

TITLE V: PUBLIC WORKS

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CHAPTER 50: GENERAL PROVISIONS

Section

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§ 50.01 DISCONTINUANCE OF SERVICE, NOTICE PROCEDURE.

The Municipality shall have the right to discontinue services if the charges for such services are not paid within thirty (30) days after the date that the charges are deemed delinquent. Before any termination, the Department of Utilities shall first give notice by first class mail or in person to any domestic subscriber whose service is proposed to be terminated. If notice is given by first class mail, such mail shall be conspicuously marked as to its importance. Service shall not be discontinued for at least seven (7) days. The Department of Utilities shall then provide a second notice with a door hanger, and/or a phone call to the residence, that service will be terminated within twenty-four (24) hours. If payment is not made, then the service connection shall be terminated. Termination of service shall only occur on a Monday, Tuesday, or Wednesday, absent extenuating circumstances. No termination of service shall occur on a holiday or within two (2) days preceding such City holiday. Water reconnections shall only be made during the City's normal business hours from Monday through Friday between 8 a.m. and 4:30 p.m. at the City Office at 14130 Lancashire Street. Water service shall not be reinstated until the bill has been paid in full. As to any subscriber who has previously been identified as a welfare recipient to the Municipality by the Department of Health and Human Services, such notice shall be by certified mail and notice of such proposed termination shall be given to the Department. All notices shall contain the following information:

1. The reason for the proposed disconnection.
2. A statement of the intention to disconnect unless the domestic subscriber either pays the bill or reaches an agreement with the Department regarding payment of the bill.
3. The date upon which service will be disconnected if the domestic subscriber does not take appropriate action.

4. The name, address, and telephone number of the employee or department to whom the domestic subscriber may address an inquiry or complaint.

5. The domestic subscriber's right, prior to the disconnection date, to request a conference regarding any dispute over such proposed disconnection.

6. A statement that the Municipality may not disconnect service pending the conclusion of the conference.

7. A statement to the effect that disconnection may be postponed or prevented upon presentation of a duly licensed physician's certificate which shall certify that the domestic subscriber or resident within such subscriber's household has an existing illness or handicap which would cause such subscriber or resident to suffer an immediate and serious health hazard by the disconnection of the utility's service to that household. Such certificate shall be filed with the Department of Utilities within five (5) days of receiving notice under this Section and will prevent the disconnection of the Department's services for a period of thirty (30) days from such filing. Only one (1) postponement of disconnection shall be allowed under this subsection for each incidence of non-payment of any due account.

8. The cost that will be borne by the domestic subscriber for restoration of service.

9. A statement that the domestic subscriber may arrange with the Utilities Department for an installment payment plan.

10. A statement to the effect that those domestic subscribers who are welfare recipients may qualify for assistance in payment of their utility bill and that they should contact their case worker in that regard.

11. Any additional information not inconsistent with this Section which has received prior approval from the Governing Body.

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

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

This Section shall not apply to any disconnections or interruptions of services made necessary by the utility for reasons of repair or maintenance or to protect the health or safety of the domestic subscriber or of the general public. (*Ref. 18-2101 et seq.*)(*Amended by Ord. 02-06, 02/18/02; 09-01, 01/19/09*)

§ 50.02 DIVERSION OF SERVICES; PENALTY.

The Municipality may bring a civil action for damages against any person who commits, authorizes, solicits, aids, abets, or attempts (a) bypassing, (b) tampering, or (c) unauthorized metering when such act results in damages to a Municipal Utility. A Municipality may bring a civil action for damages pursuant to this Section against any

person receiving the benefit of utility service through means of bypassing, tampering, or unauthorized metering.

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

A. The amount of actual damage or loss if the amount of the damage or loss is susceptible of reasonable calculation; or

B. Liquidated damage of (i) until July 1, 1985, and thereafter, seven hundred fifty dollars (\$750.00) if the amount of actual damage or loss is not susceptible of reasonable calculation.

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

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

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

The remedies provided by this section shall be deemed to be supplemental and additional to powers conferred by existing laws and the remedies provided in this section are in addition to and not in limitation of any other civil or criminal statutory or common law remedies. (*Ord. No. 83-20, 10/17/83*)

§50.03 INFRASTRUCTURE FEE. (*Ord. 22-04, 05/24/22*)

- (1) In addition to any building permit or inspection fee set forth herein, any person who applies for a building permit or who applies for any other permit for construction or development where a building permit is not required shall pay a water system infrastructure fee, sanitary wastewater infrastructure fee, street infrastructure fee, parks/trails infrastructure fee, and building and zoning fee, unless exempted by this ordinance.
- (2) The Government Body shall establish and adopt infrastructure fee schedules by resolution.

CHAPTER 51: WATER

General Provisions

Section

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§ 51.01 GENERAL DEFINITIONS.

The following definitions shall be applied throughout this Article.

- A. MAIN. The term “main” shall mean any pipe other than a supply or service pipe that is used for the purpose of carrying water to, and dispersing the same in, the Municipality.
- B. SADDLE CORPORATION VALVE. The term “saddle corporation valve” shall mean a valve attached to the main for a tapping point for water service.
- C. SERVICE ELBOW. The term “service elbow” shall mean a 90-degree brass elbow attached to the saddle corporation valve, to provide a turn in the service pipe.
- D. SERVICE PIPE. The term “service pipe” shall mean any pipe tapped into a main and extending from there to the location on the premise where the water is to be dispersed.
- E. SEPARATE UNIT. The term “separate unit” shall mean a dwelling, business establishment, private, semi-private, or public institution, or other entity which has a separate and independent identity and/or location specifically excluding “home occupations” as defined in Section 11-611 of the Municipal Zoning Ordinance, which is served with water from the Municipal Water Department, regardless of whether or not such separate unit has an independent water meter.
- F. CURB STOP. The term “curb stop” shall mean a protective device reaching from the supply or service pipe to the surface of the ground, of a suitable size to admit a stop key for turning on and off the water supply, with cast iron cover even with the pavement or ground line, and shall further include all internal working parts, including, but not limited to, the curb stop. *(Amended by Ord. Nos. 85-05, 09/03/85; 01-04, 05/07/01; 12-10, 05/15/12)*

§ 51.02 CUSTOMER’S APPLICATION.

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

§ 51.03 SERVICE TO NON-RESIDENTS.

The Water Department shall not supply water service to any person outside the corporate limits without special permission from the Governing Body; Provided, the cost of laying mains shall be paid by the customer. Nothing herein shall be construed to obligate the Municipality to provide water service to non-residents. Such non-resident service shall be subject to any special rules and regulations the Governing Body may prescribe. The aforesaid rules and regulations shall not include any provision to set the rates lower than two (2) times the rates set for residents. *(Ref. 17-537, 19-2701 RS Neb.) (Amended by Ord. Nos. 85-05, 09/03/85; 01-04, 05/07/01)*

§ 51.04 WATER CONTRACT.

The Municipality, through its Water Department, shall furnish water to persons within its corporate limits whose premises abut a street or alley in which a commercial main now is, or may hereafter be, laid. The Municipality may furnish water to persons within its corporate limits whose premises do not abut a street or alley in which a Municipal commercial main is now, or may hereafter be, laid, and may also furnish water to persons whose premises are situated outside the corporate limits of the Municipality, as and when, according to law, the Governing Body may see fit to do so. The rules, regulations, and water rates hereinafter named in this Article, shall be considered a part of every application hereafter made for water service and shall be considered a part of the contract between every consumer now or hereafter served. Without further formality, the making of application on the part of any applicant or the use or consumption of water service by present consumers thereof and the furnishing of water service to said consumer shall constitute a contract between the consumer and the Municipality, to which said contract both parties are bound. If the consumer shall violate any of the provisions of said contract, or any reasonable rules and regulations that the Governing Body may hereafter adopt, the Water Department representative may, in compliance with Section 50.01, cut off or disconnect the water service from the building or premise or place of such violation. No further connection for water service to said building, premise, or place shall again be made save or except by order of said Water Department Representative. *(Amended by Ord. No.01-04, 05/07/01)*

§ 51.05 INSTALLATION PROCEDURE.

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

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

Backfill of trenches for service pipe shall consist of common subsoil fill from 6" above top of pipe compacted to the extent necessary to prevent future settlement. Backfill of trenches under roadways shall consist of select backfill from 6" above top of pipe to subgrade elevation, compacted to 95%. Compaction is expressed as a percentage of maximum density and optimum moisture in comparison with ANSI/ASTM 0698. The City may require compaction tests of any backfill under the roadway surfacing.

No person shall have any excavation made in the street, alley, or highways open at any time without barricades, and during the night warning lights must be maintained at such excavations.

No person shall make any excavation in any street, alley, or highway where the ground is frozen, or dig up or uncover so as to expose to frost any water pipes or sewer of the City, except under the directions of the responsible municipal employee.

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

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

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

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

All installation shall be done under the supervision and strictly in accordance with the rules, regulations, and specifications prescribed for such installation by the Water Department; Provided, that the said rules, regulations, and specifications have been reviewed and approved by the Governing Body. *(Ref. 17-537 RS Neb.) (Amended by Ord. Nos. 85-05, 09/03/85; 01-04, 05/07/01; 06-24, 11/06/06; 14-01, 02/04/14)*

§ 51.06 INSTALLATION EXPENSE.

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

1 inch	\$350.00
1 ¼ inch	\$425.00
1 ½ inch	\$465.00
2 inch	\$600.00

Taps over 2 inches shall be performed by experienced personnel who are authorized by the Water Department to perform these services. All taps over 2 inches shall pay a connection fee of \$650.00 (Six hundred and fifty dollars).

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

The customer shall, at his, her or its own expense, bring water service from the main to said customer's place of disbursement and shall employ a competent plumber who shall install water service to the place of disbursement. Nonresidents shall pay such tap fees and installation charges in such sums as the City Administrator, pursuant to resolution of the Governing Body, shall in each case fix. The extension of commercial mains into unsupplied territory within the corporate limits may be made by means of water extension districts. *(Ref. 17-542 RS Neb.) (Amended by Ord. Nos. 85-05, 09/03/85; 92-01, 03/02/92; 93-06, 12/06/93; 01-04, 05/04/01; 05-10, 07/18/05; 19-09, 09/24/19)*

§ 51.07 MAINTENANCE OF METERS BY PROPERTY OWNERS.

As a condition precedent to the use of Municipal water, it shall be the responsibility of all real property owners to maintain a water meter in good working order for each subdivided parcel within the corporate limits of the Municipality.

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

(Amended by Ord. Nos. 85-05, 09/03/85; 91-04, 08/05/91; 01-04, 05/07/01; 02-25, 12/16/02)

§ 51.08 REPAIRS.

- a. Repairs - Customer Obligations. The customer shall be responsible for installing and maintaining the service pipe to and including the curb stop, and the City shall be responsible for maintaining such from the curb stop to the main. The customer shall repair and maintain the service pipe, curb stop, meter, at the expense of the customer. When in the course of repairing a service pipe, it becomes necessary to remove or alter sidewalks, the cost of removing and replacing the sidewalk, and earth shall be borne by the property owner served by the service pipe which is repaired. All such replacements and repairs of the service pipe made by the customer shall be done in good and workmanlike manner in compliance with all applicable building codes using materials approved and inspected by the City.
- b. Meters/Curb Stops. When meters and/or curb stops are worn out or in need of new parts, they shall be replaced and reset by the Municipality. Cost of the meter and/or curb stop shall be at the expense of the customer. Labor incident to the repair or replacement of a meter or curb stop shall be provided by the Municipality. Meters may be tested at the customer's request and expense; Provided, that if the test shows the water meter to be inaccurate by two percent (2%) or more of its original efficiency, the expense of such test shall be borne by the Municipality. The Municipality reserves the right to test any water service meter at any time, and if said meter is found to be beyond repair, the Municipality may place a new meter on the customer's water service fixtures at the customer's expense.
- c. Touch Read/Radio Read. Any touch read or radio read unit removed for any reason shall be reinstalled at the customer's expense. (Ref. 17-542 RS Neb.) (Amended by Ord. Nos. 85-05, 09/03/85; 91-9, 01/06/92; 98-02, 02/03/98; 01-04, 05/07/01; 01-17, 12/03/01; 02-25, 12/16/02; 12-10, 05/15/12)

§ 51.09 RATES.

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

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

1.	<u>Meter Size</u>	<u>Costs of Service Charge</u>
	5/8"	\$16.75
	3/4"	\$16.87
	1"	\$17.19

1.5"	\$37.96
2"	\$62.10
3"	\$136.70
4"	\$222.62

2. One dollar and eighty-eight cents (\$1.88) shall be charged per thousand gallons of water used up to ten thousand (10,000) gallons multiplied by the number of separate units per billing month,
3. Two dollars and forty-one cents (\$2.41) shall be charged per thousand gallons of water used from 10,001 to 20,000 gallons multiplied by the number of separate units per billing month, and
4. Two dollars and ninety-nine cents (\$2.99) shall be charged per thousand gallons of water used in excess of twenty thousand (20,000) gallons multiplied by the number of separate units per billing month.

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

1.	<u>Meter Size</u>	<u>Costs of Service Charge</u>
	5/8"	\$33.50
	3/4"	\$33.74
	1"	\$34.38
	1.5"	\$75.92
	2"	\$124.20
	3"	\$273.40
	4"	\$445.24

2. Three dollars and seventy-six cents (\$3.76) shall be charged per thousand gallons of water used up to ten thousand (10,000) gallons multiplied by the number of separate units per billing month, and
3. Four dollars and eighty-two cents (\$4.82) shall be charged per thousand gallons of water used from 10,001 to 20,000 gallons multiplied by the number of separate units per billing month, and

4. Five dollars and ninety-eight cents (\$5.98) shall be charged per thousand gallons of water used in excess of twenty thousand (20,000) gallons multiplied by the number of separate units per billing month.

