

## **TITLE V: PUBLIC WORKS**

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**CHAPTER 50. GENERAL PROVISIONS**

**§ 50.01 DENIAL OF SERVICE; WHEN PROHIBITED.**

No applicant for the services of a public or private utility company furnishing water, natural gas or electricity at retail in this city shall be denied service because of unpaid bills for similar service which are not collectible at law because of statutes of limitations or discharge in bankruptcy proceedings. (Neb. RS 70-1601) (Ord. 2000-1076M, passed 9-25-2000)

**§ 50.02 DISCONTINUANCE OF SERVICE; NOTICE PROCEDURE.**

(A) For the purpose of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning.

***DOMESTIC SUBSCRIBER.*** Shall not include municipalities, cities, villages, political subdivisions, companies, corporations, partnerships, limited liability companies or businesses of any nature. (Neb. RS 70-1602)

(B) No public or private utility company, including any utility owned and operated by the city, furnishing water, natural gas or electricity at retail in this city shall discontinue service to any domestic subscriber for nonpayment of any past-due account unless the utility company first gives notice to any subscriber whose service is proposed to be terminated. Such notice shall be given in person, by first-class mail, or by electronic delivery, except that electronic delivery shall only be used if the subscriber has specifically elected to receive such notices by electronic delivery. If notice is given by first-class mail or electronic delivery, such notice shall be conspicuously marked as to its importance. Service shall not be discontinued for at least seven days after notice is sent or given. Holidays and weekends shall be excluded from the seven days. (Neb. RS 70-1605)

(C) The notice required by division (B) above shall contain the following information:

- (1) The reason for the proposed disconnection;
  - (2) A statement of the intention to disconnect unless the domestic subscriber either pays the bill or reaches an agreement with the utility regarding payment of the bill;
  - (3) The date upon which service will be disconnected if the domestic subscriber does not take appropriate action;
  - (4) The name, address and telephone number of the utility's employee or department to whom the domestic subscriber may address an inquiry or complaint;
  - (5) The domestic subscriber's right, prior to the disconnection date, to request a conference regarding any dispute over such proposed disconnection;
  - (6) A statement that the utility may not disconnect service pending the conclusion of the conference;
  - (7) A statement to the effect that disconnection may be postponed or prevented upon presentation of a duly licensed physician's certificate which shall certify that a domestic subscriber or resident within such subscriber's household has an existing illness or handicap which would cause such subscriber or resident to suffer an immediate and serious health hazard by the disconnection of the utility's service to that household. Such certificate shall be filed with the utility within five days of receiving notice under this section and will prevent the disconnection of the utility's service for a period of 30 days from such filing. Only one postponement of disconnection shall be allowed under this division (C)(7) for each incidence of nonpayment of any past-due account;
  - (8) The cost that will be borne by the domestic subscriber for restoration of service;
  - (9) A statement that the domestic subscriber may arrange with the utility for an installment payment plan;
  - (10) A statement to the effect that those domestic subscribers who are welfare recipients may qualify for assistance in payment of their utility bill and that they should contact their caseworker in that regard; and
  - (11) Any additional information not inconsistent with this section which has received prior approval from the City Council, in the case of a city utility, or the board of directors or administrative board of any other utility.
- (Neb. RS 70-1606)

(D) The utility shall establish a third-party notice procedure for the notification of a designated third party of any proposed discontinuance of service and shall advise its subscribers, including new subscribers, of the availability of such procedures.  
(Neb. RS 70-1607)

(E) The provisions of Neb. RS 70-1608 through 70-1614 shall apply to disputes over a proposed discontinuance of service.

(F) This section shall not apply to any disconnections or interruptions of services made necessary by the utility for reasons of repair or maintenance or to protect the health or safety of the domestic subscriber or of the general public.  
(Neb. RS 70-1615)

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

(A) It is an offense for any person to do any of the following:

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

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

(3) To reconnect electrical or water service without the knowledge and consent of any city utility supplying such service if the service has been disconnected pursuant to Neb. RS 70-1601 through 70-1615; or

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

(B) Proof of the existence of any wire, pipe or conduit connection or reconnection or of any injury, alteration, interference or obstruction of a meter is prima facie evidence of the guilt of the person in possession of the premises where that connection, reconnection, injury, alteration, interference or obstruction is proved to exist.  
(Neb. RS 28-515.02) Penalty, see § 10.99

**§ 50.04 DIVERSION OF SERVICES; CIVIL ACTION.**

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

(B) (1) The city utility may bring a civil action for damages against any person who commits, authorizes, solicits, aids, abets or attempts bypassing, tampering or unauthorized metering, when that act results in damages to the utility. A city utility 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 utility shall be entitled, upon proof of willful or intentional bypassing, tampering or unauthorized metering, to recover as damages:

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

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

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

(Neb. RS 25-21,276)

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

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

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

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

(Neb. RS 25-21,277)

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

(Neb. RS 25-21,278)

Penalty, see § 10.99

**§ 50.05 LIEN.**

(A) All water rates, taxes or rent assessed by the City Council shall be a lien upon the premises or real estate, upon or for which the same is used or supplied; and such taxes, rents or rates shall be paid and collected and such lien enforced in such manner as the Council shall by ordinance direct and provide.

(Neb. RS 17-538)

(B) All sewer charges established by the City Council shall be a lien upon the premises or real estate for which the same is used or supplied. Such lien shall be enforced in such manner as the Council provides by ordinance.

(Neb. RS 17-925.01)

(C) If the service charge established by the City Council for the use of any city sewage disposal plant and sewerage system is not paid when due, such sum may be recovered by the city in a civil action or it may be certified to the County Assessor and assessed against the premises served and collected or returned in the same manner as other city taxes are certified, assessed, collected and returned.

(Neb. RS 18-503)





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### ***GENERAL PROVISIONS***

#### **§ 51.01 DEFINITIONS.**

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

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

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

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

***SUPPLY PIPE.*** 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.  
(1977 Code, § 3-102)

#### **§ 51.02 CONSUMER APPLICATION.**

Every person or persons desiring a supply of water must make application therefor to the Utilities Superintendent. The Superintendent may require any applicant to make a service deposit in such amount as has been set by the City Council and placed on file at the office of the Municipal Clerk-Treasurer. Water may not be supplied to any house or private service pipe except upon the order of the Superintendent. The Department shall not supply water service to any person outside the corporate limits without special permission from the City Council; provided, the entire cost of laying mains, service pipe and supply pipe shall be paid by the consumer. Nothing herein shall be construed to obligate the municipality to provide water service to nonresidents.  
(1977 Code, § 3-103)

**§ 51.03 CONTRACT.**

The municipality through its Water Department, shall furnish water to persons within its corporate limits whose premises abut a street or alley in which a commercial main now is or may hereafter be laid. The municipality may furnish water to persons within its corporate limits whose premises do not abut a street or alley in which a municipal commercial main is now or may hereafter be laid and may also furnish water to persons whose premises are situated outside the corporate limits of the municipality, as and when, according to law, the City Council may see fit to do so. The rules, regulations and water rates hereinafter named in this chapter, shall be considered a part of every application hereafter made for water service and shall be considered a part of the contract between every consumer now or hereafter served. Without further formality, the making of application on the part of any applicant or the use or consumption of water service by present consumers thereof and the furnishing of water service to the consumer shall constitute a contract between the consumer and the municipality, to which the contract both parties are bound. If the consumer shall violate any of the provisions of the contract or any reasonable rules and regulations that the City Manager may hereafter adopt, the Water Superintendent or his or her 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 the building, premises or place shall again be made save or except by order of the Water Superintendent or his or her agent.

(1977 Code, § 3-104)

**§ 51.04 CONTRACT NOT TRANSFERABLE.**

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

(1977 Code, § 3-114)

**§ 51.05 REPAIRS.**

Repairs to the service pipe shall be made by and at the expense of the customer. All other repairs to the property of the Water Department, including the meter, shall be made by the municipality. All water meters shall be kept in repair by the municipality at the expense of the municipality. When meters are worn out, they shall be replaced and reset by the municipality at the expense of the municipality; provided, that if the customer permits or allows a water meter to be damaged, injured or destroyed through his or her own recklessness, carelessness or neglect so that the meter must be repaired or replaced, the Water Superintendent shall bill and collect from the customer the cost of such meter repair or replacement in the same manner as water rent is collected. Permitting a water meter to be damaged or destroyed by freezing shall always be considered negligence on the part of the customer. All meters shall be tested at the customer's request at the expense of the customer any reasonable number of times; provided, that if the test shows the water meter to be running 2% or more fast, the expense of such test

shall be borne by the municipality; provided, however, if the meter is running less than 2% fast the consumer shall be charged a \$5 testing fee. The municipality reserves the right to test any water service meter at any time, and if the meter is found to be beyond repair, the municipality shall always have the right to place a new meter on the customer's water service fixtures at municipal expense. Should a consumer's meter fail to register properly, the customer shall be charged for water during the time the meter is out of repair on the basis of the monthly consumption during the same month of the preceding year; provided, that if no such basis for comparison exists, the customer shall be charged such amount as may be reasonably fixed by the Water Superintendent.  
(1977 Code, § 3-106)

#### **§ 51.06 SINGLE PREMISES.**

No consumer shall supply water to other families, or allow them to take water from his or her premises, nor after water is supplied into a building shall any person make or employ a plumber or other person to make a tap or connection with the pipe upon the premises for alteration, extension or attachment without the written permission of the Water Superintendent. It shall further be unlawful for any person to tamper with any water meter or by means of any contrivance or device to divert the water from the service pipe so that the water will not pass through the meter or while passing through the meter to cause the meter to register inaccurately.  
(1977 Code, § 3-110) Penalty, see § 10.99

#### **§ 51.07 RESTRICTED USE.**

The Water Superintendent, the City Manager or the City Council may order a reduction in the use of water or shut off the water on any premises in the event of a water shortage due to fire or other good and sufficient cause. The municipality shall not be liable for any damages caused by shutting off the supply of water of any consumer while the system or any part thereof is undergoing repairs or when there is a shortage of water due to circumstances over which the municipality has no control.  
(1977 Code, § 3-111)

#### **§ 51.08 FIRE HYDRANTS.**

All hydrants for the purpose of extinguishing fires are hereby declared to be public hydrants, and it shall be unlawful for any person other than members of the Municipal Fire Department under the orders of the Fire Chief, or the Assistant Fire Chief, or members of the Water Department to open or attempt to open any of the hydrants and draw water from the same, or in any manner to interfere with the hydrants.  
(1977 Code, § 3-112) Penalty, see § 10.99

**§ 51.09 POLLUTION.**

It shall be unlawful for any person to pollute or attempt to pollute any stream or source of water for the supply of the Municipal Water Department in an area within 15 miles beyond the corporate limits.

