

TITLE V: PUBLIC WORKS

Chapter

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CHAPTER 50: GENERAL PROVISIONS

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§ 50.01 DENIAL OF SERVICE; WHEN PROHIBITED.

No applicant for the services of a public or private utility company furnishing water, natural gas, or electricity at retail in this municipality shall be denied service because of unpaid bills for similar service which are not collectible at law because of statutes of limitations or discharge in bankruptcy proceedings. (Neb. RS 70-1601)

§ 50.02 UTILITY BILLS; COLLECTION

(A) Charges for utility services provided by or through the City shall be billed monthly following consumption and reading of meters. The billing cycle as set forth each year shall be determined on the basis that each customer account will be billed for 12 individual months of consumption. The bill is due upon receipt and becomes delinquent one day after the due date printed thereon.

(B) Courtesy disconnect notices will be mailed for all bills which become delinquent, and the cutoff date will be in accordance with the delinquent date as shown on the courtesy notice. The procedure for discontinuance of service shall be as set forth in § 50.03. The service shall remain disconnected until such charges are paid. A reconnection fee shall be charged as set forth

by ordinance.
(Am. Ord. 2962, 9/4/07)

§ 50.03 DISCONTINUANCE OF SERVICE; NOTICE PROCEDURE.

The City shall have the right to discontinue utility services and remove its properties if the charges for those services are not paid within 7 days after the date that the charges become delinquent. Before any termination, the City shall first give notice by first-class mail or in person to any domestic subscriber whose service is proposed to be terminated. If notice is given by first-class mail, that mail shall be conspicuously marked as to its importance. Service shall not be discontinued for at least 7 days, weekends and holidays excluded, after notice is sent or given. As to any subscriber who has previously been identified as a welfare recipient to the City by the Department of Health and Human Services, the notice shall be by certified mail, and notice of the proposed termination shall be given to HHS.

(B) The notice shall contain the following information:

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

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

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

(D) The procedures adopted by the City Council for resolving utility bills, 3 copies of which are on file in the office of the Municipal Clerk, are hereby incorporated by reference in addition to any amendments thereto and are made a part of this section as though set out in full.

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

(Am. Ord. 2311, 8-21-84; 2705, 7-1-97)

§ 50.04 DIVERSION OF SERVICES, METER TAMPERING, UNAUTHORIZED RECONNECTION, PROHIBITED; EVIDENCE.

(A) It is an offense for any person:

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

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

(3) To reconnect electrical or water service without the knowledge and consent of the City if the service has been disconnected pursuant to Neb. RS 70-1601 through 70-1615 or any section of this code; or

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

(B) Proof of the existence of any wire, pipe, or conduit connection or reconnection or of any injury, alteration, interference, or obstruction of a meter is prima facie evidence of the guilt of the person in possession of the premises where that connection, reconnection, injury, alteration, interference, or obstruction is proved to exist.

(Neb. RS 28-515.02) Penalty, see § 10.99

§ 50.05 DIVERSION OF SERVICES; PENALTY.

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

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

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

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

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

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

(C) (1) There shall be a rebuttable presumption that a tenant or occupant at any premises where bypassing, tampering, or unauthorized metering is proven to exist caused or had knowledge of that bypassing, tampering, or unauthorized metering if the tenant or occupant:

(a) Had access to the part of the utility supply system on the premises where the bypassing, tampering, or unauthorized metering is proven to exist; and

(b) Was responsible or partially responsible for payment, either directly or indirectly, to the utility or to any other person for utility services to the premises.

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

(D) The remedies provided by this section shall be deemed to be supplemental and additional to powers conferred by existing laws. The remedies provided in this section are in addition to and not in limitation of any other civil or criminal statutory or common-law remedies. (Neb. RS 25-21,278) (Am. Ord. 2274, 10-4-83) Penalty, see § 10.99

§ 50.06 LIEN.

In addition to all other remedies, if a customer shall for any reason remain indebted to the City for utilities service furnished, the amount due, together with any rents and charges in arrears, shall be considered a delinquent utility rent which is hereby declared to be a lien upon the real estate for which the same was furnished. The Municipal Clerk shall notify in writing, or cause to be notified in writing, all owners of premises or their agents whenever their tenants or lessees are 60 days or more delinquent in the payment of the utilities rent. It shall be the duty of

the Municipal Clerk to report to the City Council a list of all unpaid accounts due for utilities service together with a description of the premises served. The report shall be examined and, if approved by the City Council, shall be certified by the Municipal Clerk to the County Clerk to be collected as a special tax in the manner provided by law.

§ 50.07 EXCAVATIONS.

No excavation or excavation of trenches in any street, avenue, alley, or public ground in the city, for water, gas, sewer pipes, electric conduits, or for any other purpose, shall be made by any person without first having filed an application with and securing a permit from the Utilities Superintendent. All such excavations shall be replaced in a good and workmanlike manner and all paving materials or other materials shall be renewed or replaced in a perfect or substantial condition as before excavating. The soil shall be packed to the same density as the natural soil adjacent thereto. The filling of the excavation and renewing and replacement of paving material or other materials shall be done by the city at the expense of the applicant. The applicant shall make a deposit with the Clerk to cover the cost of refilling the excavation and replacing or renewing the paving material or other materials.

Penalty, see § 10.99

CHAPTER 51: WATER

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GENERAL PROVISIONS

§ 51.01 DEFINITIONS.

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

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

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

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

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

CONSTRUCTION; CONNECTIONS

§ 51.15 APPLICATION FOR SERVICE.

Every person or persons desiring a supply of water must make application therefor to the Utilities Superintendent. The Superintendent may require any applicant to make a service deposit in the amount as has been set by the City Council and placed on file at the office of the Municipal Clerk. Water may not be supplied to any house or private service pipe except upon the order of the Superintendent. (Neb. RS 17-537) Penalty, see § 10.99

§ 51.16 SERVICE TO NONRESIDENTS.

The Department shall not supply water service to any person outside the corporate limits without special permission from the Board of Public Works; provided, the entire cost of laying mains, service pipe, and supply pipe shall be paid by the consumer. Every person or persons so desiring a supply of water shall make a written application for this special permission. The application shall be signed by the applicant(s) and shall include a statement that the applicant(s) consents to the annexation of the property to which service is being extended if the same is presently or subsequently contiguous to the corporate limits of the city. Nothing herein shall be construed to obligate the City to provide water service to nonresidents. (Neb. RS 19-2701) (Am. Ord. 2744, 7-7-98) Penalty, see § 10.99

§ 51.17 WATER CONTRACT.