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

1. Fifteen dollars (\$15.00) shall be charged per calendar month, and
2. One dollar and eighty-eight cents (\$1.88) shall be charged per thousand gallons of water used up to ten thousand (10,000) gallons per calendar month, and
3. Two dollars and forty-one cents (\$2.41) shall be charged per thousand gallons of water used from 10,001 to 20,000 gallons per calendar month,
4. Two dollars and ninety-nine cents (\$2.99) shall be charged per thousand gallons of water used in excess of twenty thousand (20,000) gallons multiplied by the number of separate units per billing month, and
5. A loading fee of fifteen dollars (\$15.00) shall be charged per transport vehicle or vessel loaded.

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

1. Thirty dollars (\$30.00) shall be charged per calendar month, and
2. Three dollars and seventy-six cents (\$3.76) shall be charged per thousand gallons of water used up to ten thousand (10,000) gallons per calendar month, and
3. Four dollars and eighty-two cents (\$4.82) shall be charged per thousand gallons of water used from 10,001 to 20,000 gallons per calendar month,
4. Five dollars and ninety-eight cents (\$5.98) shall be charged per thousand gallons of water used in excess of twenty thousand (20,000) gallons multiplied by the number of separate units per billing month, and
5. A loading fee of thirty dollars (\$30.00) shall be charged per transport vehicle or vessel loaded.

- E. All water sold pursuant to Paragraphs C and D of this section shall be sold in accordance with the following regulations:
1. Persons purchasing water pursuant to Paragraphs C and D of this section shall be issued a receipt by the office of the Municipal Clerk, which receipt shall state:
 - a. The date of purchase.
 - b. The number of gallons purchased (metered or estimated).
 - c. The dollar amount paid to the Municipality, and,
 - d. The name and address of the purchaser.
 2. In the event the metering of the water purchased is not feasible, the Water Department Representative, or his or her agent, shall estimate the capacity of the vessel to be filled and state the quantity purchased as an estimated quantity on the receipt issued to the purchaser. In no event shall any adjustment whatsoever be made, based upon the accuracy of such estimate, subsequent to issuance of the receipt and payment by the purchaser.
 3. It shall be the responsibility of the purchaser to prove prior purchase of water within the same calendar month in order for rates for quantities in excess of the monthly minimum to apply. For this purpose, an original receipt signed by the clerk in the same calendar month shall be conclusive.
 4. In the event of an actual or potential water shortage, the Mayor shall have absolute authority to suspend sales of water pursuant to paragraphs C & D of this section, as to residents, non-residents, or both.
- F. It shall be the responsibility of the water consumer to maintain a water meter in good working order. When a meter is temporarily out of service, the consumer shall be charged in accordance with his, her, or its past usage for comparable months. Should a customer's meter fail to register properly, the customer shall be charged for water during the time the meter is out of repair on the basis of the monthly consumption during the same month of the preceding year. Provided that if no such basis for comparison exists, the customer shall be charged such amount as may be reasonable fixed by the Water Department.
- G. Rate changes imposed by this article shall become effective for meter readings taken during the first month of the fiscal year. (*Amended by Ord. Nos 85-05, 09/03/85; 87-08, 6/15/87; 92-12, 09/21/92; 97-02, 02/03/97; 99-23, 09/07/99; 01-04, 05/07/01; 03-06, 09/15/03; 07-09, 09/17/07; 08-13, 09/15/08; 09-08, 09/21/09; 11-18, 08/16/11; 12-18, 09-18-12; 13-06, 09/17/13; 19-07, 09/24/2019; 20-04, 08/25/20; 21-07, 08/10/21; 22-05, 08/09/22*)

§ 51.10 WATER BILLS.

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

Bills not paid by the fifteenth (15th) day of each month shall be deemed to be delinquent. Customers whose bills are thirty (30) days delinquent shall be given written notice of such delinquency. Disconnection procedures in compliance with section 50.01 shall be commenced. A thirty-five dollar (\$35.00) fee shall be added to the water bill for service disconnection. This fee shall be added and collected if City personnel are dispatched to disconnect the water, even if the bill is paid before disconnection is physically accomplished. An additional thirty-five dollar (\$35.00) fee shall be collected before water service will be reconnected during the City's regular business hours. (*Ref. 17-542, 19-2702 RS Neb.*) (*Amended by Ord. No. 85-05, 09/03/85; 01-04, 05/07/01; 02-06, 02/18/02; 09-01, 01/19/09; 20-06, 08/11/20*)

§ 51.11 RESPONSIBILITY FOR WATER CHARGES.

In all cases property owners, rather than their tenants, shall be ultimately responsible for all water and sewer charges which accrue against property to which they hold record title.

§ 51.12 LIEN.

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

§ 51.13 SUPPLY RESTRICTED TO SINGLE PREMISE.

No consumer shall supply water to other persons, nor allow them to take water from his, hers, or its premises, or after water is supplied into a building shall any person make or

employ a plumber or other person to make a tap or connection with the pipe upon the premises for alteration, extension, or attachment without the written permission of the Municipality. It shall further be unlawful for any person to tamper with any water meter or by means of any contrivance or device to divert the water from the service pipe so that the water will not pass through the meter or while passing through said meter to cause the meter to register inaccurately. *(Amended by Ord. No. 01-04, 5/7/01) (Ref. 17-537 RS Neb.)*

§ 51.14 RESTRICTED USE.

The Governing Body or the Water Department may order a reduction in the use of water or shut off the water supply to any premises in the event of a water shortage due to fire or other good and sufficient cause. The Municipality shall not be liable for any damages caused by shutting off the supply of water of any consumer while the system or any part thereof is undergoing repairs or when there is a shortage of water due to circumstances over which the Municipality has no control. *(Amended by Ord. No. 01-04, 05/07/01) (Ref. 17-537 RS Neb.)*

§ 51.15 FIRE HYDRANTS.

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

§ 51.16 POLLUTION.

It shall be unlawful for any person to pollute or attempt to pollute any stream or source of water for the supply of the Municipal Water Department. In order to prevent the pollution of the Municipal water supply through plumbing facilities connected thereto, the following regulations concerning cross-connection and back flow prevention are hereby adopted and appear in sections 51.17 to 51.21. *(Ref. 17-536 RS Neb.)*

§ 51.17 AUTHORITY.

- A. RESPONSIBILITY OF THE UTILITIES SUPERINTENDENT. Water Department personnel, or a designated agent, shall inspect the plumbing in every structure in the Municipality as frequently as in his or her judgment may be necessary to ensure that such plumbing has been installed in such a manner as to prevent the possibility of pollution of the water supply of the Municipality by the plumbing facilities connected thereto. The Water Department shall notify or cause to be notified in writing the owner or authorized agent of the owner of any such structure, to correct, within a reasonable time set by the Utilities Superintendent, any plumbing installed or existing contrary to or in violation of this Article, and which in his or her judgment, may, therefore, permit the pollution of the Municipal water supply, or otherwise adversely

affect the public health.

- B. INSPECTION. The Water Department personnel, or his or her designated agent, shall have the right of entry into any structure, during reasonable hours, for the purpose of making inspection of the plumbing systems installed in such structure; Provided, that with respect to the inspection of any single family dwelling, consent to such inspection shall first be obtained from a person of suitable age and discretion therein or in control thereof. (*Amended by Ord. No. 01-04, 05/07/01*)

§ 51.18 CONNECTION CONTROL.

General policy and purpose:

- A. Purpose. The purpose of this section is to:
1. Protect the public potable water supply of the city water system from the possibility of contamination or pollution by isolating real or potential sources of contamination or pollutants which may backflow or cause back siphonage through the service connection into the public potable water supply system, as required by Title 179, NAC 2 "Regulations Governing Public Water Supply Systems."
 2. Promote the elimination, containment, isolation, or control of existing cross connections, actual or potential, between the public or consumer's potable water systems and nonpotable water systems, plumbing fixtures and industrial process systems.
 3. Provide for the maintenance of a continuing program of cross connection control which will systematically and effectively prevent the contamination or pollution of all potable water systems.
- B. Applicability. This section shall apply to all premises serviced by the public potable water system of the city.
- C. Policy.
1. This section will be reasonably interpreted as the city's intent to recognize the varying degrees of hazard and to apply the principle that the degree of protection shall be commensurate with the degree of hazard.
 2. The Municipal Water Department shall be primarily responsible for protection of the public potable water distribution system from contamination or pollution due to backflow of contaminants or pollutants through the water service connection. The cooperation of consumers is required to implement and maintain the program to control cross connections. The consumer is responsible for preventing contamination of the water system within the consumer's own premises.
 3. If, in the judgment of the Water Department or the state department of health or their authorized representative, cross connection protection is required through either piping modification or installation of an approved backflow prevention

device, 30 days' notice shall be given to the consumer. The failure, refusal, or inability on the part of the consumer to provide requested protection within 30 days shall make the consumer subject to discontinuance of water service at the discretion of the Water Department according to the degree of hazard, without further notice. *(Amended by Ord. No. 99-17, 06/21/99)*

§ 51.19 CROSS CONNECTION CONTROL; DEFINITIONS.

- A. The following definitions shall apply in the interpretation and enforcement of this ordinance:
1. "Air gap separation" means the unobstructed vertical distance through the free atmosphere between the lowest opening from any pipe or faucet supplying water to a tank, plumbing fixture, or other device, and the flood-level rim of the receptacle.
 2. "Auxiliary water supply" means any water source or system, other than the public water supply, that may be available in the building or premises.
 3. "Backflow" means the flow other than the intended direction of flow, of any foreign liquids, gases, or substances into the distribution system of a public water supply.
 4. "Backflow prevention device" means any device, method, or type of construction intended to prevent backflow into a potable water system provided backflow preventers have been tested and approved by a reputable testing laboratory.
 5. "Consumer" means the owner or person in control of any premises supplied by or in any manner connected to a public water system.
 6. "Containment" means protection of the public water supply by installing a cross connection control device or air gap separation on the main service line to a facility, or as an installation within equipment handling potentially hazardous materials.
 7. "Contamination" means an impairment of the quality of the water by sewage, process fluids, or other wastes to a degree which could create an actual hazard to the public health through poisoning or through spread of disease by exposure.
 8. "Cross connection" means any physical link, between a potable water supply and any other substance, fluid, or source which makes possible contamination of the potable water supply due to the reversal of flow of the water in the piping or distribution system.
 9. "Hazard, Degree of" means an evaluation of the potential risk to public health and the adverse effect of the hazard upon the potable water system.
 - a. Hazard-Health - any condition, device, or practice in the water supply system and its operation which could create or may create a danger to the health and well-being of the water consumer.

- b. Hazard-Plumbing - a plumbing type cross connection in a consumer's potable water system that has not been properly protected by a vacuum breaker, air-gap separation, or backflow prevention device.
 - c. Hazard-Pollutional - an actual or potential threat to the physical properties of the water system or to the potability of the public or the consumer's potable water system but which would constitute a nuisance or be aesthetically objectionable or could cause damage to the system or its appurtenances, but would not be dangerous to health.
 - d. Hazard-System - an actual or potential threat of severe damage to the physical properties of the public potable water system or the consumer's potable water system, or of a pollution or contamination which would have a protracted effect on the quality of the potable water in the system.
10. "Industrial Process System" means any system containing a fluid or solution, which may be chemically, biologically, or otherwise contaminated or polluted in a form or concentration such as would constitute a health, system, pollutional or plumbing hazard if introduced into a potable water supply.
11. "Isolation" means protection of a facility service line by installing a cross connection control device or air gap separation on an individual fixture, appurtenance, or system.
12. "Pollution" means the presence of any foreign substance (organic, inorganic, or biological) in water which tends to degrade its quality so as to constitute a hazard or impair the usefulness of the water to a degree which does not create an actual hazard to the public health but which does adversely and unreasonably affect such waters for domestic use.
13. "Public Potable Water System" means any publicly or privately owned water system supplying water to the general public which is satisfactory for drinking, culinary, and domestic purposes and meets the requirements of the Nebraska Department of Health.
14. "Service Connection" means the terminal end of a service line from the public water system. If a meter is installed at the end of the service, then the service connection means the downstream end of the meter.
15. "Water Department" means the owner, operator, or individual in responsible charge of a public water system. (*Amended by Ord. No. 99-17, 06/21/99*)

§ 51.20 CROSS CONNECTIONS PROHIBITED.

- A. No water service connection shall be installed or maintained to any premises where actual or potential cross connections as required by the laws and regulations of the state to the public potable or consumer's water system may exist.

- B. No connection shall be installed or maintained whereby an auxiliary water supply may enter a public potable or consumer's water system.
- C. No water service connection shall be installed or maintained to any premises in which the plumbing system, facilities, and fixtures have not been constructed and installed using acceptable plumbing practices of the latest edition of the Uniform Plumbing Code as considered by the Municipal Water Department as necessary for the protection of health and safety. *(Amended by Ord. No. 99-17, 06/21/99)*

§ 51.21 SURVEYS AND INVESTIGATIONS; RESPONSIBILITIES OF CONSUMER.

- A. The consumer shall provide access to the premises at reasonable times to the Municipal Water Department, or its authorized representative, for the conduction of surveys and investigations of water use practices within the consumer's premises to determine whether there are actual or potential cross connections to the consumer's water system through which contaminants or pollutants could backflow into the public potable water system.
- B. On request by the Municipal Water Department or its authorized representative, the consumer shall furnish information on water use practices within his premises.
- C. It shall be the responsibility of the water consumer to conduct periodic surveys of water use practices on his premises to determine whether there are actual or potential cross connections to his water system through which contaminants or pollutants could backflow into his or the public potable water system. *(Amended by Ord. No. 99-17, 06/21/99)*

§ 51.22 TYPE OF PROTECTION REQUIRED.

