department of Social Services by certified mail of the proposed termination. The Clerk shall assess an additional fee set by resolution of the governing body and on file at the office of the Clerk in the event that solid waste collection is interrupted for the nonpayment of the bill, to compensate the municipality for any additional charges to restart service.

(1993 Code, § 4-314)

§ 51.12 LIEN.

(A) In addition to all other remedies, if a customer shall for any reason remain indebted to the municipality for solid waste collection service furnished, such amount due, together with any charges in arrears, shall be considered delinquent and are hereby declared to be a lien upon the real estate for which the same was furnished.

(B) The Municipal Clerk shall notify in writing or cause to be notified in writing, all owners of premises or their agents whenever their tenants or lessees are 60 days or more delinquent in the payment of solid waste collection fees.

(C) It shall be the duty of the Municipal Clerk on June 1 of each year to report to the governing body a list of all unpaid accounts due for solid waste collection together with a description of the premise for which the same was furnished.

(D) The report shall be examined, and if approved by the governing body, shall be certified by the Municipal Clerk to the County Clerk to be collected as a special tax in the manner provided by law.

(1993 Code, § 4-315)

§ 51.13 SINGLE PREMISES.

(A) No person shall accept from any other person any of such other person's disposable solid waste to be commingled with and disposed of as a part of the accepting person's solid waste.

(B) All solid waste which is to be picked up by the city or its contractor for each residence and for each commercial, institutional or governmental building shall be only the solid waste which is generated at the site and shall not include any items left for disposal by any other person.

(1993 Code, § 4-316) Penalty, see § 51.99

§ 51.14 HAZARDOUS ITEMS AND ITEMS REQUIRING SPECIAL HANDLING OR DISPOSAL.

(A) No person shall put out to be collected by the municipal solid waste collector, any of the following items:

- (1) Yard wastes, including grass clippings and tree branches;
- (2) Unregulated hazardous wastes, except household wastes which are exempt from the regulations of the Environmental Protection Act;
- (3) Tires;
- (4) Waste oil;
- (5) Lead-acid batteries; and
- (6) Household appliances.

(B) Any such items shall be disposed of only as permitted under the Nebraska Integrated Solid Waste Management Act or any amendments thereof.
(1993 Code, § 4-317) Penalty, see § 51.99

§ 51.15 MANDATORY SERVICE.

(A) Every occupied residence or every commercial, institutional, or governmental building to which city utility service is actually provided or used within the municipal limits of the city shall be served by the solid waste collection and disposal service owned or designated by the city.

(B) The city may agree to provide solid waste disposal service to persons or entities not located within the municipal limits, but who are served by municipal utility services of any kind or who are within such close distance to the municipal limits as to make such service economical and practical for the city and its contracted hauler.

(C) All such solid waste collection and disposal services shall be subject to the payment and payment of charges as set from time to time by the governing body.

(D) Any person or entity in violation hereof shall be punished in accord with § 51.99(B)(1), and shall be subject to § 51.99(B)(2).
(1993 Code, § 4-318) (Ord. 02-0210-1, passed 2-2-2010)

§ 51.16 RATES.

(A) *Rates for toters.* The monthly charge for picking up solid waste once per week will be as follows based on the size of toter:

Solid Waste; Garbage Disposal

Commercial toter	\$15.63
Commercial additional toters	\$15.63 (each)
Residential second toter	\$8.57
Residential toter	\$15.63
Residential third toter	\$15.63

(B) *Rates for containers.* The monthly charge for picking up solid waste in containers will be as follows:

<i>One Pickup Per Week</i>	
200 gallons	\$38.68
300 gallons	\$47.30
450 gallons	\$57.08
2- 300 gallons	\$69.36
2- 450 gallons	\$88.43
3- 450 gallons	\$121.53
4- 450 gallons	\$158.33

<i>Two Pickups Per Week</i>	
200 gallons	\$72.20
300 gallons	\$88.42
450 gallons	\$101.07
2- 300 gallons	\$123.28
2- 450 gallons	\$156.80
3- 450 gallons	\$221.19
4- 450 gallons	\$299.23

(C) *Rules for solid waste service.* The city may establish rules and guidelines to be followed by customers using the municipal solid waste service. A copy of the current rules and guidelines for solid waste service will be kept in the office of the City Clerk.
 (1993 Code, § 4-319) (Ord. 2013-20, passed 2-20-2013)

§ 51.17 VIOLATION.

(A) Complaints regarding the violation of the terms of a contract entered into for exclusive franchise agreement by the contractor shall be directed to the contractor by the city in writing and the contractor shall have 30 days within which to correct said violations. If violations are not corrected, then the City Council may vote to revoke said contract at a regular or special City Council meeting that contractor has been given notice of by certified mail at least seven days prior to such meeting. Revocation of said contract shall be deemed effective by sending such notice to the contractor, by certified mail, stating the date that service is to be terminated, after the City Council has voted for revocation.

(B) It shall be unlawful and an offense for any person, firm or corporation in the city or its zoning area to conduct or operate any type of dump or waste disposal system for the use of themselves or other persons. Each day of operation or conduct of such waste disposal system or transfer site or other means of disposing garbage within the city shall constitute a separate violation by said person, firm or corporation punishable by a fine of \$500 for each violation.

(1993 Code, § 4-320)

§ 51.99 PENALTY.

(A) In addition to the penalty referenced in § 51.17, any person, firm or corporation within the city which conducts, operates or uses any type of dump or waste disposal system for themselves or other persons, other than the city's solid waste disposal service shall also be subject to a noncompliance fee of up to \$500 pursuant to the provisions of § 13-2023 of the Integrated Solid Waste Management Act.

(1993 Code, § 4-320)

(B) (1) Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this chapter, set forth at full length herein or incorporated by reference shall be deemed guilty of an offense and, upon conviction thereof, shall be fined not more than \$500 for each offense. A new violation shall be deemed to have been committed every 24 hours of such failure to comply.

(1993 Code, § 4-501)

(2) Whenever a nuisance exists as defined in this chapter, the municipality 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.

(1993 Code, § 4-502)

(Ord. 10-0708-2, passed 10-7-2008)

Statutory reference:

Related provisions, see Neb. RS 18-1720, 18-1722

CHAPTER 52: WATER REGULATIONS AND RATES

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- 52.21 Supplemental rules for the permitting of liquid or solid waste containment, treatment and disposal facilities
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- 52.99 Penalty

Cross-reference:

Water Wells, see Chapter 55

§ 52.01 OPERATION AND FUNDING.

(A) The municipality owns and operates the Municipal Water Department through the City Superintendent. The governing body, for the purpose of defraying the cost of the care, management and maintenance of the Municipal Water Department may each year levy a tax not exceeding the maximum limit prescribed by state law, on the actual valuation of all real estate and personal property within the corporate limits that is subject to taxation. The revenue from the said tax shall be known as the “Water Fund”, and shall remain in the custody of the Municipal Treasurer. The City Superintendent shall have the direct management and control of the Municipal Water Department and shall faithfully carry out the duties of his or her office. The City 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 governing body.

(B) The governing body shall set the rates to be charged for services rendered by ordinance and shall file a copy of the rates in the office of the Municipal Clerk for public inspection at any reasonable time.

(1993 Code, § 3-101)

Statutory reference:

Related provisions, see Neb. RS 17-531, 17-534, 19-1305

§ 52.02 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. Where no definition is specified, the normal dictionary usage of the word shall apply.

MAIN. Any pipe other than a supply or service pipe that is used for the purpose of carrying water to, and dispersing the same in the municipality.

SEPARATE PREMISE. More than one consumer procuring water from the same service or supply pipe. The second premise may be a separate dwelling, apartment, building or structure used for a separate business.