The City, through its Water Department, shall furnish water to persons within its corporate limits whose premises abut a street or alley in which a commercial main is now or may hereafter be laid. The City may furnish water to persons within its corporate limits whose premises do not abut a street or alley in which a 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 City, as and when, according to law, the Board of Public Works may see fit to do so. The rules, regulations, and water rates hereinafter named in this chapter or filed in the office of the City Clerk 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 that consumer shall constitute a contract between the consumer and the City, to which contract both parties are bound. If the consumer shall violate any of the provisions of the contract or any reasonable rules and regulations that the Board of Public Works may hereafter adopt, the Utilities Superintendent or his or her agent may cut off or disconnect the water service from the building or premises or place of the violation. No further connection for water service to that building, premises, or place shall again be made save or except by order of the Superintendent or his or her agent.

§ 51.18 SERVICE CONTRACTS NONTRANSFERABLE; SHUTOFF NOTICE REQUIRED.

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 that premises is destroyed by fire or other casualty, he or she shall at once inform the Utilities Superintendent who shall cause the water service to be shut off at the premises. If the consumer should fail to give this notice, he or she shall be charged for all water used on the premises until the Utilities Superintendent is otherwise advised of those circumstances. (Neb. RS 17-537)

§ 51.19 INSTALLATION PROCEDURE.

Before making excavations in any street, avenue, alley, or on any public property for the purpose of installing pipe, or making repairs, the consumer or plumbing permit holder must comply with the requirements of § 50.07 of this code. No person shall leave an excavation made in the street, alley, or sidewalk open at any time without a barricade, and during the night, warning lights. If the excavation in any street, alley, or sidewalk is left open or unfinished for a period of 24 hours or more, the Utilities Superintendent shall have the duty to finish or correct the work, and all expenses so incurred shall be charged to the consumer. All installations or repairs of pipes require 2 inspections by the Plumbing Inspector. The first inspection shall be made when connections or repairs are completed and before the pipes are covered. The second inspection shall be made after the dirt work is completed and the service is restored. It is the responsibility of the consumer or the plumbing permit holder to notify the Plumbing Inspector at the time the work is ready for each inspection. All installation shall be done under the supervision and strictly in accordance with the rules, regulations, and specifications prescribed for that installation by the Board of Public Works; provided that those rules, regulations, and specifications have been reviewed and approved by the City Council. (Neb. RS 17-537) Penalty, see § 10.99

§ 51.20 INSTALLATION EXPENSE.

The expense of installation shall be paid by the consumer for new service. The City Council, pursuant to the recommendations of the Board of Public Works, shall by resolution set a tap fee which shall be paid by the customers requiring new service installation at the time of the making of the application. The City shall then make the tap. The City shall supply the meter and other appurtenances, if any, which the City Council may deem appropriate to supply to the customer. It shall be the duty of the customer to supply all other labor and materials from the city's main to the place of dispersement. It shall be unlawful for any person other than an agent for the City to tap the main. It shall be unlawful for any person other than a licensed plumber to do any work on the municipal water system. Penalty, see § 10.99

§ 51.21 WATER MAIN EXTENSION; APPLICATION; ASSESSMENT.

Applicants for water service whose property is situated outside the corporate limits may be allowed to connect with the city's main on such terms as the Board of Public Works shall on application in each case prescribe. The city mains may be extended into unsupplied territory within the corporate limits by means of water extension districts. No credit for construction cost of water service paid for by the applicant shall hereafter be given any applicant or consumer for any purpose. Hereafter no permit shall be granted to any person to make connections with any water main of the City, other than a water main within a water district in which the property proposed to be connected is situated, until the owners of that property shall have filed a written petition for the privilege with the City Council, platting and describing the lot, part of lot, subdivision of lot, or piece of land for which the connection and water privilege is desired and designating the point in the water main at and with which the connection is desired, and the Council by a 2/3 vote and with the approval of the Mayor shall have authorized the connection and fixed the amount of money to be paid by the applicant to the Board of Public Works for this privilege, which amount of money shall be determined in each case by the Council upon the basis of the probable cost and special assessment to be apportioned to and assessed against the real property described in the petition for the construction of a proper water main within a proper water district created to include and accommodate that property, this water main to be on such lines and levels and having that capacity and equipment as may be found necessary to conform to the general plans and purposes of the water system of the City, and no connection with any of the mains or pipes within the tract shall be permitted with any property outside thereof, without further application and further action of the Council in the same manner as above described and set out; provided, that any part of real properties extending beyond a depth of 150 feet from the street line of the street in which the abutting water main is situated shall not be included in this exemption but shall be subject to the operation of the foregoing assessment provisions for water extension districts; and provided further, that water privileges extended under the foregoing provisions shall be exercised and enjoyed on payment of the rates for water consumer and under the same rules and regulations as are provided generally for the consumers of water furnished by the City Council by its Water Department. Upon the payment of the amount of money as determined by the City Council for deposit with the Municipal Clerk/Treasurer, the Clerk/Treasurer shall issue a certificate therefor, describing the real property for the accommodation of which the same was issued, which certificate shall thereafter be receivable at its face value by the authorized collector of any special water district assessment which may be assessed against the real property described therein, for the payment of the cost of constructing any water main in any water district which may be created to include that real property; and in case the face value of the certificate shall exceed the amount of the special tax when so determined and levied against the property therein described, the City Council on a proper showing of the facts may allow and pay a properly verified claim for the excess to the party entitled to receive the same. Penalty, see §

§ 51.22 REPAIRS AND MAINTENANCE.

All repairs to pipe and other appurtenances, except the water meter from the place of dispersement to the water main shall be the responsibility of the customer. Repairs to the main and to the meter shall be the responsibility of the City. All water meters shall be kept in repair by the City at the expense of the City. When meters are worn out, they shall be replaced and reset by the City at the expense of the City; provided, that if the customer permits or allows a water meter to be damaged, injured, or destroyed through his or her own recklessness, carelessness, or neglect so that the meter must be repaired or replaced, the Utilities Superintendent shall bill and collect from the customer the cost of the meter repair or replacement in the same manner as water rent is collected. Permitting a water meter to be damaged or destroyed by freezing shall always be considered negligence on the part of the customer. All meters shall be tested at the customer's request at the expense of the customer any reasonable number of times; provided, that if the test shows the water meter to be running 2% or more fast, the expense of the test shall be borne by the City. The City reserves the right to test any water service meter at any time, and if a meter is found to be beyond repair the City shall always have the right to place a new meter on the customer's water service fixtures at municipal expense. Should a consumer's meter fail to register properly, the customer shall be charged for water during the time the meter is out of repair on the basis of the monthly consumption during the same quarter of the preceding year; provided, that if no such basis for comparison exists, the customer shall be charged an amount as may be reasonably fixed by the Utilities Superintendent. Penalty, see § 10.99 (Am. Ord. 2970, 2/5/08)

§ 51.23 SINGLE PREMISES; SEPARATE CONNECTION; RESUPPLY AND METER TAMPERING PROHIBITED.