The type of protection required by this section shall depend on the degree of hazard which exists, as follows: An approved air gap separation, or an approved reduced pressure principle backflow prevention device, or an approved double check valve assembly shall be installed where the public potable water system may be polluted with substances that could cause a health hazard. *(Amended by Ord. No. 99-17, 06/21/99)*

§ 51.23 PREMISES WHERE PROTECTION IS REQUIRED.

- A. An approved backflow prevention device shall be installed in the service connection line to a consumer's water system or within any premises where actual or potential hazards to the public potable water system exist. The type and degree of protection required shall commensurate with the degree of hazard.
- B. An approved air gap separation or reduced pressure principle backflow prevention device shall be installed at the service connection or within any premises where the nature and extent of activities on the premises, or the materials used in connection with the activities, or materials stored on the premises, would present an immediate and dangerous hazard to health should a cross connection occur, even though such

cross connection may not exist at the time the backflow prevention device is required to be installed. This includes but is not limited to the following situations:

1. Premises having an auxiliary water supply.
 2. Premises having internal cross connections that are not correctable, or intricate plumbing arrangements which make it impractical to ascertain whether or not cross connections exist.
 3. Premises where entry is restricted so that inspections for cross connections cannot be made with sufficient frequency or at sufficiently short notice to ensure that cross connections do not exist.
 4. Premises that, although not covered by this division, are subject to frequent modification which would change their status, or premises that have had violations of this division.
 5. Premises on which any substance is handled under pressure so as to permit entry into the public water supply, or where a cross connection could reasonably be expected to occur. This shall include the handling of process waters and cooling waters.
 6. Premises where materials of a toxic or hazardous nature are handled such that, if back siphonage or back pressure should occur, a serious health hazard may result.
- C. The following types of facilities must install or have in operation an approved air gap separation, atmospheric vacuum breaker, pressure vacuum breaker, double check valve assembly, or reduced pressure principle backflow prevention device as required by the Municipal Water Department to protect the public water supply, and such equipment must be installed at these facilities unless all hazardous or potentially hazardous conditions have been eliminated or corrected:
1. Auxiliary water systems.
 2. Beverage bottling plants and food processing plants.
 3. Canneries, packing houses, and reduction plants.
 4. Car washing facilities and automobile servicing facilities.
 5. Chemical manufacturing, processing, compounding, or treatment plants.
 6. Chemically contaminated water systems.
 7. Dairies and cold storage plants.
 8. Film laboratories, film development facilities, and testing laboratories.
 9. Fire protection systems.

10. Hazardous waste storage and disposal.
11. Hospitals, mortuaries, clinics, nursing and convalescent homes, and medical facilities.
12. Sprinkler systems and hose connections injecting directly material of a toxic or hazardous nature.
13. Laundries and dye works, and dry cleaners.
14. Metal manufacturing, cleaning, processing, and fabricating plants.
15. Oil and gas production, storage, or transmission properties.
16. Plating plants.
17. Printing and publishing facilities.
18. Research and analytical laboratories.
19. Sewage and storm drainage facilities.
20. Zoological and horticultural gardens.
21. All cemetery sprinkler systems.
22. Pet grooming and veterinarian facilities, kennels, stockyards, and feedyards.
23. Swimming pools.
24. Cooling coil service lines (refrigeration, air conditioning, etc.)
25. All hot water and steam boiler heating systems with water recirculating.
26. Lawn irrigation systems. All lawn irrigation systems must have a pressure vacuum breaker or reduced pressure zone backflow prevention device. Backflow devices must be tested at the time of installation and at least every 36 months thereafter.
27. Hose connections. All garden hose type connections must have hose bib vacuum breakers.
28. Yard hydrants. The installation of new or replacement yard hydrants where water is available or accessible for drinking or culinary purposes, and which have a drip opening below the ground surface, is prohibited unless such hydrants are equipped with an approved device to prevent entrance of groundwater into chambers connected with the water supply. Yard hydrants or hose bibs which would be used by the consumer to provide water to mix pesticides, fertilizer or other chemicals for

direct use or aerial application to surface areas shall be equipped with an antisiphon vacuum breaker.

29. Booster pumps. No person shall install or maintain a water service connection to any premises where a booster pump has been installed on the service line to or within such premises, unless such booster pump is equipped with a low pressure cutoff designed to shut off the booster pump when the pressure in the service line on the suction side of the pump drops to 20 pounds per square inch gauge or less. It shall be the duty of the customer to maintain the low pressure cutoff device in proper working order. The utilities superintendent may require testing at any time if it is suspected that a problem exists with the device.
30. Multistoried buildings greater than three stories. These facilities, falling into one or more or more of the categories listed in this section, will be given six months after passage of the ordinance from which this division is derived to comply with this division, except those facilities or systems which are determined by the Municipal Water Department to be an immediate or severe health hazard, in which case that system or facility shall be required to comply immediately with this division. *(Amended by Ord. No. 99-17, 06/21/99)*

§ 51.24 APPROVED BACKFLOW PREVENTION DEVICES.

- A. Any backflow prevention device required by this section shall be of a model or construction approved by the Municipal Water Department.
 1. An air gap separation, to be approved, shall be at least double the diameter of the supply pipe measured vertically above the flood level rim of the vessel, but in no case less than one inch.
 2. A double check valve assembly or a reduced pressure principle backflow prevention device shall be approved by the Municipal Water Department and shall appear on the current list of approved backflow prevention devices established by the Water Department.
- B. Existing testable backflow prevention devices approved by the water purveyor at the time of installation and properly maintained shall, except for inspection and maintenance requirements, be excluded from the requirements of this division so long as the Municipal Water Department is assured that they will satisfactorily protect the water system. Whenever the existing device is moved from its present location, or requires more than minimum maintenance, or when the Water Department finds that the maintenance constitutes a hazard to health, the unit shall be replaced by a backflow prevention device meeting the requirement of this division. *(Amended by Ord. No. 99-17, 06/21/99)*

§ 51.25 INSTALLATION OF BACKFLOW PREVENTION DEVICES.

- A. Backflow prevention devices required by this section shall be installed by licensed state-certified tester/repair technicians at a location and in a manner approved by the Municipal Water Department or according to the latest addition of the Uniform Plumbing Code, and shall be installed at the expense of the water consumer.
- B. Backflow prevention devices installed on the service line to the consumer's water system shall be located on the consumer's side of the water meter, and prior to any other connection.
- C. Backflow prevention devices shall be located so as to be readily accessible for maintenance and testing, and protected from freezing, and where no part of the device will be submerged or subject to flooding by any fluid.
- D. Backflow prevention devices for underground sprinklers that have an opening to the atmosphere shall be located at least 12 inches from the bottom of the valve above the highest ground served by the sprinkler system. *(Amended by Ord. No. 99-17, 06/21/99)*

§ 51.26 INSPECTION AND MAINTENANCE OF BACKFLOW PREVENTION DEVICES.

- A. It shall be the duty of the consumer at any premises on which backflow prevention devices required by this division are installed to have inspections, tests, and overhauls made by licensed state-certified backflow tester/repair technicians in accordance with the following schedule, or more often where inspections indicate a need:
 - 1. Air gap separations shall be inspected at the time of installation and at least every 12 months thereafter.
 - 2. Double check valve assemblies shall be inspected and tested for tightness at the time of installations and at least every twelve (12) months thereafter. They shall be dismantled, inspected internally, cleaned, and repaired whenever needed and at least every five (5) years.
 - 3. Reduced pressure principal backflow prevention devices shall be inspected and tested for tightness at the time of installation and at least every twelve (12) months thereafter. They shall be dismantled, inspected internally, cleaned, and repaired whenever needed and at least every five (5) years.
- B. Overhauls of backflow prevention devices shall be made at the expense of the water consumer and shall be performed by a State of Nebraska Certified Backflow Prevention Device Tester.

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

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

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

F. Backflow prevention devices shall not be bypassed, made inoperative, removed, or otherwise made ineffective.

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

§ 51.27 CROSS CONNECTIONS; BACKFLOW PREVENTION DEVICES; VIOLATIONS.

- A. The Municipal Water Department shall have the right to deny or discontinue after ten (10) days notice to the occupants thereof, the water service to any premises wherein any backflow prevention device required by this ordinance is not installed, tested, and maintained in
- B. a manner acceptable to the Municipal Water Department, 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.
- C. Water service to such premises shall not be restored until the consumer has corrected or eliminated such conditions or defects in conformance with this ordinance to the satisfaction of the Municipal Water Department.
- D. The appropriate state or local regulatory agency, the Mayor and City Council shall be advised of inspection findings, and the violation abatement action pursued by the Municipal Water Department, and consulted prior to violation abatement action on items having to do with public health significance. *(Amended by Ord. Nos. 99-17, 06/21/99; 01-04, 05/07/01)*

§ 51.28 MANDATORY HOOKUP.

All persons within three hundred feet (300') of a water main shall be required, upon notice by the Governing Body, to hookup with the Municipal Water System. No private water wells shall be allowed:

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

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

Any well that penetrates the aquifer for purposes of extracting water or injecting water or any other substance, or for purposes of testing or monitoring ground water must have a permit issued by the City. Ground source heat pumps with closed loop systems used for heating and cooling of facilities are exempt from the permit requirement. (*Ref. 17-539 RS Neb.*) (*Amended by Ord. Nos. 90-6, 06/18/90; 99-17, 06/21/99; 00-2, 04/03/00*)

§ 51.29 WATER SERVICE CONTRACTS.

Contracts for water service are not transferable. Any person wishing to change from one location to another shall make a new application and sign a new contract. If any consumer shall move from the premises where service is furnished, or if the said premise is destroyed by fire or other casualty, he shall at once inform the Water Department who shall cause the water service to be shut off at the said premises. If the consumer should fail to give such notice, he shall be charged for all water used on the said premises until the Water Department is otherwise advised of such circumstances. (*Ref. 17-537 RS Neb.*) (*Amended by Ord. Nos. 99-17, 06/21/99; 01-04, 05/07/01*)

§ 51.30 DESTRUCTION OF PROPERTY.

It shall be unlawful for any person to willfully or carelessly break, injure, or deface any building, machinery, apparatus, fixture, attachment, or appurtenance of the Municipal Water Department. No person may deposit anything in a curb stop or commit any act tending to obstruct or impair the intended use of any of the above mentioned property without the written permission of the Water Department. (*Amended by Ord. Nos. 99-17, 06/21/99; 01-04, 05/07/01*)

§ 51.31 HOURS.

Except in the case of emergency, all taps or plumbing work done on or to the Municipal Water System shall be done during normal business hours of the Municipal Water Department. (*Ref. 17-537 RS Neb.*) (*Amended by Ord. No. 99-17, 06/21/99*)

§ 51.32 FLUORIDE PERMITTED.

Fluoride shall be added for dental health benefits to the water supply of the City of Waverly, Nebraska in the amount and manner prescribed by the rules and regulations of the Nebraska Department of Health and Human Services. (*Amended by Ord. Nos. 98-05, 03/16/98; 99-17, 06/21/99*)

§ 51.33 BOILERS.

All house boilers shall be constructed with one (1) or more air holes near the top of the inlet pipe and sufficiently strong to bear the pressure of the atmosphere under the vacuum, the stop cock and all other apparatus must be sufficiently strong to bear the pressure of water in the mains. All persons taking the water shall keep the service pipes, stock cock, and other apparatus in good order and repair and protect the same from frost at their own risk and expense. (*Amended by Ord. No. 99-17, 06/21/99*)

§ 51.34 SEPARATE SHUT OFFS.

When one (1) service pipe supplies two (2) or more customers, except four plex or larger residential buildings, there shall be provided, subject to the supervision of the Water Department, a separate stop cock and meter for each of said customers, so that water supplies may be shut off from one without interfering with the supply of the others. (*Amended by Ord. Nos. 99-17, 06/21/99; 01-04, 05/07/01; 08-01, 02/04/08*)

§ 51.35 VIOLATIONS AND PENALTIES.

- A. NOTIFICATIONS OF VIOLATION OF 51.16 TO 51.27. The Water Department shall notify the owner, or authorized agent of the owner, of the structure in which there is found a violation of Section 51.16 to and including Section 51.27 of this Code, of such violation. The Water Department shall set a reasonable time for the owner to have the violation removed or corrected. Upon failure of the owner to have the defect corrected by the end of the specified time interval, the Water Department may, if in his or her judgment an imminent health hazard exists, cause the water service to the structure to be terminated, and/or recommend such additional fines or penalties to be invoked as herein may be provided.
- B. FINES ESTABLISHED FOR VIOLATION OF 51.16 TO 51.27. The owner or authorized agent of the owner for the maintenance of the plumbing systems in the structure who knowingly permits a violation of 51.16 to 51.27 of this Code to remain uncorrected after the expiration of time set by the Water Department shall, upon conviction thereof by the Court, be deemed guilty of an infraction, be required to pay a fine of not less than one hundred dollars (\$100.00) for each violation, and stand committed to jail until such fine and costs of prosecution are paid. Each day of failure

to comply with the requirements of this Section, after the specified time provided herein, shall constitute a separate violation. If such violation is disposed of pursuant to a waiver of appearance and plea of guilty, the fine shall be fifty dollars (\$50.00).