SERVICE PIPE. Any pipe extending from the shut-off, stop box or curb cock at or near the lot line to and beyond the property line of the consumer to the location on the premise where the water is to be dispersed.

SUPPLY PIPE. Any pipe tapped into a main and extending from there to a point at or near the lot line of the consumer’s premise where the shut-off, stop box or curb cock is located.

(1993 Code, § 3-102)

§ 52.03 CONSUMER'S APPLICATION.

(A) Every person or persons desiring a supply of water must make application therefor to the City Superintendent.

(B) The Superintendent may require any applicant to make a service deposit in such amount as has been set by the governing body and placed on file at the office of the Municipal Clerk. Water may not be supplied to any house or private service pipe except upon the order of the Superintendent.

(1993 Code, § 3-103)

Statutory reference:

Related provisions, see Neb. RS 17-537

§ 52.04 WATER CONTRACT.

(A) The municipality, through its Water Department, shall furnish water to persons within its corporate limits whose premises abut a street or alley in which a commercial main now is or may hereafter be laid. The municipality may furnish water to persons within its corporate limits whose premises do not abut a street or alley in which a municipal commercial main is now or may hereafter be laid and may also furnish water to persons whose premises are situated outside the corporate limits of the municipality, as and when, according to law, the governing body may see fit to do so.

(B) The rules, regulations and water rates hereinafter named in this chapter, shall be considered a part of every application hereafter made for water service and shall be considered a part of the contract between every consumer now or hereafter served. Without further formality, the making of application on the part of any applicant or the use or consumption of water service by present consumers thereof and the furnishing of water service to said consumer shall constitute a contract between the consumer and the municipality, to which said contract both parties are bound. If the consumer shall violate any of the provisions of said contract or any reasonable rules and regulations that the governing body may hereafter adopt, the City Superintendent or his or her agent, may cut off or disconnect the water service from the building or premise or place of such violation. No further connection for water service to said building, premise or place shall again be made save or except by order of said Superintendent or his or her agent. (1993 Code, § 3-104)

§ 52.05 INSTALLATION PROCEDURE.

(A) In making excavations in streets, alleys or sidewalks for the purpose of installing pipe, or making repairs, the paving, stones and earth must be removed and deposited in a manner that will occasion the least inconvenience to the public and provide for adequate drainage.

(B) 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.

(C) 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 City Superintendent shall have the duty to finish or correct the work, and all expenses so incurred shall be charged to the consumer.

(D) All installations or repairs of pipes require an inspection by the City Superintendent. The inspection shall be made when connections or repairs are completed and before the pipes are covered.

(E) It is the customer's responsibility to notify the Superintendent at the time the work is ready for each inspection. All installation shall be done under the supervision and strictly in accordance with the rules, regulations and specifications prescribed for such installation by the City Superintendent; provided that the said rules, regulations and specifications have been reviewed and approved by the governing body.

(1993 Code, § 3-105) Penalty, see § 52.99

Statutory reference:

Related provisions, see Neb. RS 17-537

§ 52.06 INSTALLATION EXPENSE.

The expense of providing water service to the lot line shall be paid by the municipality. The consumer shall then pay the cost of installation and pipe from the lot line to the place of disbursement as well as any required tap fee and/or meter deposit. The consumer shall be required to pay the expense of procuring the services of a plumber and shall pay the expense of furnishing and installing pipe, trenching and the necessary labor to bring water service from said lot line to the place of disbursement.

(1993 Code, § 3-106)

Statutory reference:

Related provisions, see Neb. RS 17-542

§ 52.07 REPAIRS AND MAINTENANCE.

(A) The municipality shall repair or replace, as the case may be, all supply pipe between the commercial main and the stop box. The customer at his or her own expense shall replace and keep in repair all service pipe from the stop box to the place of disbursement.

(B) When leaks occur in service pipes, the City Superintendent shall shut off water service until the leak is repaired at the expense of the customer to the satisfaction of the City Superintendent. All water meters shall be kept in repair by the municipality at the expense of the municipality. When meters are worn out, they shall be replaced and reset by the municipality at the expense of the municipality; provided, that if the customer permits or allows a water meter to be damaged, injured or destroyed through his or her own recklessness, carelessness or neglect so that the meter must be repaired or

replaced, the City Superintendent shall bill and collect from the customer the cost of such meter repair or replacement in the same manner as water rent is collected.

(C) Permitting a water meter to be damaged or destroyed by freezing shall always be considered negligence on the part of the customer.

(D) All meters shall be tested at the customer's request at the expense of the customer any reasonable number of times; provided, that if the test shows the water meter to be running 2% or more fast, the expense of such test shall be borne by the municipality.

(E) The municipality reserves the right to test any water service meter at any time, and if said meter is found to be beyond repair the municipality shall always have the right to place a new meter on the customer's water service fixtures at municipal expense.

(F) 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, that if no such basis for comparison exists, the customer shall be charged such amount as may be reasonably fixed by the City Superintendent.

(G) It shall be unlawful for any person to tamper with any water meter, or by any means or device to divert water from the service pipe so that the same shall not pass through said meter, or while passing through said meter, to cause the same to register inaccurately.

(1993 Code, § 3-107) Penalty, see § 52.99

Statutory reference:

Related provisions, see Neb. RS 17-537

§ 52.08 FEES AND COLLECTIONS.

(A) The governing body 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 Municipal Clerk.

(B) The Municipal Clerk shall bill the consumers and collect all money received by the Municipality on the account of the Water Department.

(C) He or she shall faithfully account for and pay to the Municipal Treasurer all revenue collected by him or her, taking his or her receipt therefor in duplicate, filing one with the Water Department and keeping the other on file in the municipality's official records.

(1993 Code, § 3-108)

Statutory reference:

Related provisions, see Neb. RS 17-540

§ 52.09 MINIMUM RATES.

(A) All water consumers shall be liable for the minimum monthly rate, plus such additional amounts based on the amount of water used, as established by rate ordinances adopted by the City Council, as appropriate. Water consumers shall be liable for such water service charges until the consumer shall, by written order, direct the City Superintendent to shut off the water at the stop box, in which case he or she shall not be liable thereafter for water service until the water is turned on again.

(B) The general water rates for customers of the city municipal water system are hereby set as follows:

(1) *Minimum charge.* A minimum of \$12.75 will be charged for all customers.

(2) *Prices for water use.* The charge for each 1,000 gallons of water used shall be \$1.55. (1993 Code, § 3-109) (Ord. 2013-12, passed 2-6-2013; Ord. 2013-19, passed 2-20-2013; Ord. 2015-3, passed 10-1-2014)

Statutory reference:

Related provisions, see Neb. RS 17-542

§ 52.10 WATER BILLS.

(A) Water bills shall be due and payable monthly at the office of the Municipal Clerk. Meters shall be read around the end of the month during which service is used. The Municipal Clerk or Treasurer shall charge and collect from each customer for the amount of water consumed since the last examination together with any other charges, properly itemized, due the Water Department.

(B) Bills shall be due on the first day of each month. Bills not paid by the close of business on the 15th day of each month shall be deemed to be delinquent.

(C) Upon being deemed to be delinquent, the City may discontinue water service pursuant to the provisions of § 50.01.

(D) Once discontinued, water service shall not be recommenced except on payment in full of the delinquent charges and upon further payment of a reconnection fee pursuant to §50.05.

(E) The City may also take any action authorized by law to effect collection of the delinquent charges.

(Ord. 2016-10, passed 8.15.16, 1993 Code, § 3-110)

Statutory reference:

Related provisions, see Neb. RS 17-542, 70-1605

§ 52.11 SINGLE PREMISES.