No consumer shall supply water to other families, or allow them to take water from his or her premises, nor after water is supplied into a building shall any person make or employ a plumber or other person to make a tap or connection with the pipe upon the premises for alteration, extension, or attachment without the written permission of the Utilities Superintendent. 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 the meter to cause the meter to register inaccurately. (Neb. RS 17-537) Penalty, see § 10.99

§ 51.24 SERVICE SHUTOFF OR REDUCTION; LIABILITY DISCLAIMER.

The City Council or the Board of Public Works may order a reduction in the use of water or shut off the water on any premises in the event of a water shortage due to fire or other good and sufficient cause. The City shall not be liable for any damages caused by shutting off the supply of water of any consumer while the system or any part thereof is undergoing repairs or when there is a shortage of water due to circumstances over which the City has no control. (Neb. RS 17-537)

§ 51.25 FIRE HYDRANTS.

All hydrants for the purpose of extinguishing fires are hereby declared to be public hydrants, and it shall be unlawful for any person other than members of the Municipal Fire Department under the orders of the Fire Chief or the Assistant Fire Chief, or members of the Water Department to

open or attempt to open any of the hydrants and draw water from the same, or in any manner to interfere with the hydrants. Penalty, see § 10.99

§ 51.26 UNSAFE CONNECTIONS AND BACKFLOW HAZARDS PROHIBITED.

(A) No customer or other person shall cause, allow, or create any physical connection between the municipal water distribution system and any pipes, pumps, hydrants, tanks, steam condensate returns, engine jackets, heat exchangers, other water supplied, or any other connection whereby potentially unsafe or contaminating materials may be discharged or drawn into the municipal water distribution system.

(B) At least once every 5 years, customers of the municipal water distribution and supply system shall be required to assess and report potential backflow and backsiphonage hazards to the City on a form supplied by the City to the customer. The customer shall take any steps necessary for protection of public health and safety as determined by the Utilities Superintendent.

(Ord. 2549, 1-5-93) Penalty, see § 10.99

§ 51.27 BACKFLOW PREVENTION DEVICES; REQUIREMENT; INSTALLATION; TESTING.

(A) A customer of the Municipal Water Department may be required by the Utilities Superintendent to install and maintain a properly located backflow prevention device at his or her expense appropriate to the potential hazards set forth in Title 179, State Department of Health, and approved by the Utilities Superintendent.

(B) The customer shall make application to the Utilities Superintendent to install a required backflow prevention device on a form provided by the City. The application shall contain at a minimum the name and address of the applicant, the type of potential hazard required, protection, and the type of backflow device to be installed, including brand and model number.

(C) The Utilities Superintendent shall approve or disapprove the application based on his or her opinion of whether the installation will protect the municipal water distribution system from potential backflow and backsiphonage hazards.

(D) The installation of the device shall be subject to all other sections of this code dealing with installation of plumbing, including the use of a plumber licensed by the City, if applicable.

(E) The customer shall also certify to the City at least one time annually that the backflow prevention device has been tested by a State Department of Health Grade VI Certified Water Operator if the device is equipped with a test port. This certification shall be made on a form available at the office of the Municipal Clerk.

(F) Any decision of the Utilities Superintendent may be appealed to the Board of Public Works.

(Ord. 2550, 1-5-93) Penalty, see § 10.99

ADMINISTRATION AND ENFORCEMENT

§ 51.41 CONSUMERS LIABLE FOR MINIMUM RATE.

All water consumers shall be liable for the minimum rate provided by ordinance unless and until the consumer shall, by written order, direct the Utilities Superintendent to shut off the water at the stop box, in which case he or she shall not be liable thereafter for water rental until the water is turned on again. (Neb. RS 17-542) Penalty, see § 10.99

§ 51.42 RATES.

The rates, fees, charges and collections for the use of water sold by the Board of Public Works are those figures and terms set forth in the schedules incorporated by ordinance, which shall be on file in the office of the City Clerk for public inspection during normal office hours. (Am. Ord. 2970, 2/5/08)

§ 51.43 LIEN.

In addition to all other remedies, if a customer shall for any reason remain indebted to the municipality for water service furnished, the 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. (Neb. RS 17-538)

§ 51.44 POLLUTION OF WATERS PROHIBITED.

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. (Neb. RS 17-536) Penalty, see § 10.99

§ 51.45 INSPECTION; RIGHT OF ENTRY.

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

§ 51.46 PROTECTION OF DEPARTMENT PROPERTY.

It shall be unlawful for any person to willfully or carelessly break, injure, or deface any building, machinery, apparatus, fixture, attachment, or appurtenance of the Municipal Water Department. No person may deposit anything in a stop box or commit any act tending to obstruct or impair the intended use of any of the above mentioned property without the written permission of the Utilities Superintendent. Penalty, see § 10.99

§ 51.47 CRYSTAL SPRINGS PARK WATERS.

All operations of Crystal Springs Park related to the supply, pumping, or handling of water from Crystal Springs Park for use of that water as a part of the municipal water supply shall be retained by the Board of Public Works. Plans for improvements or changes to be made at Crystal Springs Park shall be filed with the Superintendent of Utilities prior to construction. Penalty, see § 10.99

§ 51.48 DROUGHT EMERGENCY CONTINGENCY PLAN.

(A) The City of Fairbury shall address any short-term water shortage problems through a series of stages based on conditions of supply and demand with accompanying triggers, goals, and actions. Each stage is more stringent in water use than the previous stage since there will be a greater deterioration in water supply conditions. The Mayor is hereby authorized to implement the appropriate conservation measures as set forth in this section, when any of the conditions have been reached which would qualify for any of the specific stages. The Mayor is given discretion to declare each particular stage as deemed appropriate by the Board of Public Works by reviewing the severity of the trigger conditions and other additional information, and is further authorized to implement conservation measures within the guidelines provided for each particular stage.

(B) **STAGE ONE: WATER WATCH.** This stage is triggered by any one of the following conditions when system pressure falls below 35 pounds per square inch or demand for one day is in excess of 4,000,000 gallons per day.

(1) The goals of this stage are to heighten awareness of the public of the water conditions and to maintain the integrity of the system.

(2) The City will monitor the water supply daily, repair leaks within 48 hours of detection, and curtail activities such as hydrant flushing and street cleaning.

(3) The public will be informed through the local media of the water watch and be asked to voluntarily reduce outdoor water use and to efficiently use water for indoor purposes, for example, washing full loads of clothing and/or dishes, limiting the length and frequency of showers, checking for water leaks and dripping of faucets, to prevent any unnecessary use of water.