- C. FINES ESTABLISHED FOR VIOLATION OF 51.15. Any person upon whom a duty is placed by the provisions of 51.15 of this Code, and who shall violate any of the provisions of said Section, shall be deemed guilty of an infraction and upon conviction thereof, shall be fined in the sum of not less than ten dollars (\$10.00) nor more than one hundred dollars (\$100.00), and shall stand committed to jail until such fine and costs of prosecution are paid. If such violation is disposed of pursuant to a waiver of appearance and plea of guilty, the fine shall be ten dollars (\$10.00).
- D. FINES ESTABLISHED FOR VIOLATION OF 51.13 AND 51.30. Any person upon whom a duty is placed by the provisions of 51.13 or 51.30 of this Code, and who shall fail, neglect, or refuse to perform such duty, or who shall violate any of the provisions of said Sections, shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be fined in the sum of not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100.00), and shall stand committed to jail until such fine and costs of prosecution are paid. If such violation is disposed of pursuant to a waiver of appearance and plea of guilty, the fine shall be twenty-five dollars (\$25.00). (*Amended by Ord. Nos. 99-17, 06/21/99; 01-04, 05/07/01*)

§ 51.36 LAWN IRRIGATION SYSTEMS.

- A. It shall be the duty of the consumer at any premises that have an automatic sprinkler system to have a backflow prevention device and a rain sensor. All backflow prevention devices shall comply with Section 51.26 of the Waverly Municipal Code.
- B. All piping material from the house to the vacuum breaker needs to be copper tubing or approved cross-linked polyethylene tubing. The piping from the vacuum breaker to the sprinkler system may be PVC plastic rated for 160 psi or greater.
- C. Automatic lawn sprinkler systems shall have a rain sensor installed that will turn the system off under predetermined rain or moisture conditions. (*Est. by Ord. 10-09, 07/19/10*)

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

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

Section 2. Classes of uses of water.

Class 1:

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

Class 2:

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

Class 3:

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

Class 4:

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

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

Triggers

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

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

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

Triggers

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

1. The City pumping ability has fallen below 70 percent capacity;
2. Groundwater levels have fallen ten feet below the normal seasonal level; or

3. Daily demand is in excess of 900,000 gallons per day based on a three-day average.

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

Triggers

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

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

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

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

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

- (a) Sprinkling of water on lawns, shrubs, or trees (including golf courses), that users are mandatorily restricted to conserve water by rotating water use on and even, odd system. Tuesday, Thursday, and Saturday addresses ending in even numbers, are restricted to watering on these days only. Wednesday, Friday, and Sunday, addresses ending in Odd numbers, are restricted to watering on these days only. (Anyone found not following these restrictions is subject to penalties under Section 11 of this ordinance.)
- (b) Limit washing of automobiles.
- (c) Limit of water in swimming pools, fountains and evaporative air conditioning systems. Waste of water on sidewalks, driveways, and streets is strictly prohibited. Suspension of new connections to the City's water distribution system, except connections of fire hydrants and those made pursuant to

agreement entered into by the City prior to the effective date of the declaration of the emergency.

- (d) Restrictions on the uses of water in one or more classes of water use, wholly or in part;
- (e) Restrictions on the sales of water at coin-operated car wash facilities or sites;
- (f) The imposition of water rationing based on any reasonable formula including, but not limited to, the percentage of normal use and per capita or per consumer restrictions;
- (g) Complete or partial bans on the waste of water; and
- (h) Any combination of the forgoing measures.

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

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

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

- (a) A fee of \$50 shall be paid for the reconnection of any water service terminated pursuant to Section 10. In the event of subsequent violations, the reconnection fee shall be \$200 for the second reconnection and \$300 for any additional reconnections.
- (b) Any person who shall violate or refuse to comply with the enforcement of any provision in this ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than \$100 for each offense. A new violation shall be deemed to have been committed every twenty-four (24) hours of such violation or failure to comply.

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

Section 12. Severability. If any provision of this ordinance is declared unconstitutional, or the application thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the ordinance and its applicability to other persons and circumstances

shall not be affected thereby. (*Ord. No. 00-06, 08/07/00; Ord. No. 03-02, 04/07/03; Ord. No. 06-16, 09/05/06*)

§ 51.38 WELL – HEAD PROTECTION: PURPOSE.

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

§ 51.39 WELL – HEAD PROTECTION: DEFINITIONS.

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

§ 51.40 WELL – HEAD PROTECTION: PLACEMENT, MAINTENANCE AND CONSTRUCTION; PROHIBITIONS.

It shall be unlawful to place, maintain, construct, or replace any of the following structures or conduct any of the following activities within the distance specified below from existing Municipal water well:

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

Domestic Water Well	1,000	300
Dump	1,000	300
Feedlot or Feedlot Runoff	1,000	300
Nonpotable Water Well	1,000	300
Pit Toilet	500	150
Sanitary Landfill	1,000	300
Sanitary Sewer Connection	100	30
Sanitary Sewer Line	50	15
Sanitary Sewer Line (permanently watertight)	10	3
Sanitary Sewer Manhole	100	30
Septic Tank	500	150
Sewage Lagoon	1,000	300
Sewage Treatment Plant	500	150

Sewage Wet Well	500	150
Storm Sewer	50	15
Closed-Loop Food Grade Heat Pump	500	150

(Amended by Ord. No. 02-18, 06/17/02; 05-13, 07/18/05)

§ 51.41 WELL – HEAD PROTECTION: APPLICATIONS; APPROVAL REQUIRED.

The Governing Body may consider allowing placement of water wells, as defined by Nebraska Regulations governing public water supply systems (Title 179, NAC 2) and Nebraska Regulations governing water well construction, pump in stallion and water well abandonment standards (Title 178, NAC 12) as amended from time to time, closer to a Municipal water well than the limitations set forth in Section 51.40 hereof. Closer placement shall be allowed only under the following conditions:

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

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

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

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

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

§ 51.42 WELL–HEAD PROTECTION: EXISTING WELLS.

Water wells in existence and use, as of the effective date of this Article, shall continue to be permitted unless such a continued existence or use presents a hazard to the quality or quantity of the drinking water for public use. The owner of any water well shall

have the burden of establishing the existence and use of such well at the time of effective date of this Article. *(Amended by Ord. No. 02-18, 06/17/02)*

§ 51.43 WELL-HEAD PROTECTION: VIOLATIONS; PENALTY.

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

§ 51.44 WELL-HEAD PROTECTION: VIOLATIONS; DESIGNATION OF WELL-HEAD PROTECTION AREA.

Section 1. Definitions. Wellhead Protection Area means the surface and subsurface area surrounding a public water supply well or wellfield, supplying a public water supply system, through which contaminants are reasonably likely to move toward and reach such water well or well field.

Section 2. The City Council designates a Wellhead Protection Area for the purpose of protecting the public water supply system. The boundaries of the Wellhead Protection Area are based upon the delineation map published by the Nebraska Department of Environmental Quality on June 2019. The boundaries of the Wellhead Protection Area are:

A PARCEL OF LAND LOCATED IN SECTIONS 3, 4 AND 5, TOWNSHIP 10 NORTH, RANGE 8 EAST OF THE SIXTH P.M., AND IN SECTIONS 16, 20, 21, 22, 27, 28, 28, 29, 32, 33 AND 34, TOWNSHIP 11 NORTH, RANGE 8 EAST OF THE SIXTH P.M., ALL IN LANCASTER COUNTY, NEBRASKA, BEING DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHWEST CORNER OF SECTION 22, TOWNSHIP 11 NORTH, RANGE 8 EAST OF THE SIXTH P.M.; THENCE EASTERLY ON THE NORTH LINE OF SAID SECTION 22, A DISTANCE OF 2640 FEET, MORE OR LESS, TO THE NORTHEAST CORNER OF THE WEST HALF OF SAID SECTION 22; THENCE SOUTHERLY ON THE EAST LINE OF SAID WEST HALF, A DISTANCE OF 5280 FEET, MORE OR LESS, TO THE SOUTHEAST CORNER OF SAID WEST HALF; THENCE SOUTHERLY ON THE EAST LINE OF THE WEST HALF OF SECTION 27, TOWNSHIP 11 NORTH, RANGE 8 EAST OF THE SIXTH P.M., A DISTANCE OF 5280 FEET, MORE OR LESS, TO THE NORTHEAST CORNER OF THE WEST HALF OF SECTION 24, TOWNSHIP 11 NORTH, RANGE 8 EAST OF THE SIXTH P.M.; THENCE SOUTHERLY ON THE EAST LINE OF SAID WEST HALF OF SECTION 24, A DISTANCE OF 5280 FEET, MORE OR LESS, TO THE NORTHEAST CORNER OF THE WEST HALF OF SECTION 3, TOWNSHIP 10 NORTH, RANGE 8 EAST OF THE SIXTH P.M.; THENCE SOUTHERLY ON THE EAST LINE OF SAID WEST HALF OF SECTION 3, A DISTANCE OF 5280 FEET, MORE OR LESS, TO THE SOUTHEAST CORNER OF SAID WEST HALF OF SECTION 3; THENCE WESTERLY ON THE SOUTH LINE OF SAID WEST HALF OF SECTION 3, A DISTANCE OF 2640 FEET, MORE OR LESS, TO THE SOUTHEAST CORNER OF SECTION 4, TOWNSHIP 10 NORTH, RANGE 8 EAST OF THE SIXTH P.M.; THENCE

WESTERLY ON THE SOUTH LINE OF SAID SECTION 4, A DISTANCE OF 5280 FEET, MORE OR LESS, TO THE SOUTHEAST CORNER OF SECTION 5, TOWNSHIP 10 NORTH, RANGE 8 EAST OF THE SIXTH P.M.; THENCE WESTERLY ON THE SOUTH LINE OF SAID SECTION 5, A DISTANCE OF 5280 FEET, MORE OR LESS, TO THE SOUTHWEST CORNER OF SAID SECTION 5; THENCE NORTHERLY ON THE WEST LINE OF SAID SECTION 5, A DISTANCE OF 5280 FEET, MORE OR LESS, TO THE SOUTHWEST CORNER OF SECTION 32, TOWNSHIP 11 NORTH, RANGE 8 EAST OF THE SIXTH P.M.; THENCE NORTHERLY ON THE WEST LINE OF SAID SECTION 32, A DISTANCE OF 5280 FEET, MORE OR LESS, TO THE SOUTHWEST CORNER OF SECTION 29, TOWNSHIP 11 NORTH, RANGE 8 EAST OF THE SIXTH P.M.; THENCE NORTHERLY ON THE WEST LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 29, A DISTANCE OF 2640 FEET, MORE OR LESS, TO THE NORTHWEST CORNER OF SAID SOUTHWEST QUARTER; THENCE NORTHERLY ON THE WEST LINE OF THE NORTHWEST QUARTER OF SAID SECTION 29, A DISTANCE OF 500 FEET, MORE OR LESS, TO THE CENTERLINE OF INTERSTATE 80; THENCE NORTHWESTERLY ON THE CENTERLINE OF INTERSTATE 80, A DISTANCE OF 2500 FEET, MORE OR LESS, TO A POINT OF INTERSECTION WITH THE NORTHERLY RIGHT OF WAY LINE OF UNITED STATES HIGHWAY 6; THENCE NORTHEASTERLY ON SAID NORTHERLY RIGHT OF WAY LINE OF UNITED STATES HIGHWAY 6, A DISTANCE OF 6000 FEET, MORE OR LESS, TO THE WEST LINE OF THE EAST HALF OF SECTION 20, TOWNSHIP 11 NORTH, RANGE 8 EAST OF THE SIXTH P.M.; THENCE NORTHERLY ON THE WEST LINE OF SAID EAST HALF OF SECTION 20, A DISTANCE OF 3300 FEET, MORE OR LESS, TO THE NORTHWEST CORNER OF SAID EAST HALF OF SECTION 20; THENCE EASTERLY ON THE NORTH LINE OF SAID EAST HALF OF SECTION 20, A DISTANCE OF 2640 FEET, MORE OR LESS, TO THE SOUTHWEST CORNER OF SECTION 16, TOWNSHIP 11 NORTH, RANGE 8 EAST OF THE SIXTH P.M.; THENCE NORTHERLY ON THE WEST LINE OF THE OF SAID SECTION 16, A DISTANCE OF 5280 FEET, MORE OR LESS, TO THE NORTHWEST CORNER OF SAID SECTION 16; THENCE EASTERLY ON THE NORTH LINE OF SAID SECTION 16, A DISTANCE OF 5280 FEET, MORE OR LESS, TO THE NORTHEAST CORNER OF SAID SECTION 16; THENCE SOUTHERLY ON THE EAST LINE OF SAID SECTION 16, A DISTANCE OF 5280 FEET, MORE OR LESS, TO THE POINT OF BEGINNING, CONTAINING 6840 ACRES, MORE OR LESS.

Section 3. That a copy of the map of the Wellhead Protection Area for the City of Waverly, Nebraska is on file and shall be kept in the office of the City Clerk for the City of Waverly, Nebraska.

CHAPTER 52: SEWERS

Section

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GENERAL PROVISIONS

§ 52.01 DEFINITIONS.

Unless the context specifically indicates otherwise, the meaning of terms used in this Article shall be as follows:

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

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

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

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

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

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

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

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

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

1. cause, or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible illness; or,

2. pose a substantial present or potential hazard to human or animal health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed.

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

J. HIGH POLLUTANT SEWAGE. The term "High Pollutant Sewage" shall mean and include sewage which when analyzed shows, or which, due to the nature of a commercial activity or the types of waste water receptacles connected to a building drain and with consideration of the volume of waste water discharged, has the potential to show, by weight a daily average of more than 250 parts per million of suspended solids, more than 250 parts per million CBOD, or when Carbonaceous Biochemical Oxygen Demand cannot accurately be determined a Chemical Oxygen Demand of more than 400 parts per million, and more than 50 parts per million of the soluble matters of grease or oil.

