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CHAPTER 3 – DEPARTMENTS

Article 1 – Water Department

§3-101 OPERATION AND FUNDING

The City owns and operates the Water Department through the Director of Public Works. The City Council, for the purpose of defraying the cost of the care, management, and maintenance of the Water Department, may each year levy a tax not exceeding the maximum limit prescribed by state law on the actual valuation of all real estate and personal property within the corporate limits that is subject to taxation. The revenue from the said tax shall be known as the Water Fund and shall remain in the custody of the City Treasurer. The Director of Public Works shall have the direct management and control of the Water Department and shall faithfully carry out the duties of his office. He shall have the authority to adopt rules and regulations for the sanitary and efficient management of the Water Department subject to the supervision and review of the City Council and the City Administrator. The City Council shall set the rates to be charged for services rendered by ordinance and shall file a copy of the rates in the office of the City Clerk for public inspection at any reasonable time. (Neb. Rev. Stat. §17-531, 17-534, 19-1305)

§3-102 DEFINITIONS

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

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

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

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

"Separate premises" is hereby defined to be 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.

"Resident user" is hereby defined as a user of the City's water facilities who is residing within the corporate limits of the City of Ashland, Nebraska.

"Non-resident user" is hereby defined as a user of the City's water facilities who is not residing within the corporate limits of the City of Ashland, Nebraska.

§3-103 CONSUMER'S APPLICATION

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

§3-104 SERVICE TO NON-RESIDENTS

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

§3-105 WATER CONTRACT

The City through its Water Department shall furnish water to persons within its corporate limits (resident users) whose premises abut a street or alley in which a commercial main now is or may hereafter be laid. The City may furnish water to persons within its corporate limits (resident users) whose premises do not abut a street or alley in which a commercial main is now or may hereafter be laid and may also furnish water to persons whose premises are situated outside the corporate limits (non-resident users) of the City as and when, according to law, the City Council may see fit to do so; provided, every such non-resident user will be responsible for the cost of the main to his property. The rules, regulations, and water rates hereinafter named in this article shall be considered a part of every application hereafter made for water service and shall be considered a part of the contract between every consumer now or hereafter served. Without further formality, the making of application on the part of any applicant or the use or consumption of water service by present consumers thereof and the furnishing of water service to said consumer shall constitute a contract between the consumer and the City to which said contract both parties are bound. If the consumer shall violate any of the provisions of said contract or any reasonable rules and regulations that the City Council may hereafter adopt, the Director of Public Works or his agent may cut off or disconnect the water service from the building or premises or place of such violation. No further connection for water service to said building, premises, or place shall again be made except by order of the Director of Public Works or his agent. (Am. by Ord. No. 856, 2/3/00)

§3-106 INSTALLATION PROCEDURE

In making excavations in streets, alleys, or sidewalks for the purpose of installing pipe or making repairs, the paving, stones, and earth must be removed and deposited in a manner that will occasion the least inconvenience to the public and provide for adequate drainage. No person shall leave an excavation made in the street, alley, or sidewalk open at any time without a barricade and, during the night, warning lights. After service pipes are laid, the streets, alleys, and sidewalks shall be restored to good condition. If the excavation in any street, alley, or sidewalk is left open or unfinished for a period of 24 hours or more, the Director of Public Works 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 two inspections by the Director of Public Works. 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 customer's responsibility to notify the Director of Public Works at the time the work is ready for each inspection. All installation shall be done under the supervision and strictly in accordance with the rules, regulations, and specifications prescribed for such installation by the Director of Public Works; provided, the said rules, regulations, and specifications have been reviewed and approved by the City Council. (Neb. Rev. Stat. §17-537)

§3-107 INSTALLATION EXPENSE; CONNECTION FEES

(1) The expense of providing water service to the main shall be paid by the City. The consumer shall then pay the cost of installation and pipe from the main to the place of dispersement. For each new connection made to a water main of the City or which is directly or indirectly connected to any water main of the City, the applicant for such new connection shall be required to pay a connection fee to the City Clerk in conjunction with an application for a building permit. The consumer shall be required to pay the expense of tapping the City main, installing pipe, trenching, and the necessary labor to bring water service from the main to the place of dispersement. The tapping of the water main shall be completed by a qualified plumber who is fully insured for any loss occurring as a result of the plumber's acts or omissions and shall be supervised and inspected by the City's representative. Additional fittings may be purchased from the City. No permit shall be issued until full payment for said permits has been received by the City Clerk. The applicable connection and fees are on file at the Clerk's office.

(2) A connection, for purposes hereof, is defined as (a) the hookup of service to a single dwelling unit or single commercial structure; (b) in the case of a multiple-dwelling structure, each individual unit shall be deemed to constitute a connection; or (c) in the case of a commercial structure with multiple tenants in subdivided units, each subdivided unit shall be deemed to constitute a connection. The connection fee for water connections outside the City's corporate limits shall be two times the schedule for connections inside the corporate limits.

(3) At the time a final plat of a new subdivision is filed with the City, a water supply/distribution main connection charge as provided for in the subdivision agreement with the City shall be paid to the City Clerk in cash or warrants immediately convertible into cash. Where the property for which a water connection is sought has not previously been assessed for or paid such a water supply/distribution main connection charge, then in addition to the connection fees, such water supply/distribution main connection charge as determined by the City shall be paid to the City Clerk in conjunction with an application for a building permit. (Neb. Rev. Stat. §17-542) (Am. by Ord. Nos. 962, 7/24/03; 983, 6/3/04)

§3-108 REPAIRS AND MAINTENANCE

(1) The customer shall replace and keep in repair all service and supply pipes and any valves, fittings and valve boxes from the commercial main to the place of dispersement.

When leaks occur in service or supply pipes, the Director of Public Works or the City's representative shall shut off water service until such leak is repaired at the expense of the customer and to the satisfaction of the Director of Public Works or the City's representative. All repairs made from the commercial main to the place of dispersement shall have a permit issued and shall be inspected by a city representative. All water meters shall be kept in repair by the City; provided, if the customer permits or allows a water meter to be damaged, injured, or destroyed through his own recklessness, carelessness, or neglect so that the meter must be repaired or replaced, the Director of Public Works or the City's representative shall bill and collect from the customer the cost of such 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.

(2) All meters shall be tested at the customer's request and at the customer's expense any reasonable number of times; provided, if the test shows the water meter to be running 2% or more fast, the expense of such test shall be borne by the City. The City reserves the right to test any water service meter at any time and if said 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 city expense. Should a consumer's meter fail to register properly, the customer shall be charged for water during the time the meter is out of repair on the basis of the monthly consumption during the same month of the preceding year; provided, if no such basis for comparison exists, the customer shall be charged such amount as may be reasonably fixed by the Director of Public Works or the City's representative. It shall be unlawful for any person to tamper with any water meter or by any means or device to divert water from the supply or service pipe so that the same shall not pass through said meter or while passing through said meter, to cause the same to register inaccurately.

(Neb. Rev. Stat. §17-537) (Am. by Ord. Nos. 983, 6/3/04; 1012, 11/17/05)

§3-109 METER DEPOSIT

There shall be a meter deposit fee for all consumers of water. The amount of the fee is on file at the City Clerk's office. The deposit fee shall be returned to consumers who have no bill-paying delinquencies after one full year of service. In the event that water services are discontinued to any consumer, any deposit fee still held by the City shall be refunded unless the consumer has unpaid water fees due the City, in which event such fees shall be deducted from the consumer's deposit before the balance is remitted to the consumer.

§3-110 WATER RATES; WATER BILLS; DELINQUENT CHARGES; LIEN

(1) The City Council has the power and authority to fix the rates to be paid by the water consumers for the use of water from the Water Department. All such fees shall be on file for public inspection at the office of the City Clerk, who shall bill the consumers and collect all money received.