(1977 Code, § 3-113) Penalty, see § 10.99

**§ 51.10 INSPECTION.**

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

(1977 Code, § 3-115)

**§ 51.11 DESTRUCTION OF PROPERTY.**

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

(1977 Code, § 3-116) Penalty, see § 10.99

**§ 51.12 COMPLAINTS.**

Any consumer feeling himself or herself aggrieved by reason of any controversy with the Water Superintendent may appear before the City Manager and present his or her grievance. Any consumer who considers himself or herself aggrieved by being required to pay the charge demanded for the use of water, or for the resumption of water service after the same shall have been shut off, shall pay such charge under protest, in which event the Municipal Clerk-Treasurer shall write on the receipt given such customer the words, "Paid Under Protest". Such consumer may then present his or her 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 City Council in the same manner as other claims against the municipality.

(1977 Code, § 3-117)

**§ 51.13 ENCROACHMENT PROHIBITED.**

(A) Every well, infiltration line or spring serving or intended to provide water for a public water supply system shall be located, constructed or modified in such a manner that neither underground or

surface contamination by any biological, chemical or radioactive substance or by the physical property of any substance from any cesspool, privy, septic tank, subsurface tile system, sewer, drain, pit below ground surface, abandoned well, animal or avian wastes or any other possible source of pollution can adversely affect such water supply.

(B) The minimum horizontal distance in feet separating the well or spring from potential sources of contamination shall be as described below:

<i>Category</i>	<i>Distance (Feet)</i>
Chemical or petroleum storage	500
Corral	500
Feedlot or feedlot runoff	1,000
Land application of municipal/industrial waste material	1,000
Pit toilet/vault toilet	500
Sanitary landfill/dump	500
Sanitary sewer connection	100
Sanitary sewer line	50
Sanitary sewer manhole	100
Sewage lagoon	1,000
Sewage treatment plant	500
Sewage wet well	500
Underground disposal system (septic system, cesspool and the like)	500
Wastewater holding tanks	500
Water well	1,000

(Ord. 2001-1088M, passed 9-17-2001; Ord. 2013-2148M, passed 4-11-2013)

#### **§ 51.14 FLUORIDE.**

Fluoride shall not be added to the water system of the city.  
(Ord. 2008-2098W, passed 12-11-2008)

**§ 51.15 BUILDING REGULATIONS; PROHIBITION OF LEAD PIPES, SOLDER AND FLUX.**

(A) Any pipe, solders or flux used in the installation or repair of any residential or nonresidential facility which is connected to the public water supply shall be lead free.

(B) For the purposes of this section, **LEAD FREE** shall mean:

(1) *Solders and flux*. Not more than 0.2% lead; and

(2) *Pipe and pipe fittings*. Not more than 8% lead.

(1977 Code, § 3-118)

**§ 51.16 PRIVATE WATER WELLS PROHIBITED; EXCEPTIONS.**

In order to protect the water supply of the City and in order to promote the health and general welfare of the community, it shall be unlawful for any person, whether the owner, tenant, contractor or otherwise, to drill, construct, replace or maintain a private water well for any purpose within the Corporate Limits of the Municipality of Valentine, Nebraska, or within one (1) mile from said Corporate Limits. Exceptions to this prohibition may be allowed by written order of the Water Superintendent on applications made wherein the City is unable to supply water to the property within a reasonable time of the application being made and on applications that include wells drilled for geothermal heating and cooling purposes that are approved by the Water Superintendent.

Those wells existing and operating upon the effective date of this Section shall not be affected by this Section, except as to replacement and their use may continue subject to the conditions and restrictions, if any, imposed thereon by any original grant for construction.

**RATES AND CHARGES****§ 51.30 INSTALLATION EXPENSE.**

Upon payment by the consumer to the municipality of a tap fee and deposit in the amounts set by resolution of the City Council, the municipality shall install the appropriate supply service to the curb stop at or near the consumer's property line. The consumer shall also be required to pay any costs necessary to bring the supply line to the consumer's property that are the result of excavations in the streets, alleys or other public property. The consumer shall also pay the costs of the curb stop installed by the city. In the event that the consumer desires a supply pipe larger than one inch in diameter, he or she shall be required to pay the total actual cost of installing such supply pipe in addition to the meter deposit. The consumer shall then pay the cost of installation and pipe from the lot line to the place of disbursement. The consumer shall be required to pay the expense of procuring the services of a plumber and shall pay the expense of furnishing and installing pipe, trenching and the necessary labor to bring water service from said lot line to the place of disbursement.

(1977 Code, § 3-105) (Ord. 2011-2112WA, passed 1-13-2011; Am. Ord. 2018-2226M, passed 5-10-2018)

**§ 51.31 MINIMUM RATES.**

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

(B) The following rates are in effect for the city:

(1) The minimum per month is adopted by reference and is available for public inspection in the office of the Clerk-Treasurer.

(2) The summer months (June, July, August and September) is adopted by reference and is available for public inspection in the office of the Clerk-Treasurer.

(3) Accounts; reconnection fee:

1. *Delinquent accounts; reconnection fee.* If a customer whose service has been disconnected by reason of delinquency requests a reconnection, a reconnection fee shall be charged to the customer as follows:

a. If the reconnection is made during the hours of 8:00 a.m. to 5:00 p.m., Monday through Friday (excluding holidays), the charges are adopted by reference and are available for public inspection in the office of the Clerk-Treasurer.

b. If the reconnection is made between 5:00 p.m. and 8:00 a.m. or during any weekend or holiday period, the charges are adopted by reference and are available for public inspection in the office of the Clerk-Treasurer.

2. *Non-delinquent accounts; reconnection fee.* If a customer whose service has been disconnected by his or her order requests a reconnection, a reconnection fee which is adopted by reference and is available for public inspection in the office of the Clerk-Treasurer.

(4) Administrative fee: a fee which is adopted by reference and is available for public inspection in the office of the Clerk-Treasurer shall be assessed to and collected from customers with regard to any of the following services:

(a) Automatic switching of the account names; and

(b) Any other administrative service not ordinarily provided to customers in the routine handling of their accounts.  
(1977 Code, § 3-107) (Ord. 77-624W, passed 9-12-1977; Ord. 97-1030W, passed 9-15-1997; Ord. 98-1039M, passed 5-18-1998; Ord. 98-1048M, passed 10-19-1998; Ord. 2002-1097W, passed 9-16-2002; Ord. 2008-2094W, passed 9-11-2008)

**§ 51.32 WATER BILLS.**

Water bills shall be due and payable monthly at the office of the City Clerk-Treasurer. The Water Superintendent shall read or cause to be read water meters monthly between the first day and the twentieth day following the month during which service is used. The Water Superintendent shall direct the City Clerk-Treasurer to charge and collect from each customer for the amount of water consumed since the last examination together with any other charges, properly itemized, due the Water Department. Accounts shall be collected in the manner determined by resolution of the City Council, which is



available in writing at city hall upon request. The Water Superintendent shall access an additional fee set by resolution of the City Council and on file at the office of the City Clerk-Treasurer, in the event that water is shut off for the non-payment of any water bill, to the city for the additional hook-up necessary to again provide water service to the delinquent customer.

(1977 Code, § 3-108) (Ord. 85-920WT, passed 9-16-1985)

### **§ 51.33 LIEN.**

In addition to all other remedies, if a customer shall for any reason remain indebted to the municipality for water service furnished, such amount due, together with any rents and charges in arrears, shall be considered a delinquent water rent which is hereby declared to be a lien upon the real estate for which the same was used. The Municipal Clerk-Treasurer shall notify in writing or cause to be notified in writing, all owners of premises or their agents whenever their tenants or lessees are 60 days or more delinquent in the payment of water rent. It shall be the duty of the Water Superintendent on June 1 of each year to report to the City Council a list of all unpaid accounts due for water together with a description of the premises upon which the same was used. The report shall be examined, and if approved by the City Council, shall be certified by the Municipal Clerk-Treasurer to the County Clerk to be collected as a special tax in the manner provided by law.

(1977 Code, § 3-109)

### **§ 51.34 BULK WATER SALES.**

The city, under the supervision of the City Manager, and in accordance with all sanitary laws applying thereto, may make bulk sales of water for purposes such as, but not limited to, filling water tankers, swimming pools or other consumer purposes where the City Manager approves supplying water in bulk quantities. The consumer shall be required to apply with the city for such bulk purchase and shall be charged the rates as adopted by reference and which are available for public inspection in the office of the Clerk-Treasurer.

(1977 Code, § 3-119) (Ord. 89-956W, passed 11-20-1989)

## ***CROSS-CONNECTION CONTROL DEVICES; BACKFLOW PREVENTION***

### **§ 51.45 PURPOSE.**

The purpose of this subchapter is:

(A) To protect the public potable water supply of the city water system from contamination or pollution by containing within the consumer's internal distribution system or private water system contaminants or pollutants which could backflow through the service connection into the public potable water supply system.

(B) To promote the elimination, containment, isolation or control of existing cross-connections, actual or potential, between the public or consumer's potable water systems and non-potable water systems, plumbing fixtures and industrial-process systems.

(C) To provide for the maintenance of a continuing program of cross-connection control which will systematically and effectively prevent the contamination or pollution of all potable water systems. (1977 Code, § 3-120(A))

#### **§ 51.46 APPLICATION.**

This subchapter shall apply to all premises served by the public potable water system of the city, whether within or outside of the city limits. (1977 Code, § 3-120(B))

#### **§ 51.47 POLICY.**

(A) This subchapter will be reasonably interpreted. It is the city's intent to recognize the varying degrees of hazard and to apply the principle that the degree of protection shall be commensurate with the degree of hazard.

(B) The Municipal Water Department shall be primarily responsible for protection of the public potable water distribution system from contamination or pollution due to backflow or contaminants or pollutants through the water service connection. The cooperation of all consumers is required to implement and maintain the program to control cross-connections. The consumer is responsible for preventing contamination of the water systems within consumer's own premises. (1977 Code, § 3-120(C))

#### **§ 51.48 DEFINITIONS.**

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

**AIR GAP SEPARATION.** The unobstructed vertical distance through the free atmosphere between the lowest opening from any pipe or faucet supplying water to a tank, plumbing fixture or other device and the overflow level rim of the receptacle.

**AUXILIARY WATER SUPPLY.** Any watercourse or system, other than the public water supply, that may be available in the building or premises.

**BACKFLOW.** The flow other than the intended direction of flow, or any foreign liquids, gases or substances into the distribution system of a public water supply.

**BACKFLOW PREVENTION DEVICE.** Any device, method or type of construction intended to prevent backflow into a potable water system provided backflow preventers have been tested and approved by a reputable testing laboratory.