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

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

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

N. NORMAL SEWAGE. The term "Normal Sewage" shall mean and include

sewage which when analyzed shows by weight a daily average of not more than 250 parts per million of suspended solids, not more than 250 parts per million CBOD, or when Carbonaceous Biochemical Oxygen Demand cannot accurately be determined a Chemical Oxygen Demand of not more than 400 parts per million, and not more than 100 parts per million of the soluble matters of grease or oil.

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

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

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

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

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

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

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

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

W. SEWAGE. The term "Sewage" shall mean and include a combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments together with such ground, surface, and storm waters as may be present.

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

Y. SEWER PIPE. The term "Sewer Pipe" shall mean any pipe extending from a premise where sewer is dispersed and is tapped into a main.

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

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

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

CC. SUSPENDED SOLIDS. The term "Suspended Solids" shall mean and include solids that either float on the surface of, or are in immersion in water, sewage, or other liquids, and are removable by filtering.

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

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

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

GG. WATERCOURSE. The term "Watercourse" shall mean a natural or artificial channel for the passage of water either continuously or intermittently. (Amended by Ord. No. 87-9, 7/20/87, 01-08, 7/2/01; 06-17, 9/5/06; 10-14, 9/7/10; 12-10, 5/15/12)

§ 52.02 SEWER CONTRACT; SHUT-OFF.

The Municipality through the Municipal Sewer Department shall furnish sewer services to persons within its corporate limits whose premises abut a street or alley in which a commercial main is now or may hereafter be laid. The Municipality may also furnish sewer service to persons whose premises are situated outside the corporate limits of the Municipality, as and when, according to law, the Governing Body may see fit to do so. The rules, regulations, and sewer service rates hereinafter named in this Article, shall be considered a part of every application hereafter made for sewer service and shall be considered a part of the contract between every customer now or hereafter served. Without further formality, the making of the application on the part of any applicant or the use of sewer service by present customers thereof shall constitute a contract between the customer and the Municipality to which contract both parties are bound. If the customer shall violate any of the provisions of said contract or any reasonable rules and regulations that the Governing Body may hereafter adopt, the Municipality, or his or her agent, may, in compliance with Section 50.01 of this Code, cut off or disconnect the sewer service from the building or premise of such violation. No further connection for sewer service to said building or premise shall again be made save or except by order of the Municipality. *(Amended by Ord. No. 01-08, 7/2/01)*

§ 52.03 SERVICE CONTRACTS; TRANSFER; TERMINATION.

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

§ 52.04 WASTEWATER SYSTEM; MAINTENANCE FUND.

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

§ 52.05 CLASSIFICATION.

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

§ 52.06 COLLECTION OF SEWER USE FEES.

Sewer service bills shall be due and payable at the same time and in the same manner as water bills are due and payable. All penalties and procedures concerning delinquent accounts with the Municipal Water Department shall also be applicable to delinquent accounts with the Municipal Sewer Department, to the extent the same are consistent with the provisions of this Article.

§ 52.07 LIENS FOR UNPAID SEWER CHARGES.

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

§ 52.08 UNLAWFUL DEPOSIT OF WASTES.

It shall be unlawful for any person to place, deposit, or permit to be deposited on public or private property within the Municipality or in any area under the jurisdiction of said Municipality, any human or animal excrement, garbage, hazardous waste, or materials which are potentially damaging to the environment or human life or otherwise objectionable.

§ 52.09 UNLAWFUL DISCHARGE OF UNTREATED SEWAGE.

It shall be unlawful to discharge to any natural outlet within the Municipality, or in any area under the jurisdiction of said Municipality, any sewage, polluted waters, or materials enumerated in §52.08, except where suitable treatment has been provided in accordance with provisions of this Article.

§ 52.10 CESSPOOLS, PRIVIES AND SEPTIC TANKS PROHIBITED.

Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage within the Municipality.

§ 52.11 PUBLIC SEWERS REQUIRED; MANDATORY HOOKUP.

The owner of all houses, buildings, or properties used for human employment, recreation, or other purposes, situated within the Municipality and abutting on any street,

alley, or right-of-way in which there is now located or may in the future be located a public sanitary of the Municipality, is hereby required at his or her expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this Article within ninety (90) days after date of official notice to do so; Provided, that said public sewer is within three hundred (300) feet of the property line. *(Amended by Ord. No. 01-08, 7/2/01)*

§ 52.12 PROHIBITION OF PRIVATE SEWAGE DISPOSAL SYSTEMS; WHEN APPLICABLE.

Where a public sanitary is not available under the provisions of Section 52.11, the building sewer shall be connected to a private sewage disposal system complying with the provisions of this Article.

At such time as a public sewer becomes available to a property served by a private wastewater disposal system, as provided in Section 52.11, a direct connection shall be made to the public sewer within sixty (60) days of such availability in compliance with this Article, and any septic tanks, cesspools, and similar private wastewater disposal facilities shall be cleaned of sludge and filled with suitable material. *(Amended by Ord. No. 01-08, 7/2/01)*

§ 52.13 PRIVATE SEWAGE DISPOSAL SYSTEM; PERMIT REQUIRED, FEE.

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

§ 52.14 PRIVATE SEWAGE DISPOSAL SYSTEM; PERMIT, WHEN EFFECTIVE; INSPECTIONS.

A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the Sewer Department. He or she shall be allowed to enter the property at any reasonable time to inspect the work at any stage of construction and, in any event, the applicant for the permit shall notify the Sewer Department when the work is ready for final inspection, and before any underground portions are covered. The inspection shall be made within twenty-four (24) hours of the receipt of notice by the Sewer Department. *(Amended by Ord. No. 01-08, 7/2/01)*

§ 52.15 PRIVATE SEWAGE DISPOSAL SYSTEMS; SPECIFICATIONS.

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

§ 52.16 PRIVATE SEWAGE DISPOSAL SYSTEM; MAINTENANCE.

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

§ 52.17 PRIVATE SEWAGE DISPOSAL SYSTEM; ADDITIONAL REQUIREMENTS.

No statement contained in this Chapter, shall be construed to interfere with any additional requirements that may be imposed by the Sewer Department. *(Amended by Ord. No. 01-08, 7/2/01)*

§ 52.18 APPLICATION FOR PERMIT; PRETREATMENT QUESTIONNAIRES.

Any person wishing to connect with the Waste Water System shall make an application therefore to the Sewer Department, in accordance with the provisions of this Article. Current industrial waste pretreatment questionnaires shall be filed with the Sewer Department by all users discharging industrial wastes within thirty (30) days of the effective date of this section and annually thereafter, on or before July 1, of each year. Said questionnaires shall be updated periodically and kept continuously current through amendments filed before changes occur in the character of wastes discharged by each user discharging industrial wastes. Prior to the connection the Clerk shall require applicants to make a service Deposit in an amount consistent with the prevailing policy of the Governing Body. All such permits shall be approved by the Sewer Department. The Department shall not supply sewer service to any person outside the corporate limits without special permission from the Governing Body; Provided, that the entire cost of pipe and other installation charges shall be paid by such consumer. Nothing herein shall be construed to obligate the Municipality to provide sewer service to non-residents. *(Amended by Ord. No. 01-08, 7/2/01) (Ref. 17-574, 19-2701 RS Neb.)*

§ 52.19 ALTERATION OR USE OF PUBLIC SEWER; PERMIT REQUIRED.

No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Sewer Department. *(Amended by Ord. No. 01-08, 7/2/01)*

§ 52.20 CLASSIFICATION; PERMIT APPLICATION, FEE. .

There shall be two (2) classes of building sewer permits:

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

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

All permits shall be approved by the Sewer Department.

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

For each connection:

- 1. Residential users.....\$250.00
- 2. Commercial users.....\$250.00
- 3. Industrial users.....\$500.00
- 4. Users if any class discharging industrial wastes...\$500.00

(Amended by Ord. No. 01-08, 7/2/01; Ord. 19-10)

§ 52.21 INSTALLATION PROCEDURE; EXCAVATIONS; INSPECTIONS; TAP FEES.

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

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

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

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

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

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

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

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

§ 52.22 CONSTRUCTION CODES.

- A. The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing and backfilling the trench,
- B. shall all conform to the requirements of the building and plumbing code or other applicable rules and regulations of the Municipality. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the American Society for Testing and Materials and Recommended Standards for Wastewater Facilities shall apply.
- C. Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.
- D. The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the
- E. Municipality, or the procedures set forth in the appropriate specifications of the American Society for Testing and Materials and the Recommended Standards for Wastewater Facilities. All such connections shall be made gastight and watertight, and verified by proper testing. Any deviation from the prescribed procedures and materials must be approved by the Sewer Department before installation. (*Amended by Ord. No. 01-08, 7/2/01*)

§ 52.23 UNLAWFUL CONNECTION; REQUIRED CONNECTION.

- A. No person shall make connection of roof downspouts, interior and exterior foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer unless such connection is approved by the Sewer Department for purposes of disposal of polluted surface drainage.
- B. All drainage systems, pits, or other reservoirs intended for collection, retention, or discharge of surface run-off or ground water which are located within a building, structure or other improvement shall be equipped with a pump, sump pump or other mechanical means of discharging the run-off or ground water from the drainage system, pit, or other reservoir and shall be plumbed to the exterior of the building, structure or other improvements my means other than the public sanitary sewer system. *(Amended by Ordinance Nos. 98-3, 2/3/98; 98-15, 9/8/98, 01-08, 7/2/01)*

§ 52.24 REPAIRS AND MAINTENANCE.

- a. Repairs - Municipal Obligations. The Municipality shall repair or replace all pipe constituting major sewer mains (Public Sewer), and shall bear the cost thereof.
- b. Repairs - Customer Obligations. It shall be the responsibility of the user to bear the cost of repair or replacement of all sewer pipe and appurtenances from the main to and including the customer's property.

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

All replacements and repairs of the sewer pipe made by the customer shall be done in a good and workmanlike manner in compliance with all applicable building codes using materials approved by the City. All repairs within the right of way shall meet or exceed the City's compaction and paving standards. *(Amended by Ord. No. 01-08, 7/2/01; 01-17, 12/3/01; 12-10, 5/15/12)*

§ 52.25 SINGLE PREMISE, SEPARATE BUILDING SEWERS.

A separate and independent building sewer and a separate tap into the public sewer shall be provided for every building; and for every unit within one (1) building which is or may be conveyed without a conveyance of the entire building; Provided, however, that a variance from the foregoing policy may be granted by the Municipality on a showing by the property owner that it is not feasible to construct such a separate building sewer. When such variance is granted, no connection shall be made without the express written consent of the Sewer Department and the Municipality does not and will not assume any obligation or responsibility whatsoever for damage caused by or resulting from any such connection. *(Amended by Ord. No. 01-08, 7/2/01)*

§ 52.26 USE OF EXISTING SEWERS.

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

§ 52.27 STORM WATER, SURFACE WATER, GROUNDWATER, COOLING WATER AND PROCESS WATER.

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

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

§ 52.28 HAZARDOUS AND PROHIBITED DISCHARGES; FLAMMABLE, TOXIC, CORROSIVE AND OBSTRUCTIVE SUBSTANCES; PRELIMINARY TREATMENT.

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

1. Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas.
2. Any waters or wastes containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any waste treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the waste water treatment facility.
3. Any waters or wastes having a pH lower than 6.5, or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the wastewater system.
4. Solid or viscous substances in quantities or of such size capable of causing obstruction

to the flow in sewers, or other interference with the proper operation of the sewage facilities such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, garbage, whole blood, paunch manure, hair and fleshings, entrails, and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.

5. Any water or wastes having:

- a) a five (5) day CBOD greater than 300 parts per million by weight, or,
- b) a COD greater than 480 parts per million by weight or suspended solids, or,
- c) containing more than 350 parts per million by weight of suspended solids, or,
- d) having an average daily flow greater than two percent (2%) of the average sewage flow of the Municipality, or,
- e) a chlorine requirement greater than demanded by normal sewage as evaluated by the Municipality's consulting engineer shall be subject to the review of the Waste Water Operator.

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

- a) reduce the biochemical oxygen demand to 300 parts per million by weight, or,
- b) reduce the chemical oxygen demand to 480 parts per million by weight,
- c) reduce the suspended solids to 350 parts per million by weight, or,
- d) control the quantities and rates of discharge of such waters or wastes, or
- e) reduce the chlorine requirement to conform with normal sewage,
- f) adhere to the following limits for industrial discharges expressed in milligram per liter:

	ELEMENT	Mg/L
1.	As	0.050
2.	Ba	5.000
3.	Cd	0.020
4.	Cr+6	5.000
5.	CrT	5.000

6.	Cu	1.000
7.	CNT	2.000
8.	Fe	5.000
9.	Pb	0.100
10.	Hg	0.005
11.	Ni	1.000
12.	Ag	0.100
13.	Zn	5.000

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

§ 52.29 HAZARDOUS AND PROHIBITED DISCHARGES; SPECIFIC PROHIBITIONS AS DETERMINED BY WASTE WATER OPERATOR.

No persons shall discharge or cause to be discharged any hazardous wastes as defined by the "Rules and Regulations Governing Hazardous Waste Management in Nebraska," the "Nebraska Department of Environmental Control Rules and Regulations Pertaining to the Pretreatment Program," the "Resource Conservation and Recovery Act (RCRA) of 1976," 42 U.S.C. §6901 et. Seq., and the "Nebraska Environmental Protection Act," as amended from time to time and at any time, or any of the following described substances, materials, water, or wastes if it appears likely in the opinion of the Waste Water Operator that such wastes can harm either the sewers, sewage treatment process, or equipment, have an adverse effect on the receiving stream, or can otherwise endanger life, limb, public property, or constitute a nuisance. In forming his or her opinion as to the acceptability of these wastes, the Waste Water Operator will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the waste water system plant, and other pertinent factors. The substances prohibited are:

1. Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor three-fourths horsepower ($\frac{3}{4}$ hp) [0.76 hp metric] or greater shall be subject to the review and approval of the Waste Water Operator.
2. Any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solutions whether neutralized or not.