(2) Water bills shall be due and payable monthly at the City Clerk's office. The City Council shall read or cause to be read water meters monthly and the Council may cause meter readings to be estimated in extreme circumstances. The bills shall be due when received. The

City Council shall charge and collect from each customer for the amount of water consumed since the last examination, together with any other charges due, properly itemized. Bills not paid within 15 days of the issue date shall be deemed late and shall be assessed a penalty in an amount equal to \$10.00 or 10%, whichever is greater. Any payments made to the City Council which are returned by a bank for insufficient funds shall immediately deem the account of the customer to be deemed delinquent and the City Council may determine a fee to be assessed to the customer for the returned item.

(3) When bills are late for two consecutive months, the entire sum shall be deemed delinquent. Upon being deemed to be delinquent as herein defined, the City Clerk shall give a written notice to the customer of such delinquency and shall demand payment immediately. Said notice shall also contain information advising the customer that if he or she has a dispute with the water bill, said customer may file a written request with the City Administrator prior to the disconnect date, stating the area of dispute and the relief requested. The Administrator shall schedule a conference within 14 days if one is so requested and give notice of the date and time. No disconnect shall be made until the conference is concluded. Disconnection may be postponed or prevented upon presentation of a duly licensed physician's certificate certifying that a domestic subscriber or resident within such subscriber's household has an illness or handicap which would cause such subscriber to suffer an immediate or serious health hazard by the disconnection of the water service to that household. Such certificate shall be filed with the City Clerk within five days of receiving notice and shall prevent the disconnection of the water utility service for a period of 30 days from such filing. Only one postponement of disconnection shall be allowed for each incident of any due date. If a disconnection is made, reconnection may be made during regular working hours upon payment of the account in full plus a service reconnection fee determined by the City Council.

(4) In addition to all other remedies, if a customer shall for any reason remain indebted to the City for water service furnished, such amount due, together with any rents and charges in arrears, shall be considered a delinquent water rent which is hereby declared to be a lien upon the real estate for which the same was used. The City Clerk shall notify or cause to be notified in writing all owners of premises or their agents whenever their tenants or lessees are 60 days or more delinquent in the payment of water rent. It shall be the duty of the Clerk to report to the City Council a list of all unpaid accounts due for water, together with a description of the premises upon which the same was used, said report to be issued on at least an annual basis. The report shall be examined and if approved by the City Council, shall be certified by the City Clerk to the County Clerk to be collected as a special tax in the manner provided by law.

(Neb. Rev. Stat. §17-538, 17-542 and 70-1601) (Am. by Ord. Nos. 856, 2/3/00; 983, 6/3/04; 1012/ 11/17/05)

§3-111 MINIMUM RATES; DISCONNECTION/RECONNECTION REQUESTS

(1) All water consumers shall be liable for the minimum rate provided by ordinance unless and until the consumer, by written order, directs the Director of Public Works or the City's representative to shut off the water at the stop box, in which case the consumer shall not be liable thereafter for water usage until the water is turned on again. The City Council may determine a fee for the reconnection of water service.

(2) All water services previously turned off for any reason shall only be turned back on by the Director of Public Works or the City's representative and only after such reconnection fee has been paid.

(Neb. Rev. Stat. §17-542) (Am. by Ord. Nos. 983, 6/3/04; 1012, 11/17/05)

§3-112 SINGLE PREMISES

No consumer shall supply water to other families or allow them to take water from his premises nor after water is supplied into a building shall any person make or employ a plumber or other person to make a tap or connection with the pipe upon the premises for alteration, extension, or attachment without the written permission of the Director of Public Works. 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. (Neb. Rev. Stat. §17-537)

§3-113 RESTRICTED USE

(1) The Mayor is authorized and empowered to declare the existence of any emergency relating to the available water supply of the city water system and to impose restrictions on the use of water during such emergency. Whenever the Mayor shall determine that the remaining available water supply is critically low from whatever cause, the Mayor may declare the existence of an emergency and impose reasonable restrictions on the use of such water. It shall be unlawful for any person to fail to observe any such restrictions so imposed by the Mayor, provided public announcement of such restriction has been made.

(2) The Director of Public Works may turn off the water supplied to the premises of any person who, after having been notified of the imposition of such emergency restrictions on the use of water, disregards such restrictions. Such supply of water shall not again be turned on until a fee covering the cost of labor and turning off and renewing such service has been paid to the City Clerk and a bond conditioned upon the observance of such emergency restrictions and regulations has been filed with the Clerk. Said fee and bond amounts shall be set by the City Council and shall be available for public inspection in the office of the City Clerk. 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. Rev. Stat. §17-537) (Am. by Ord. No. 983, 6/3/04)

§3-114 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 Fire Department under the orders of the Fire Chief or Assistant Fire Chiefs or members of the Water Department to open or attempt to open any of the hydrants and draw water from the same or in any manner to interfere with the hydrants.

§3-115 POLLUTION

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

§3-116 MANDATORY HOOKUP; WELLHEAD PROTECTION

(1) All persons within the City's corporate limits or one mile thereof who are within 300 feet of a water main shall be required, upon notice from the City Council, to hook up with the city water system.

(2) No private water well shall be allowed within the City's corporate limits or on property that is within one mile of the City's corporate limits and within 300 feet of a water main; provided, however, any private water well in existence on or before August 1, 2003, that is within the corporate limits or one mile thereof and within 300 feet of a water main shall be permitted to continue operating until the first transfer or conveyance of the property served by such water well to occur after August 1, 2003, at which time such private water well must be closed at the property owner's expense and the property shall be hooked up to the city water supply as provided herein. The repair of existing private water wells shall require the closing of the well at the owner's expense and hooking up to the city water system as provided herein unless such repairs are strictly limited to the replacement or reconstruction of the electrical or mechanical components of the well. After August 1, 2003, replacement of the casing or reconstruction of an existing private water well that is within the City's corporate limits or one mile thereof and within 300 feet of a water main shall not be permitted but shall require the closing of the well at the owner's expense and the property shall be hooked up to the city water system as provided herein.

(3) No private water well shall be allowed within one mile of the City's corporate limits on property that is not within 300 feet of a water main without the prior approval of the City Council; provided, however, any private water well within one mile of the City's corporate limits and not within 300 feet of a water main in existence on or before August 1, 2003, shall be permitted to continue operating without the approval of City Council until the first transfer or conveyance of the property served by such water well to occur after August 1, 2003, at which time such well must be closed at the property owner's expense absent the approval of the City Council to continue operating the private well. The repair or replacement of existing private water wells within one mile of the City's corporate limits and not within 300 feet of a water main shall require the closing of the well at the owner's expense, unless such replacement or repairs are approved by the City Council.

(4) 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 any city water well:

<i>CATEGORY</i>	<i>DISTANCE</i>
Non-potable water well	1,000 feet
Sewage lagoon	1,000 feet

<i>CATEGORY</i>	<i>DISTANCE</i>
Absorption or disposal field for waste	500 feet
Cesspool	500 feet
Dump	500 feet
Feedlot or feedlot runoff	500 feet
Corral	500 feet
Pit toilet	500 feet
Sanitary landfill	500 feet
Chemical or petroleum product storage	500 feet
Septic tank	500 feet
Sewage treatment plant	500 feet
Sewage wet well	500 feet
Sanitary sewer connection	100 feet
Sanitary sewer manhole	100 feet
Sanitary sewer line	100 feet
Sanitary sewer line (permanently watertight)	10 feet

(5) Violations of this section shall constitute a public nuisance. Any person who violates this section or refuses to comply with its enforcement shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than \$500.00 for each separate offense. A new violation shall be deemed to have been committed every 24 hours of such violation or failure to comply.

(Am. by Ord. No. 963, 8/7/03)

§3-117 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 premises are destroyed by fire or other casualty, he shall at once inform the Director of Public Works, 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 Director of Public Works is otherwise advised of such circumstances. (Neb. Rev. Stat. §17-537)

§3-118 INSPECTION

The Director of Public Works or his 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. Rev. Stat. §17-537)

§3-119 POLICE REPORTS

It shall be the duty of the City Police to report to the Director of Public Works all cases of leakage and waste in the use of water and all violations of the municipal code relating to the Water Department. They shall also enforce the observance of all such regulations.