**CONSUMER.** The owner or person in control of any premises who has contracted with the city to be supplied by or in any manner connected to a public water system.

**CONTAINMENT.** Protection of the public water supply by installing a cross-connection control device or air gap separation on the main service line to a facility, or as an installation within equipment handling potentially hazardous materials.

**CONTAMINATION.** An impairment of the quality of the water by sewage, process fluids or other wastes to a degree which could create the actual hazard to the public health through poisoning or through spread of disease by exposure.

**CROSS-CONNECTION.** Any physical link, between a potable water supply and any other substance, fluid or source, which makes possible contamination of the potable water supply due to the reversal of flow of the water in the piping or distribution system.

**HAZARD, DEGREE OF.** An evaluation of the potential risk to public health and the adverse effect of the hazard upon the potable water system.

(1) **HAZARD-HEALTH.** Any condition, device or practice in the water supply system and its operation which could create or may create a danger to the health and well-being of the water consumer.

(2) **HAZARD-PLUMBING.** A plumbing type cross-connection in a consumer's potable water system that has not been properly protected by a vacuum breaker, air gap separation or backflow prevention device.

(3) **HAZARD-POLLUTIONAL.** An actual or potential threat to the physical properties of the water system or to the potability of the public or the consumer's potable water system but which would constitute a nuisance or be aesthetically objectionable or could cause damage to the system or its appurtenances, but would not be dangerous to health.

(4) **HAZARD-SYSTEM.** An actual or potential threat of severe damage to the physical properties of the public potable water system or the consumer's potable water system, or of a pollution or contamination which would have a protracted effect on the quality of the potable water in the system.

**INDUSTRIAL PROCESS SYSTEM.** Any system containing a fluid or solution, which may be chemically, biologically or otherwise contaminated or polluted in a form or concentration such as would constitute a health, system, pollutional or plumbing hazard if introduced into a potable water supply.

**ISOLATION.** Protection of a facility service line by installing a cross-connection control device or air gap separation or an individual fixture, appurtenance or system.

**POLLUTION.** The presence of any foreign substance (organic, inorganic or biological) in water which tends to degrade its quality so as to constitute a hazard or impair the usefulness of the water to a degree which does not create an actual hazard to the public health but which does adversely and unreasonably affect such water for domestic use.

**PUBLIC POTABLE WATER SYSTEM.** Any publicly or privately owned water system supplying water to the general public which is satisfactory for drinking, culinary and domestic purposes and meets the requirements of the state regulatory agency and Human Services Regulation and Licensure.

**SERVICE CONNECTION.** The terminal end of a service line from the public water system. If a meter is installed at the end of the service, then the **SERVICE CONNECTION** means the downstream end of the meter.

**WATER DEPARTMENT.** The Municipal Water Department of the city.  
(1977 Code, § 3-120(E))

#### **§ 51.49 CROSS-CONNECTIONS PROHIBITED.**

(A) No water service connection shall be installed or maintained by any premises where actual or potential cross-connections to the public potable or consumer's water system may exist unless such actual or potential cross-connections are abated or controlled to the satisfaction of the Municipal Water Department, and as required by the state laws and regulations of the state regulatory agency.

(B) No connection shall be installed or maintained whereby an auxiliary water supply may enter a public potable or consumer's water system unless such auxiliary water supply and the method of connection and use of such supply shall have been approved by the Municipal Water Department and the state regulatory agency.

(C) No water service connection shall be installed or maintained to any premises in which the plumbing system, facilities and fixtures have not been constructed and installed using acceptable plumbing practices considered by the Municipal Water Department as necessary for the protection of health and safety.

(1977 Code, § 3-120(F)) Penalty, see § 10.99

#### **§ 51.50 SURVEY AND INVESTIGATIONS.**

(A) The consumer shall provide access to the premises at reasonable times to the Municipal Water Department or its authorized representative, for the conduction of surveys and investigations of water use practices within the consumer's premises to determine whether there are actual or potential cross-connections to the consumer's water system through which contaminants or pollutants could backflow into the public potable water system.

(B) On request by the Municipal Water Department or its authorized representative, the consumer shall furnish information on water use practices within his or her premises.

(C) Inspections, tests and overhauls of backflow prevention devices shall be made at the expense of the consumer and shall be performed by an approved tester.  
(1977 Code, § 3-120(G))

#### **§ 51.51 PROTECTION REQUIRED; TYPE.**

The type of protection required by this subchapter shall depend on the degree of hazard which exists, as follows.

(A) An approved air gap separation shall be installed where the public potable water system may be contaminated with substances that could cause a severe health hazard.

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

(C) An approved air gap separation or an approved reduced pressure principle backflow prevention device or an approved double check valve assembly shall be installed where the public potable water system may be polluted with substances that could cause a pollutional hazard not dangerous to health.  
(1977 Code, § 3-120(H))

#### **§ 51.52 PROTECTION REQUIRED; WHERE.**

(A) An approved backflow prevention device shall be installed in the service connection line to a consumer's water system or within any premises where, in the judgment of the Municipal Water Department, actual or potential hazards to the public potable water system exists. The type and degree of protection required shall be commensurate with the degree of hazard.

(B) An approved air gap separation or reduced pressure principle backflow prevention device shall be installed at the service connection or within any premises where, in the judgment of the Municipal Water Department, the nature and extent of activities on the premises, or the materials used in connection with the activities, or material stored on the premises, would present an immediate and dangerous hazard to health should a cross-connection occur, even though such cross-connection may not exist at the time the backflow prevention device is required to be installed. This includes but is not limited to the following situations:

(1) Premises having an auxiliary water supply, unless the quality of the auxiliary supply is acceptable to the Municipal Water Department;

(2) Premises having internal cross-connections that are not correctable, or intricate plumbing arrangements which make it impractical to ascertain whether or not cross-connections exist;

(3) Premises where entry is restricted so that inspections for cross-connections cannot be made with sufficient frequency or at sufficiently short notice to assure the cross-connections do not exist;

(4) Premises that although not covered by code are subject to frequent modification which would change their status; or premises that have had backflow code violations;

(5) Premises on which any substance is handled under pressure so as to permit entry into the public water supply, or where a cross-connection could reasonably be expected to occur. This shall include the handling of process waters and cooling waters; and

(6) Premises where materials of a toxic or hazardous nature are handled such that if back siphonage or back-pressure should occur, a serious health hazard may result.  
(1977 Code, § 3-120(I))

### **§ 51.53 BACKFLOW PREVENTION DEVICES.**

(A) Any backflow prevention device required by this subchapter shall be of a model or construction approved by the Municipal Water Department.

(1) Air gap separation to be approved shall be at least double the diameter of the supply pipe measured vertically above the flood level rim of the vessel but in no case less than one-inch.

(2) A double check valve assembly or a reduced pressure principle backflow prevention device shall be approved by the Municipal Water Department and shall appear on the current "list of approved backflow prevention devices" established by the Municipal Water Department.

(B) Existing backflow prevention devices approved by the Municipal Water Department at the time of installation and properly maintained shall, except for inspection and maintenance requirements, be excluded from the requirements of this subchapter so long as the Municipal Water Department is assured that they will satisfactorily protect the water system. Whenever the existing device is moved from its present location, or requires more than minimum maintenance, or when Water Department finds that the maintenance constitutes a hazard to health, the unit shall be replaced by a backflow prevention device meeting the requirements of this subchapter.  
(1977 Code, § 3-120(J))

### **§ 51.54 INSTALLATION.**

(A) Backflow prevention devices required by this subchapter to be installed in a new facility, or in connection with reconstruction or maintenance of an existing facility or if required under § 51.52, shall

be installed at a location and in a manner and be a model and size approved by the Municipal Water Department and shall be installed at the expense of the water consumer.

(B) Backflow prevention shall be located so as to be readily accessible for maintenance and testing, protected from freezing, and where no part of the device will be submerged or subject to flooding by any fluid.

(1977 Code, § 3-120(K))

#### **§ 51.55 REVIEW.**

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

(B) Any consumer required by the Municipal Water Department to install backflow prevention devices or eliminate cross-connections may have such requirement reviewed by the City Council upon written request for such review. The decision of the City Council in such situations shall be final for purposes of appeal to any appropriate court.

(C) Backflow prevention devices shall not be bypassed, made inoperative, removed or otherwise made ineffective without specific authorization by the Municipal Water Department.

(1977 Code, § 3-120(L))

#### **§ 51.56 ENFORCEMENT AGENTS.**

This subchapter shall be enforced by the Municipal Water Department through the City Manager and the Water Superintendent.

(1977 Code, § 3-120(D))

#### **§ 51.57 ENFORCEMENT PROCEDURES.**

(A) The Municipal Water Department shall deny or discontinue the water service to any premises or any consumer wherein any backflow prevention device required by this policy is not installed, tested and maintained in a manner acceptable to the Municipal Water Department, or if it is found that the backflow prevention device has been removed or bypassed, or if an unprotected cross-connection exists.

(B) Water service to such premises shall not be restored until the consumer is in compliance with this subchapter to the satisfaction of the Municipal Water Department.

(C) Nothing in these provisions shall prevent the additional enforcement of backflow prevention or removal of cross-connections through the nuisance provisions of §§ 93.30 through 93.35, or as an offense under the penal provisions of § 10.99, as the city may, in its discretion, so determine.

(1977 Code, § 3-120(M))





Section

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***GENERAL PROVISIONS*****§ 52.001 DEFINITIONS.**

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

**ABANDONMENT.** To discontinue entirely the use of a property owners' direct connection with the main sewer line for any reason whatsoever including replacement by a new sewer line at a different connection point on the main line.

**APPROVING AUTHORITY.** The City Manager of the municipality or his or her duly authorized deputy, agent or representative.

**BIOCHEMICAL OXYGEN DEMAND.** The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20°C, expressed in milligrams per liter.

**BUILDING DRAIN.** That part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste or other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five feet (one and one-half meters) outside the inner face of the building wall.

**BUILDING SEWER.** The extension from the building drain to the public sewer or other place of disposal, also called house connection.

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

**COMBINED SEWER.** A sewer intended to receive both wastewater, and storm or surface water.

**EASEMENT.** An acquired legal right for the specific use of land owned by others.

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

**GARBAGE.** The animal and vegetable waste resulting from the handling, preparation, cooking and serving of foods.

**INDUSTRIAL WASTES.** The wastewater from industrial processes, trade or business as distinct from domestic or sanitary wastes.

**NORMAL DOMESTIC WASTEWATER.** Wastewater that has a BOD concentration of not more than 300 mg/l and a suspended solids concentration of not more than 350 mg/l.