3. Any water or wastes containing iron, chromium, copper, zinc, and similar objectionable or toxic substances; or wastes exerting an excessive chlorine requirement, to such degree that any such material received in the composite sewage by the wastewater system exceeds the limits established by the Waste Water Operator for such materials.
4. Any waters or wastes containing phenols or other taste- or odor-producing substances, in such concentrations exceeding limits which may be established by the Waste Water Operator as necessary, after treatment of the composite sewage, to meet the requirements of State, Federal, or other public agencies of jurisdiction of such discharge to the receiving waters.
5. Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Waste Water Operator in compliance with applicable State or Federal regulations.
6. Any waters or wastes having a pH in excess of 9.5.
7. Any liquid or vapor having a temperature higher than one hundred fifty degrees (150°) Fahrenheit [65 degrees (65°) Centigrade].
8. Any water or waste containing fats, wax, grease, or oils, whether emulsified or not, in excess of one hundred (100) mg/l or containing substances which may solidify or become viscous at temperatures between thirty-two degrees (32°) and one hundred fifty degrees (150°) Fahrenheit [zero degrees (0°) and sixty-five degrees (65°) Centigrade].
9. Materials which exert or cause:
 - a) Unusual concentrations of inert suspended solids (such as, but not limited to, Fuller's earth, lime slurries, and lime residues) or of dissolved solids (such as but not limited to, sodium chloride or sodium sulfate.)
 - b) Excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions.)
 - c) Unusual BOD, chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the wastewater system.
 - d) Unusual volume of flow or concentration of wastes constituting "slugs" as defined herein, except when such slugs are permitted in accordance with the provisions of §52.40 of this Code.
10. Waters or wastes containing substances which are not amenable to treatment or reduction by the wastewater system processes employed, or are amenable to treatment only to such degree that the wastewater system plant effluent cannot meet the requirement of other agencies having jurisdiction over discharge to the receiving waters. (*Amended by Ord. No. 01-08, 7/2/01*)

§ 52.30 DISCHARGE OF HAZARDOUS AND PROHIBITED SUBSTANCES; REJECTION, PRETREATMENT, CONTROL OF DISCHARGE RATE OR USE FEE SURCHARGE.

If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in Section 52.29, and which in the judgment of the Waste Water Operator, may have a deleterious effect upon the waste water system, processes, equipment, or receiving waters, or which otherwise create a hazard to life to constitute a public nuisance, the Waste Water Operator may:

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

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

§ 52.31 GREASE, OIL, AND SAND INTERCEPTORS; WHEN REQUIRED.

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

§ 52.32 PRELIMINARY TREATMENT OR FLOW EQUALIZING FACILITIES; MAINTENANCE BY OWNER.

Where preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his or her expense.

§ 52.33 CONTROL MANHOLES; FLOW RECORDERS, SAMPLING STATIONS; WHEN REQUIRED; INSTALLATION AND MAINTENANCE.

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

§ 52.34 CONTROL MANHOLES, FLOW RECORDERS, SAMPLING STATIONS; METHOD.

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

§52.35 HAZARDOUS AND PROHIBITED SUBSTANCES; SPECIAL EXCEPTIONS PERMITTED; USE FEE SURCHARGE.

Except where the wastes in question have been identified as "Hazardous Wastes" as defined by the "Rules and Regulations Governing Hazardous Waste Management in Nebraska," the "Nebraska Department of Environmental Control Rules and Regulations Pertaining to the Pretreatment Program," the "Resource Conservation and Recovery Act (RCRA) of 1976," 42 U.S.C. §6901 et. seq., and the "Nebraska Environmental Protection Act," as amended from time to time and at any time, no statement contained in this Article shall be construed as preventing any special agreement or arrangement between the Municipality and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the Municipality for treatment, subject to payment therefore, by the industrial concern. In every case, the industrial concern shall comply with this article prior to discharging its waste to the wastewater system.

§ 52.36 COMPLIANCE WITH ARTICLE; INSPECTIONS GENERALLY.

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

§ 52.37 COMPLIANCE WITH ARTICLE; INSPECTIONS; INJURY LIABILITY.

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

§ 52.38 COMPLIANCE WITH ARTICLE; INSPECTIONS; EASEMENTS.

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

§52.39 BASE RATES.

Except for the Municipality, all customers of the Municipal Sewer department shall be charged a base rate to be set by ordinance of the Governing Body. The sewer base rates shall be as follows for:

A.	<u>Meter Size</u>	<u>Costs of Service Charge</u>
	5/8"	\$36.17
	3/4"	\$36.17
	1"	\$36.17
	1.5"	\$47.84
	2"	\$55.48
	3"	\$72.46
	4"	\$113.23

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

B. Non-Resident Users

Wastewater system users located outside the corporate limits of the Municipality shall be charged double the base rates set for residents of the Municipality under the classification that the non-resident may be placed. *(Amended by Ord. No. 01-13, 9/4/01; 01-08, 7/2/01; 99-24, 9/7/99; 01-08, 07/02/01; 07-09, 09/17/07; 09-09, 09/21/09; 11-19, 08/16/11; 12-19, 12/18/12; 13-07, 08/06/13; 19-08, 09/24/19; 20-05, 8/25/20; 21-08, 08/10/21; 22-06, 08/09/22)*

§52.40 SURCHARGE RATES.

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

A. Residential Volume Surcharge

All residential users for volume use of the wastewater system shall be charged monthly a surcharge of three dollars and fifty-two cents (\$3.52) per one thousand (1,000) gallons of water used and discharged into the wastewater system as determined by a monthly average of water supplied by the Municipal water Department during the winter quarter, for usage during December, January and February.

If a resident or commercial user's December, January and February monthly usage of water are not available to determine an average, the monthly rate shall be calculated on the basis of a 4,000 gallon metered water bill until the December, January and February billing statements are available or such other reasonable estimate can be made by the City.

B. Commercial Volume Surcharge

All commercial users, except industrial level commercial users, for volume use of the waste water system shall be charged monthly a surcharge of five dollars and two cents (\$5.02) per one thousand (1,000) gallons of water used and discharged into the waste water system as determined by a monthly average of water supplied by the Municipal water department during a twelve (12) month period and for which billings are made by the Municipality from October through September.

C. Industrial Pollutant Surcharge

All industrial level users, who introduce into the waste water system any sewage other than "normal sewage" shall be charged monthly a surcharge of six dollars and eighty-eight cents (\$6.88) per one thousand (1,000) gallons of water used and discharged into the wastewater system and determined by a monthly average of water supplied by the Municipal water Department during a twelve (12) month period and for which billings are made by the Municipality from October through September.

D. Industrial Level Commercial and Industrial Surcharge

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

1. Eighty-four cents (\$.84) per pound of BOD, or
2. Fifty cents (\$.50) per pound of COD, whichever is greater, and
3. Forty-three cents (\$.43) per pound of suspended solids.
4. Grease Disposal Clause – The City requires that customers with the wastewater discharges that have high concentrations of grease and oil as determined by the City will install city approved grease traps in drains. Failure to install such traps and proper disposal of grease will result in a Grease Penalty Charge of 25% of the total wastewater bill to be added to each monthly bill until traps are installed and approved by the City.

E. The surcharge imposed in Paragraph "D" of this Section shall be based on the high three (3) daily averages for each such user based upon a sampling program which includes sampling by the Municipality over four (4), four (4) day periods during each calendar year. One (1) of said sampling periods shall fall within each quarter of the calendar year but sampling dates within each quarter shall be selected at random by the Wastewater Operator.

- F. The surcharge applicable to any “slug” which is introduced into the wastewater system shall be computed at four (4) times the rates specified in paragraph “D” of this Section, provided, however that the surcharge applicable to any “slug” which is introduced into the wastewater system shall be computed at two (2) times the rates specified in paragraph “D” of this Section, if the user shall:
1. Provide the Municipality an opportunity to sample the “slug” no less than twenty-four (24) hours prior to its introduction into the wastewater system, and
 2. Provide the Municipality with a written “slug” discharge request no less than twenty-four (24) hours prior to its introduction into the wastewater system, and
 - a. A brief statement, acceptable to the wastewater Operator, as to the composition of the “slug”, and
 - b. A statement as to the time and rate at which the “slug” will be introduced into the wastewater system,
 - c. In every case, actual laboratory fees shall be assessed to the user to reimburse the Municipality for the cost of handling the laboratory tests for each individual “slug” tested at the request of any user.
- G. Users who have not installed a control manhole and flow recorder, if required under this Article, and a sampling station, on or before the effective date of this Article, shall be assessed a surcharge based on the best estimate of the Wastewater Operator derived from samples taken from the nearest available manhole and estimates of flow.
- H. It shall be the duty of each user to install a suitable control manhole, flow recorder, and all other equipment required under this Article within thirty (30) days of the effective date of this Article.
- I. The laboratory analysis required in order to evaluate the samples taken in order to determine the surcharges imposed by this Section shall be performed by the Municipality at no charge whenever possible, but where the Municipality lacks the necessary equipment, users shall pay the cost of all testing which must be done by independent laboratories.
- J. The Wastewater Operator, or any law enforcement officer, for the purpose of enforcing this Article, or abating any nuisance existing hereunder, may enter private premises.

Wastewater system users located outside the corporate limits of the Municipality shall be charged double the surcharge rates set for residents of the Municipality under the classification that the non-residents may be placed. *(Amended by Ord. Nos. 85-6, 09/03/85; 87-09, 07/20/87; 92-13, 09/21/92; 97-01, 02/03/97; 99-24, 09/07/99; 01-08, 07/02/01; 07-09, 09/17/07; 09-09, 09/21/09; 10-10, 08/16/10; 11-19, 08/16/11; 12-19, 09/18/12; 13-07, 09/17/13; 19-08, 09/24/19; 19-16, 11/12/19; 20-05, 08/25/20; 21-08, 08/10/21; 22-06, 08/09/22)*

§ 52.41 HAZARDOUS POLLUTANT SURCHARGES.

In addition to other elements of the total user charge system contained in this Article:

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

§ 52.42 USER CLASSIFICATION PROCEDURE; NOTICE; HEARING.

- A. Within fifteen (15) days of the effective date of this Article, the Sewer Department shall make a determination as to the appropriate user classification for each waste water system user. Such determination shall be approved by the Mayor and communicated to the Governing Body. Thereafter, the Municipal Clerk shall mail notice to all users of the Municipal Waste Water System and to all owners of property served by the Municipal Waste Water System specifying the user classification which such owner and/or user has been assigned together with a copy of the rate section(s) of this Article. Provided, however, that residential users need not be notified of their classification.
- B. Within thirty (30) days of receipt of such notice, such users and property owners may file a written appeal of their wastewater system use classification and request a hearing before the Governing Body. Such hearing shall be held within thirty (30) days of the date of the request for hearing. The Governing Body may request the attendance of the Waste Water Operator and a consulting engineer. If the objecting party is not in attendance at such hearing, the Governing Body may rule in his or her absence.
- C. In the case of an appeal, rates shall be charged in accordance with the initial determination of the Sewer Department pending a final ruling by the Governing Body. When a change of classification is granted by the Governing Body, rates shall be adjusted retroactively.
- D. No user classification shall be changed by the Governing Body unless a timely appeal and request for hearing is filed.
- E. New wastewater system users shall be assigned a user classification at the time of application and shall have a period of thirty (30) days thereafter to appeal the

determination of the Sewer Department in the same manner provided in the case of original classification.

- F. Whenever the Waste Water Operator has reason to believe that the character of the waste water discharged by any waste water system user has changed significantly in strength, flow, or both since the time of original classification, he or she shall review the classification of such users and recommend such changes of body in the same manner established for initial classification. In the event the classification of any user is changed subsequent to such review, said user shall have the right to utilize the same appeal procedure set forth hereunder in the case of original classification. *(Amended by Ord. No. 01-08, 7/2/01)*

§ 52.43 USER CHARGE REVIEW.

The Governing Body shall review, at least annually, in connection with the budget process, the user charge system and revise the charges, if necessary, to accomplish the following:

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

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

§ 52.44 WASTEWATER SYSTEM; DESTRUCTION OF PROPERTY.

No person or persons shall maliciously, willfully or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment which is part of the wastewater system.

§ 52.45 VIOLATION; NOTICE AND LIABILITY.

- A. Except as otherwise provided herein, and excluding violations of §52.44 of this code, any person upon whom a duty is placed by the provisions of this Article and who shall fail, neglect, or refuse to perform such duty, or who shall violate any of the provisions of this Article, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in a sum of one hundred dollars (\$100.00), and shall stand committed to jail until such fine and costs of prosecution are paid. *(Amended by Ordinance 21-15, 11-9-21.)*

- B. Any person who shall violate Section 52.44 of this code shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in a sum not less than fifty dollars (\$50.00) nor more than one hundred dollars (\$100.00) and shall stand committed to jail until such fine and costs of prosecution are paid. If such violation may be and is disposed of pursuant to a waiver of appearance and plea of guilty, the fine shall be fifty dollars (\$50.00).
- C. Each day that a violation of any section of this Article continues shall constitute a separate and distinct offense and shall be punishable as such. The penalties herein provided shall be cumulative with and in addition to any penalty provided elsewhere in this Article.
- D. In addition to the penalties provided above, any person violating any of the provisions of this Article may be ordered by the Court to make restitution to the Municipality for any expenses, loss, or damage suffered by the Municipality as the result of such violation.