(C) **STAGE TWO: WATER WARNING.** This stage is triggered by any one of the following conditions when system pressure falls below 35 pounds per square inch, plant operations are at 80% capacity for more than three consecutive days or demand for one day is in excess of 4,000,000 gallons per day.

(1) The goals of this stage are to reduce peak demands by 20% and to reduce overall weekly consumption by 10%.

(2) The City will monitor the water supply daily, repair leaks within 24 hours of detection, and curtail its own usage including watering of City grounds and washing of vehicles.

(3) The public will be informed as provided for in Section 2. The Mayor may also regulate water usage by: creating an odd/even lawn watering system will be imposed on City of Fairbury residents, so that Residents with odd-numbered houses will water on odd days, even-numbered houses, on even days; restricting outdoor water use, including lawn watering and car washing will be restricted to before 10:00 a.m. and after 9:00 p.m.; restricting refilling of swimming pools will be limited to one day a week after sunset; and waste of water will be prohibited.

(D) **STAGE THREE: WATER EMERGENCY.** This stage is triggered by any one of the following conditions when system pressure falls below 35 pounds per square inch, plant operations are at 90% capacity for more than three consecutive days, ground water levels have

fallen below normal seasonal levels or demand for one day is in excess of 4,000,000 gallons per day.

(1) The goals of this stage are to reduce peak demands by 50% and to reduce overall weekly consumption by 25%.

(2) The City will monitor the water supply daily, repair leaks within 24 hours of detection, and will seek additional emergency supplies from other users, the state or federal government.

(3) The public will be informed as provided for in Section 2. The Mayor may also regulate water usage as provided in Section 3, and expanded to include the ban of outdoor water use, except for businesses which require outdoor water use to operate.

(4) The City will make news releases to local media describing current conditions and indicate the water supply outlook for the City, and will hold public meeting(s) to discuss the emergency, the status of the water supply and further actions which need to be taken.

(E) ENFORCEMENT. In the event that any water consumer fails to comply with the regulatory action taken by the City, then the Mayor may direct the immediate discontinuance of water service to the location which is not in compliance with the restrictions imposed. Water service may be resumed upon the Mayor being provided adequate evidence to show that compliance has been instituted and that compliance will continue under the restrictions imposed. (Ord. 2945, 10-17-06)

CHAPTER 52: SEWERS

Section

General Provisions

52.01 Definitions

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GENERAL PROVISIONS

§ 52.01 DEFINITIONS.

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

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

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

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

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

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

PROPERLY SHREDDED. Includes shredding to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle larger than 1/2 inch in diameter.

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

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

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

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

STORM SEWER. Includes a sewer which carries storm and surface drainage, but excludes

sewage and polluted industrial wastes.

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

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

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

WASTE PIPE. Includes any pipe which receives the discharge of any fixture, except water closets, and conveys the same to the house drain, soil pipe, or waste stack.

CONSTRUCTION; CONNECTIONS

§ 52.15 APPLICATION FOR PERMIT.

Any person wishing to connect with the sewer system shall make an application therefor to the Utilities Superintendent. Sewer service may not be supplied to any house or building except upon the order of the Superintendent. The Department shall not supply sewer service to any person outside the corporate limits without special permission from the Board of Public Works; provided, that the entire cost of pipe and other installation charges shall be paid by those consumers. Every person or persons so desiring sewer service shall make a written application for that special permission. This application shall be signed by the applicant(s) and shall include a statement that the applicant(s) consents to the annexation of the property to which service is being extended if the same is presently or subsequently contiguous to the corporate limits of the city. Nothing herein shall be construed to obligate the municipality to provide sewer service to nonresidents. (Neb. RS 17-145, 17-149, 18-503, and 19-2701) (Am. Ord. 2744, 7-7-98) Penalty, see § 10.99

§ 52.16 SEWER CONTRACT.

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 Board of Public Works may see fit to do so. The rules, regulations, and sewer rental rates hereinafter named 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 a present customer 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 the contract or any reasonable rules and regulations that the Board of Public Works may hereafter adopt, the Utilities Superintendent or his or her agent may cut off or disconnect the sewer service from the building or premises of the violation. No further connection for sewer service to that building or premises shall again be made save or except by order of the Superintendent or his or her agent. Penalty, see § 10.99

§ 52.17 CONTRACT NONTRANSFERABLE; SHUTOFF NOTICE REQUIRED.

Contracts for sewer service are not transferable. Any person wishing to change from 1 location to another shall make a new application and sign a new contract. If any customer shall move from the premises where service is furnished, or if the premises are destroyed by fire or other casualty, he or she shall at once inform the Utilities Superintendent who shall cause the sewer service to be shut off from that premises. If the customer should fail to give notice, he or she shall be charged for that period of time until the official in charge of sewers is otherwise advised of those circumstances. Penalty, see § 10.99

§ 52.18 INSTALLATION PROCEDURE.

Before making excavations in any street, avenue, alley, or any public property for the purpose of installing pipe, or making repairs, the customer or plumbing permit holder must comply with the requirements of §50.07 of this code. No person shall leave an excavation made in the street, avenue, or alley open at any time without a barricade, and during the night, warning lights. If the excavation in the public ways and property is left open or unfinished for a period of 24 hours or more, the Utilities Superintendent may finish or correct the work, and all expenses so incurred shall be charged to the owner, occupant, or lessee of the property. All installations or repairs of pipes require 2 inspections by the Plumbing Inspector, if one has been appointed. The first inspection shall be made when connections or repairs are complete and before the pipes are covered. The second inspection shall be made after the dirt work is completed and the service restored. It is the responsibility of the customer or plumbing permit holder to notify the Plumbing Inspector at the time the work is ready for each inspection. All installation shall be done under the supervision and strictly in accordance with the rules, regulations, and specifications for that installation prescribed by the Board of Public Works; provided, that those rules, regulations, and specifications have been reviewed and approved by the City Council. (Am. Ord. 2944, 8-15-06) Penalty, see § 10.99

§ 52.19 INSTALLATION EXPENSE.

The customer, upon approval of his or her application for sewer service, shall pay to the Utilities Superintendent a tap fee which shall compensate the City for the expense of processing the application and tapping the sewer main. The customer shall be required to pay the expense of procuring the materials required as well as the services of a plumber, if any, and shall pay all other costs of installation. (Am. Ord. 2404, 8-18-87) Penalty, see § 10.99

§ 52.20 REPAIRS AND REPLACEMENT.