§3-120 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 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 such property without the written permission of the Director of Public Works.

§3-121 TIME

No taps or plumbing work done on or to the city water system shall be done between the hours of 12:00 noon on Friday and 8:00 A.M. the following Monday. (Neb. Rev. Stat. §17-537)

§3-122 BACKFLOW PREVENTION DEVICE REQUIRED

To prevent the siphoning of water from a structure back into the city water system when it becomes necessary to disrupt water service and to prevent damage to consumer's property caused by such siphoning, all consumers applying for new water service and all consumers presently serviced may be required, in the discretion of the Director of Public Works, to have placed on the line a backflow prevention device of such size and at such location as deemed appropriate by municipal code. If a present consumer is required to place a backflow prevention device on his line, the City Clerk or the Director of Public Works shall give the property owner notice by personally serving written notice or by registered letter or certified mail directed to the last known address of such owner or the agent of such owner, directing the placement of such backflow prevention device. If within 30 days of mailing or giving such notice the property owner fails or neglects to cause such placements to be made, the Director of Public Works may cause such work to be done and assess the cost upon the property served by such water line. Reasons for requiring backflow prevention devices include but are not limited to installation or replacement of a water heater and installation or replacement of a water softener. (Neb. Rev. Stat. §17-537) (Am. by Ord. No. 983, 6/3/04)

Article 2 – Sewer Department

§3-201 OPERATION AND FUNDING

The City owns and operates the city sewer system through the Director of Public Works. For the purpose of defraying the cost of the maintenance and repairing of any sewer or water utilities in the City, the City Council may each year levy a tax not exceeding the maximum limit prescribed by state law on the taxable value of all the taxable property in the City. The revenue from the tax shall be known as the Water and Sewer Maintenance Fund and shall be used exclusively for the purpose of maintenance and repairs of the water and sewer system. The Director of Public Works shall have the direct management and control of the Sewer Department, shall faithfully carry out the duties of the office, and shall have the authority to adopt rules and regulations for the sanitary and efficient management of the Department, subject to the supervision and review of the City Council. (Neb. Rev. Stat. §17-149, 17-925.01)

§3-202 DEFINITIONS

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

"Biochemical oxygen demand (BOD)" shall mean and include the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20 degrees C., expressed in parts per million by weight or degrees C., expressed in milligrams per liter.

"Building drain" and "house drain" shall mean and include that 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" shall mean the extension from the building drain to the public sewer or other place of disposal.

"Combined sewer" shall mean a sewer receiving both surface runoff and sewage.

"Consumer" is used in this article to include all users of the city sewage system and served thereby, who in any manner discharge waste or sanitary sewage in any form either directly or indirectly into the sanitary sewer system of the City.

"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.

"Industrial wastes" shall mean the liquid wastes from industrial manufacturing processes, trade, or business as distinct from sanitary sewage.

"May" is permissive; "shall" is mandatory.

"City" shall mean the City of Ashland, Nebraska.

"Natural outlet" shall mean any outlet into a watercourse, pond, ditch, lake, or other body of surface or groundwater.

"pH" shall mean and include the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

"Properly shredded" shall mean and include shredding to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle larger than one-half inch in diameter.

"Sanitary sewer" shall mean and include a sewer which carries sewage and to which storm, surface, and ground waters are not intentionally admitted.

"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.

"Sewage works" shall mean all facilities for collecting, pumping, treating and disposing of sewage.

"Suspended solids" shall mean and include solids that either float on the surface of or are in suspension in water, sewage, or other liquids and are removable by filtering.

§3-203 APPLICATION FOR PERMIT

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

§3-204 SEWER CONTRACT

The City through the city sewer department shall furnish sewer services to persons within its corporate limits whose premises abut a street or alley in which a commercial main is now or may hereafter be laid. The City may also furnish sewer service to persons whose premises are situated outside the corporate limits of the City as and when, according to law, the City Council may see fit to do so. The rules, regulations, and sewer rental 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 City to which said contract both parties are bound. If the customer shall violate any of the provisions of said contract or any reasonable rules and regulations that the City Council may hereafter adopt, the Director of Public Works or his agent may cut off or disconnect the sewer service from the building or premises of such violation. No further connection for sewer service to said building or premises shall again be made save or except by order of the Director or his agent. (Neb. Rev. Stat. §17-901, 17-902)

§3-205 MANDATORY HOOKUP

(1) 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 corporate limits of the City or one mile thereof if a city sewer line is within 100 feet of the property line of the property on which the facility is located.

(2) If the owner of property that is within the City's corporate limits or one mile thereof and within 100 feet of a city sewer line neglects or fails to connect to the city sewer system within a period of ten days after notice has been given by the City to the owner by certified mail, registered mail, or published in a newspaper of general circulation in the City, the City Council shall have the power to cause the same to be done, to assess the cost thereof against the property, and to collect the assessment in the manner provided for collection of other special taxes and assessments.

(3) Violation of this section shall constitute a public nuisance. Any person who violates this section or refuses to comply with its enforcement shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than \$500.00 for each separate offense. A new violation shall be deemed to have been committed every 24 hours of such violation or failure to comply.

(Am. by Ord. No. 963, 8/7/03)

§3-206 DIRECT CONNECTIONS; SINGLE PREMISES; SEPARATE BUILDING SEWERS

(1) Each and every building must make a direct connection with the main sewer line. Under no circumstances will two or more houses be allowed to make such connections through one pipe. (Neb. Rev. Stat. §18-503)

(2) 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 building which is or may be conveyed without a conveyance of the entire building; provided, however, a variance from the foregoing policy may be granted by the City Council 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 Certified Wastewater Operator; and the City does not and will not assume any obligation or responsibility whatsoever for damage caused by or resulting from any such connection.

(Am. by Ord. No. 848, 11/4/99)

§3-207 SERVICE CONTRACTS

Contracts for sewer service are not transferable. Any person wishing to change from one location to another shall make a new application and sign a new contract. If any customer shall move from the premises where service is furnished or if the said premises are destroyed by fire or other casualty, he shall at once inform the Director of Public Works, who shall cause the sewer service to be shut off from the said premises. If the customer should fail to give notice, he shall be charged for that period of time until the official in charge of sewers is otherwise advised of such circumstances. (Neb. Rev. Stat. §18-503)

§3-208 INSTALLATION PROCEDURE

In making excavations in streets, alleys, or sidewalks for the purpose of installing pipe or making repairs, the paving, stones, and earth must be removed and deposited in a manner that will occasion the least inconvenience to the public and provide for adequate drainage. No person shall leave an excavation made in the street, alley, or sidewalk open at any time without a barricade and, during the night, warning lights. After the house sewer is laid, the public ways and property shall be restored to good condition. If the excavation in the public ways and property is left open or unfinished for a period of 24 hours or more, the Director of Public Works shall have the duty to finish or correct the work and all expenses so incurred shall be charged to the owner, occupant, or lessee of the property. All installations or repairs of pipes require two inspections by the Director of Public Works. 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 customer's responsibility to notify the Director of Public Works 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 such installation prescribed by the Director of Public Works; provided, the said rules, regulations, and specifications have been reviewed and approved by the City Council. (Neb. Rev. Stat. §18-503)

§3-209 INSTALLATION EXPENSE; CONNECTION FEES

(1) The customer, upon approval of his application for sewer service, shall be responsible for the expense of providing sewer service from the city sewer main to the premises. For each new connection made to a sewer main or which is directly or indirectly connected to any sewer main, the applicant for such new connection shall be required to pay a connection fee to the City Clerk in conjunction with an application for a building permit. The customer shall be required to pay the expense of tapping the main, installing pipe, trenching, and the necessary labor to bring water service from the main to the premises. The tapping of the sewer main shall be completed by a qualified plumber who is fully insured for any loss occurring as a result of the plumber's acts or omissions and shall be supervised and inspected by the City's representative. No permit shall be issued until full payment for said permit has been received by the City Clerk. The applicable connection fees are on file at the Clerk's office.