**OPERATION AND MAINTENANCE.** All expenditures during the useful life of the treatment works for materials, labor, utilities and other items which are necessary for managing and maintaining the sewage works to achieve the capacity and performance for which such works were designated and constructed.

**REPLACEMENT.** Expenditures for obtaining and installing equipment, accessories or appurtenances which are necessary during the useful life of the treatment works to maintain the capacity and performance for which such works were designed and constructed. The term **OPERATION AND MAINTENANCE** includes replacement.

**RESIDENTIAL CONTRIBUTOR.** Any contributor to the city's treatment works whose lot, parcel of real estate or building are used for domestic dwelling purposes only.

**STORM DRAIN.** A drain or sewer for conveying water, groundwater, subsurface water or unpolluted water from any source.

**STORM SEWER.** See **STORM DRAIN**.

**SUPERINTENDENT.** The Sewer Superintendent of the city, or his or her authorized deputy, agent or representative.

***SURCHARGE.*** The assessment in addition to the service charge which is levied on those persons whose wastes are greater in strength than the concentration values established as representative of normal sewage.

***SUSPENDED SOLIDS*** or ***SS.*** Total suspended matter that either floats on the surface of, or is in suspension in, water, wastewater, sewage or other liquids, and that is removable by laboratory filtering as prescribed in *Standard Methods for the Examination of Water and Wastewater* and referred to as nonfilterable residue.

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

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

***TREATMENT WORKS.*** Any devices and systems for the storage, treatment, recycling and reclamation of municipal sewage, domestic sewage or liquid industrial wastes. These include intercepting sewers, outfall sewers, sewage collection systems, individual systems, pumping, power and other equipment and their appurtenances; extensions improvement, remodeling, additions and alterations thereof; elements essential to provide a reliable recycled supply such as standby treatment units and clear well facilities; and any works, including site acquisition of the land that will be an integral part of the treatment process or is used for ultimate disposal of residues resulting from such treatment (including land for composting sludge, temporary storage of compost, and land used for the storage of treated wastewater in land treatment systems before land application); or any other method or system for preventing, abating, reducing, storing, treating, separating or disposing of municipal waste or industrial waste, including waste in combined stormwater and sanitary sewer system.

***UNPOLLUTED WATERS.*** Water of quality equal to or better than the effluent criteria in effect or water that would not be benefitted by discharge to the sanitary sewers and wastewater treatment facilities provided.

***USEFUL LIFE.*** The estimated period during which treatment works will be operated.

***USER CHARGE.*** The portion of the total wastewater service charge which is levied in a proportional and adequate manner for the cost of operation, maintenance and replacement of the wastewater treatment works.

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

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

***WASTEWATER.*** The spent water of a community. From the standpoint of source, it may be a combination of the liquid and water-carried wastes from residences, commercial buildings, industrial

plants and institutions, together with any groundwater, surface water and stormwater that may be present.

**WASTEWATER FACILITIES.** The structures, equipment and processes required to collect, carry away and treat domestic and industrial wastes and dispose of the effluent.

**WATER METER.** A water volume measuring and recording device, furnished and/or installed by the city or furnished and/or installed by a user and approved by the city.

**WATERCOURSE.** A natural or artificial channel for the passage of water either continuously or intermittently.  
(1977 Code, § 3-202)

#### **§ 52.002 APPLICATION FOR PERMIT.**

Any person wishing to connect with the sewer system shall make an application therefor to the Sewer Superintendent. The Superintendent may require any applicant to make a service deposit in such amount as he or she deems necessary subject to the review of the City Manager. Sewer service may not be supplied to any house or building except upon the written order of the Sewer Superintendent. The Department shall not supply sewer service to any person outside the corporate limits, except as permitted by state law.  
(1977 Code, § 3-203) (Ord. 78-634SC, passed 4-10-1978)

#### **§ 52.003 CONTRACT.**

The municipality through the Municipal Sewer Department shall furnish sewer services to persons within its corporate limits whose premises abut a street or alley in which a commercial main is now or may hereafter be laid and to any person outside the corporate limits by contract according to Nebraska law. The rules, regulations and sewer rental rates hereinafter named in this chapter, shall be considered a part of every application hereafter made for sewer service and shall be considered a part of the contract between every customer now or hereafter served. Without further formality, the making of the application on the part of any applicant or the use of sewer service by present customers thereof shall constitute a contract between the customer and the municipality to which the contract both parties are bound. If the customer shall violate any of the provisions of the contract or any reasonable rules and regulations that the City Council or the City Manager may hereafter adopt, the Sewer Superintendent, or his or her agent, may cut off or disconnect the sewer service from the building or premises of such violation. No further connection for sewer service to the building or premises shall again be made save or except by order of the Superintendent or his or her agent.  
(1977 Code, § 3-204) (Ord. 78-634SC, passed 4-10-1978)

**§ 52.004 CONTRACTS NOT TRANSFERABLE.**

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 premises is destroyed by fire or other casualty, he or she shall at once inform the Sewer Superintendent who shall cause the sewer service to be shut off from the premises. If the customer should fail to give notice, he or she shall be charged for that period of time until the official in charge of sewers is otherwise advised of such circumstances.  
(1977 Code, § 3-206)

**§ 52.005 DIRECT CONNECTIONS.**

Except as hereinafter provided, each and every building with sanitary sewer must make a direct connection with the main sewer line and it shall be unlawful for two or more building to make such connections through one pipe.

(A) Except that where more than one building is located on one lot or tract of land and the entire lot or tract of land is owned by the same person or persons, such buildings may be served by one sewer line until the lot or tract of land is further subdivided or divided into lots or tracts of land by platting or by conveying tracts, at which time the owner or owners of the various lots or tracts shall be required to make direct connections to the main sewer line, one sewer line per lot or tract of land.

(B) Sewer lines currently running to more than one lot, tract of land or dwelling, whether owned by a single ownership or by several ownerships, at the time of the passage of this chapter shall be allowed to continue such multiple hook-up until the lots, tracts or dwellings so served are further subdivided by platting or conveying a part thereof or until such time as repair, replacement or maintenance of the sewer line or lines is required on a multiple hook-up, at which time the owners of the separate lots, tracts or dwellings shall be required to make direct sewer connections for each individual lot, tract or dwelling as herinbefore provided.

(1977 Code, § 3-205) (Ord. 89-951SC, passed 4-17-1989) Penalty, see § 10.99

**§ 52.006 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 Sewer Superintendent shall have the duty to finish or correct the work, and all expenses so incurred shall be charged to the owner, occupant or lessee of the property. All installations or repairs of pipes require two inspections by the Sewer Superintendent. The first inspection shall be made when connections or repairs are complete and before the pipe is 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 Sewer Superintendent at the time the work is ready for each inspection. All installation shall be done under the supervision and strictly in accordance with the rules, regulations and specifications for such installation prescribed by the Sewer Superintendent; provided, that the rules, regulations and specifications have been reviewed and approved by the City Manager.  
(1977 Code, § 3-207) Penalty, see § 10.99

#### **§ 52.007 REPAIRS AND MAINTENANCE.**

The municipality shall repair or replace, as the case may be, all pipe constituting major sewer mains. It shall be the responsibility of the customer to repair or replace all other sewer pipe and appurtenances from the main to and including the customer's property. All replacements and repairs made by the customer shall be done in the manner and with the materials approved by the Utilities Superintendent; provided, that the same have been previously approved by the City Manager.  
(1977 Code, § 3-209)

#### **§ 52.008 DESTRUCTION OF PROPERTY.**

No person or persons shall maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is part of the wastewater facilities. Any person or persons violating this provision shall be subject to immediate arrest under charge of disorderly conduct.  
(1977 Code, § 3-213) Penalty, see § 10.99

#### **§ 52.009 UNLAWFUL DEPOSIT OF WASTES OR SEWAGE.**

(A) It shall be unlawful for any person to place, deposit or permit to be deposited in any unsanitary manner on public or private property within the municipality or within one mile of the corporate limits thereof, or in any area under the jurisdiction of the municipality, any human or animal excrement, garbage or other objectionable waste.  
(1977 Code, § 3-214)

(B) It shall be unlawful to discharge to any natural outlet within the municipality, or within two miles of the corporate limits thereof, or in any area under the jurisdiction of the municipality, any wastewater or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this chapter.  
(1977 Code, § 3-215)  
Penalty, see § 10.99

**§ 52.010 CESSPOOLS, PRIVIES AND SEPTIC TANKS PROHIBITED.**

Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of wastewater.  
(1977 Code, § 3-216) Penalty, see § 10.99

**§ 52.011 MANDATORY HOOK-UP.**

The owner of all houses, buildings or properties used for human occupancy, employment, recreation or other purposes, situated within the municipality and abutting on any street, alley or right-of-way in which there is now located or may in the future be located a public sanitary or combined sewer of the municipality, is hereby required at his or her expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this chapter within 90 days after date of official notice to do so; provided, that the public sewer is within 100 feet (30.5 meters) of the property line.  
(1977 Code, § 3-217)

**§ 52.012 ABANDONMENT.**

Any time a customer abandons a sewer connection, the customer shall do the following:

(A) Notify the Sewer Superintendent that such abandonment is taking place. The Sewer Superintendent shall approve and record the abandonment;

(B) In the case of connections with sewer mains under dirt streets, the abandoned line shall be capped at the nearest point to the main sewer line as possible;

(C) In the case of connection with sewer mains under paved streets, the abandoned line shall be capped at the property line of the customer; and

(D) The cost of excavating and capping abandoned sewer lines shall be born by the customer.  
(1977 Code, § 3-242) (Ord. 90-956SC, passed 2-19-1990)

***RATES AND CHARGES*****§ 52.025 INSTALLATION EXPENSE.**

The customer, upon approval of his or her application for sewer service, shall pay to the Utilities Superintendent a tap fee as adopted by reference and which is available for public inspection in the office of the Clerk-Treasurer which shall compensate the municipality for the expense of processing his or her



application. The customer shall then be required to pay the expense of procuring the materials required as well as the services of a plumber to tap the main under supervision of the Sewer Department, and the customer shall pay all other costs of installation.  
(1977 Code, § 3-208) (Ord. 78-634SC, passed 4-10-1978)

#### **§ 52.026 CLASSIFICATION.**

The City Council may classify for the purpose of rental fees the customers of the Municipal Sewer Department; provided, that such classifications are reasonable and do not discriminate unlawfully against any consumer or group of consumers, and that such classifications are acceptable to the Environmental Protection Agency (EPA).  
(1977 Code, § 3-210) (Ord. 78-634SC, passed 4-10-1978)

#### **§ 52.027 RATE SETTING; USER CHARGE SYSTEM.**

(A) The user charge system shall generate adequate annual revenues to pay costs of annual operation and maintenance, including replacement costs which the city may by ordinance, designate to be paid by the user charge system. That portion of the total user charge which is designated for operation and maintenance, including replacement costs of the treatment works, shall be established by this section.