(A) The Municipal Sewer Department may require the owner of any property which is within the City and connected to the public sewers or drains to repair or replace any connection line which serves the owner's property and is broken, clogged, or otherwise in need of repair or replacement. The property owner's duty to repair or replace such a connection line shall include those portions upon the owner's property and those portions upon public property or easements up to and including the point of junction with the public main.

(B) The Municipal Clerk shall give the property owner notice by registered letter or certified mail, directed to the last known address of the owner or the agent of the owner, directing the repair or replacement of the connection line. If within 30 days of mailing this notice the property owner fails or neglects to cause the repairs or replacements to be made, the Utilities Superintendent may cause the work to be done and assess the cost upon the property served by that connection.
(Neb. RS 18-1748) (Am. Ord. 2310, 8-21-84) Penalty, see § 10.99

§ 52.21 OLD BUILDING SEWERS.

Old house sewers and drains may be used in connection with new buildings or new plumbing only when they are found, on examination by the Utilities Superintendent, to conform in all respects to the requirements governing new sewers and drains. If the old work is found defective or otherwise unsatisfactory, he or she shall notify the owner to make the necessary changes to conform with the provisions of this code. Penalty, see § 10.99

USE OF PUBLIC SEWERS

§ 52.35 PRIVATE WASTE DISPOSAL RESTRICTED.

Privies, cesspools, or septic tanks for the reception of sewage or waste from a drain from any building shall be permitted or allowed when the sewerage system is not available to the premises on which the privy, cesspool, or septic tank is located or serves. The system shall be considered available when the system abuts the premises on which the privy, cesspool, or septic tank is located or serves. All cesspools and septic tanks constructed on premises to which the system is not available shall not be permitted or allowed until after a written permit for the same is secured from the Board of Public Works. All such cesspools and septic tanks shall meet the Rules and Regulations of the Department of Environmental Control of the state and approved by the Board of Public Works. In case an available sewer main is provided later, the existing privy, cesspool, or septic tank used on the premises must be abandoned forthwith when the sewer main is installed, and the drain from any building shall be connected to the sewerage system, and the abandoned cesspool, septic tank, or privy must then be cleaned and filled with fresh earth, tamped in properly. Any person violating this section shall be deemed guilty of a misdemeanor, and the court shall order as part of the judgment of conviction, that every such nuisance be abated or removed, and that any such privy, vault, cesspool, septic tank, or other contrivance shall be cleaned and filled up. Penalty, see § 10.99

§ 52.36 UNLAWFUL DISCHARGES.

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

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

- (1) Liquids or vapors having a temperature higher than 150°F;
- (2) Gasoline, benzene, naphtha, fuel oil, other flammable or explosive liquid, solid, or gas;
- (3) Garbage that has not been properly shredded;
- (4) Sand, mud, metal, rags, paper, or other solid or viscous substance capable of causing obstruction to the flow in the sewer system;
- (5) Toxic or poisonous substances in sufficient quantity to interfere with or injure the

sewage treatment process, constitute a hazard to humans, animals, or fish, or create any hazard in the receiving area of the sewage treatment plant;

(6) Suspended solids of such character and quantity that unusual attention or expense is required to handle the materials;

(7) Waters or wastes having a pH lower than 5.5 or higher than 9.0 or having other corrosive properties capable of causing damage to the structures, equipment, and personnel of the Municipal Sewer Department;

(8) Any noxious or malodorous gas or substance capable of creating a public nuisance; or

(9) Foundation drain discharges.
(Neb. RS 17-145) Penalty, see § 10.99

§ 52.37 INTERCEPTORS AND PRELIMINARY TREATMENT EQUIPMENT.

In the event a customer of the Municipal Sewer Department discharges an unusually large amount of waste daily, an unusually large amount of grease or oil, or waste with an unusually high biochemical oxygen demand, suspended solids, or other pollutants, the Board of Public Works may require that customer to install interceptors or other preliminary treatment equipment to reduce the objectionable characteristics of the waste to within those maximum limits as he or she shall prescribe subject to the review of the City Council. All preliminary treatment facilities shall be purchased and maintained continuously in satisfactory and efficient operation at the customer's expense. Nothing herein shall be construed to prohibit a special agreement or arrangement between the Board of Public Works and an industrial concern whereby an industrial waste of unusual strength or character may be accepted by the municipality for treatment subject to additional rental fees or other charges. Penalty, see § 10.99

§ 52.38 MANHOLE USE RESTRICTED.

Entrance into a manhole or opening for any purpose except by authorized persons is hereby prohibited. It shall be unlawful to deposit or cause to be deposited in any receptacle connected with the sewer system any substance which is not the usual and natural waste carried by the sewer system. Penalty, see § 10.99

ADMINISTRATION AND ENFORCEMENT

§ 52.51 CUSTOMER CLASSIFICATION.

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

§ 52.52 RATES.

(A) For the use of the sewerage system, residential sewer use charge shall be based upon the water usage during the months of December, January and February as determined by the meter reading. Commercial sewer use charge shall be based upon each month's water usage as

determined by the meter reading.

(B) The rates, fees, charges and collections for the use of the sewer system as sold by the Board of Public Works are those figures and terms set forth in the schedules incorporated by ordinance, which shall be on file in the office of the City Clerk for public inspection during normal office hours.

(Am. Ord. 2971, 2/5/08)

§ 52.53 SAMPLING; STRENGTH OF SEWAGE SURCHARGE.

(A) For use in determining the sewer use surcharge to be made against a given property for a given period of time, the Superintendent shall sample and analyze the sewage discharge from that property into the municipal sanitary sewer system in order to determine the strength of that sewage over that period. Usually samples shall be taken from the sewage discharge on at least three composites during operations on the property.

(B) The Superintendent shall then determine the classification to be used for that property and the corresponding surcharge as shown in the surcharge table under the sewer use fee schedule. All such sampling and analyzing of the sewage discharge from a given property shall be in accordance with the latest edition of *Standard Methods for the Examination of Water and Wastewater*; provided, however, that the Superintendent may in his or her discretion accept those sampling and analyzing results as may be submitted to him or her by the sewer user on the property if the Superintendent reasonably determines that those results properly reflect the overall nature of the discharge.

§ 52.54 INSPECTION; RIGHT OF ENTRY.

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

§ 52.55 LIEN.