(2) A connection, for purposes hereof, is defined as (i) the hookup of service to a single dwelling unit or single commercial structure; (ii) in the case of multiple dwelling structure, each individual unit shall be deemed to constitute a connection; or (iii) in the case of a

commercial structure with multiple tenants in subdivided units, each subdivided unit shall be deemed to constitute a connection. The connection fee for sewer connections outside the City's corporate limits shall be two times the schedule for connections inside the corporate limits.

(3) At the time a final plat of a new subdivision is filed with the City, a sewer supply/distribution main connection charge as provided for in the subdivision agreement with the City shall be paid to the City Clerk in cash or warrants immediately convertible into cash. Where the property for which a sewer connection is sought has not previously been assessed for or paid such a sewer supply/distribution main connection charge, then in addition to the connection fees, such sewer supply/distribution main connection charge as determined by the City shall be paid to the City Clerk in conjunction with an application for sewer service and/or an application for a building permit.

(Neb. Rev. Stat. §17-542) (Am. by Ord Nos. 984, 6/3/04; 1013, 11/3/05; 1020, 3/28/06)

§3-210 REPAIRS AND MAINTENANCE

The City shall repair or replace, as the case may be, all pipe constituting major sewer mains. It shall be the responsibility of the customer to repair or replace all other sewer pipe and appurtenances from the city sewer main to the premises. All repairs made from the commercial main to the premises shall have a permit issued and shall be inspected by a city representative. (Am. by Ord. No. 984, 6/3/04)

§3-211 CLASSIFICATION

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

§3-212 SEWER USE FEES; BILLING

(1) For the use of the sewer system there shall be a minimum sewer use charge per month to each customer and charge for use in excess of the minimum. The amounts of the charges are on file at the Clerk's office.

(2) All sewer service customers shall be billed on a monthly basis. Billings for each of the months of May through April of each year shall equal the average water consumption billed for the months of February, March and April of said year. Sewer bills will be mailed on the first of each month.

(Am. by Ord. No. 1013, 11/3/05)

§3-213 PERMIT, CONNECTION FEE

(1) Before any property holder owning or leasing property outside Sewer District Nos. 1, 2, 3 and 4 shall connect the property to a sewer within the districts, he or she shall first secure permit therefor from the City Clerk.

(2) Before any property holder owning or leasing property within or abutting upon those sewer districts which were formerly private sewer districts, namely: the Sears, Chickering, DuBois and Newman Sewer, the Ashland Sewer Company, the Hayward Sewer, the Wiggenghorn Sewer, the Methodist Episcopal Church Sewer and the South Side Sewer, shall make any new connection with the aforesaid sewers, he or she shall first secure a permit therefor from the City Clerk.

(3) The Director of Public Works, upon receipt of an application for a permit, shall investigate the feasibility of the proposed connection and upon approval thereof and upon receipt of the connection fee as set forth in Section 3-209, shall issue a permit authorizing the connection. There is hereby levied against each connection to the regularly established and constituted sewer improvement districts in the City wherein the cost of constructing said sewers has been levied against the several parcels of land abutting thereon, a connection fee in the amount heretofore provided. In all other cases, where the sewers have been installed by private firms or individuals and for which no assessment has been legally made against the abutting properties, there is hereby levied a connection fee to be paid at time of application. The amount of the connection fee is on file in the Clerk's office.

(Am. by Ord. No. 984, 6/3/04)

§3-214 OLD HOUSE SEWERS

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

§3-215 PROHIBITED DISCHARGES; STORM, SURFACE, GROUND, COOLING, AND PROCESS WATERS

No person shall discharge or cause to be discharged any stormwater, surface water, groundwater, roof runoff, subsurface drainage including interior and exterior foundation drains, uncontaminated cooling water, or unpolluted industrial waters to any sanitary sewer. Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as combined sewers or storm sewers or to a natural outlet approved by the Director of Public Works. Industrial cooling water or unpolluted process water may be discharged, on approval of the Director of Public Works, to a storm sewer, combined sewer, or natural outlet. The contributor of any identifiable discharge of polluted water to the sanitary sewer system shall be held responsible for reimbursing the City for such costs. The costs shall be determined by the Director of Public Works with the approval of the City Council.

§3-216 HAZARDOUS AND PROHIBITED DISCHARGES; FLAMMABLE, TOXIC, CORROSIVE AND OBSTRUCTIVE SUBSTANCES; PRELIMINARY TREATMENT

No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:

(1) Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas.

(2) Any waters or wastes containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any waste treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the wastewater treatment plant.

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

(4) Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers or other interference with the proper operation of the sewer facilities such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.

(5) Any waters or wastes having:

(a) A five-day BOD greater than 300 parts per million by weight or

(b) Containing more than 350 parts per million by weight of suspended solids or

(c) Having an average daily flow greater than 2% of the average sewage flow of the City or

(d) A chlorine requirement greater than demanded by normal sewage as evaluated by the City's consulting engineer shall be subject to the review of the Director of Public Works.

(6) Where necessary in the opinion of the Director of Public Works, the owner shall provide, at his expense, such preliminary treatment as may be necessary to:

(a) Reduce the biochemical oxygen demand to 300 parts per million by weight; or

(b) Reduce the suspended solids to 350 parts per million by weight; or

(c) Control the quantities and rates of discharge of such waters or wastes; or

(d) Reduce the chlorine requirement to conform with normal sewage.

Plans, specifications, and other pertinent information relating to proposed preliminary treatment facilities shall be submitted for the approval of the Director of Public Works and no construction of such facilities shall be commenced until said approvals are obtained in writing.

§3-217 HAZARDOUS AND PROHIBITED DISCHARGES; SPECIFIC PROHIBITIONS

No person shall discharge or cause to be discharged the following described substances, materials, waters, or wastes if it appears likely in the opinion of the Director of Public Works that such wastes can harm either the sewers, sewage treatment process, or equipment, have an adverse effect on the receiving stream, or can otherwise endanger life, limb, public property, or constitute a nuisance. In forming his opinion as to the acceptability of these wastes, the Director of Public Works will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, and other pertinent factors. The substances prohibited are:

- (1) Any liquid or vapor having a temperature higher than 150° Fahrenheit (65° C).
- (2) Any water or waste containing fats, wax, grease, or oils, whether emulsified or not, in excess of 100 mg/l or containing substances which may solidify or become viscous at temperatures between 32° and 150° F (0° and 65° C).
- (3) Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor three-fourths horsepower (0.76 hp metric) or greater shall be subject to the review and approval of the Director of Public Works.
- (4) Any waters or wastes containing strong acid iron pickling wastes or concentrated plating solutions, whether neutralized or not.
- (5) Any water or wastes containing iron, chromium, copper, zinc, and similar objectionable or toxic substances or wastes exerting an excessive chlorine requirement to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the Director of Public Works for such materials.
- (6) Any waters or wastes containing phenols or other taste- or odor-producing substances in such concentrations exceeding limits which may be established by the Director of Public Works as necessary, after treatment of the composite sewage, to meet the requirements of state, federal or other public agencies of jurisdiction for such discharge to the receiving waters.
- (7) Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Director of Public Works in compliance with applicable state or federal regulations.
- (8) Any waters or wastes having a pH in excess of 9.5.
- (9) Materials which exert or cause:
 - (a) Unusual concentrations of inert suspended solids (such as but not limited to

Fuller's earth, lime slurries, and lime residues) or to dissolved solids, (such as but not limited to sodium chloride or sodium sulfate).

(b) Excessive discoloration (such as but not limited to dye wastes and vegetable tanning solutions).

(c) Unusual BOD, chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.