(B) Each user shall pay for the services provided by the city based on their use of the treatment works as determined by water meter(s) acceptable to the city.

(C) (1) For residential contributors, monthly user charges will be based on average monthly water usage during the months of December, January and February which are billed in January, February and March respectively. If a residential user has not established a December, January and February average, his or her monthly user charge shall be the median charge of all other residential contributors.

(2) For industrial and commercial contributors, including motels and hotels, user charges shall be based on water used during the current month. If a commercial or industrial contributor has a consumptive use of water, or in some other manner uses water which is not returned to the wastewater collection system, the user charge for that contributor may be based on the wastewater meter(s) or separate water meter(s) installed and maintained at the contributor's expense, and in a manner acceptable to the city.

(D) The minimum charge per month for operation and maintenance, including replacement costs, which will include 400 cubic feet of water (wastewater), is adopted by reference and is available for public inspection in the office of the Clerk-Treasurer. In addition each contributor shall pay a user charge rate for operation and maintenance per 100 cubic feet of water (wastewater), or a fraction thereof, for use of over 400 cubic feet of water (wastewater), which is adopted by reference and is available for public inspection in the office of the Clerk-Treasurer.

(E) (1) For the users who contribute wastewater, the strength of which is greater than the normal domestic sewage, a surcharge in addition to the normal charge will be collected.

(2) The surcharge for operation and maintenance including replacement is adopted by reference and is available for public inspection in the office of the Clerk-Treasurer.

(F) (1) Any user which discharges any toxic pollutants which cause an increase in the costs of managing the effluent or the sludge from the city's treatment works, or any user which discharges any substance which singly or by interaction with other substances cause identifiable increases in the cost of operation, maintenance or replacement of the treatment works, shall pay for such increased costs.

(2) The charge to each such user will be determined by the responsible plant operating personnel and approved by the City Council.

(G) The city will review the user charge system at least every two years and revise user charge rates as necessary to ensure that the system generated adequate revenues to pay the costs of operation and maintenance including replacement and that the system continues to provide for the proportional distribution of operation and maintenance including replacement costs among users and user classes.

(H) This section shall take precedence over all agreements between the city and its users which are inconsistent with the Federal Water Pollution Control Act and its regulations.

(1977 Code, § 3-211) (Ord. 90-956SC, passed 2-19-1990; Ord. 93-984SC, passed 8-16-1993; Ord. 2001-1083SC, passed 5-21-2001; Ord. 2001-1083SC, passed 5-21-2001; Ord. 2013-2155W, passed 11-14-2013)

## **§ 52.028 FEES AND COLLECTIONS; LIEN.**

(A) The City Council has the power and authority to fix the rates to be paid by the customers of the Sewer Department. All such fees shall be on file for public inspection at the office of the Municipal Clerk-Treasurer.

(B) Sewer fees shall be collected in the same manner, and at the same time as water fees, and all penalties and procedures for delinquent water bills shall also apply to sewer bills.

(C) If a customer shall for any reason order the service discontinued or shall vacate the premises, the amount due under the terms of this chapter, together with any rental fees and charges in arrears, shall be considered as a delinquent sewer rental which is hereby declared to be a lien upon the premises or real estate for which or from which the sewer was used or supplied, and upon the refusal of the customer to pay the delinquent sewer rental, it shall be collected by being placed upon the assessment roll and tax books for collection.

(1977 Code, § 3-212)

***PRIVATE SEWAGE DISPOSAL SYSTEMS*****§ 52.040 PERMIT REQUIRED; FEE.**

Before commencement of construction of a private wastewater disposal system, the owner shall first obtain a written permit signed by the Superintendent. The application for such permit shall be made on a form furnished by the municipality, which the applicant shall supplement by any plans, specifications and other information as are deemed necessary by the Superintendent. A permit and inspection fee which is adopted by reference and is available for public inspection in the office of the Clerk-Treasurer shall be paid to the municipality at the time the application is filed.  
(1977 Code, § 3-218)

**§ 52.041 PERMIT; WHEN EFFECTIVE; INSPECTIONS.**

A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the Superintendent. He or she shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for the permit shall notify the Superintendent when the work is ready for final inspection, and before any underground portions are covered. The inspection shall be made within 24 hours of the receipt of notice by the Superintendent.  
(1977 Code, § 3-219)

**§ 52.042 SPECIFICATIONS.**

The type, capacities, location and layout of a private sewage disposal system shall comply with all recommendations of the state regulatory agency. No permit shall be issued for any private sewage disposal system employing subsurface soil absorption facilities when the area of the lot is less than 10,000 square feet. No septic tank or cesspool shall be permitted to discharge to any natural outlet.  
(1977 Code, § 3-220) Penalty, see § 10.99

**§ 52.043 MAINTENANCE.**

The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the municipality.  
(1977 Code, § 3-221)

**§ 52.044 ADDITIONAL REQUIREMENTS.**

No statement contained in this subchapter shall be construed to interfere with any additional requirements that may be imposed by the Health Officer.  
(1977 Code, § 3-222)

***BUILDING SEWER INSTALLATION*****§ 52.055 PERMIT REQUIRED.**

No unauthorized person shall uncover, make any connections with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Superintendent.

(1977 Code, § 3-223) Penalty, see § 10.99

**§ 52.056 USE OF EXISTING SEWERS.**

Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the Superintendent, to meet all requirements of this subchapter.

(1977 Code, § 3-224)

**§ 52.057 CONSTRUCTION CODES; COMPLIANCE REQUIRED.**

(A) The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing and backfilling the trench, shall all conform to the requirements of the building and plumbing code or other applicable rules and regulations of the municipality. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the A.S.T.M. and W.P.C.F. *Manual of Practice No. 9* shall apply.

(B) Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.

(C) The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the municipality, or the procedures set forth in appropriate specifications of the A.S.T.M. and the W.P.C.F. *Manual of Practice No. 9*. All such connections shall be made gastight and watertight, and verified by proper testing. Any deviation from the prescribed procedures and materials must be approved by the Superintendent before installation.

(1977 Code, § 3-225)

**§ 52.058 UNLAWFUL CONNECTION.**

No person shall make connection of roof downspouts, interior and exterior foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer unless such connection is approved by the Superintendent for purposes of disposal of polluted surface drainage. Providing responsibility can be determined, the party responsible for disposal of polluted surface drainage into the public sanitary sewer shall pay a user charge equivalent to the cost of treating the polluted drainage. (1977 Code, § 3-226) (Ord. 78-634SC, passed 4-10-1978) Penalty, see § 10.99

***HAZARDOUS AND PROHIBITED DISCHARGES*****§ 52.070 STORMWATER, SURFACE WATER, GROUND WATER, COOLING WATER AND PROCESS WATER.**

(A) No person shall discharge or cause to be discharged any stormwater, surface water, groundwater, roof runoff, subsurface drainage, including interior and exterior foundation drains, or cooling water, to any sanitary sewer except stormwater runoff from limited areas, which stormwater may be polluted at times, may be discharged to the sanitary sewer by permission of the Superintendent.

(B) Stormwater other than that exempted above, 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 Superintendent and other regulatory agencies. Unpolluted industrial cooling water or process water may be discharged, on approval of the Superintendent, to a storm sewer, combined sewer or natural outlet.

(1977 Code, § 3-227) (Ord. 78-634SC, passed 4-10-1978) Penalty, see § 10.99

**§ 52.071 FLAMMABLE, TOXIC, CORROSIVE AND OBSTRUCTIVE SUBSTANCES; PRELIMINARY TREATMENT.**

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

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

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

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

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

(5) As evaluated by the municipality's consulting engineer, any waters or wastes having the following shall be subject to the review of the Superintendent:

- (a) A five-day BOD greater than 300 parts per million by weight;
- (b) Containing more than 350 parts per million by weight of suspended solids;
- (c) Having an average daily flow greater than 2% of the average sewage flow of the municipality; or
- (d) A chlorine requirement greater than demanded by normal sewage.

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

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

(C) Plans, specifications and other pertinent information relating to proposed preliminary treatment facilities shall be submitted for the approval of the Superintendent and no construction of such facilities shall be commenced until the approvals are obtained in writing.  
(1977 Code, § 3-228) (Ord. 78-634SC, passed 4-10-1978) Penalty, see § 10.99

## **§ 52.072 SPECIFIC PROHIBITIONS.**

(A) No person shall discharge or cause to be discharged the following described substances, materials, waters or wastes shall be limited in discharges to municipal systems to concentrations or quantities which will not harm either the sewers, wastewater treatment process, or equipment, will not

have an adverse effect on the receiving stream, or will not otherwise endanger life, limb, public property or constitute a nuisance. The Superintendent may set limitations lower than the limitations established in the regulations below if in his or her opinion such more severe limitations are necessary to meet the above objectives. In forming his or her opinion as to the acceptability, the Superintendent will give consideration to such factors as the quantity of subject waste in relation to flows and velocities in the sewers, materials of construction of the sewers, the wastewater treatment process employed, capacity of the wastewater treatment plant, and other pertinent factors.

(B) The limitations or restrictions on materials or characteristics of waste or wastewaters discharged to the sanitary sewer which shall not be violated without approval of the Superintendent are as follows:

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

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

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

(d) Unusual volume of flow or concentration of wastes constituting slugs.

(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.

(1977 Code, § 3-229) (Ord. 78-634SC, passed 4-10-1978) Penalty, see § 10.99

### **§ 52.073 REJECTION, PRETREATMENT, CONTROL OF DISCHARGE; RATE OR USE FEE SURCHARGE.**

(A) If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in § 52.072, and which in the judgment of the Superintendent, may have a deleterious effect upon the sewage works, processes, equipment or receiving waters, or which otherwise create a hazard to life to constitute a public nuisance, the Superintendent may:

(1) Reject the wastes;

(2) Require pretreatment to an acceptable condition for discharge to the public sewers;

(3) Require control over the quantities and rates of discharge; and/or

(4) Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of § 52.074.