In addition to all other remedies, if a customer shall for any reason remain indebted to the City for sewer service furnished, the amount due, together with any rents and charges in arrears, shall be considered a delinquent sewer rent which is hereby declared to be a lien upon the real estate for which the same was furnished. The Municipal Clerk shall notify in writing, or cause to be notified in writing, all owners of premises or their agents whenever their tenants or lessees are 60 days or more delinquent in the payment of sewer rent. It shall be the duty of the Utilities Superintendent on the first day of June of each year to report to the City Council a list of all unpaid accounts due for sewer service together with a description of the premises served. The report shall be examined, and if approved by the City Council, shall be certified by the Municipal Clerk to the County Clerk to be collected as a special tax in the manner provided by law. (Neb. RS 17-925.01 and 18-503)

CHAPTER 53: ELECTRICAL SYSTEM

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SERVICE CONNECTION; CONSTRUCTION

§ 53.01 CONTRACTS AND TERMS.

The City, through its Electrical Department, shall furnish electric current for light and power purposes to persons whose premises abut on any supply wire of the distribution system and may furnish electric current to such other persons within or without its corporate limits, as and when, according to law, the Board of Public Works may see fit to do so. The rules, regulations, and rates for electric service, hereinafter named, in this chapter, shall be considered a part of every application hereafter made for electric service and shall be considered a part of the contract between every consumer now served by the Electrical Department. Without further formality, the making of application on the part of any applicant or the use or consumption of electric energy by present customers and the furnishing of electric service to that applicant or customer shall constitute a contract between the applicant or customer and the City, to which both parties are bound. If the customer should violate any of the provisions of the contract or any reasonable

rules and regulations that the Board of Public Works may hereafter adopt, the Utilities Superintendent, or his or her agent, shall cut off or disconnect the electric service from the building or place of the violation and no further connection of electric service for that building or place shall again be made save or except by order of the Superintendent or his or her agent. Penalty, see § 10.99

§ 53.02 APPLICATION FOR SERVICE.

Every person or persons desiring electrical service must make application therefor to the Utilities Superintendent. The Utilities Superintendent shall charge and collect from each rental and commercial applicant a service deposit in the sum as may be set by ordinance of the City Council acting upon the recommendations of the Board of Public Works. The system shall not supply to any person outside the corporate limits electrical service without special permission from the Board of Public Works. Nothing herein shall be construed to obligate the City to supply electrical service to nonresidents. (Neb. RS 17-902 and 19-2701)

§ 53.03 CONTRACTS NONTRANSFERABLE; SHUTOFF NOTICE REQUIRED.

Contracts for electrical service are not transferable. Any person wishing to change from one location to another shall make a new application and sign a new contract. If any consumer shall sell, dispose, or remove from the premises where service is furnished in his or her name, or if the premises are destroyed by fire or other casualty, he or she shall at once inform the Utilities Superintendent who shall cause the electrical service to be shut off from the premises. If the consumer should fail to give this notice, he or she shall be charged for all electricity used on the premises until the Utilities Superintendent is otherwise advised of those circumstances. (Neb. RS 17-902) Penalty, see § 10.99

§ 53.04 INSTALLATION EXPENSE.

The expense of installation and equipment from the city's transmission line to the point of service shall be charged to the customer under a policy adopted by the Board of Public Works and approved by the City Council. The installation and purchase of the meter loop shall be the expense of the customer. The meter shall be provided and installed by the City at the expense of the City. The customer shall pay all other expenses beyond the meter to the place of use. Nonresident customers shall have service extended to the yard pole on the property to be served. (Neb. RS 19-2701) Penalty, see § 10.99

§ 53.05 REPAIRS AND MAINTENANCE.

The expense of the repair and maintenance of the electrical wires and other appurtenances shall be apportioned between the customer and the City according to which wires and appurtenances were installed and provided by each party. The City shall have the responsibility of repairing and maintaining all wire and other appurtenances provided and installed by the City. Penalty, see § 10.99

§ 53.06 WIRING AND CONNECTION; LICENSED ELECTRICIAN.

Under no circumstances shall connections be made between the wires of the electrical distribution system of this City and the meter of the consumer, except by an employee of the City or an electrician authorized to do so by the Utilities Superintendent. The consumer may have wiring done by any competent electrician from the meter to the points of distribution. All wiring,

equipment, and apparatus shall be installed according to the electrical code duly adopted by the City. All installation shall be done under the supervision and strictly in accordance with the rules, regulations, and specifications for that installation prescribed by the Board of Public Works; provided, that those rules, regulations, and specifications have been reviewed and approved by the City Council. (Neb. RS 17-902) (Am. Ord. 2405, 8-18-87) Penalty, see § 10.99

§ 53.07 BUILDING MOVING; REQUIREMENTS.

Should any house or building moving occur or be necessary and it becomes necessary in that work to remove or disturb any of the property or wires of the municipal electrical system, the same should not be done except upon written permission received from the Utilities Superintendent, who shall then order paid in advance the actual cost of moving the wires, and the cost shall be paid by the applicant prior to the moving of the building or house. All expense of removing, changing, and replacing the wires or apparatus of the electrical system shall be paid out of the deposit made prior to moving and any surplus remaining after all expenses are paid shall be returned to the applicant; provided, that if in the course of moving the building or house it becomes apparent that additional expense will be incurred, an additional deposit as deemed necessary may be demanded. Persons wishing to move buildings within the city must notify the Utilities Superintendent at least 5 days prior to the date the building is to be moved. (Neb. RS 17-902) Penalty, see § 10.99

§ 53.08 AIR CONDITIONERS; INSTALLATION.

New air conditioning units installed on 110 volts shall not exceed 10 amps motor rating. Anything over 10 amps shall be on 220 volts. All air conditioning units installed shall first be approved by the Electrical Inspector. Penalty, see § 10.99

COGENERATION

§ 53.20 PURPOSE.

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

§ 53.21 DEFINITIONS.

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

AVOIDED COSTS. The incremental costs to an electric utility of electric energy or capacity or both which, but for the purchase from qualifying facilities, the utility would generate itself or purchase from another source.

COGENERATION FACILITY. A facility which produces electric energy and steam or other forms of useful energy (such as heat) which are used for industrial, commercial, heating, or cooling purposes.

INTERCONNECTION COSTS. The reasonable costs of connection, switching, metering, transmission, distribution, safety provisions, and administrative costs incurred by the electric utility directly related to the installation and maintenance of the physical facilities necessary to permit interconnected operations with a qualifying facility, to the extent those costs are in excess of the corresponding costs which the electric utility would have incurred if it had not engaged in interconnected operations, but instead generated an equivalent amount of electric energy itself or purchased an equivalent amount of electric energy or capacity from other sources. (***INTERCONNECTION COSTS*** do not include any costs involved in the calculation of avoided costs.)

QUALIFYING COGENERATION FACILITY. A cogeneration facility that meets the requirements of the Federal Energy Regulatory Commission regarding ownership, fuel use, and operating and efficiency standards.

QUALIFYING SMALL POWER PRODUCTION FACILITY. A small power production facility that meets the requirements of the Federal Energy Regulatory Commission regarding ownership, fuel use, fuel efficiency, and reliability.