(A) No consumer shall supply water to other families, or allow them to take water from his or her premise, 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 premise for alteration, extension or attachment without the written permission of the City Superintendent.

(B) 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.

(1993 Code, § 3-111) Penalty, see § 52.99

Statutory reference:

Related provisions, see Neb. RS 17-537

§ 52.12 RESTRICTED USE.

The governing body or the City Superintendent may order a reduction in the use of water or shut off the water on any premise in the event of a water shortage due to fire or other good and sufficient cause. The municipality shall not be liable for any damages caused by shutting off the supply of water of any consumer while the system or any part thereof is undergoing repairs or when there is a shortage of water due to circumstances over which the municipality has no control.

(1993 Code, § 3-112)

Statutory reference:

Related provisions, see Neb. RS 17-537

§ 52.13 FIRE HYDRANTS.

All hydrants for the purpose of extinguishing fires are hereby declared to be public hydrants, and it shall be unlawful for any person other than members of the Municipal Fire Department under the orders of the Fire Chief, or the Assistant Fire Chief; or members of the Water Department to open or attempt to open any of the hydrants and draw water from the same, or in any manner to interfere with the hydrants.

(1993 Code, § 3-113) Penalty, see § 52.99

§ 52.14 POLLUTION.

It shall be unlawful for any person to pollute or attempt to pollute any stream or source of water for the supply of the Municipal Water Department.

(1993 Code, § 3-114) Penalty, see § 52.99

Statutory reference:

Related provisions, see Neb. RS 17-536

§ 52.15 WATER SERVICE CONTRACTS.

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

(1993 Code, § 3-115)

Statutory reference:

Related provisions, see Neb. RS 17-537

§ 52.16 INSPECTIONS.

The City Superintendent, or his or her duly authorized agents, shall have free access, at any reasonable time, to all parts of each premise and building to, or in which, water is delivered for the purpose of examining the pipes, fixtures and other portions of the system to ascertain whether there is any disrepair or unnecessary waste of water.

(1993 Code, § 3-116)

Statutory reference:

Related provisions, see Neb. RS 17-537

§ 52.17 DESTRUCTION OF PROPERTY.

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

(1993 Code, § 3-117) Penalty, see § 52.99

§ 52.18 CROSS-CONNECTION CONTROL; VIOLATIONS.

(A) The Board of Health or its designated representative shall deny or discontinue, after 30 days notice to the occupants thereof, the water service to any premises wherein any backflow prevention device required by this chapter is not installed, tested and maintained in a manner acceptable to the Board of Health, or if it is found that the backflow prevention device has been removed or bypassed or if an unprotected cross-connection exists on the premises.

(B) Water service to such premises shall not be restored until the consumer has corrected or eliminated such conditions or defects in conformance with this chapter to the satisfaction of the Board of Health.

(C) The City Health Department shall be advised of inspection findings, and the violation abatement action pursued by the Board of Health or its representative, and consulted prior to violation abatement action on items having to do with public health significance.
(1993 Code, § 3-128) Penalty, see § 52.99

§ 52.19 APPLICATION PROCESS FOR CONSTRUCTING SOLID AND LIQUID WASTE STORAGE AND DISPOSAL FACILITIES; EXCEPTIONS.

(A) *General provisions.* All applications made for a permit for the construction and operation of holding ponds, lagoons, tanks or other containers for the storage of liquid or solid waste or for the discharge of such waste onto or under the surface of the soil or to be discharged into any waterway pursuant to § 52.35 shall be made as follows.

(1) Such application shall be filed with the City Superintendent at the City Clerk's office.

(2) All applications shall consist of all written materials required by the Department of Environmental Quality or its successor agency of the state for the operation of such facility. In the event that the Nebraska Department of Environmental Quality or its successor does not require an application, then the applicant shall provide the City Superintendent with a comprehensive set of plans for the waste disposal system of the proposed facility, technical data about the soils where such facility is to be constructed; a detailed plan about the proposed construction process and a detailed plan for the storage and disposition of liquid or solid waste and a plan for cleaning up or sealing the site when the facility has not been used for more than one year to prevent pollution from occurring after the facility has been closed. In the event that the facility is closed for more than one year and re-opened, the owner-operator shall reapply for a new permit.

(3) The City Superintendent shall meet with the applicants to review the written materials at the request of the applicants and the City Superintendent may request that he or she be given a tour of the proposed site of said facility along with any engineering or other consultants that the city may retain to assist the City Superintendent in reviewing the application. Within 30 days after the City Superintendent has received all of the required materials for a complete application and made inspections, the City Superintendent shall inform the applicant by certified mail of his or her decision on whether or not to grant a permit.

(4) (a) If a permit is not granted, the City Superintendent shall state the reasons for not accepting the application and explain the changes that will need to be made to the facility to be approved. If applicant does not agree with the findings of the City Superintendent then he shall be entitled to a hearing before the City Council to appeal such decision to reject the application. Said hearing shall be scheduled after a written request by the applicant not more than 30 days after such request and the applicant shall be given at least 14 days notice of the hearing. An applicant may be represented by legal counsel at said hearing and may present testimony from expert witnesses who are present at the hearing

or by affidavit of said experts. The City Council shall render its decision within 30 days of the hearing on applicant's appeal unless the City Council retains a consultant to review information submitted by applicant at the appeal hearing; in that event, the City Council shall render its decision within 30 days of receiving a final report from its consultant but not more than 60 days after such hearing.

(b) If the City Council rejects said application, then the applicant may file for relief from such denial for a permit with the appropriate state court.

(B) *Exceptions.*

(1) All manufacturing, livestock or other facilities which create liquid or solid waste within fifteen miles of the corporate limits of the city shall apply for and obtain a permit from the city to construct and operate liquid and solid waste storage and disposal facilities as set forth in § 52.35, unless either of the following circumstances apply:

(a) Construction has been completed and such manufacturing, livestock or other facility is operating at or prior to the date of final passage of this section; and

(b) The facility is a livestock facility that has a capacity of not more than 2,500 head of livestock at any time.

(2) If an existing manufacturing, livestock or other facility which is excepted from obtaining a permit by division (B)(1)(a) above undertakes an expansion of such facility so that it generates more waste for disposal or in the case of a livestock facility excepted from obtaining a permit by division (B)(1)(b) above expands to more than 2,500 head capacity and generates additional waste then such facility shall apply for a permit as set forth in division (A) above.

(Ord. 11-047-1, passed 10-4-1997; Ord. 10-217-1, passed 10-21-1997)

§ 52.20 REQUIREMENTS FOR ISSUING PERMIT.

If an application provides all of the required information set forth in § 52.19(A), the City Superintendent shall review said materials, in conjunction with any consultants that the City Superintendent may retain to assist him or her with said review within 30 days of receiving the completed application; and if the applicant's proposed facility meets all of the requirements of the Nebraska Department of Environmental Quality and the supplemental rules for the permitting of liquid or solid waste containment or disposal facilities pertaining to livestock operations, as adopted by the city in § 52.21, then a permit to proceed with construction and operation of said facility shall be issued by the City Superintendent.

(Ord. 11-047-2, passed 10-4-1997)

§ 52.21 SUPPLEMENTAL RULES FOR THE PERMITTING OF LIQUID OR SOLID WASTE CONTAINMENT, TREATMENT AND DISPOSAL FACILITIES.

In addition to Title 130 of the Nebraska Department of Environmental Quality, the applicant shall comply with the following requirements.

(A) *Data submittal.* The applicant shall drill one test hole per acre of area within the footprint of any earthen lagoon to be used to contain or treat wastewater on the site. The test holes shall be evenly spaced and extend at least ten feet below the bottom elevation of the lagoon. Logs and soil analysis will be included with the application.