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

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

**§3-218 DISCHARGE OF HAZARDOUS AND PROHIBITED SUBSTANCES;
REJECTION, PRETREATMENT, CONTROL OF DISCHARGE RATE OR
USE FEE SURCHARGE**

(1) If any waters or wastes are discharged or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in Section 3-216 and which, in the judgment of the Director of Public Works, may have a deleterious effect upon the sewage works, processes, equipment, or receiving waters or which otherwise create a hazard to life to constitute a public nuisance, the Director of Public Works may:

(a) Reject the wastes,

(b) Require pretreatment to an acceptable condition for discharge to the public sewers,

(c) Require control over the quantities and rates of discharge, and/or

(d) Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of Section 3-220.

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

§3-219 GREASE, OIL AND SAND INTERCEPTORS; WHEN REQUIRED

Grease, oil, and sand interceptors shall be provided when, in the opinion of the Director of

Public Works, 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 Director of Public Works and shall be located as to be readily and easily accessible for cleaning and inspection. In the maintaining of these interceptors, the owners 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 Director of Public Works. Any removal and hauling of the collected materials not performed by owners' personnel must be performed by currently licensed waste disposal firms.

**§3-220 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 expense.

**§3-221 HAZARDOUS AND PROHIBITED SUBSTANCES; SPECIAL EXCEPTIONS
PERMITTED; USE FEE SURCHARGE**

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

§3-222 ABANDONED OR UNUSED SEWER LINES

(1) All sanitary sewer lines which have been abandoned or which are no longer in use shall be sealed at the main or other point as directed by the Director of Public Works or the City's representative to prevent the entrance of any storm or surface water into the sanitary sewer lines. All sanitary sewer inlets for trailers and/or mobile homes, when not in use, shall be equipped with a cap and sealed above grade but not to exceed four inches above grade, and surface drainage shall be delivered away from said inlet. It shall be the duty of the owner of the property whereon said sewer line lies or where there are sanitary sewer inlets for trailers and/or mobile homes to seal said sewer line or inlets as above provided and to have said seal inspected by the Director of Public Works or the City's representative.

(2) If brought to the attention of the City Council that a property owner has not sealed or capped a sewer line per the provisions above, the City Council shall instruct the City Clerk to notify the property owner to perform the same. In the event of the failure of said property owner to comply with such instruction within five days after receipt of the notice, the City shall cause the same to be done. The money thus expended shall be recovered by the City from the property owner before any court of competent jurisdiction or it shall be assessed as a special tax upon the property owner and certified to the County Treasurer to be collected as a special assessment against the real estate involved.

(Am. by Ord. No. 1013, 10/18/05)

§3-223 SPECIAL EQUIPMENT

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

§3-224 CONTROL MANHOLES/SAMPLING STATIONS; WHEN REQUIRED; INSTALLATION AND MAINTENANCE

When required by the Director of Public Works, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole, together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such manhole, when required, shall be accessibly and safely located and shall be constructed in accordance with plans approved by the Director of Public Works. The manhole shall be installed by the owner at his expense and shall be maintained by him so as to be safe and accessible at all times.

§3-225 INSPECTIONS

The Director of Public Works or his 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 article therein.

§3-226 COMPLAINTS

Any consumer feeling himself aggrieved by reason of any controversy with the Director of Public Works may appear before the City Council and present his grievance. Any consumer who considers himself aggrieved by being required to pay the charge demanded for the use of the sewer or for the resumption of sewer service after the same shall have been shut off shall pay such charge under protest, in which event the City Clerk shall write on the receipt given such customer the words, "Paid Under Protest." Such consumer may then present his verified claim in the manner provided for presenting claims to the City Council for a refund of the amount so paid under protest. Such claims shall then be considered by the Council in the same manner as other claims against the City.

Article 3 – Utilities Generally

§3-301 UTILITY BILLS; COLLECTION

Charges for water and sewer service shall be billed jointly on a monthly basis. The Director of Public Works or his or her agent shall read, or cause to be read, water meters monthly by the 15th day of the month following the billed period. Utility bills shall be mailed on the first day of each month and shall be due on the 15th day following the mailing of the statement. Bills shall be payable at the office of the City Clerk. All water and sewer use charges which are not paid within 15 days of the statement mailing shall be deemed to be late. Late bills shall have a penalty charge added thereto in an amount set by resolution of the City Council and on file in the office of the City Clerk. The Utilities Department may discontinue service pursuant to Section 3-302. Once discontinued, service shall not be recommenced except upon payment in full of all delinquent balances and further, upon payment of a reconnection fee in the amount set by resolution of the City Council and on file in the Clerk's office. The City may also take any action authorized by law to effect collection of the delinquent balances. (Neb. Rev. Stat. §17-542, 17-925.01, 18-416) (Am. by Ord. No. 985, 6/3/04)

§3-302 DISCONTINUANCE OF SERVICE; NOTICE PROCEDURE

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

(2) The notice shall contain the following information:

(a) The reason for the proposed disconnection;

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

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

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

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

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

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

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

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

(j) A statement to the effect that those domestic subscribers who are welfare recipients may qualify for assistance in payment of their utility bills and that they should contact their caseworkers in that regard; and

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

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

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

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

(Neb. Rev. Stat. §70-1602)

§3-303 DIVERSION OF SERVICES; PENALTY

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

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

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

(b) Liquidated damages of \$750.00 if the amount of actual damage or loss is not susceptible of reasonable calculation.

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

(4) 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.

(5) 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.

(6) 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.

(Neb. Rev. Stat. §86-331.01 through 86-331.04)

§3-304 DIVERSION OF SERVICES, METER TAMPERING, UNAUTHORIZED RECONNECTION, PROHIBITED; EVIDENCE

(1) Any person who connects any pipe or conduit supplying water without the knowledge and consent of the City in such manner that any portion thereof may be supplied to any instrument by or at which water may be consumed without passing through the meter provided for measuring or registering the amount or quantity passing through it and any person who knowingly uses or knowingly permits the use of water obtained in the above-mentioned unauthorized ways shall be deemed guilty of an offense.

(2) Any person who willfully injures, alters, or by any instrument, device, or contrivance in any manner interferes with or obstructs the action or operation of any meter made or provided for measuring or registering the amount or quantity of water passing through it without the knowledge and consent of the City shall be deemed guilty of an offense.

(3) When water service has been disconnected pursuant to Neb. Rev. Stat. §70-1601 to 70-1615, or Section 3-302 of this code, any person who reconnects such service without the knowledge and consent of the City shall be deemed guilty of an offense.

(4) Proof of the existence of any pipe or conduit connection or reconnection or of any injury, alteration, or obstruction of a meter as provided in this section shall be taken as prima facie evidence of the guilt of the person in possession of the premises where such connection, reconnection, injury, alteration, or obstruction is proved to exist.

(Neb. Rev. Stat. §86-329 through 86-331)

§3-305 LIEN

In addition to all other remedies, if a customer shall for any reason remain indebted to the City for utility services furnished, such amount due, together with any rents and charges in arrears, shall be considered a delinquent utility rent which is hereby declared to be a lien upon the real estate for which the same was furnished. The City Clerk shall notify in writing or cause to be notified in writing all owners of premises or their agents whenever their tenants or lessees are 60 days or more delinquent in the payment of the utility rent. It shall be the duty of the City Clerk to report to the City Council a list of all unpaid accounts due for utility services, together with a description of the premises served. The report shall be examined and if approved by the City Council, shall be certified by the City Clerk to the County Clerk to be collected as a special tax in the manner provided by law. (Neb. Rev. Stat. §17-538, 17-925.01, 18-503)

Article 4 – Fire Department

§3-401 OPERATION AND FUNDING

The City operates the Fire Department through the Fire Chief and Firemen. The City Council, for the purpose of defraying the cost of the management, maintenance, and improving the Fire Department, may each year levy a tax not exceeding the maximum limits prescribed by state law on the actual valuation of all real estate and personal property within the City that is subject to taxation. The revenue from the said tax shall be known as the Fire Department Fund and shall be at all times in the possession of the City Treasurer. (Neb. Rev. Stat. §17-147, 17-718, 17-953)