§ 52.46 EFFECTIVE DATE.

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

CHAPTER 53: SANITATION; GARBAGE AND MUNICIPAL LANDFILL

Section

- 53.01 Definition of hazardous waste
- 53.02 Commercial refuse haulers - duties
- 53.03 Certificate of compliance with federal law and agreement; filing with city clerk – when required
- 53.04 City clerk – duty to require filing of certificate of compliance and agreement
- 53.05 Removal of hazardous waste – when required
- 53.06 Definitions
- 53.07 Hauling service, certificate of approval required
- 53.08 Hauling service, franchises
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- 53.10 Franchise termination, public hearing
- 53.11 Rates to subscribers
- 53.12 Services to be provided
- 53.13 Haulers, requirements, equipment, personnel, insurance, availability
- 53.14 Residential subscribers, regulations
- 53.15 Commercial subscribers, regulations
- 53.16 Sharing subscription prohibited
- 53.17 Violation, penalty

§ 53.01 DEFINITION OF HAZARDOUS WASTE.

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

§ 53.02 COMMERCIAL REFUSE HAULERS - DUTIES.

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

§ 53.03 CERTIFICATE OF COMPLIANCE WITH FEDERAL LAW AND AGREEMENT; FILING WITH CITY CLERK - WHEN REQUIRED.

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

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

STATE OF _____)
) §
COUNTY OF _____)

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

wastes within the City of Waverly, Nebraska, or within or near the Waverly Municipal Landfill.

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

Affiant

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

Notary Public

SEAL

§ 53.04 CITY CLERK - DUTY TO REQUIRE FILING OF CERTIFICATE OF COMPLIANCE AND AGREEMENT.

It shall be the duty of the City Clerk to require any persons who might reasonably be expected to be involved in handling hazardous waste within or near the City of Waverly, Nebraska, to file a certificate and agreement as required under §53.03 of this Code. *(Amended by Ord. No. 87-6, 6/1/87)*

§ 53.05 REMOVAL OF HAZARDOUS WASTE - WHEN REQUIRED.

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

§53.06 DEFINITIONS.

- A. The term "garbage" as used in this Section shall be construed to mean all animal, fruit, or vegetable waste residue which attends the preparation, dressing, use, cooking, dealing, and/or storage of meats, fish, fowl, fruits, vegetables, cereals, or grains for human consumption, corn husks or cobs, coffee or tea grounds, except oyster or clam shells.
- B. The term "refuse" as used in this Section shall be construed to mean and include garbage and ashes as hereinbefore defined and all sweepings, paper, cardboard, feathers, rags, glass, dishes, bottles, crockery, pans, utensils of every kind and nature, pasteboard boxes, poison, food containers, tin cans, tree limbs and branches, and any other waste matter or material not herein designated as garbage which accumulates in the conduct of a household, business establishment, shop, or factory of any kind or nature.

- C. The term "refuse" shall specifically exclude grass cuttings, leaves, oil and oil products, and other products designated as hazardous waste by the Environmental Protection Agency and/or the Department of Environmental Quality, as amended from time to time. *(Amended by Ord. No. 92-15, 9/21/92; 02-01, 2/4/02)*

§ 53.07 HAULING SERVICE, CERTIFICATE OF APPROVAL REQUIRED.

No Refuse Hauler shall operate a refuse hauling business within the City limits of Waverly, Nebraska without first receiving a Certificate of Approval to operate a Franchise Refuse Hauling Service (hereinafter referred to as Certificate of Approval) from the City Clerk and complying with all of the terms and conditions of this Article.

§ 53.08 HAULING SERVICE, FRANCHISES.

Any person, partnership, or corporation receiving approval from the City Council to operate a Franchise Refuse Hauling Service within the City limits of Waverly, Nebraska, shall be granted such franchised right for a period of five (5) years from the date indicated within the Certificate of Approval itself, and the Franchise Certificate of Approval shall automatically be renewed and continue indefinitely on a year-to-year basis until such time the Franchise Agreement is terminated. The Franchise Agreement may be terminated at any time if the conditions in Section 53.10 of this Code are met. In granting such franchised rights, in the interest of maintaining high quality service, the City Council shall consider the best interest of the community and shall grant the right to operate a Franchised Refuse Hauling Service to no more persons, partnerships, or corporations than the City of Waverly, Nebraska can reasonably support. *(Amended by Ord. No. 99-2, 4/5/99)*

§ 53.09 CERTIFICATES OF APPROVAL, ISSUANCE, FEES, BOND REQUIRED.

- A. The City Clerk shall, at the direction of the Mayor and City Council and pursuant to a resolution passed and approved by the City Council, issue a Certificate of Approval to each Refuse Hauler specifically approved by such resolution; Provided, however, that no such Certificate of Approval shall be issued to any Hauler until such Hauler has:
1. Paid to the City Clerk a fee to cover the costs of administration of this Article in the amount of fifty dollars (\$50.00), and
 2. Executed and filed with the City Clerk a bond in the sum of five hundred dollars (\$500.00), with one (1) or more sufficient sureties thereon, conditioned that said applicant will indemnify and save harmless the City of Waverly, Nebraska from any damage or injury due to or on account of the act or neglect or default of such Refuse Hauler, and conditioned further that such Refuse Hauler shall comply with all ordinances or regulations of the City of Waverly, Nebraska, respecting the collecting, hauling, or conveying of refuse; Provided, however, that the execution and filing of such bond shall be waived with respect to each such hauler after the completion of one (1) year of operation unless the City Council shall specifically require a bond of such hauler by resolution, and

3. Furnished to the City Clerk a copy of a policy of insurance or insurance binder adequate to comply with section 53.13(B).
- B. The City Clerk shall hand-deliver or mail by First Class United States Mail, postage prepaid, an executed original of any such Certificate of Approval together with a copy of this Article to any Refuse Hauler approved by the City Council, immediately upon issuance thereof.
 - C. Any Certificate of Approval issued under this section shall be signed by the City Clerk under the official seal of the City of Waverly, Nebraska, and shall appear in form and content substantially as follows:

CERTIFICATE OF APPROVAL

I, the undersigned City Clerk of Waverly, Nebraska, hereby certify that pursuant to Resolution Number _____, _____ has been granted approval to operate a Franchise Refuse Hauling Service within the City Limits of Waverly, Nebraska.

I acknowledge the receipt from the above-named Refuse Hauler of the sum of fifty dollars (\$50.00) and proof of adequate insurance coverage as required under the Waverly Municipal Code.

I further acknowledge that said Refuse Hauler has executed and filed with my office a bond in the sum of five hundred dollars (\$500.00) or that said hauler is exempt and is not required to file a bond under the provisions of the Waverly Municipal Code.

I further certify that I have hand-delivered or mailed by First Class United States Mail, postage prepaid, a copy of Section 53.06 to 53.17 of the Waverly Municipal Code, together with an executed original of this Certificate to the above-named Refuse Hauler.

(SEAL)

City Clerk

(Amended by Ord. No. 99-3, 4/5/99)

§53.10 FRANCHISE TERMINATION, PUBLIC HEARING.

- A. When the Mayor or a majority of the City Council find and determine on the basis of citizen complaints or otherwise that the service provided by any Refuse Hauler is undesirable and that such hauler's services must be either improved or terminated, the Mayor or a majority of the members of the City Council may call a public hearing to be conducted by the Mayor and City Council to be held no sooner than the seventh (7th) day following publication of notice thereof, for the purpose of hearing citizen complaints regarding the service provided by any or all Refuse Haulers. Notice of such hearing shall be mailed by Certified United States Mail, postage prepaid, return receipt requested, to all Refuse Haulers engaged in serving the City of Waverly, Nebraska, no later than the first date of publication of such notice. Any Refuse Hauler whose services are in question shall have the right to appear at such hearing

and put on evidence showing cause why its franchise should not be terminated. In the event that a majority of the City Council members determine that the services of any Refuse Hauler or Haulers require substantial improvement, the City Council shall, by Resolution, direct the City Clerk to inform the Refuse Hauler or Haulers involved of such deficiencies as the Council shall determine require correction. The City Clerk shall prepare a list of such deficiencies and mail the same to each such hauler together with a copy of this Article, by Certified United States Mail, postage prepaid, return receipt requested, no later than the seventh (7th) day following said public hearing.

- B. If at any time after the expiration of thirty (30) days following receipt by any such Refuse Hauler of the notice provided for in Subsection A of this Section, a majority of the members of the City Council determine that the deficiencies as detailed in said notice have not been satisfactorily corrected, then the City of Waverly, Nebraska shall have the right to terminate its franchise approval of any person, partnership, or corporation engaged in the operation of a Refuse Removal Service upon ten (10) days notice.

§ 53.11 RATES TO SUBSCRIBERS.

Upon receiving a Certificate of Approval, Haulers shall be allowed to charge the residential subscribers to their Refuse Hauling Service no more than twenty-four dollars (\$24.00) per single family dwelling unit, per month for pick up at the curb or twenty-five dollars (\$25.00) per single family dwelling unit, per month for pick up from the house or other dwelling unit; Provided, however, that subscribers who are unable to place their refuse at the curb due to age or infirmity shall be charged at the rate herein provided for pick up at the curb in accordance with Section 53.14(B) of this Code. All subscribers shall receive pick up service at the curb at the rate provided herein, unless they deliver or mail to the offices of the Refuse Hauler serving their area, a written request for service at the house or dwelling unit. Each such Refuse Hauler may charge such additional fee (in excess of the maximum monthly rate as the same may be established from time to time by the City Council), for the disposal of grass cuttings, leaves, extraordinarily large, bulky, or heavy items, as shall be mutually agreeable to the subscriber and hauler.

The City Council may, uniformly increase or decrease this maximum monthly rate by ordinance for good cause shown. Commercial subscribers may subscribe to this service upon such terms and conditions as may be mutually agreed upon by the commercial subscriber and the hauler. (*Amended by Ord. Nos. 4-200.206, 11/2/81; 87-12, 8/3/87; 92-15, 9/21/92; 96-8, 9/16/96; 05-05, 6/20/05; 11-10, 4/5/11; 13-05, 9/3/13*).

§ 53.12 SERVICES TO BE PROVIDED.

Each Refuse Hauler receiving a Certificate of Approval shall provide the following services to each residential subscriber to its service:

- A. Collection of all refuse from each dwelling unit at least once (1 time) within every seven (7) day period and shall pick up refuse at the curb or at the written request of any subscriber, from the house or dwelling unit as provided in section 53.11.

- B. Such collection shall be accomplished between the hours of six o'clock (6:00) a.m. and four o'clock (4:00) p.m.; Provided, however, that no refuse shall be collected on Sundays.
- C. Notwithstanding any provision to the contrary contained herein, no Refuse Hauler shall be required to collect ashes from any residential subscriber.
- D. Refuse Hauler shall provide a seasonal service, of not less than weekly, for the collection of grass cuttings and leaves. (*Amended by Ord. Nos. 92-15, 9/21/92 and 99-4, 4/5/99*)

§ 53.13 HAULERS, REQUIREMENTS, EQUIPMENT, PERSONNEL, INSURANCE, AVAILABILITY.

Each Refuse Hauler receiving a Certificate of Authority under this Article shall maintain:

- A. Vehicles which comply with the following specifications:
 - 1. Shall have a watertight, metal body, fully enclosed; Provided however, that special equipment for use in commercial collection need not be fully enclosed, but shall be watertight. "Watertight," as used herein, shall mean so constructed that liquid materials will not spill or be discharged therefrom between point of loading and the designated disposal ground.
 - 2. Shall be so constructed as to be readily cleaned.
 - 3. Shall be kept clean and presentable, both inside and outside, at all times.
 - 4. Shall have imprinted on its two (2) longest sides the Refuse Hauler's name and the phone number of the Refuse Hauler's place of business. Such letters and numbers shall be at least four inches (4") high and the color of such lettering shall contrast with the background color of the truck.
- B. Insurance in no less than the following amounts: Liability, one hundred/three hundred thousand dollars (\$100,000/\$300,000); property damage, one hundred thousand dollars (\$100,000); medical payments, five thousand dollars (\$5,000). Said insurance shall indemnify the City of Waverly, Nebraska, and/or any citizen of the City of Waverly, Nebraska, against any and all damage to persons and/or property that said hauler might cause in the conduct of its refuse collection service.
- C. Adequate personnel to insure that collections are made expeditiously and quietly without littering of either public or private property.

- D. A billing system adequate to provide to each subscriber, at least quarterly, a statement detailing the amount presently due and owing, and reciting the date on which payment is due and the address to which payment should be mailed. If any interest or service charge is assessed, a Refuse Hauler assessing such interest or service charge shall comply with all applicable statutory requirements imposed by the United States Government or the State of Nebraska.
- E. A business office capable of handling the questions, complaints, and suggestions of each subscriber during normally accepted business hours.
- F. Receptacles, selected by the refuse hauler, for the disposal of refuse, and separate receptacles, selected by the refuse hauler, for the disposal of grass cuttings and leaves, each to be provided to subscribers upon request. *(Amended by Ord. Nos. 92-15, 9/21/92 and 99-14, 4/5/99)*

§ 53.14 RESIDENTIAL SUBSCRIBERS, REGULATIONS.