SMALL POWER PRODUCTION FACILITY. A facility which produces electric energy solely by the use, as a primary energy source, of biomass, waste, renewable resources, or any combination thereof totaling not greater than 80 megawatts at one site.

§ 53.22 INTERCONNECTIONS WITH QUALIFYING FACILITIES.

(A) Qualifying facilities desiring to interconnect with the electric system of the City shall make application to the Board of Public Works for that interconnection. Applicants shall use those forms as are prescribed by the City and shall furnish all information requested.

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

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

Penalty, see § 10.99

§ 53.23 RATES FOR ELECTRIC ENERGY SALES TO QUALIFYING FACILITIES.

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

§ 53.24 RATES FOR ELECTRIC ENERGY PURCHASES FROM QUALIFYING FACILITIES.

(A) Rates for purchases of electric energy from qualifying facilities shall be established by resolution of the Mayor and City Council.

(B) The rates shall be just and reasonable to the electric consumer of the utility and in the

public interest, shall not discriminate against qualifying cogeneration and small power production facilities, and shall be related to avoided costs; however, in no case is the utility required to pay more than the avoided costs.

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

ADMINISTRATION AND ENFORCEMENT

§ 53.35 SERVICE INTERRUPTION; LIABILITY DISCLAIMER.

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

§ 53.36 POSTING SIGNS ON SYSTEM PROPERTY PROHIBITED.

It shall be unlawful for any person to post, tack, or fasten to the poles, structures, fixtures, or equipment of the municipal electrical system any sign, poster, advertisement, or banner without written permission from the Utilities Superintendent. Penalty, see § 10.99

§ 53.37 DESTRUCTION OF SYSTEM PROPERTY PROHIBITED.

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 electrical system. (Neb. RS 28-512) Penalty, see § 10.99

§ 53.38 TRIMMING TREES NEAR LINES; PERMISSION.

Any person desiring to cut or remove trees or branches thereof in close proximity to the lines of the municipal electrical system shall, before doing the work, give reasonable written notice to the Utilities Superintendent and shall follow any and all rules and regulations which he or she may prescribe for doing that work. It shall be unlawful for any person felling or removing such trees or branches to disrupt or damage the lines without first giving proper notice and receiving permission in writing to do so. Whenever it becomes necessary to protect the lines or property of the electrical system, the Board of Public Works shall have the power to order cut and removed any overhanging branches, or limbs of trees, so that the lines will be free and safe. Penalty, see § 10.99

§ 53.39 INSPECTION; RIGHT OF ENTRY.

The Utilities Superintendent or his or her duly authorized agents shall have free access at any reasonable time to each premises and building to or in which electricity is supplied;

provided, that in the event of an emergency, the inspections may take place at any time. (Neb. RS 17-902)

§ 53.40 METER TESTING.

Any consumer has the right to request its Board of Public Works to test the meter or meters upon the consumer's premises any reasonable number of times at the consumer's expense, and the Board or its agents shall comply with the request, subject to those reasonable rules and regulations as the Board may adopt. If the test shows the electric meter to be running 2% or more off, then the expense of the test shall be borne by the City. The Board reserves the right to test and replace any meter in use at any time. The Board shall keep all meters in proper repair and shall replace without cost to the consumer any meter where the replacement is required as a result of ordinary depreciation or obsolescence; provided, however, the consumer shall reimburse the Board for any replacement necessitated by any negligence or willful act of the consumer, his or her agents, employees, invitees, guests, or members of his or her household, or by fire.

RATES AND CHARGES

§ 53.56 CONSUMERS LIABLE FOR MINIMUM RATE.

All electrical consumers shall be liable for the minimum rate provided by ordinance unless and until the consumer shall, by written order, direct the Utilities Superintendent to shut off the electricity, in which case he or she shall not be liable thereafter for electrical service until the electricity is turned on again. (Neb. RS 17-902) Penalty, see § 10.99

§ 53.57 SERVICE DEPOSIT; DISPOSITION.

The service deposit required for electrical service shall be promptly paid upon demand by all customers of the electrical system. From this deposit shall be deducted all delinquent electrical charges. The service deposit shall be collected by the Utilities Superintendent and immediately turned over to the Municipal Treasurer who shall keep these fees in a trust fund for the customers of the electrical system. The fund shall be put out at interest separate and apart from other funds. Interest arising therefrom shall be expended solely for the repair of equipment and property of the municipal electrical system. Penalty, see § 10.99

§ 53.58 RATES

The rates, fees, charges and collections for the use of electricity sold by the Board of Public Works are those figures and terms set forth in the schedules incorporated by ordinance, which shall be on file in the office of the City Clerk for public inspection during normal office hours. (Am. Ord. 2962, 9/4/07)

§ 53.59 METER IN DISREPAIR; BILLING.

In the event that any customer's meter falls out of repair or fails to register properly, the Superintendent shall charge the customer the same amount billed 1 year previous to the disrepair. In the event that there is no such basis for comparison, the Superintendent shall charge the customer an amount as he or she deems is fair both to the customer and the municipality.

CHAPTER 54: SANITATION; GARBAGE

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Sanitation Department

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- 54.27 Solid waste; hazardous items and items requiring special handling or disposal

SANITATION DEPARTMENT

§ 54.01 SERVICES PROVIDED.

(A) The sanitation services include:

- (1) Removal of waste materials placed at pickup locations;
- (2) Removal of household garbage properly wrapped and drained and contained in metal or plastic cans;
- (3) Burial of refuse at sanitary landfill; and
- (4) Fly and mosquito control for the entire City.

(B) Each resident of the City, having a light and water bill, shall be assessed a fee each month set by ordinance of the City Council and on file in the office of the Municipal Clerk to compensate the City for the above services, and these services shall be paid for at the time of the billing for light and water services. In addition, each business firm or commercial establishment shall pay for waste removal by contract with the Public Works Director stating the number of waste removal pickups per week and cost for services, which services shall be paid for at that time. In multiple dwellings or apartments if the owner is billed for the dwelling, rates for waste removal shall be set by ordinance of the City Council and on file in the office of the Municipal Clerk. Penalty, see § 10.99

§ 54.02 MUNICIPAL LANDFILL.

The City Council shall establish rates for depositing waste materials in the municipal landfill. These rates shall be set by ordinance of the City Council and on file in the office of the Municipal Clerk. (Neb. RS 19-2101 through 19-2106)

§ 54.03 LANDFILL REGULATIONS.

(A) The following rules and regulations shall govern the operation of the municipal landfill grounds.