(B) *Construction of wastewater or solid waste containment or treatment structures.* All structures that contain wastewater or solid waste shall be constructed so as to prevent any leakage of liquids or leachate onto or into the ground. Only the following containment systems are acceptable:

(1) Earthen impoundment with a synthetic, impermeable liner of at least 60 mil thickness placed over at least one foot thickness of compacted soil with provisions for leachate recovery and leak detection. The soil underliner shall be constructed in two lifts, each compacted to a permeability coefficient of 1×10^{-6} cm/sec or less. It shall have a flat, smooth surface and contain no objects projecting through the surface such as rocks and roots;

(2) Properly coated steel tank on a sealed reinforced concrete pad; and

(3) Completely sealed reinforced concrete tank.

(C) *High hazard impoundments.* If an earthen impoundment includes a dam more than twenty-five feet in height, measured from the downstream toe of the dam to the crest of the dam, or if it impounds more than 50 acre feet at the crest of the dam, the applicant must commission an independent analysis of the structural design of the dam. The consultant selected must be approved by the municipality.

(D) *Land application of wastes.*

(1) Solid or liquid wastes shall not be applied to land with a slope greater than 10%. Solid or liquid wastes shall not be applied to land with a slope greater than 5% unless conservation and runoff control practices are implemented, and the waste is injected into the soil. Wastes shall not be applied on frozen or saturated ground or within 24 hours of a precipitation event. Wastes shall not be applied in excess of the infiltration capacity of the soil or the nutrient requirements of the crop. Solid or liquid wastes shall not be applied within 200 feet of a perennial, intermittent or ephemeral stream.

(2) To determine these capacities the applicant shall analyze the soils for nitrogen, available phosphorus, available potassium, pH and CEC and analyze the wastewater for nitrogen (all forms), total phosphorus, total potassium, pH, chloride, sodium, magnesium, calcium and total solids. This data shall be made available to the municipality upon request.

(E) *Monitoring of land application of wastes.*

(1) Compliance with state and local requirements for solid and liquid waste application shall be verified by a professional agronomist whose reports shall be submitted within 30 days of completion of the municipality. One groundwater monitoring well shall be placed at or adjacent to the downgradient boundary of each section utilized for waste application. Two baseline groundwater samples shall be obtained from each of these wells and analyzed prior to the initial operation of the facility. Thereafter samples shall be collected and analyzed annually during the life of the facility. All groundwater samples shall be analyzed for nitrates and chloride and the reports submitted to the municipality within 30 days. The applicant shall grant to the municipality the right to enter the property and obtain its own samples.

(2) If, after operations begin, a monitoring well sample shows a nitrates or chloride concentration above the baseline values, the frequency of testing shall be increased to quarterly. If two consecutive samples show values above baseline then application of wastes shall be halted on the affected section. If subsequent test values show improvement, then the municipality at its discretion may allow resumption of waste application.

(F) *Closure.* The applicant shall submit an acceptable bond or financial guarantee to assure that waste containment facilities are closed in accordance with applicable laws and regulations of the state without cost to the taxpayers of the country. If the applicant chooses to land spread solid residuals from the lagoon or tank, he or she shall first submit to the municipality a chemical analysis suitable to determine if the material is toxic to plants or animals.

(Ord. 11-047-3, passed 10-4-1997) Penalty, see § 52.99

§ 52.22 WATERWORKS; WATER SUPPLY; POLLUTION PREVENTION.

Any person, partnership, corporation or other entity which intends to construct or operate any manufacturing, livestock or other facility within 15 miles of the corporate limits of the city, which will create liquid or solid waste which will be stored or disposed of into holding ponds, lagoons, tanks or any other containers or which will be discharged into waterways or onto or under the soil shall apply for and obtain a permit from the city as provided in § 52.19 before constructing or operating said manufacturing, livestock or other facility to enable the city to prevent any pollution or injury to the city's sources of water for the municipal waterworks.

(Ord. 10-077-1, passed 10-7-1997)

Statutory reference:

Related provisions, see Neb. RS 17-536

§ 52.23 REVOCATION OF PERMIT FOR NONCOMPLIANCE.

(A) In the event that any facility which has received a permit to construct and operate holding ponds, lagoons, tanks or any other containers for storing liquid or solid waste which will be discharged

into waterways or onto or under the soil pursuant to § 52.35 is not constructed or operated according to the plan submitted for approval or in the event that the permit was obtained by false information on the application then the City Superintendent is authorized to revoke any permit for the construction and operation of such facility.

(B) If a permit is revoked, the City Superintendent shall notify the applicant by certified mail and said notice shall state the reasons for revoking the application and explain the changes that will need to be made to the facility for its permit to be reinstated. If applicant does not agree with the findings of the City Superintendent, then the applicant shall be entitled to a hearing before the City Council to appeal such decision to revoke the permit. Said hearing shall be scheduled after a written request by the applicant not more than 30 days after such request and applicant shall be given at least 14 days notice of the hearing. The applicant may be represented by legal counsel at said hearing and may present testimony from expert witnesses who are present at the hearing or by affidavit of said experts. The City Council shall render its decision within 30 days of the hearing on applicant's appeal unless the City Council retains a consultant to review information submitted by applicant at the appeal hearing; in that event the City Council shall render its decision within 30 days of receiving a final report from its consultant. If the City Council concurs with the revocation of the permit then applicant may file for relief from such revocation of permit with the appropriate state court.
(Ord. 10-217-3, passed 10-21-1997)

§ 52.24 BACKFLOW PREVENTION DEVICES REQUIRED.

(A) A Cross-Connection Control Officer shall be appointed by the Mayor and City Council to oversee the enforcement of this section. This person shall be responsible for reviewing the surveys submitted by the customers of the Municipal Water Department and determining if a backflow prevention device is required to comply with Title 179, Nebraska Administrative Code, Chapter 2, "Regulations Governing Public Water Supply Systems" (herein referred to as Title 179 NAC 2).

(B) All customers of the Municipal Water Department shall be required to report to the cross-connection control officer any potential cross-connections which may be on their premises. This report shall be made at least every five years.

(C) A customer of the municipal water department may be required by the Cross-Connection Control Officer to install and maintain a properly located backflow prevention device at the customer's expense appropriate to the potential hazard as set forth in Title 179 NAC 2, "Regulations Governing Public Water Supply Systems" and approved by the Cross-Connection Control Officer.

(1) The customer shall make application to the Cross-Connection Control Officer to install a required backflow prevention device on a form provided by the municipality. The application shall contain at a minimum the name and address of the applicant, the type of backflow prevention device to be installed, including make and model number, and the location of the proposed installation.

(2) The Cross-Connection Control Officer shall approve or disapprove the application based on whether such installation will protect the municipal water distribution system from potential backflow and backsiphonage hazards.

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

(4) Any decision of the Cross-Connection Control Officer may be appealed to the Mayor and City Council of the city, whose decision shall be final.

(D) Any customer failing or refusing to report on possible cross-connections on his or her premises, and failing or refusing to install the necessary backflow prevention device, or failing to have a testable backflow prevention device tested at least annually shall be in violation of this ordinance and may have their water service discontinued. Any customer who has had his or her service discontinued for violation of this chapter shall be subject to a \$50 reconnect fee to have the service reinstated after supplying proof that the potential cross-connection has been eliminated or properly protected.

(Ord. 3-043-1, passed 3-4-2003)

§ 52.25 CROSS-CONNECTION CONTROL; BACKFLOW PREVENTION; OPERATION AND MAINTENANCE OF PUBLIC WATER SUPPLY SYSTEMS.