§3-402 FIRE CHIEF

The Fire Chief shall manage the Fire Department and it shall be his duty to inform the City Council when any of the fire engines, hose, ladders, or other apparatus needs repair. Upon the written consent and directive of the Council, the Fire Chief shall cause the repair, improvement, or maintenance of the said equipment and shall personally supervise and approve of the same. It shall be the duty of the Fire Chief to come before the City Council at the regular meeting in January of each year to give an annual report of the general condition and the proposed additions or improvements recommended by him. (Neb. Rev. Stat. §17-107)

§3-403 MEMBERSHIP

The Fire Chief shall appoint no more than 25 members for each Fire Department Company subject to the review and approval of the City Council. All vacancies shall be filled in this manner. Said members shall be considered to be employees of the City for the purpose of providing them with worker's compensation and other benefits. Each member shall be entitled to a term life insurance policy in the amount of at least \$5,000.00 for death from any cause to age 65 and such policy shall, at the option of the individual fireman, be convertible to a permanent form of life insurance at age 65; provided, the firemen covered are actively and faithfully performing the duties of their position. The Fire Department shall consist of so many members as may be decided by the City Council. The members may organize themselves in any way they may decide, subject to the review of the Council. They may hold meetings and engage in social activities with the approval of the Council. The secretary shall upon request keep a record of all meetings and shall make a report to the Council of all meetings and activities of the Fire Department. The City Council may, for services rendered, compensate or reward any member or members of the Fire Department in an amount set by resolution. All members of the Fire Department shall be subject to such rules and regulations and shall perform such duties as may be prescribed or required of them by the Fire Chief or the City Council. The members of the Fire Department shall, during the time of a fire or great public danger, have and exercise the powers and duties of police officers and shall have full power and authority to arrest all persons guilty of any violation of the municipal code or state laws. Volunteer firefighters and rescue squad members testifying as witnesses in connection with their officially assigned duties in that capacity alone shall not be deemed employees of the State of Nebraska or of the City.

(Neb. Rev. Stat. §33-139.01, 35-101 through 35-103, 35-108)

§3-404 RECORDS

The Fire Chief shall keep or cause to be kept a record of all meetings of the Fire Department, the attendance record of all members, and a record of all fires and shall make a full report of such records to the City Clerk during the last week in April each year. The record of any fire shall include the cause, origin, circumstances, property involved, and whether criminal conduct may have been involved. In the event of sizable property damage, he shall include the information as to whether such losses were covered by insurance and if so, in what amount. All records shall be available to the public at any reasonable time. (Neb. Rev. Stat. §18-506)

§3-405 FIRES

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

§3-406 DISTANT FIRES

Upon the permission of the Mayor or Fire Chief, such fire equipment of the City as may be designated by the City Council as rural equipment may be used beyond the corporate limits to extinguish reported fires.

§3-407 FIGHTING DISTANT FIRES

The firefighters of the City shall be considered as acting in the performance and within the scope of their duties in fighting fires or saving property or life outside the corporate limits of the City when directed to do so by the Mayor or Chief of the Fire Department or some person authorized to act for such Chief and in so doing, may take such fire equipment of the City as may be designated by the City Council.

§3-408 INSPECTIONS

It shall be the duty of the Fire Chief, when directed to do so by the City Council, to inspect or cause to be inspected by Fire Department officers, members, or some other official as often as may be necessary, but not less than two times a year in outlying districts and four times a year within the fire limits, all buildings, premises and public thoroughfares, except the interiors of private dwellings, for the purpose of ascertaining and causing to be corrected any conditions liable to create a fire hazard. The inspection shall be of the storage, sale and use of flammable liquids, combustibles, and explosives; electric wiring and heating; and the means and adequacy of exits, in case of fire in schools, churches, hotels, halls, theaters, factories, hospitals, and all other buildings in which numbers of persons congregate from time to time for any purpose, whether publicly or privately owned; the design, construction, location, installation, and operation of equipment for storing, handling, and utilizing of liquefied petroleum gases, specifying the odorization of said gases and the degree thereof; and chemicals, prozylin plastics, nitrocellulose films, or any other hazardous material that may now or hereafter exist. (Neb. Rev. Stat. §81-512)

§3-409 NOTICE OF VIOLATION

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

§3-410 FIRE INVESTIGATION

It shall be the duty of the Fire Department to investigate or cause to be investigated the cause, origin, and circumstances of every fire occurring in the City in which property has been destroyed or damaged in excess of \$50.00. All fires of unknown origin shall be reported and such officers shall especially make an investigation and report as to whether such fire was the result of carelessness, accident, or design. Such investigation shall be begun within two days of the occurrence of such fire and the State Fire Marshal shall have the right to supervise and direct the investigation whenever he deems it expedient or necessary. The officer making the investigation of fires occurring within the City shall immediately notify the State Fire Marshal and shall, within one week of the occurrence of the fire, furnish him with a written statement of all the facts relating to the cause and origin of the fire and such further information as he may call for. (Neb. Rev. Stat. §81-506)

Article 5 – Police Department

§3-501 DUTIES

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

§3-502 ARREST AND ENFORCEMENT JURISDICTION

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

(2) Any city law enforcement officer who is within this state but beyond the territorial limits of his or her primary jurisdiction shall have the power and authority to enforce the laws of this state or any legal ordinance of any city or incorporated village or otherwise perform the functions of his or her office, including the authority to arrest and detain suspects, as if enforcing the laws or performing the functions within the territorial limits of his or her primary jurisdiction in the following cases:

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

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

(c) Any city law enforcement officer shall have such enforcement and arrest and

detention authority when responding to a call in which a local, state, or federal law enforcement officer is in need of assistance. A "law enforcement officer in need of assistance" shall mean a law enforcement officer whose life is in danger or a law enforcement officer who needs assistance in making an arrest and the suspect (i) will not be apprehended unless immediately arrested, (ii) may cause injury to himself or herself or others or damage to property unless immediately arrested, or (iii) may destroy or conceal evidence of the commission of a crime; and

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

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

(Neb. Rev. Stat. §29-215, 81-829.65)

§3-503 POLICE OFFICERS; DISCIPLINE OR REMOVAL FROM DUTY; NOTICE AND HEARING; DETERMINATION

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

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

(3) At the hearing, the police officer shall have the right to (a) respond in person to the charges and to present witnesses and documentary evidence; (b) confront and cross-examine available adverse witnesses; and (c) be represented by counsel.

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

(5) Nothing in this section shall be construed to prevent the preemptory suspension or immediate removal from duty of an officer, pending the hearing authorized by this section, in cases of gross misconduct, neglect of duty, or disobedience of orders.

(Neb. Rev. Stat. §17-107)

Article 6 – City Parks Department

§3-601 OPERATION AND FUNDING

The City owns and operates the city parks and other recreational areas through the Park Board. The City Council, for the purpose of defraying the cost of the care, management, and maintenance of the city parks, may each year levy a tax not exceeding the maximum limit prescribed by state law on the actual valuation of all real estate and personal property within the corporate limits that is subject to taxation. The revenue from the said tax shall be known as the Park Fund and shall remain in the custody of the City Treasurer. The Park Board shall have the authority to adopt rules and regulations for the efficient management of the city parks and other recreational areas of the City. The Board shall not enter into a contract of any nature which involves an expenditure of funds, except for ordinary operating expenses, unless the contract has been approved by resolution of the majority of the City Council prior to the contractual agreement. (Neb. Rev. Stat. §17-948 through 17-952)

§3-602 INJURY TO PROPERTY

It shall be unlawful for any person to maliciously or willfully cut down, injure, or destroy any tree, plant, or shrub. It shall be unlawful for any person to injure or destroy any sodded or planted area or injure or destroy any building, structure, equipment, fence, bench, table, or any other property of the city parks and recreational areas. No person shall commit any waste on or litter the city parks or other public grounds. (Neb. Rev. Stat. §17-563, 28-523)