(B) It shall be unlawful for any person to deposit or dump paper of whatsoever kind and nature in a municipal landfill unless the paper is securely tied in a bundle or boxed.

(C) It shall be unlawful for any person to scavenge in the municipal landfill.

(D) It shall be unlawful for any person to carry firearms of whatsoever kind and nature in the municipal landfill, and it shall be further unlawful to discharge firearms of whatsoever kind and nature in the municipal landfill.

(E) It shall be unlawful for any person to start, light, or ignite a fire in the municipal landfill, with the exception that the operator of the landfill may start, light, or ignite a fire on the premises to manage or to do away with garbage dumped on the landfill.

(F) The area in which dumping is permitted in the municipal landfill shall be established by the operator of the landfill subject to the approval of the City Council.
(Neb. RS 19-2101 through 19-2106) Penalty, see § 10.99

§ 54.04 RELIEF FROM PAYMENTS.

(A) Any person, firm, or corporation asking relief from the payment of the fees as described herein shall make application in writing for relief directly to the City Council, stating where and how disposal of refuse will be made and to show that he or she directly or indirectly received no benefit from the defined service. Upon the Council granting this relief, he or she shall register his or her name and address with the Municipal Clerk and shall be issued a notice reading as follows:

"NOTICE:

Sanitation service not required at

(street address)

By permission of the City Council."

(B) It shall be the duty of the resident to keep this notice posted at all times at a point on the alley or at the point determined by the Public Works Director, and failure to post this notice shall constitute a misdemeanor.

Penalty, see § 10.99

§ 54.05 RULES AND REGULATIONS.

The Street and Sanitation Superintendent is authorized to establish rules and regulations as may be necessary. This authority expressly includes the power to issue refuse collection regulations and rules in connection with the use of the municipal landfill. A copy of those rules and regulations shall be placed on file in the office of the Municipal Clerk, and copies thereof shall be available to the residents of the municipality. Any changes in the regulations shall be published at least 1 time in a newspaper of general circulation in the municipality. (Am. Ord. 2944, 8-15-06)

GARBAGE DISPOSAL

§ 54.20 DEFINITIONS.

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

GARBAGE. Kitchen refuse, decayed waste, dead animals, or anything that may decompose and become offensive to the public health.

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

WASTE. Cinders, ashes, plaster, brick, stone, sawdust, or sand.

YARD WASTE. Grass and leaves.
(Neb. RS 13-2016.01) (Ord. 2634, 2-21-95)

§ 54.21 RULES AND REGULATIONS.

It shall be the duty of the Street and Sanitation Superintendent to establish rules and regulations necessary to give complete and satisfactory garbage removal service. A copy of those rules and regulations shall be available to each resident of the municipality, and any changes shall be made known to the residents of the municipality. (Am. Ord. 2944, 8-15-06)

§ 54.22 SANITARY SERVICE ESTABLISHED.

To preserve the health and the general welfare of the citizens of the municipality, a sanitary service is hereby created, consisting of:

(A) Removal of trash and rubbish properly placed at pickup locations;

(B) Removal of household garbage properly wrapped and drained and contained in metal cans; and

(C) Burial of refuse at sanitary landfill.

§ 54.23 GARBAGE AND REFUSE COLLECTION; AUTHORITY.

The governing body for the city may provide for the collection and removal of garbage or refuse

found upon any lot or land within its corporate limits and roads, or alleys abutting such lot or land which constitutes a public nuisance. The city may require the owner, duly authorized agent, or tenant of that lot or land to remove the garbage or refuse from the lot or land and streets, roads, or alleys. (Neb. RS 16-230, 16-231, 16-246, 16-901, and 18-1303) (Ord. 2434, 10-4-88) Penalty, see § 10.99

§ 54.24 GARBAGE AND REFUSE; NOTICE AND REMOVAL.

Notice that removal of garbage or refuse is necessary shall be given to each owner or owner's duly authorized agent and to the tenant if any. The notice shall be provided by personal service or by certified mail. After providing this notice, the city through its proper offices shall, in addition to other proper remedies, remove the garbage or refuse, or cause it to be removed, from the lot or land and streets, roads, or alleys. (Neb. RS 16-230, 16-231, 16-246, 16-901, and 18-1303) (Ord. 2434, 10-4-88) Penalty, see § 10.99

§ 54.25 GARBAGE AND REFUSE ACCUMULATION; NUISANCE; ABATEMENT.

If the Mayor declares that the accumulation of garbage or refuse upon any lot or land constitutes an immediate nuisance and hazard to public health and safety, the city shall remove the garbage or refuse, or cause it to be removed, from that lot or land within 48 hours after notice by personal service or following receipt of a certified letter in accordance with § 54.24 above if the garbage or refuse has not been removed. (Neb. RS 16-230, 16-231, 16-246, 16-901, and 18-1303) (Ord. 2434, 10-4-88)

§ 54.26 ABATEMENT BY CITY; ASSESSMENT OF COST.

Whenever a city removes any garbage or refuse, or causes it to be removed, from any lot or land pursuant to this subchapter, it shall, after a hearing conducted by the governing body, assess the cost of the removal against that lot or land. (Neb. RS 16-230, 16-231, 16-246, 16-901, and 18-1303) (Ord. 2434, 10-4-88)

§ 54.27 SOLID WASTE; HAZARDOUS ITEMS AND ITEMS REQUIRING SPECIAL HANDLING OR DISPOSAL.

(A) No person shall put out any of the items specified below to be collected by the municipal solid waste collector for land disposal.

(1) Yard waste from April 1 through November 30 of each year unless such yard waste has been separated from its source and is put out for separate collection and delivery to the landfill for the purpose of soil conditioning or composting under the conditions otherwise specified.

(2) Lead-acid batteries.

(3) Waste oil.

(4) Waste tires in any form except tires that are nonrecyclable. Tires are not considered disposed if they meet the requirements of Neb. RS 13-2039.

(5) Discarded household appliances.

(6) Unregulated hazardous wastes, except household hazardous wastes, which are exempt from the regulations under the Environmental Protection Act.

(B) Any such items shall be disposed of only as permitted under the Nebraska Integrated Solid Waste Management Act or any amendments thereof.
(Neb. RS 13-2039)

(C) For purposes of this section:

LAND DISPOSAL includes, but is not limited to, incineration at a landfill.

NONRECYCLABLE TIRE means a press-on solid tire, a solid pneumatic shaped tire, or a foam pneumatic tire. (Neb. RS 13-2039)

WASTE TIRE means a tire that is no longer suitable for its original intended purpose because of wear, damage, or defect. (Neb. RS 13-2013.02)

YARD WASTE means grass and leaves.
(Neb. RS 13-2016.01) (Ord. 2892, 9-7-04)