(A) The provisions of Title 179, Chapter 2, §§ 001 and 008 of the Nebraska Department of Health, Chapter 2 Regulations governing public water supply systems is hereby adopted by the city to control cross-connections, prevent backflows and promulgate standards for the operation and maintenance of the public water supply system.

(B) This section shall include all amendments to Title 179, Chapter 2, §§ 001 and 008 of the Nebraska Department of Health Regulations governing public water supply systems made prior to the adoption of this section and such subsequent amendments as are promulgated by the Nebraska Department of Health.

(1993 Code, § 3-129) (Ord. 07-078-20, passed 7-7-1998) Penalty, see § 52.99

§ 52.99 PENALTY.

(A) Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this chapter, set forth at full length herein or incorporated by reference shall be deemed guilty of an offense and, upon conviction thereof, shall be fined not more than \$500 for each offense. A new violation shall be deemed to have been committed every 24 hours of such failure to comply.

(1993 Code, § 3-901)

(B) Whenever any person, partnership, corporation or other entity which violates or refuses to comply with the enforcement of any of the provisions of this chapter, set forth at full length herein or incorporated by reference, the municipality may proceed by a suit in equity to enjoin the same in the manner provided by law.

(Ord. 10-077-4, passed 10-7-1997; Ord. 10-0708-2, passed 10-7-2008)

CHAPTER 53: SEWER SYSTEM

Section

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§ 53.01 OPERATION AND FUNDING.

(A) The municipality owns and operates the municipal sewer system through the City Superintendent.

(B) For the purpose of defraying the cost of the maintenance and repairing of any sewer or water utilities in the municipality, the governing body may each year levy a tax not exceeding the maximum limit prescribed by state law on the taxable value of all the taxable property in the municipality. 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.

(C) The City Superintendent 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 governing body.

(1993 Code, § 3-201) (Ord. 07-078-16, passed 7-7-1998)

Statutory reference:

Related provisions, see Neb. RS 17-149, 17-925.01

§ 53.02 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. Where no definition is specified, the normal dictionary usage of the word shall apply.

BIOLOGICAL OXYGEN DEMAND. Includes the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20°C, expressed in parts per million by weight.

BUILDING OR HOUSE DRAIN. Includes the part of the lowest horizontal piping of a house or building drainage system which receives the discharge from soil, waste or other drainage pipes inside the walls of any building or house.

BUILDING OR HOUSE SEWER. Includes the part of a house or building drainage system extending from the house or building drain to its connection with the main sewer.

GARBAGE. Includes solid wastes from the preparation of cooking and dispensing of food and produce.

LOCAL VENTILATING PIPE. Includes any pipe through which foul air is removed from a room or fixture.

pH. Includes the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

PLUMBING FIXTURES. Includes receptacles intended to receive and discharge water liquid or water-carried wastes into the sewer system with which they are connected.

PROPERLY SHREDDED. Includes shredding to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers with no particle larger than one-half inch in diameter.

SANITARY SEWER. Includes a sewer which carries sewage and to which storm, surface and ground waters are not intentionally admitted.

SEWAGE. Includes a combination of the water-carried wastes from residences, business buildings, institutions and industrial establishments together with such ground, surface and storm waters as may be present.

SEWER SYSTEM. Includes all facilities for collecting, pumping, treating and disposing of sewage.

SOIL PIPE. Includes any pipe which conveys the discharge of water closets with or without the discharge from other fixtures to the house or building drain.

STORM SEWER. Includes a sewer which carries storm and surface drainage, but excludes sewage and polluted industrial wastes.

SUSPENDED SOLIDS. Includes solids that either float on the surface of, or are in immersion in water, sewage or other liquids, and are removable by filtering.

TRAP. Includes a fitting or device so constructed as to prevent the passage of air or gas through a pipe without materially affecting the flow of sewage or waste through it.

TRAP SEAL. Includes the vertical distance between the crown weir and the dip of the trap.

VENT PIPE. Includes any pipe provided to ventilate a house or building drainage system and to prevent trap siphonage and backpressure.

WASTE PIPE. Includes any pipe which receives the discharge of any fixture, except water closets, and conveys the same to the house drain, soil pipe or waste stack.
(1993 Code, § 3-202)

§ 53.03 APPLICATION FOR PERMIT.

(A) (1) Any person wishing to connect with the sewer system shall make an application therefor to the City Superintendent. The Superintendent may require any applicant to make a service deposit in such amount as has been set by the governing body and placed on file at the office of the Municipal Clerk. Sewer service may not be supplied to any house or building, except upon the order of the Superintendent.

(2) The Department shall not supply sewer service to any person outside the corporate limits without special permission from the governing body; provided that the entire cost of pipe and other installation charges shall be paid by such consumers.

(B) Nothing herein shall be construed to obligate the municipality to provide sewer service to nonresidents.

(1993 Code, § 3-203)

Statutory reference:

Related provisions, see Neb. RS 17-149, 19-2701

§ 53.04 SEWER CONTRACT.

(A) The municipality through the Municipal Sewer Department shall furnish sewer services to persons within its corporate limits whose premises abut a street or alley in which a commercial main is now or may hereafter be laid. The municipality may also furnish sewer service to persons whose premises are situated outside the corporate limits of the municipality, as and when, according to law, the governing body may see fit to do so.

(B) The rules, regulations and sewer rental rates hereinafter named in this chapter 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.

(C) Without further formality, the making of the application on the part of any applicant or the use of sewer service by present customers thereof shall constitute a contract between the customer and the municipality to which said contract both parties are bound.

(D) If the customer shall violate any of the provisions of said contract or any reasonable rules and regulations that the governing body may hereafter adopt, the City Superintendent, or his or her agent, may cut off or disconnect the sewer service from the building or premise of such violation. No further connection for sewer service to said building or premise shall again be made except by order of the Superintendent or his or her agent.

(1993 Code, § 3-204)

Statutory reference:

Related provisions, see Neb. RS 17-901, 17-902

§ 53.05 MANDATORY HOOK-UP.

(A) Upon written notice by the Municipal Clerk the property owner, occupant or lessee of any premise within 300 feet of any sewer main shall without delay cause the said building to be connected with the sewer system and equipped with inside sewerage facilities. Every building hereafter erected shall be connected with the sewer system at the time of its construction.

(B) In the event that any property owner, occupant or lessee shall neglect, fail or refuse, within a period of ten days after notice has been given to him or her to do so by registered mail or by publication in a newspaper in or of general circulation in the municipality, to make such connection, the governing

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

(1993 Code, § 3-205)

Statutory reference:

Related provisions, see Neb. RS 17-149, 17-149.01

§ 53.06 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.

(1993 Code, § 3-206)

Statutory reference:

Related provisions, see Neb. RS 18-503

§ 53.07 SERVICE CONTRACTS.

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

(1993 Code, § 3-207)

Statutory reference:

Related provisions, see Neb. RS 18-503

§ 53.08 INSTALLATION PROCEDURE.

(A) In making excavations in streets, alleys or sidewalks for the purpose of installing pipe, or making repairs, the paving, stones and earth must be removed and deposited in a manner that will occasion the least inconvenience to the public and provide for adequate drainage.

(B) 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.

(C) If the excavation in the public ways and property is left open or unfinished for a period of 24 hours or more, the City Superintendent shall have the duty to finish or correct the work, and all expenses

so incurred shall be charged to the owner, occupant or lessee of the property. All installations or repairs of pipes require an inspection by the City Superintendent.

(D) The inspection shall be made when connections or repairs are complete and before the pipes are covered. It is the customers responsibility to notify the City Superintendent at the time the work is ready for each inspection.