§3-603 HOURS OF OPERATION

The regular hours of the city parks shall be 6:00 a.m. to 11:00 p.m. and it shall be unlawful for any person to be in the city parks outside of these hours without authorization from the City Council. (Ord. No. 948, 11/14/02)

Article 7 – City Swimming pool

§3-701 OPERATION AND FUNDING

The City owns and manages the city swimming pool. The City Council, for the purpose of defraying the cost of the management, maintenance, and improvements of the swimming pool, may each year levy a tax not exceeding the maximum limit prescribed by State law, on the actual valuation of all real estate and personal property within the City that is subject to taxation. The revenue from the said tax shall be known as the Swimming Pool Fund and shall include all gifts, grants, deeds of conveyance, bequests, or other valuable income-producing personal property and real estate from any source for the purpose of endowing the swimming pool. The Swimming Pool Fund shall at all times be in the custody of the City Treasurer. The Director of Public Works shall manage the swimming pool and shall have the power and authority to hire and supervise the Swimming Pool Manager and such employees as he may deem necessary. The Director shall pass such rules and regulations for the operation of the swimming pool as may be proper for its efficient operation. All actions by the Director shall be under the supervision and control of the City Council. (Neb. Rev. Stat. §17-948, 17-950, 17-951, 17-952)

§3-702 ADMISSION CHARGE

The City Council may, for the purpose of defraying the expenses involved in maintaining, improving, managing, and beautifying the swimming pool, make a reasonable admission charge for the use of the swimming pool by any person. The said charges shall be on file at the office of the City Clerk and shall also be posted in a conspicuous place at the swimming pool for public inspection. Such rates may be structured for classes of persons in a reasonable manner; provided, nothing herein shall be construed to permit or allow discrimination on the basis of race, creed, color, or national origin in the classification of persons for admission charges. (Neb. Rev. Stat. §17-949)

§3-703 RENTALS

The Swimming Pool Manager shall have the authority to rent the swimming pool to such organizations and other persons as he or she may see fit, subject to the review of the City Council. The Manager shall prescribe rules and regulations for such rentals and shall require an appropriate number of qualified lifeguards to be in attendance during the rental period. Such fees and other costs shall be on file at the office of the City Clerk and posted in a conspicuous place at the swimming pool. (Neb. Rev. Stat. §17-949)

§3-704 RULES AND REGULATIONS

The City Council shall have the power and authority to enact bylaws, rules, and regulations for the protection of those using the swimming pool and for the efficient management thereof. The Council may provide suitable penalties for the violation of such bylaws, rules, and regulations. (Neb. Rev. Stat. §17-949)

Article 8 – City Library

§3-801 ESTABLISHMENT

There is hereby established in the City a public library and reading room which shall be forever kept up and maintained by the City and shall be known as the "Ashland Public Library."

§3-802 OPERATION AND FUNDING

The City owns and manages the library through the Library Board. The City Council, for the purpose of defraying the cost of the management, purchases, improvements, and maintenance of the library, may each year levy a tax not exceeding the maximum limit prescribed by state law on the actual valuation of all real estate and personal property within the City that is subject to taxation. The revenue from the said tax shall be known as the Library Fund and shall include all gifts, grants, deeds of conveyance, bequests, or other valuable income-producing personal property and real estate from any source for the purpose of endowing the library. The Library Fund shall at all times be in the custody of the City Treasurer. The Library Board shall have the power and authority to appoint the librarian and to hire such other employees as it may deem necessary and may pass such other rules and regulations for the operation of the library as may be proper for its efficient operation. All actions by the Board shall be under the supervision and control of the City Council. (Neb. Rev. Stat. §51-201, 51-202, 51-211)

§3-803 BOOKS

The Library Board may authorize the sale, exchange, or disposal of any surplus, damaged, defective, obsolete, or duplicate books in the library. Records shall be kept of any such surplus, damaged, defective, obsolete, or duplicate books so disposed of. (Neb. Rev. Stat. §51-207)

§3-804 RULES AND REGULATIONS

The Library Board shall establish rules and regulations for the governing, preservation, and efficient management of the library. It shall fix and impose penalties and forfeitures for injury to the library grounds, rooms, books, or other property or for failure to return a book. All fees, penalties, and forfeitures may be collected in civil action in the event of failure, neglect, or refusal to pay the said assessments. (Neb. Rev. Stat. §51-205, 51-214)

§3-805 READING ROOM

Use of the library reading room established under this article shall be forever free to the inhabitants of the City, subject always to the reasonable regulations as the Library Board may adopt, and the Board may exclude from the use of the library and reading room any person who shall willfully violate or refuse to comply with rules and regulations established for the government thereof.

§3-806 REPORT

The Library Board shall, on or before the second Monday in June of each year, make a report to the Council of the condition of their trust on the first day of June of each year, showing all monies received or expended; the number of books and periodicals on hand; newspapers and current literature subscribed to or donated during the year, and the number of and the character of books loaned or issued, with such statistics, information and suggestions as may be deemed of general interest or as the Council may require, which report shall be verified by affidavit of the proper officers of the Board.

§3-807 DEPOSITS

The Library Board shall have power to authorize any circulating library, reading matter or work of art of any private person to be deposited in the public library rooms to be drawn or used outside of the rooms only on payment of such fee or membership as the person owning the same may require. Deposits may be removed by the owners thereof at pleasure but the books or other reading matter so deposited in the rooms of the public library shall be separately and distinctly marked and kept upon shelves apart from the books of the public library. Every such private or associate library or other property so deposited in the public library, while so placed or remaining, shall be subject to use and reading within the library room without charge by any person entitled to free use of the public library. (Neb. Rev. Stat. §51-202)

§3-808 TAXATION

Any person may make any donation of money or lands for the benefit of the library and the title to property so donated may be made to and shall vest in the Library Board and its successors in office, and the Board shall thereby become the owners thereof in trust to the uses of the public library. The property of the library shall be exempt from execution and shall also be exempt from taxation as other public property.

§3-809 MONEY COLLECTED

Any money collected by the library shall be turned over monthly by the Librarian to the City Treasurer, along with a report of the sources of the revenue. (Neb. Rev. Stat. §51-209)

Article 9 – City Cemetery

§3-901 OPERATION AND FUNDING

The City owns and manages the city cemetery. The City Council, for the purpose of defraying the cost of the care, management, maintenance, and beautification of the cemetery, may each year levy a tax not exceeding the maximum limit prescribed by state law on the actual valuation of all real estate and personal property within the City that is subject to taxation. The revenue from the said tax shall be known as the Cemetery Fund and shall include all gifts, grants, deeds of conveyance, bequests, money, stocks, bonds, or other valuable income-producing personal property and real estate from any source for the purpose of endowing the cemetery. The Cemetery Fund shall at all times be in the custody of the City Treasurer. The City Council shall have the power and authority to hire and supervise such employees as it may deem necessary and to pass such rules and regulations for the operation of the cemetery as may be proper for its efficient operation. (Neb. Rev. Stat. §12-401 through 12-403)

§3-902 SEXTON

The City Council shall have the authority to appoint a sexton, who shall perform such duties and make such reports as the Council shall direct. It shall be the duty of the Sexton, upon receiving a burial permit, to locate and direct the party named in the permit to the lot mentioned therein and to dig and excavate or cause the same to be dug or excavated in compliance with the rules and regulations of the City Council. (Neb. Rev. Stat. §12-403)

§3-903 CONVEYANCE OF LOTS

The City Council may convey cemetery lots by certificate signed by the Mayor and countersigned by the City Clerk under the city seal, specifying that the person to whom the same is issued is the owner of the lot described therein by number for the purpose of interment. The said certificate shall give a right in fee simple to the proprietor, his heirs, and assigns. The certificate shall then be recorded in the office of the County Clerk. (Neb. Rev. Stat. §17-941)