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

(1977 Code, § 3-230) (Ord. 78-634SC, passed 4-10-1978)

### **§ 52.074 USE FEE SURCHARGE.**

No statement contained in this chapter shall be construed as preventing any special agreement or arrangement between the municipality and any industrial concern whereby an industrial waste of unusual



strength or character may be accepted by the municipality for treatment, subject to payment therefor, by the industrial concern.  
(1977 Code, § 3-231)

#### **§ 52.075 GREASE, OIL AND SAND INTERCEPTORS.**

Grease, oil and sand interceptors shall be provided when, in the opinion of the Superintendent, 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 Superintendent and shall be located as to be readily and easily accessible for cleaning and inspection. In the maintaining of these interceptors, the owner(s) shall be responsible for the proper removal and disposal by appropriate means of the captured material and shall maintain records of the dates, and means of disposal which are subject to review by the Superintendent. Any removal and hauling of the collected materials not performed by owner(s)' personnel must be performed by currently licensed waste disposal firms.  
(1977 Code, § 3-232)

#### **§ 52.076 PRELIMINARY TREATMENT OR FLOW-EQUALIZING FACILITIES; MAINTENANCE BY OWNER.**

Where preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his or her expense.  
(1977 Code, § 3-233)

#### **§ 52.077 CONTROL STRUCTURES, SAMPLING STATIONS; WHEN REQUIRED; INSTALLATION AND MAINTENANCE.**

(A) When required by the Superintendent, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control structure together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling and measurement of the wastes.

(B) Such structure, when required, shall be accessibly and safely located, and shall be constructed in accordance with plans approved by the Superintendent. The structure shall be installed by the owner at his or her expense, and shall be maintained by him or her so as to be safe and accessible at all times.  
(1977 Code, § 3-234)

**§ 52.078 CONTROL STRUCTURES, SAMPLING STATIONS; METHOD.**

All measurements, tests and analyses of the characteristics of waters and wastes to which reference is made in this chapter, shall be determined in accordance with the latest edition of *Standard Methods for the Examination of Water and Wastewater*, published by the American Public Health Association. Sampling methods, location, times, durations and frequencies are to be determined on an individual basis subject to approval by the Superintendent.  
(1977 Code, § 3-235)

**ADMINISTRATION AND ENFORCEMENT****§ 52.090 INSPECTIONS; GENERALLY.**

The Superintendent and other duly authorized employees of the municipality bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling and testing pertinent to discharge to the community system in accordance with the provisions of this chapter. The Superintendent or other duly authorized employees are authorized to obtain information concerning industrial processes which have a direct bearing on the kind of source of discharge to the wastewater collection system. The industry must establish that the revelation to the public of the information in question might result in an advantage to competitors.  
(1977 Code, § 3-236)

**§ 52.091 INSPECTIONS; INJURY LIABILITY.**

While performing the necessary work on private properties referred to in § 52.090, the Superintendent or duly authorized employees of the municipality shall observe all safety rules applicable to the premises established by the company and the company shall be held harmless for injury or death to the municipal employees and the municipality shall indemnify the company against loss or damage to its property by municipal employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions as required in § 52.077.  
(1977 Code, § 3-237)

**§ 52.092 INSPECTIONS; EASEMENTS.**

The Superintendent and other duly authorized employees of the municipality bearing proper credentials and identification shall be permitted to enter all private properties through which the municipality holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair and maintenance of any portion of the sewage works lying

within the easement. All entry and subsequent work, if any, on the easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved. (1977 Code, § 3-238)

#### **§ 52.093 VIOLATION; NOTICE AND LIABILITY.**

(A) Any person found to be violating any provision of this chapter except § 52.008 shall be served by the municipality with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice permanently cease all violations.

(B) Any person violating any of the provisions of this chapter shall become liable to the municipality for any expense, loss or damage occasioned the municipality by reason of such violation. (1977 Code, § 3-239)

#### **§ 52.094 COMPLAINTS.**

Any consumer feeling himself or herself aggrieved by reason of any controversy with the Sewer Superintendent may appear before the City Manager and present his or her grievance. Any consumer who considers himself or herself 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 Municipal Clerk-Treasurer shall write on the receipt given such customer the words, "Paid Under Protest". Such consumer may then present his or her 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 City Council in the same manner as other claims against the municipality. (1977 Code, § 3-241)



Section

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**CHAPTER 53: SOLID WASTE**

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**GENERAL PROVISIONS****§ 53.001 SHORT TITLE.**

This chapter shall be known as the “City of Valentine Solid Waste Management Ordinance” and may be so cited and pleaded.  
(1977 Code, § 3-901) (Ord. 2005-2030SW, passed - -2005)

**§ 53.002 PURPOSE, POLICY AND SCOPE.**

(A) The city hereby recognizes the necessity of ensuring that the safe, legal and proper accumulation, storage, collection, transportation, disposal, utilization and reduction of solid wastes from commercial, industrial, residential and other establishments are essential public services and governmental functions.

(B) It is, therefore, declared to be the public policy of the city to regulate the flow of solid waste and solid waste management within its zoning jurisdiction to:

(1) Provide solid waste facilities necessary to achieve utilization goals established by the city, Nebraska Department of Environmental Quality and Federal Environmental Protection Agency;

(2) Ensure safe accumulation, storage, collection, transportation, disposal, utilization and reduction of solid wastes;

(3) Ensure maintenance of reliable, sanitary and economical solid waste collection and disposal service;

(4) Ensure rates that are just, fair, reasonable and adequate to provide necessary services to the public;

(5) Prohibit rate preference and other discriminatory practices which benefit one or a few users at the expense to other users of the service or the general public;

(6) Assume the overall responsibility for the collection of all waste generated within its zoning jurisdiction and to limit collection of said waste to the city or to such persons or companies who demonstrate that they are capable and willing to collect said solid waste in a manner that is consistent with the solid waste and environmental practice and policies as reflected by the statutes of the state and the regulations of the Nebraska Department of Environmental Quality and the ordinances of the city;

(7) Fulfill its duty to encourage waste reduction and recycling and the proper management of household waste, yard waste and construction and demolition waste; and

(8) Fulfill its duty to ensure that commercial and industrial hazardous wastes are also collected and disposed of according to federal and state law.  
(1977 Code, § 3-902) (Ord. 2005-2030SW, passed - -2005)

### § 53.003 DEFINITIONS.

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

**AGENCY.** The Valentine Solid Waste Management Agency as established through interlocal agreements and empowered by the City Council.

**BULK WASTE FACILITY.** The reduction and recycling bulk waste facility, formally referred to as the “old city dump” is an area maintained by the city for purposes of depositing solid wastes other than household wastes, asbestos waste or oil contaminated waste, in order to comply with local, state and federal laws governing waste reduction and recycling.

**CITY.** The City of Valentine, Nebraska.

**CUSTOMER.** Each separate premises, (business, individual apartment unit, residential, mobile home, industrial, commercial or any other property), the use of which generates solid waste of any type which is subject to disposition by the owner or occupant of the premises pursuant to law. The person who owns or occupies the customer premises shall be liable for the proper disposition of the solid waste generated thereon either through the city or through a properly licensed independent hauler or a properly licensed transfer station. If the context of any city ordinance requires the interpretation of **CUSTOMER** to refer to a person, then it shall refer to the owner or occupant of the premises being served.

**FACILITY.** The Valentine Solid Waste Disposal Facility managed by the Agency.

**GOVERNING BODY.** The City Council of the city as the same may be constituted from time to time.

**JURISDICTION.** The zoning jurisdiction of the City of Valentine.

**LICENSED HAULER.** All qualified solid waste haulers who possesses a license from the city for one of the defined types of solid wastes below.

**MULTIPLE HOUSING UNITS, TRAILER AND MOBILE HOME PARKS.** For purposes of this chapter, solid wastes produced by a resident of a multiple unit housing facility, trailer park or mobile home park shall be deemed to be produced by such residents of such facility or such park rather than produced by the owner of the facility or park and each unit is hereby defined as single-family residence.

**OTHER SOLID WASTES.** Other types of solid wastes as defined by Title 132 - Integrated Solid Waste Management Regulations and N.A.C. Title 128 not otherwise listed as permitted solid wastes.

**PERMITTED SOLID WASTE.** Shall be of the following types:

- (1) **ASBESTOS WASTE.** Limited to haulers authorized by the state.
- (2) **CONSTRUCTION AND DEMOLITION WASTE.** As defined by Title 132 - Integrated Solid Waste Management Regulations, Chapter 1.037.
- (3) **HOUSEHOLD WASTE.** As defined by Title 132 - Integrated Solid Waste Management Regulations, Chapter 1.037.
- (4) **PETROLEUM CONTAMINATED SOIL WASTE.** Limited to soil that has petroleum contaminates present in an amount permitted by the state.
- (5) **RECYCLABLE MATERIAL.** Materials which are gathered, collected or separated for the express purpose of preparation and delivery to a secondary market for reuse, including materials such as newspaper, corrugated cardboard, magazines, computer printout paper, office paper, glass containers, plastics, tin cans, ferrous metal and aluminum containers.
- (6) **YARD WASTE.** Leaves, grass clippings, vegetable or garden debris, shrubbery or brush or tree trimmings (no more than one-half inch in diameter) which can be converted into compost humus.

**PERSON.** An individual, partnership, association, corporation, limited liability company, firm, trust, estate or other private legal entity, whether such entity is organized for profit or not. (1977 Code, § 3-903) (Ord. 2005-2030SW, passed - -2005)



**§ 53.004 VALENTINE AREA SOLID WASTE AGENCY; OPERATION AND TAX FUNDING.**

(A) The Agency shall have such powers as are allowed by the Interlocal Cooperation Act, any amendments thereto, the Integrated Solid Waste Management Act, and any amendments thereto.

(B) The city owns the solid waste disposal facility (hereinafter “facility”), and the governing body has the authority to enter into such interlocal cooperation act agreements as are necessary to establish a Valentine Area Solid Waste Agency (hereinafter “Agency”) and to further enter into such service agreements with said Agency as are necessary and appropriate for the transfer, processing, treatment and disposal of solid wastes. The governing body, for the purpose of defraying the cost of the care, operation, management and maintenance of the facility may each year levy a tax not to exceed the maximum limit prescribed by state law. Furthermore, the governing body may enter into such real estate conveyances as are necessary and appropriate for the operation, management and maintenance of the facility.

(C) Solid wastes which may be disposed of in the facility are limited to household waste, construction and demolition waste, oil contaminated soil and asbestos waste. Solid wastes which may be disposed of in the bulk waste facility include yard waste, tree branches larger than one-half inch, concrete, boards, vehicle tires and appliances.

(1977 Code, § 3-904) (Ord. 2005-2030SW, passed - -2005)

***LICENSED HAULERS***

**§ 53.015 LICENSE REQUIRED.**

(A) The governing body shall, by this chapter and resolutions promulgated pursuant thereto, establish rules and regulations requiring that all collection and disposal of city solid waste shall be by city licensed haulers who shall receive their licenses from the city. Nothing herein shall prevent a licensed hauler from disposing solid waste at other, licensed landfills.

(B) No person shall collect, haul, transport, process or dispose of any solid waste or recyclable material for any consideration whatsoever, or for free, within the city’s jurisdiction without having obtained from the city an annual hauler’s license in accordance with the provisions of this chapter.