(E) All installation shall be done under the supervision and strictly in accordance with the rules, regulations and specifications for such installation prescribed by the City Superintendent; provided, that the said rules, regulations and specifications have been reviewed and approved by the governing body. (1993 Code, § 3-208) Penalty, see § 53.99

Statutory reference:

Related provisions, see Neb. RS 18-503

§ 53.09 INSTALLATION EXPENSE.

(A) The customer, upon approval of his or her application for sewer service, shall pay to the Municipal Clerk a tap fee which shall compensate the municipality for the expense of processing his or her application and tapping the sewer main.

(B) The City Superintendent, in his or her discretion, may direct the customer to hire a plumber to tap the main.

(C) The customer shall then be required to pay the expense of procuring the materials required as well as the services of a plumber and shall pay all other costs of installation. (1993 Code, § 3-209)

Statutory reference:

Related provisions, see Neb. RS 18-503

§ 53.10 REPAIRS AND MAINTENANCE.

(A) The municipality 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.

(B) All replacements and repairs made by the customer shall be done in the manner and with the materials approved by the City Superintendent; provided, that the same have been previously approved by the governing body. (1993 Code, § 3-210)

§ 53.11 CLASSIFICATION.

The governing body may classify for the purpose of rental fees the customers of the Municipal Sewer Department; provided, that such classifications are reasonable and do not discriminate unlawfully against any consumer or group of consumers.

(1993 Code, § 3-211)

Statutory reference:

Related provisions, see Neb. RS 17-925.02

§ 53.12 RATE SETTING.

Customers of the Municipal Sewer Department shall be charged a flat rate for the use of sewer service. Rates shall be set by ordinance and shall be on file at the office of the Municipal Clerk for public inspection at any reasonable time.

(1993 Code, § 3-212)

§ 53.13 SEWER RENTAL BILLS.

(A) Sewer rental bills shall be due and payable monthly at the office of the Municipal Clerk.

(B) Bills shall be due on the 1st day of each month. Bills not paid by the close of business on the 15th day of each month shall be deemed to be delinquent.

(C) Upon being deemed to be delinquent, the city may take any action authorized by law to effect collection of the delinquent charges.

(Ord. 2016-10, passed 8-15-16) 1993 Code, § 3-213)

Statutory reference:

Related provisions, see Neb. RS 17-925.01

§ 53.14 OLD HOUSE SEWERS.

(A) 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 City Superintendent, to conform in all respects to the requirements governing new sewers and drains.

(B) If the old work is found defective or otherwise unsatisfactory, he or she shall notify the owner to make the necessary changes to conform with the provisions of the Municipal Code.

(1993 Code, § 3-214)

§ 53.15 UNLAWFUL USE.

It shall be unlawful for any person to discharge or cause to be discharged any storm water, surface water, ground water, roof runoff, surface drainage or unpolluted industrial process waters into the sanitary sewer.

(1993 Code, § 3-215) Penalty, see § 53.99

§ 53.16 SPECIAL EQUIPMENT.

In the event a customer of the Municipal Sewer Department discharges an unusually large amount of waste daily, an unusually large amount of grease or oil, or waste with an unusually high biochemical oxygen demand, the City 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 or she shall prescribe subject to the review of the governing body. All preliminary treatment facilities shall be purchased and maintained continuously in satisfactory and efficient operation at the customer's expense. Nothing herein shall be construed to prohibit a special agreement or arrangement between the governing body and an industrial concern whereby an industrial waste of unusual strength or character may be accepted by the municipality for treatment subject to additional rental fees or other charges.

(1993 Code, § 3-216)

§ 53.17 MANHOLES.

Entrance into a manhole or opening for any purpose except by authorized persons is hereby prohibited. It shall be unlawful to deposit or cause to be deposited in any receptacle connected with the sewer system any substance which is not the usual and natural waste carried by the sewer system. (1993 Code, § 3-217) Penalty, see § 53.99

§ 53.18 INSPECTIONS.

The City Superintendent, or his or her authorized agents, shall have free access at any reasonable time to all parts of each premise and building which is connected with the sewer system to ascertain whether there is any disrepair or violations of this chapter therein.

(1993 Code, § 3-218)

§ 53.19 SERVICE TO NONRESIDENTS.

Any person whose premise is located outside the corporate limits of the municipality and who desires to install a house or building sewer that will be connected with the municipal sewer system, shall

file a written application with the Municipal Clerk for a permit for such connection and setting forth the name of the owner, occupant or lessee of the premise, the use to which the premise is devoted, and such other information as the governing body may require.

(1993 Code, § 3-219)

Statutory reference:

Related provisions, see Neb. RS 17-149, 19-2701

§ 53.20 FEES FOR USAGE, CONNECTION TO SYSTEM; SANCTION.

(A) The following sewer usage fees are hereby established.

(1) Commercial rate: minimum rate \$8.25 per month, plus an additional \$0.55 per month for each 1,000 gallons of water used.

(2) Residential rate: new customers: \$13.00 per month. Usage fees shall be recalculated for all residential users after the month of March. The rate shall be a base rate of \$8.25 per month. An additional charge of \$0.55 per 1,000 gallons shall be calculated as follows: the metered water usage for January, February and March of each year shall be divided by three to arrive at an average usage for these months. This average shall be multiplied by \$0.55 for each 1,000 gallons rounded to the nearest thousand.

(3) Customers having separately metered water which does not reenter the sanitary sewer system shall not be charged sewer use.

(4) Prior to connection or reconnection to the sanitary sewer system, the connection to the sewer main shall be inspected by city personnel and the charge shall be \$25.

(B) Any customer subject to a sewer use fee or connection or reconnection fee, failing to pay the same shall be subject to a disconnection of municipal water services.

(Ord. 2017-3, passed 4-19-2017)(Ord. 08-1908-1, passed 8-19-2008)

§ 53.99 PENALTY.

Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this chapter, set forth at full length herein or incorporated by reference shall be deemed guilty of an offense and, upon conviction thereof, shall be fined not more than \$500 for each offense. A new violation shall be deemed to have been committed every 24 hours of such failure to comply.

(1993 Code, § 3-901) (Ord. 10-0708-2, passed 10-7-2008)

CHAPTER 54: GAS UTILITY

Section

General Provisions

- 54.01 Ownership
- 54.02 Deposit Fund
- 54.03 Gas service contracts
- 54.04 Installation procedure
- 54.05 Installation expense; permit required
- 54.06 Repairs and maintenance
- 54.07 Meters
- 54.08 Fees and collections
- 54.09 Minimum rates
- 54.10 Delinquent payments
- 54.11 Restricted use
- 54.12 Building moving
- 54.13 Inspections
- 54.14 Destruction of property
- 54.15 Obtaining service from gas utility or supplier other than the municipal gas system prohibited

Franchises, Permits, Privileges; Regulations

- 54.30 Rights and privileges granted by ordinance
 - 54.31 Unlawful acts
 - 54.32 Legal action
 - 54.33 Condemnation and appropriation of private property
- 54.99 Penalty

Cross-reference:

Utilities generally, see Chapter 50

Statutory reference:

Related provisions, see Neb. RS 17-908, 17-909

GENERAL PROVISIONS**§ 54.01 OWNERSHIP.**

(A) The municipality owns and operates the Municipal Gas Department through the City Council and City Superintendent.

(B) The governing body, for the purpose of defraying the cost of the care, management and maintenance of the Municipal Gas 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.

(C) The revenue from the said tax shall be known as the "Gas Fund", and shall remain in the custody of the Municipal Treasurer.

(D) The City Superintendent shall have the direct management and control of the Municipal Gas Department and shall faithfully carry out the duties of his or her office. He or she shall have authority to adopt rules and regulations for the safe and efficient management of the Gas Department subject to the supervision and review of the governing body.