§3-904 FORFEITURE OF LOTS

If, for three consecutive years, all charges and liens are not paid by the holders of the lot certificates, the said certificates shall be declared forfeited and subject to resale. All certificates sold shall contain a forfeiture clause to the effect that if no interment is made on the said lot and all liens paid, the certificate and the rights under the same may, at the option of the City Council, be declared null and void and the lot shall be subject to resale. (Neb. Rev. Stat. §17-938)

§3-905 LOT TRANSFERS

Any person who wishes to transfer a certificate may do so by surrendering the original certificate to the City Clerk, who shall issue a new certificate upon the receipt of the recording fee set by resolution of the City Council. (Neb. Rev. Stat. §17-935, 17-936)

§3-906 PERPETUAL CARE

The City Treasurer shall allocate and set apart a percentage of the entire amount paid for lots or burial spaces if the said lots or burial spaces are to be endowed with perpetual care. The fund shall be permanent in nature and as it accumulates shall be invested in such interest-bearing securities as are authorized by state law. The income earned thereon shall be used solely for the purposes of perpetual care for the cemetery lots. Any lot owner who shall not have endowed his holdings with perpetual care prior to the purchase of his lot may do so by paying to the City Clerk such sum of money as the City Council may in each case fix and determine. Thereafter, the owner shall not be liable for the payment of an annual maintenance assessment. (Neb. Rev. Stat. §12-402)

§3-907 BURIAL PERMITS; REMOVAL OF CORPSE

No one shall be buried in the cemetery unless a burial permit be first obtained from the Registrar, submitted to the City Clerk and recorded in the city records, nor shall any corpse be removed from the cemetery or from one lot to another without first obtaining a permit from the Clerk. The person applying for such permit must state the following particulars:

- (1) Full name of deceased (or in case of a child unnamed, the names of the father and mother).
- (2) Color.
- (3) Sex.
- (4) Conjugal condition.
- (5) Date of birth.
- (6) Date of death.
- (7) Disease or cause of death.
- (8) In whose lot to be entered.
- (9) Name of undertaker.
- (10) Date and hour of funeral.

The same data will be required for transfers from other burial grounds. It shall be the duty of the Clerk to keep a complete record of every detail as provided for in this section.
(Neb. Rev. Stat. §71-605)

§3-908 SHRUBS AND TREES

No shrubs or trees attaining a height of more than four feet shall be planted on any lot in the new addition. No shrub shall be planted in the future which is described as follows: (1) extending its branches over the edge of the lot or (2) the creeping variety such as lilac or vines, excepting the variety of ivy that confines itself to one place. All bushes that obstruct driveways or other graves shall be removed. Large trees coming under the above heading shall be removed. No chains, hedge or railing of any kind, except those already so placed, shall be placed around the lot. No trees or shrubs shall be placed upon any lot nor any trees or shrubs cut down, removed, trimmed or destroyed without procuring the consent of the Sexton. No ropes or chains shall be attached to any trees or shrubs or other property therein. The use of hose attached to the hydrants in the cemetery is forbidden, except the use of the same may be

allowed lot owners under the direction of the Sexton for no longer than two hours in any one day, but no person shall drag the hose across lots owned by others. All hose used must be strung along roads, walks or alleyways in the cemetery. No one except the Sexton or a city employee shall in any way alter or change any of the water system.

§3-909 MONUMENTS; INSCRIPTIONS; PERMITS

(1) Persons desiring to erect monuments, tombstones, or other structures or desiring to place any inscription upon any monument or tombstone within the cemetery shall first procure a permit from the Clerk. The permit shall state the kind of work to be done and upon whose lot the monument, tombstone, or other work is to be erected or constructed. It shall be the duty of the Sexton to collect the aforesaid permit and report upon the back thereof any violations of this article by the person obtaining same.

(2) Persons engaged in erecting monuments or other work in the cemetery shall not scatter their materials in adjoining lots nor shall they leave the same in the cemetery any longer than is necessary to accomplish such work in the proper manner. All monument dealers must obtain a permit from the Clerk to erect monuments in the cemetery, for which a fee of \$2.50 is charged for each monument so erected. Monuments in Blocks 1 and 2 shall be at the north end of the lot; in Blocks 15 and 16, at the south end of the lot. All other monuments shall be at the inside border of the lot, away from the drive. Monuments shall not be over four feet in height from the ground and they shall rest on a stone or cement base extending five inches out from the monument. Foundations for monuments of heavy structure shall be laid in the cemetery to a depth of three feet. Corner posts must be flush with the ground.

§3-910 GRAVES; REGULATIONS

Graves must be made in rectangular shape and shall not be less than three feet in depth above the top of the box. No mound shall be raised above the grave exceeding eight inches in height above the surface of the lot when first made and shall not exceed three inches when settled. All grading and filling of graves and vaults and the leveling of the same or any other work or improvement may be done only by or under the direction of the Sexton. Graves in the new addition must be laid out north and south with the head of the body as follows: Blocks 1 and 2, to the north; Blocks 15 and 16, to the south; and all others in the new addition with the head to the center border of the lot, away from the driveway.

§3-911 OPENING GRAVES, LOTS; FEES

The following fees shall be set by resolution of the Mayor and City Council: (1) fee schedule for opening graves during the workweek and during weekends and holidays; (2) fee for cremation burials; and (3) fee for the sale of lots to residents and nonresidents.

§3-912 CLERK, DUTIES

(1) The City Clerk shall keep a correct record of all sales and conveyances of lots in the cemetery, containing a proper description of the lots, to whom conveyed, prices paid, and

when paid. It shall be his duty to make out each certificate to the person purchasing the lot, stating therein the true amount paid and the numerical description of the lot. The person purchasing the lot shall pay to the Clerk the sum so designated and the Clerk shall not issue the certificate until such lot is fully paid for. The Clerk shall pay all monies received from the sale of such cemetery lots to the Treasurer within 30 days. All lots in the new and old additions must be paid for at the time of purchase or a note with good security given before burial is permitted and deed given for the lot. For such service the Clerk shall receive a sum which shall be set by the City Council, to be paid by the City out of the Cemetery Fund.

(2) All lots in Blocks 1, 2, 15 and 16 shall be sold as half lots. Any owner of a lot desiring to sell or dispose of it must sell or dispose of the unused portion to the City and receive in return the amount or a proportional part of the money paid for the lot, less any sum due the City for annual care as provided in Section 3-911.

§3-913 DESTRUCTION OF PROPERTY

Any person who shall willfully destroy, mutilate, deface, injure, or remove any tomb, monument, or gravestone placed in the cemetery or any fence, railing, or other work for the protection or ornamentation of the cemetery or who shall willfully destroy, cut, break, or injure any tree, shrub, or plant shall be deemed to be guilty of an offense. (Neb. Rev. Stat. §28-512)

§3-914 RECLAMATION

When any lot has been transferred by warranty deed or by a deed conveying a fee simple title but there has been no burial in any such lot or subdivision thereof and no payment of annual assessments for a period of three years, the City Council may reclaim the unused portion of such lot or subdivision after notifying the record owner or his or her heirs or assigns, if known, by certified mail and publishing notice of its intention to do so. Such notice shall be published once each week for four weeks in a newspaper of general circulation throughout the county in which the cemetery is located, shall describe the lot or subdivision proposed to be reclaimed, and shall be addressed to the person in whose name such portion stands of record or, if there is no owner of record, to all persons claiming any interest in such lot or subdivision. If no person appears to claim such lot or subdivision and pay all delinquent assessments with interest within 15 days after the last date of such publication, the City Council may by resolution reclaim such lot or subdivision. Such reclamation shall be complete upon a filing of a verified copy of such resolution, together with proof of publication, in the office of the Register of Deeds.

Article 10 – Penal Provision

§3-1001 VIOLATION; PENALTY

Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this chapter, set forth at full length herein or incorporated by reference, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than \$500.00 for each offense. A new violation shall be deemed to have been committed every 24 hours of such failure to comply. (Am. by Ord. No. 870, 5/3/00)