Each residential subscriber to a Refuse Hauling Service within the City of Waverly, Nebraska, shall:

- A. Place all refuse in suitable, airtight containers, not exceeding thirty (30) gallons capacity and fifty (50) pounds in weight, or in receptacles provided by the Refuse Hauler.
- B. Place all such containers at or near the curb line prior to six o'clock (6:00) a.m. on the scheduled collection date for such subscriber's location, unless such subscriber shall have submitted, in writing to the refuse hauler, a request for pick up from the house or dwelling unit rather than at the curb; Provided, however, that when, because of age or infirmity, any citizen shall request the Refuse Hauler to collect refuse or garbage at some point other than the curb line, the Refuse Hauler shall do so at no additional charge.
- C. Cut all branches and brush into lengths of no more than four feet (4').
- D. Contact the Refuse Hauler in advance when requiring disposal of items other than normal garbage or household refuse which will fit into containers approved for use in subsection A of this section.
- E. Place grass cuttings or leaves in airtight containers, paper disposable bags, or receptacles provided by the Refuse Hauler. Disposing of grass cuttings and/or leaves in plastic bags is prohibited. *(Amended by Ord. No. 92-15, 9/21/92)*

§ 53.15 COMMERCIAL SUBSCRIBERS, REGULATIONS.

Each commercial subscriber to a refuse hauling service shall abide by such rules and regulations as to the disposal of refuse as shall be agreed upon by subscriber and Refuse Hauler; and shall maintain receptacles for garbage which shall be constructed of substantial material and lined with or made of iron, tin, or zinc, and which shall include a

self-closing lid. Notwithstanding any provision to the contrary contained herein, no refuse hauler shall be required to collect ashes from any commercial subscriber.

§ 53.16 SHARING SUBSCRIPTION PROHIBITED.

No person, partnership, or corporation shall utilize the subscription to any Refuse Hauling Service or utilize the refuse collection receptacles of any other person, partnership, or corporation.

No residential or commercial subscriber to a Refuse Hauling Service shall permit any other person, partnership, or corporation to utilize the Refuse Hauling Service to which he, she, or it subscribes, nor permit any other person, partnership, or corporation to utilize the receptacles he, she, or it provides for the collection of refuse.

§ 53.17 VIOLATION, PENALTY.

- A. Any residential subscriber to a Refuse Hauling Service, or any person, partnership, or corporation who or which shall violate section 53.14 or section 53.16 of this Article shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined one hundred dollars (\$100.00) and shall stand committed to jail until such fine and costs be paid or otherwise discharged according to law. Each and every day that such violation continues after notification of the same by the City Clerk shall constitute a distinct and separate offense.

- B. Any commercial subscriber to a Refuse Hauling Service, or any person, partnership, or corporation who or which shall violate section 53.15 or section 53.16 of this Article shall be deemed guilty of a Class I Misdemeanor as defined in this Code. Each and every day that such violation continues after notification of the same by the City Clerk shall constitute a distinct and separate offense. (*Amended by Ord. 02-01, 2/4/02, 07-05, 5/7/07*)

CHAPTER 54: NATURAL GAS

Section

- 54.01 General provision
- 54.02 Applicability and classification
- 54.03 Rate schedule, monthly charge; heat value, basis of; adjustment; penalty for delinquency; adjustment for cost of purchased gas and taxes
- 54.04 Franchise
- 54.05 Rates
- 54.06 Rate schedules
- 54.07 Refund
- 54.08 Adjustment for purchased gas cost
- 54.09 Other rate changes
- 54.10 Information to be provided
- 54.11 Notice of application
- 54.12 Providing of general information
- 54.13 Violation; penalty

§ 54.01 GENERAL PROVISION.

An Article of the City of Waverly, Lancaster County, Nebraska, establishing classes of gas service and rates to be charged for gas service within the City of Waverly, Nebraska, and repealing ordinance No. 91-8 and all other ordinances and parts of ordinances in conflict with the provisions of this Article. *(Amended by Ord. 15-07, 7/21/15)*

§ 54.02 APPLICABILITY AND CLASSIFICATION.

This Article shall apply to any person, firm, or corporation supplying gas service to the City of Waverly, Nebraska, and the inhabitants thereof. Any such person, firm, or corporation shall be hereinafter referred to as the gas distribution company or company.

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

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

Interruptible Gas Service. The term "interruptible gas service" is hereby defined as gas service that is supplied on an interruptible basis. It shall be subject to curtailment or interruption on demand of the gas distribution company whenever necessary to protect the service to its firm gas customers. *(Amended by Ord. 15-07, 7/21/15)*

§54.03 RATE SCHEDULE, MONTHLY CHARGE; HEAT VALUE, BASIS OF; ADJUSTMENT; PENALTY FOR DELINQUENCY; ADJUSTMENT FOR COST OF PURCHASED GAS AND TAXES.

Grantee, its successors or assigns, shall file and make effective initially a schedule of rates for gas service and shall furnish gas at the schedule of rates hereafter set forth or at such other reasonable rates as may be hereafter established from time to time under the Nebraska State Natural Gas Regulation Act, Neb. Rev. Stat. 66-1801, et seq.

(1) FIRM GAS SERVICE RATES

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

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

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

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

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

TURN-ON AND RECONNECT FEE

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

(2) ADJUSTMENT FOR COST OF PURCHASED GAS

In addition to the Firm Gas Service Rates set forth in Sub-Section (1) of this Ordinance, a separate charge per Therm may be made for the monthly cost of purchased gas in the Purchased Gas Cost Adjustment, if the Grantee (or any predecessor of Grantee) has properly filed a natural gas supply-cost-adjustment rate schedule pursuant to the Nebraska State Natural Gas Regulation Act. Such Purchased Gas Cost Adjustment shall be computed monthly pursuant to the natural gas supply-cost-adjustment rate schedule filed by the Grantee (or any predecessor of Grantee) pursuant to the Nebraska State Natural Gas Regulation Act.

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

(3) ADJUSTMENT FOR TAXES

If, after the effective date of this ordinance, the business of Grantee in Waverly, Nebraska, shall be subjected to any taxes measured by its gross revenues from the operation of such business, or the volume of such business, or constituting a fee for carrying on such business, or in the event that (a) the rate of any such tax or (b) the amount of any

such fee shall be increased after the effective date of this ordinance, the gas distribution company shall be entitled to increase its charges under the aforesaid rates so as to offset such imposition or impositions of such increase.

(4) GENERAL RATE ADJUSTMENT

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

(5) INTERRUPTIBLE GAS SERVICE RATE

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

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

(6) ENVIRONMENTAL COSTS

Grantee may defer expenses reasonably incurred after December 1, 1999, as a result of monitoring, testing, cleanup, and the cost of reasonable efforts made by Grantee to recover remediation costs (herein after referred to generally as "manufactured gas plant" costs), if any, at the five manufactured gas plant sites allocated to Rate Area Three. No carrying costs will be calculated on any such balance of deferred manufactured gas plant costs. At the time of its next general rate case, Grantee may request recovery of any deferred manufactured gas plant costs and, if recovery is sought, must demonstrate in its rate application or sixty (60) days prior to the deadline for filing the Municipal Report that the manufactured gas plant costs were prudently incurred and reasonable, and that Grantee made reasonable efforts to recover remediation costs from potentially responsible third parties (which may include, but are not limited to, Grantee's predecessors in interest.)

In any future rate application, Grantee will reduce any deferred manufactured gas plant costs by the proportional amount of manufactured gas plant costs previously recovered (i.e., \$62,846 per year from December 1, 1999) from Rate Area Three as a credit to the deferred expenses allocated to Rate Area Three. Issues as to whether the deferred remediation costs were prudently incurred and reasonable; and whether the length of the amortization period for "past" manufactured gas plant costs requested by Grantee for recovering any such deferred remediation expenses is reasonable will be determined in the next rate case following the incurrence of such deferred manufactured gas plant costs.

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

(7) GENERAL TERMS AND CONDITIONS

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

(8) FINDING OF FACT AND CONCLUSIONS OF LAW

The Finding of Fact and Conclusions of Law, which were made a part of the official record at an Area Rate Hearing, are hereby adopted. (*Amended by Ord. No. 00-1, 2/21/00; Ord. 15-07, 7/21/15*)

§ 54.04 FRANCHISE.

The Governing Body has granted to Black Hills Energy the right, permission, and authority to lay, install, maintain, and operate a gas transmission and distribution system within the Municipality. Actual details of the franchise are available at the Municipal Clerk's office. (*Amended by Ord. No. 98-7, 5/4/98; Ord. 15-07, 7/21/15*)

§ 54.05 RATES.

Regulatory Authority. The Franchisee shall at all times be subject to all rights, power and authority now or hereafter possessed by the City to regulate and control and direct the rates and tariffs charged for natural gas service in the City, as more specifically set forth in the Waverly Municipal Code as amended from time to time.

§ 54.06 RATE SCHEDULES.

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

§ 54.07 REFUND.

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

§ 54.08 ADJUSTMENT FOR PURCHASED GAS COST.

The purchased gas cost prescribed in the foregoing rate schedules shall reflect all purchased gas costs and purchased gas adjustments (PGA's) incurred by the Franchisee for resale in the City. The purpose of the PGA is as follows:

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

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

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

§ 54.09 OTHER RATE CHANGES.

In the event the Franchisee desires to change its rates for firm natural gas service within the City other than to reflect an adjustment for the cost of purchased gas, the Franchisee will present to the City copies of present and proposed rate schedules and information supporting the proposed rates to be charged for firm natural gas service within

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

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

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

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

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

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

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

§ 54.10 INFORMATION TO BE PROVIDED.

The Franchisee shall provide in its Rate Filing three (3) copies of the most recent annual report to the stockholders and three (3) signed copies of a summary of the proposed rate change which shall include the information outlined in Subparagraphs A through G hereunder.

- A. A financial summary showing aggregate rate base, operating revenues, operating expenses, dollar return on rate base and rate of return on rate base:
 - 1. Actual for the most recent calendar year preceding the date of submission.
 - 2. For the projected twelve (12) month period using natural gas rates currently in effect.
 - 3. For the projected twelve (12) month period using the proposed natural gas rates.

- B. Rate base schedules, on an original cost basis, showing for the most recent twelve month period available and for the projected 12-month period:
 - 1. For utility plant and accumulated depreciation and amortization components - the beginning and end of period balances by account, explanations of changes in balances during the period and calculated rate base amounts.
 - 2. For cash working capital - the manner in which rate base amounts are calculated.
 - 3. For other rate base components - beginning and end of period amounts, explanations of changes in balances during the period, and calculated rate base amounts.
 - 4. Explanations and calculations of allocated amounts included in (1), (2), and (3) above.

- C. Operating expense schedules, showing:
 - 1. Expenses by FERC accounts or their equivalent for the most recent calendar year including filing fees and occupation taxes paid to the City.
 - 2. Explanations and calculations of allocated amounts included in (1).
 - 3. Expenses by FERC accounts or their equivalent for the projected twelve (12) month period.
 - 4. Explanation of methods employed to develop projected expenses.
 - 5. Explanations and calculations of allocated amounts included in (3).

- D. Rate of return/cost of capital schedules showing debt, preferred stock, and common equity amounts at the beginning and end of the projected twelve (12) month period, explanations of changes during the period, methods used to calculate or otherwise determine cost of capital, and table showing the requested and approved rate of return on rate base and common equity on all cases filed by the Franchisee during the previous five (5) years.
- E. Operating revenue schedules, showing:
1. Number of customers, volume of sales, and operating revenue by customer classes for the most recent calendar year.
 2. Number of customers and volume of sales by customer classes for the projected twelve (12) month period.
 3. Operating revenues by rate schedules for the projected twelve (12) month period using current rates.
 4. Operating revenue by customer classes for the projected twelve (12) month period using proposed rates.
 5. Detailed rates and calculations for (4) and (5), including customer usages (consumption analysis) data, peak demand, and load factor data by customer class, allocation methods and justifications, etc.
- F. Information Schedules showing for the City as a whole:
1. Cost of distribution plant.
 2. Number of customers, volume of sales, and operating revenue by customer classes for the most recent calendar year.
- G. The Franchisee shall clearly designate as part of its expenses, all expenditures for business gifts and entertainment, institutional, consumption inducing, and other advertising or public relations expenses, and legislative-advocacy expenses. The City may not allow, for rate making purposes, any of such expenditures which the City determines not to be in the public interest. Franchisee has the burden of showing such expenses are in the public interest.

§ 54.11 NOTICE OF APPLICATION.

Other than to reflect an adjustment for purchased gas cost, the Franchisee shall not make changes in its rates except by a Rate Filing properly filed with the City Clerk at least ninety (90) days prior to the proposed effective date of the requested change. Notice of the filing shall be given within thirty (30) days of the date of filing by placing a notice to the public of the proposed change in a newspaper having general circulation in the City. However, notwithstanding the above, instead of the publication of newspaper notice stipulated above, the Franchisee may provide notice to the public by mailing such notice by United States mail, postage prepaid, to the billing address of each directly affected

customer, or by including the notice in such customer's bill in a conspicuous form. By either method, publication or mailing, the notice must be in substantially the following form:

NOTICE OF RATE INCREASE

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

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

§ 54.12 PROVIDING OF GENERAL INFORMATION.

The Franchisee shall provide the City, at the request of the City, on a regular continuing basis, within thirty (30) days of publication, copies of documents, information, and data listed below for the Franchisee or its parent company as applicable:

Annual Report to Stockholders.

Quarterly Report to Stockholders.

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

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

Prospectus for Debt Securities to be Issued.

Prospectus for Equity Securities to be Issued.

Distribution System Map of the City.

§ 54.13 VIOLATION; PENALTY.

Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this Section, set forth at full length herein or incorporated by reference shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be fined not more than one hundred dollars (\$100.00) for each offense. A new violation shall be deemed to have been committed every twenty-four (24) hours of such failure to comply.