(E) The governing body shall set the rates to be charged for services rendered by resolution and shall file the same in the office of the Municipal Clerk for public inspection at any reasonable time. (1993 Code, § 3-301)

Statutory reference:

Related provisions, see Neb. RS 17-908, 17-909

§ 54.02 DEPOSIT FUND.

(A) The service deposit required for gas service shall be promptly paid upon demand by all customers of the municipal gas distribution system.

(B) From the said deposit shall be deducted all delinquent gas charges.

(C) The service deposit shall be collected by the Municipal Clerk and immediately turned over to the Municipal Treasurer who shall keep the said fees in a trust fund for the customers of the gas distribution system.

(D) Said fund shall be put out at interest separate and apart from other funds.

(E) Interest arising therefrom shall be expended solely for the repair of equipment and property of the Municipal Gas Department. (1993 Code, § 3-302)

§ 54.03 GAS SERVICE CONTRACTS.

(A) Contracts for gas service are not transferable.

(B) Any person wishing to change from one location to another shall make a new application and sign a new contract.

(C) If any consumer shall sell, dispose of or remove from the premise where service is furnished in his or her name, or if the said premise is destroyed by fire or other casualty, he or she shall at once inform the City Superintendent who shall cause the gas service to be shut off from the said premise.

(D) If the consumer should fail to give such notice, he or she shall be charged for all gas used on the said premise until the City Superintendent is otherwise advised of such circumstances.
(1993 Code, § 3-303)

§ 54.04 INSTALLATION PROCEDURE.

(A) In making excavations in streets, alleys or sidewalks for the purpose of installing pipe, or making repairs, the paving, stones and earth must be removed and deposited in a manner that will occasion the least inconvenience to the public and provide for adequate drainage.

(B) 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 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 City Superintendent shall have the duty to finish or correct the work and all expenses so incurred shall be charged to the consumer.

(C) All installation shall be done under the supervision and strictly in accordance with the rules, regulations and specifications prescribed by said Superintendent; provided, that the rules, regulations and specifications have been reviewed and approved by the governing body.
(1993 Code, § 3-304) Penalty, see § 54.99

§ 54.05 INSTALLATION EXPENSE; PERMIT REQUIRED.

(A) The expense of installing gas service to the lot line shall be paid by the municipality. The consumer shall then pay the cost of installation and pipe from the lot line to the place of distribution as well as any required tap fee and/or meter deposit. The consumer shall be required to pay the expense of procuring the services of a licensed plumber and shall pay the expense of furnishing and installing pipe, trenching and the necessary labor to bring gas from the lot line to the place of distribution.

(B) Prior to installing new gas service, the consumer shall obtain a permit from the municipality. All installations from the lot line to the points of distribution require an inspection by the municipality. The inspection shall be made when connections are completed. It is the consumer's responsibility to notify the municipality at the time the work is ready for inspection. All installations shall be done by a licensed plumber and strictly in accordance with the rules, regulations and specifications prescribed for such installation by the municipality.

(1993 Code, § 3-305)

§ 54.06 REPAIRS AND MAINTENANCE.

The municipality shall pay the expense of repairs and replacements of the gas pipe from the main to the consumer's property line. All repairs to the pipe, and appurtenances leading from the consumer's property line to the point of disbursement shall be paid by the consumer. Maintenance of the remainder of the municipal gas distribution system shall be the responsibility of the municipality. Residential gas meters shall be located at the property lot line, or as close thereto as possible.

(1993 Code, § 3-306)

§ 54.07 METERS.

The City Superintendent shall read, or cause to be read, at least one time each month the gas meters between the nineteenth day during which service is used and the first day of the succeeding month. In the event that a meter is broken or otherwise fails to register accurately the use of gas by any consumer, the six-month average of the season one year previous to such breakage shall be used for billing purposes.

(1993 Code, § 3-307)

§ 54.08 FEES AND COLLECTIONS.

(A) The governing body has the power and authority to fix the rates to be paid by gas consumers for the use of gas.

(B) All rates shall be on file for public inspection at the office of the Municipal Clerk.

(C) The Municipal Clerk shall bill the consumers and collect all money received by the municipality on the account of the municipal gas system. He or she shall faithfully account for and pay over the same to the Municipal Treasurer all revenue collected by him or her, taking his or her receipt therefor in duplicate, filing one with the City Superintendent and keeping the other on file in his or her official records.

§ 54.09 MINIMUM RATES.

(A) All gas consumers shall be liable for the minimum monthly rate, plus such additional amounts based on the amount of gas used, as established by rate ordinances adopted by the City Council, as appropriate. Gas consumers shall be liable for such gas service charges until the consumer shall, by written order, direct the City Superintendent to shut off the gas in which case he or she shall not be liable thereafter for gas service until the gas is turned on again.

(B) The gas rates for customers of the city municipal gas system are hereby set as follows for statements rendered after October 1, 2014:

(1) *Residential*. For service to individually metered homes and apartments for domestic purposes.

(a) Minimum charge: \$12.25

(b) Prices for gas commodity. All ccf used monthly: \$0.894 per ccf.

(c) Plus the month's variable prices. The price of as commodity used will fluctuate hereafter from month to month based on the cost of gas charged to the city by its natural gas supplier.

(2) *General services*. For service to individually metered buildings for other than domestic purposes.

(a) Minimum monthly charge: \$28.70

(b) Prices for gas commodity. All ccf used monthly: \$0.894 per ccf.

(c) Plus the month's variable prices per ccf. The price of the gas commodity used in the base commodity is \$0.5874 and fluctuations hereinafter from month to month of the cost of gas charged to the city by its natural gas supplier will be added or subtracted as the **VARIABLE PRICE**.

(1993 Code, § 3-309) (Ord. 2013-11, passed 2-6-2013; Ord. 2013-18, passed 2-20-2013; Ord. 2015-2, passed 10-1-2014)

§ 54.10 DELINQUENT PAYMENTS.

(A) Gas fees shall be due and payable monthly at the office of the Municipal Clerk.

(B) Bills shall be due on the 1st day of each month. Bills not paid by the close of business on the 15th day of each month shall be deemed to be delinquent.

(C) Upon being deemed to be delinquent, the City may discontinue gas service pursuant to the provisions of § 50.01.

(D) Once discontinued, the gas service shall not be recommenced except on payment in full of the delinquent charges and upon further payment of a reconnection fee pursuant to §50.01 that is kept on file in the office of the Municipal Clerk.

(E) The City may also take any action authorized by law to effect collection of the delinquent charges.

(Ord. 2016-10, passed 8-15-16, 1993 Code, § 3-310)

§ 54.11 RESTRICTED USE.

(A) The Municipal Gas Department does not guarantee the delivery of gas, except when it has a sufficient supply, sufficient equipment and sufficient personnel to do so.

(B) The City Superintendent has the power and authority to disconnect or discontinue service to any consumer for good and sufficient reason without liability.

(C) The municipality 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 municipality has no control and the municipality expressly reserves the right to discontinue or disconnect any consumer service without preliminary notice.

(1993 Code, § 3-311)

§ 54.12 BUILDING MOVING.

(A) Should any house or building moving occur or be necessary and it becomes necessary in such work to remove or disturb any of the property or pipes of the municipal gas distribution system, the same shall not be done except upon reasonable written notice to and written permission received from, the City Superintendent who shall then order paid in advance the actual cost of moving the said pipe and other appurtenances, and such cost shall be paid by the applicant prior to the moving of the building or house.

(B) All the expense of removing, changing and replacing the property of the gas distribution system shall be paid out of the deposit made prior to such moving and any surplus remaining after all expenses are paid shall be returned to the applicant; provided, that 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.