(C) No hauler’s license of any type shall be issued to a hauler until the applicant has:

(1) Demonstrated that all vehicles and equipment utilized in the licensed activity meet standards established herein;

(2) Furnished a corporate surety bond and a certificate of insurance as required herein;

(3) Demonstrated that the applicant will comply with all ordinances, rules and regulations of the city and Agency which pertain to the licensed activity; and

(4) Paid all fees required by this chapter and all resolutions promulgated pursuant thereto including an annual license fee of \$50 per category of license, which shall be paid at the time of obtaining the initial license, and thereafter on or before May 1 of each subsequent year.

(D) It shall be unlawful for any person to:

(1) Provide collection or disposal service, offer to provide collection or disposal service or advertise for the performance of collection or disposal of solid waste service within the city's jurisdiction without having obtained a hauler's license from the city; or

(2) Accumulate, store, collect, transport, dispose of or utilize solid waste except in compliance with city ordinances, and state or federal law dealing with solid waste management, and rules, regulations, resolutions and amendments promulgated under any of the foregoing.

(E) Self-haulers: self-hauling of construction and demolition waste may be allowed, provided that the self-hauler obtain a temporary hauler's license for purposes of hauling construction or demolition waste for a single building or demolition project at the time of obtaining a building permit, subject to the following:

(1) Pay an application fee of \$30 which shall be paid at the time of application for the temporary hauler's license. The application fee shall be waived if the applicant obtains a temporary entry permit to the facility from the agency;

(2) Independent haulers, construction businesses, licensed haulers or other businesses generally providing for the continued hauling or disposal of construction or demolition waste from the city shall not be eligible for a temporary hauler's license;

(3) Temporary hauler's licenses shall terminate 30 days after their issuance unless extended in writing by the City Manager. The City Manager may, in his or her discretion require that the licensee obtain a new temporary hauler's license in lieu of extending the existing temporary hauler's license; and

(4) The City Manager may, in his or her discretion, with or without cause, cancel a temporary hauler's license at any time by providing the holder of the same with written notice of such cancellation. In the event the temporary hauler's license is canceled by the City Manager for cause, the license fee shall not be refunded to the licensee.

(1977 Code, § 3-905) (Ord. 2005-2030SW, passed - -2005) Penalty, see § 53.999

**§ 53.016 COLLECTION AND TRANSPORTATION SYSTEM.**

The collection, transportation and disposal of solid waste within the city's jurisdiction shall be only by haulers licensed by the city unless otherwise provided by this section.

(A) *Section applies to all solid waste.* All solid waste generated or accumulated in the city's jurisdiction shall be collected and conveyed to the facility or the bulk waste facility by a licensed hauler, except as expressly exempted in this section. No person shall collect or convey any solid waste in the city, except as expressly authorized by this chapter.

(B) *City to supervise collection.* The City Manager has the authority to interpret the provisions of this section and implement reasonable standard policies which are consistent with the terms of the section.

(C) *Exception for transport through city.* This section does not prohibit collectors or haulers of solid waste generated in, or accumulated within, other cities, counties or states from transporting such solid waste for disposal through or to the city in an otherwise lawful manner. This exception does not relieve such collectors or haulers from complying with other laws governing such transport disposal.

(D) *Service to all properties.* Every customer within the city's jurisdiction shall arrange for collection and disposal of solid waste, yard waste and recyclables by a licensed hauler unless otherwise exempted by the provisions of this section.

(E) *Duty to dispose of solid waste.* The owner and/or occupant of every property in the city's jurisdiction shall dispose of solid waste by a licensed hauler, or if a self-hauler, shall ensure that the transportation and disposal of solid waste is carried out in a lawful and environmentally suitable manner.

(F) *Independent contracts.* The city may enter into such service contracts and designate such agent(s) or independent contractor(s) as necessary to fulfill its obligation for the services described in this section to be provided by the city without formally advertising for bids. Such agent or independent contractors shall be known as "independent licensed haulers".

(G) Nothing in the section shall:

(1) Prohibit any licensed person from properly transporting, disposing of or utilizing sewage sludge, septic tank pumpings and cesspool pumpings, over or upon the street of the city;

(2) Prohibit any person licensed as a motor vehicle wrecker from properly collecting, transporting, disposing of or utilizing motor vehicles or motor vehicle parts over or upon the streets of the city;

(3) Prohibit any person licensed by the city as a salvage dealer from engaging in any legal activity necessary to carry on a business as a salvage dealer;

(4) Prohibit the City Council from withdrawing certain solid waste services by amendment to this section on the basis of a finding that such regulation is not necessary for the implementation of the purposes of this section; and

(5) Prohibit any person from transporting solid waste through the city that is not collected with the jurisdiction of the city.

(H) *Residential billing.* The city shall do billing for all residential properties within the city's jurisdiction so as to ensure that all properties are being properly provided solid waste pickup and to ensure that all properties are paying for said services. Said billing shall be done for said services being provided commencing January 1, 2011. The city shall retain 2.0% of all amounts billed to said residential customers to compensate the city for said billing commencing on May 1, 2013. All amount received exceeding the 2.0% collection fee shall be paid to the licensed hauler who provided the service and the licensed hauler will pay the set tipping fee to the Valentine Solid Waste Management Agency for costs incurred.

(1977 Code, § 3-908) (Ord. 2005-2030SW, passed - -2005; Ord. 2010-2110W, passed 11-11-2010; Ord. 2013-2147M, passed 4-11-2013)

## **§ 53.017 LICENSES.**

(A) Only licensed solid waste haulers with valid licenses issued by the city shall be allowed to collect, transport, process or dispose solid waste within the city's jurisdiction.

(B) All haulers' licenses shall be renewed annually and subject to the following rules and regulations.

(1) All solid waste haulers desiring to haul solid wastes within the city's jurisdiction shall be required to apply for and obtain a hauler's license to collect, transport, process or dispose solid waste within the city's jurisdiction. Licenses may be denied to persons who, in the opinion of the City Manager, are of disreputable character, have previous legal violations relating to crimes of dishonesty or violations of the Nebraska Rules of the Road, have violated any of the city's rules or regulations, or for such other reason as to the City Manager may seem appropriate. In the event the City Manager denies a license, the applicant may request that the application be reviewed by the City Council. Furthermore, the City Manager shall not issue a hauler's license unless the applicant submits adequate proof that it will comply with all applicable laws, regulations and standards regarding solid waste hauling and disposal, so as to be protective of human health and the environment.

(2) The applicant for a hauler's license shall fully provide all information required in the application form and any additional information requested by the City Manager or the City Council.

(3) The hauler's license may be revoked for any violation of Title 132, conviction of a crime of dishonesty, violation of the Nebraska Rules of the Road, violation of nuisance, littering or illegal disposition laws or ordinances, loss of driver's license, or by violation of the city's ordinances or rules and regulations.

(4) Licensed haulers shall maintain operating records and shall allow the City Manager or the City Council to inspect said records upon demand by the City Manager or City Council. Failure to allow the inspection of the operating records shall result in the immediate revocation of the hauler's license.

(5) Hauler's licenses shall not be transferable. A change in the form of the corporation which results in a change in voting control of the corporation (if the licensee is a corporation) or a change in the contribution of capital of a member which results in a change of control or a change of management which results in a change of operational control of the limited liability company (if the licensee is a limited liability company) will require the licensee to apply for a new license. (1977 Code, § 3-909) (Ord. 2005-2030SW, passed - -2005)

### **§ 53.018 RESPONSIBILITIES.**

All licensed haulers of household and/or yard waste shall:

#### *(A) Services.*

(1) Provide services which shall include: regular pickup, legal disposal of solid waste into a licensed landfill, yard waste pickup and the option for customers to recycle;

(2) Make household waste collections no less of then than once each week during the year;

(3) Make weekly collections of yard waste from residences located within the city limits and offer free disposal site for yard waste from residences located outside the city limits but within the city's zoning jurisdiction during the period from April 1 to November 30;

(4) Business, industrial and commercial collections no less often than once each week or more often as agreed with the customer; and

(5) Respond to all calls for special hauling within 48 hours of receiving said call unless a later pickup is agreeable to the customer.

#### *(B) Reports.*

(1) Account to the city for disposal of all solid waste and recyclables at least once every month by producing receipts for the waste deposited;

(2) Furnish an annual report of operations including the number of customers; and

(3) Furnish a monthly customer list by the fifth of each month.

(C) *Equipment.*

(1) Have on hand at all time, in good working order, such sufficient collection vehicles and equipment as shall permit the hauler to adequately and efficiently perform its duties;

(2) Equipment utilized for hauling household waste shall be specifically designed and constructed for sanitary collection and hauling of solid waste from nationally known and recognized manufacturers of solid waste collection and disposal equipment. The body must be so designed and operated as to allow no spillage or leakage and must meet with the approval of the City Manager. Any truck used to haul wastes or contents of incinerators must be metal lined to prevent contents from becoming spilled or wind blown;

(3) Household waste collection equipment shall be of the enclosed loadpacker or compaction type;

(4) Ensure that every vehicle or container used for the transportation of solid waste through the streets shall be in good repair; emptied and thoroughly and cleaned daily, and generally maintained in a sanitary condition;

(5) Provide facilities, personnel, finances and scheduled days for collections in the city's jurisdiction necessary to provide all types of service required by the type of hauler's license obtained and endeavor to maintain a collection system in conformance with the highest state of the art with due consideration for environmental, safety and economic factors;

(6) Yard waste shall be transported in equipment that prevents it from spilling or blowing loose during the transportation;

(7) Have available to it all times reserve equipment which can be put into service and operation within 24 hours of any breakdown. Such reserve equipment shall substantially correspond in size and capability to the primary equipment used by hauler to perform its duties; and

(8) Each truck shall be equipped with a broom and shovel and covered to prevent blowing or loss of material. Where spillage does occur, the material shall be picked up immediately by the hauler and returned to the vehicle or container and the area properly cleaned.

(D) *Garbage hauling vehicles.*

(1) Park each of such garbage hauling vehicles, when not in use, in an enclosed building. Loaded vehicles en route from collection points to dumping grounds shall, whenever practical, avoid the congested downtown streets; and

(2) When parked for loading, vehicles wherever possible shall utilize space outside of traffic way.

(E) *Disposition of solid waste.*

(1) Dispose of all solid waste or other materials collected at a licensed landfill; and

(2) When solid waste is disposed of at the facility, the hauler shall abide by all the rules and regulations of the Agency.