(1993 Code, § 3-312)

§ 54.13 INSPECTIONS.

The City Superintendent, or his or her duly authorized agents, shall have free access at any reasonable time to all parts of each premise and building to or in which gas is delivered for the purpose of examining the meter, pipes, fixtures and other portions of the system to ascertain whether there is any disrepair or leakage of gas; provided, that in the case of an emergency, an inspection may be made at any time if proper identification is shown to the occupant, lessee or owner of the said building or premise.

(1993 Code, § 3-313)

§ 54.14 DESTRUCTION OF PROPERTY.

It shall be unlawful for any person to willfully or carelessly break, injure or deface any building, machinery, apparatus, fixture, attachment or appurtenance of the Municipal Gas Department, 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 City Superintendent.

(1993 Code, § 3-314) Penalty, see § 54.99

§ 54.15 OBTAINING SERVICE FROM GAS UTILITY OR SUPPLIER OTHER THAN THE MUNICIPAL GAS SYSTEM PROHIBITED.

(A) Any energy user located within the city limits prohibited from obtaining service from a gas utility or gas supplier other than the city gas distribution system, unless said energy user has signed a gas interruptible transport agreement with the city for transport of gas from a third party supplier to the energy user's location.

(B) Any energy user which violates the terms of this section and transports gas from a third party supplier or obtains gas service from another gas utility in violation of division (A) above shall be subject to a fine of \$100 per day for each day the service continues and shall be further subject to an injunction to prohibit the transport of gas to said energy user.

(1993 Code, § 3-315) (Ord. 09-204-1, passed 9-20-1994)

FRANCHISES, PERMITS, PRIVILEGES; REGULATIONS**§ 54.30 RIGHTS AND PRIVILEGES GRANTED BY ORDINANCE.**

No franchise or permit giving or granting to any person the right or privilege shall be given or granted unless such franchise or permit be given or granted by ordinance. No such ordinance shall be

considered until after the question of the granting of any franchise necessary for such purpose and required by law shall be submitted to and approved by a majority of the qualified, taxpaying electors of the city at an election held for such purpose at the expense of the applicant for such franchise:

(A) To erect, construct, operate or use any natural gas pipeline, plant or system or gasworks within the city in order to sell or distribute or provide non-municipal natural gas to any user or consumer within the city;

(B) To use the streets or alleys of the city for such purpose; or

(C) To interconnect any building, structure or facility of any kind to any natural gas pipeline or system other than to the natural gas system of the city.

(Ord. 12-195-1, passed 12-19-1995)

§ 54.31 UNLAWFUL ACTS.

Unless a franchise or permit has been given or granted under the provision of § 54.30 to so do, it shall be unlawful for any person:

(A) To erect, construct, operate or maintain or use any natural gas pipeline, plant or system or gasworks within the city in order to sell or distribute or provide non-municipal natural gas to any user or consumer within the city;

(B) To use the streets or alleys of the city for such purpose; or

(C) To interconnect any building, structure or facility of any kind to any natural gas pipeline or system other than to the natural gas system of the city.

(Ord. 12-195-1, passed 12-19-1995) Penalty, see § 54.99

§ 54.32 LEGAL ACTION.

If any person, firm or corporation constructs, operates or maintains any natural gas pipeline, plant or system or gasworks, or sells or distributes any natural gas within the city, or makes any connections with gas lines or systems contrary to the provisions of § 54.31, then by law, the City Attorney may commence an action in the name of and on behalf of the city for suitable and appropriate legal and equitable relief.

(Ord. 12-195-1, passed 12-19-1995)

§ 54.33 CONDEMNATION AND APPROPRIATION OF PRIVATE PROPERTY.

(A) In the providing of municipal utilities services to its inhabitants, the city shall have the right and authority to condemn and appropriate so much private property as is necessary for the construction and operation of natural gas pipeline, plant or system or gasworks in such manner as may be prescribed by law; and to condemn and appropriate any natural gas pipeline, plant or system or gas works not owned by the city, in such manner as may be prescribed by law for the condemnation of real estate.

(B) If any section, division, paragraph, sentence, clause or phrase of this subchapter or the code provisions enacted hereby should be declared invalid for any reason whatever, such decision shall not affect the remaining portions of this subchapter or code provisions which remain in full force and effect; the City Council hereby declares that it would have passed this subchapter and each code provision hereby enacted irrespective of the fact that one part or parts be declared invalid.

(C) The City Council hereby finds and declares that this subchapter is necessary for the immediate, preservation of the peace, health and safety of the city.
(Ord. 12-195-1, passed 12-19-1995)

§ 54.99 PENALTY.

(A) Any person who shall violate or refuse to comply with the enforcement of any of the provisions of §§ 54.01 through 54.15, set forth at full length herein or incorporated by reference shall be deemed guilty of an offense and, upon conviction thereof, shall be fined not more than \$500 for each offense. A new violation shall be deemed to have been committed every 24 hours of such failure to comply.
(1993 Code, § 3-901)

(B) Any person, firm or corporation violating the provisions of § 54.31 shall, upon conviction, be punished by a fine of not less than \$150, nor more than \$300. Each day that any such violation occurs, exists or continues shall be deemed a separate offense which is separately punishable hereunder.
(Ord. 12-195-1, passed 12-19-1995; Ord. 10-0708-2, passed 10-7-2008)

CHAPTER 55: WATER WELLS

Section

- 55.01 Definition
- 55.02 Regulation of drilling; purpose
- 55.03 Permit required; application; registration

- 55.99 Penalty

§ 55.01 DEFINITION.

For the purpose of this chapter, the term ***WATER WELL*** shall mean any hole drilled for the purpose of finding, pumping or producing water in any manner, and shall also include any existing hole previously drilled which may be utilized for the purpose of finding, pumping or producing water in any manner and which is currently not being so utilized or operated.

(Ord. 2014-2, passed 10-2-2013)

§ 55.02 REGULATION OF DRILLING; PURPOSE.

To protect the water level and water quality of the city and thereby to protect the public and private health, safety and general welfare of its citizens, it is necessary to restrict and prohibit the drilling of water wells within the corporate limits of the city.

(Ord. 2014-3, passed 10-2-2013)

§ 55.03 PERMIT REQUIRED; APPLICATION; REGISTRATION.

(A) It shall be unlawful for any person or persons to dig, drill or construct a well within the corporate limits of the city without having first obtained a permit therefor from the city. The applications for private well permits shall be submitted in writing and shall set forth:

- (1) Location of well;

(2) Intended use of the water; no water from the private well shall be used for domestic purposes, but shall be used solely for one or more of the following purposes:

- (a) Water source air conditioning system; and
 - (b) Water source heating system.
- (3) Depth of the proposed well;
 - (4) Size and kind of casing to be installed;
 - (5) Pumping equipment to be used; and
 - (6) Name and address of well driller.

(B) Such application shall be accompanied by a fee of \$25 to cover the cost of inspection and study of plans, no part of which shall be refunded if the application is denied. The provisions of this section shall apply to test wells.

(C) All private water wells presently existing 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:

- (1) Location of well;
- (2) Use of water from well or use of the well hole;
- (3) Depth of well; and
- (4) Pumping equipment used.

(D) No existing private water well shall be modified in any manner, including capping, without written permission from the City Water Commissioner and approved by the City Council.

(Ord. 2014-4, passed 10-2-2013) Penalty, see § 55.99

§ 55.99 PENALTY.

Any person who shall violate or refuse to comply with the provisions of this chapter shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$500 for each offense. A new violation shall be deemed to have been committed every 24 hours of such failure to comply.

(Ord. 2014-5, passed 10-2-2013)