(F) *Insurance.*

(1) Provide and keep in force comprehensive general liability, comprehensive automobile liability and bodily injury liability insurance policies with a 30-day cancellation clause. Said policies shall provide for \$300,000 single limit coverage for bodily injury and \$100,000 coverage for property damage, which shall be evidenced by a certificate of insurance filed with the City Clerk-Treasurer; and

(2) The insurance shall indemnify and save the city harmless against liability or damage which may arise or occur from an injury to persons or property resulting from the licensed hauler's operation under this chapter.

(G) *Security bond.*

(1) Provide a cash security deposit or performance/payment bond in the amount of \$50,000 to guarantee payment to the city or other affected person of judgment secured against the licensed hauler because of work performed that does not conform with the requirements of this chapter or other ordinance of the city; and

(2) The deposit or bond shall continue until one year after expiration of the contract or until all claims or demands made against the licensed hauler have been settled or secured.

(H) *Complaints.* Upon receipt by any licensed hauler of a written complaint about service under this chapter, the hauler shall, within seven days reply to the complainant in writing and furnish a copy of both pieces of correspondence to the city.

(I) *Telephone.* Provide an answering service or a telephone service so that the hauler may be reached by the public during the period from 8:00 a.m. to 4:00 p.m., Monday through Friday.

(J) *Hours of collection.* Collect no residential solid waste before 5:00 a.m. or after 7:00 p.m. unless this condition is waived by the City Manager or the City Manager's designee.

(K) *Inspections.* Permit inspections by the city of the hauler's facilities, equipment and personnel at reasonable times.

(L) *Comply with laws.* Comply with all local, state and federal laws regulating the collection and disposal of solid wastes.

(1977 Code, § 3-910) (Ord. 2005-2030SW, passed - -2005; Ord. 2011-2119SW, passed 8-11-2011)

**§ 53.019 SUSPENSION, MODIFICATION OR REVOCATION.**

(A) The licensed hauler shall not transfer its license. The governing body may attach whatever legal conditions it deems appropriate to guarantee maintenance of service and compliance with this chapter.

(B) Failure to comply with a written notice to provide the services required by this chapter or to otherwise comply with the provisions of this chapter after written notice and a reasonable opportunity to comply shall be grounds for modification, revocation or suspension of the hauler's license.

(1) After written notice from the City Manager that such grounds exist, the hauler shall have 30 days from the date of mailing of the notice in which to comply or to request a public hearing before the City Council.

(2) If the hauler fails to comply within the specified time or fails to comply with the order of the City Council entered upon the basis of findings at the public hearing, the City Council may suspend, modify or revoke the hauler's license or make such action contingent upon continued noncompliance.

(3) At a public hearing, the licensed hauler and other interested persons shall have an opportunity to present oral, written or documentary evidence to the City Council. The finding of the City Council thereon shall be conclusive.

(4) In the event that the City Council finds an immediate and serious danger to the public through the creation of a health or safety hazard, it may take action to alleviate such condition within a time specified in the notice to the hauler and without a public hearing prior to taking such action. (1977 Code, § 3-911) (Ord. 2005-2030SW, passed - -2005)

**§ 53.020 RENEWAL.**

(A) (1) This chapter shall become effective upon its passage and publication according to law. All haulers currently hauling solid waste in the city and a desiring hauler's license shall forthwith apply for and obtain a new hauler's license prior to being authorized to collect or dispose of solid waste within the city's jurisdiction.

(2) The right to collect and dispose of solid wastes by haulers currently in possession of permits to haul solid waste issued by the city shall expire 30 days from the passage of this chapter unless renewed within said 30-day grace period.

(B) All haulers' licenses regardless of when issued shall expire on April 30 of each year. Applications for renewal of permits shall be submitted to the city at least 30 days prior to their expiration. (1977 Code, § 3-923) (Ord. 2005-2030SW, passed - -2005)



***REDUCTION AND RECYCLING BULK WASTE FACILITY*****§ 53.035 OPERATION.**

(A) The governing body shall establish an area to be known as the reduction and recycling bulk waste facility which shall be operated, managed and maintained by the city through its governing body or such agent or operator as the governing body may designate by resolution.

(B) The city may from time to time establish rules and regulations governing recycling for residential and commercial/industrial waste generators by resolution.  
(1977 Code, § 3-906) (Ord. 2005-2030SW, passed - -2005)

**§ 53.036 RATES.**

The governing body shall, by resolution, establish such user rates as are appropriate and necessary for the use of the reduction and recycling bulk waste facility by the city licensed haulers or other authorized persons.  
(1977 Code, § 3-907) (Ord. 2005-2030SW, passed - -2005)

***SERVICE*****§ 53.045 PREVENTING INTERRUPTION OF SERVICE.**

Every licensed hauler agrees as a condition of receiving a hauler's license that whenever the City Council finds that the failure of service or threatened failure of service would result in creation of an immediate and serious health hazard or serious public nuisance, the City Council may, after a minimum of 24 hours actual notice to the licensed hauler and a public hearing if the licensed hauler requests it, provide or authorize another person to temporarily provide the service or to use and operate the land, facilities and equipment of the licensed hauler to provide emergency service. The City Council shall return any seized property and business upon abatement of the actual or threatened interruption of service, and after payment to the city for any net cost incurred in the operation of the solid waste service.

(1977 Code, § 3-912) (Ord. 2005-2030SW, passed - -2005)

**§ 53.046 TERMINATION OF SERVICE.**

(A) The licensed hauler shall not terminate service to all or a portion of his or her customers unless the owner or occupant of the customer premises has not paid for provided service after a regular billing and after a seven-day written notice from the date of mailing, which notice shall not be sent less than 15 days after the regular billing.

(B) Copies of notices of termination shall be simultaneously provided to the city.  
(1977 Code, § 3-913) (Ord. 2005-2030SW, passed - -2005)

#### **§ 53.047 SERVICE CUSTOMERS.**

The city shall notify all licensed haulers of any complaints received by the city regarding such hauler's service as soon as reasonably possible after receipt thereof.  
(1977 Code, § 3-914) (Ord. 2005-2030SW, passed - -2005)

### ***DISPOSAL REGULATIONS***

#### **§ 53.060 CONTAINERS/COLLECTION LIMITATIONS.**

(A) To prevent injury and to ensure the health, safety and welfare of the haulers and the public, the following restrictions shall apply in general:

(1) All residents shall provide sufficient containers for solid waste unless the hauler furnishes said container;

(2) Household waste and yard waste cans shall have a round bottom, sides tapering outward to the opening at the top that provides for unobstructed dumping of the contents, a ball or two handles on opposite sides, a close-fitting lid with handles, not exceed 32 gallons capacity and be watertight in construction. Cans shall be maintained in good condition and shall be made of metal or some rigid material that will not crack or break in freezing weather and be waterproof, leakproof, rodent resistant and easily cleanable. Monthly fees for customers of the city shall be based on a limit of three, 32 gallon containers for household waste per pickup. Additional fees shall be assessed to customers of the city for additional containers or larger containers;

(3) Sunken refuse cans or containers shall not be used, unless they are placed above ground by the owner for service;

(4) Containers for the storage of solid waste awaiting collection shall be placed out-of-doors and must be in a visible (from the street or alley) location which may be serviced. Wherever the City Manager determines that a private bridge, culvert or other structure or road is incapable of safely carrying the weight of the collection vehicle, the collector shall not enter onto such structure or road;

(5) All solid waste cans located at single-family residences shall be placed together in one authorized location on the regularly scheduled collection day;

(6) All solid waste receptacles, including, but not limited to, cans, containers, yard waste containers or drop boxes, shall be secured so as to prevent the waste from dripping, dropping, blowing, upsetting or otherwise escaping from the container onto any public right-of-way or land adjacent thereto;

(7) Solid waste service customers shall place items not intended for pickup at least ten feet from solid waste cans(s) or container(s);

(8) Licensed haulers are hereby authorized to enter upon private property for the purpose of collecting solid waste therefrom as required herein. However, licensed haulers are not authorized by this chapter to enter dwelling units or businesses without the owner's permission;

(9) All yard waste shall be separated from all other waste by the customer and shall be collected separately by the licensed hauler or otherwise legally disposed of. Yard waste shall not be mixed in with household or construction/demolition waste, nor shall it be placed in containers reserved for household or construction/demolition waste. Yard waste shall not be placed in plastic bags unless the filled bags are kept in an enclosure that prevents them from tearing or being blown in the wind;

(10) It shall be unlawful for any person to deposit waste into a container located on a public or private premises without the permission of the owner, proprietor, occupant or agent in charge of that premises or container, and for this purpose it shall also be unlawful for any person to deposit any waste into a city container except such waste as is generated in the course of the use of such public park, public street or other public utility which is served by the container;

(11) No person shall deposit waste on public property or the private property of another. Streets and other public places are not authorized as places to deposit waste except where specific provisions for containers have been made; and

(12) Household waste, yard waste and construction/demolition waste shall not be mixed or placed in the same containers, but shall be kept separated.

(B) To prevent injuries to users and collectors, stationary compacting devices for handling solid waste shall comply with applicable federal and state regulations.  
(1977 Code, § 3-915) (Ord. 2005-2030SW, passed - -2005)

#### **§ 53.061 DUMPSTERS.**

(A) Dumpsters may be privately owned or provided by the licensed hauler, but in any case they shall be made of metal or with a metal frame and composite body, leakproof and capable of having their contents safely loaded into dump trucks by mechanical means.

(B) All dumpsters provided by haulers shall be conspicuously marked with the hauler's name, address and telephone number, and the type of waste permitted to be deposited therein (household; construction; demolition, yard waste and the like).

(C) It shall be unlawful for any person to deposit waste into a dumpster which is not of the kind for which the dumpster is provided.

(1977 Code, § 3-916) (Ord. 2005-2030SW, passed - -2005) Penalty, see § 53.999

#### **§ 53.062 UNLAWFUL PRACTICES.**

It shall be unlawful to:

(A) *Unlawful use of containers.* Deposit waste in any solid waste containers not owned by such person without the consent of the owner of such containers;

(B) *Interfere with collectors.* Interfere in any manner with solid waste collection equipment or with solid waste collectors in the lawful performance of their duties as such, whether such equipment or collectors be those of the city, or those of any other licensed waste collection service;

(C) *Unlawful collection.* Engage in the business of collecting, transporting, processing or disposing of solid waste within the city without a license therefore from the city;

(D) *Incinerators.* Burn solid waste except in approved incinerators so maintained and operated as to prevent the emission of objectionable odors or particulate matter;

(E) *Prohibited storage.* It is unlawful to accumulate or hoard solid waste of any kind. Furthermore, no person shall place any solid waste in any street, alley, road, highway or other public place, or upon any private property (whether owned by such person or not), within the city jurisdiction, except in proper containers for collection under this chapter, or under express approval granted by the city. Nor shall any person throw or deposit any solid waste in any stream or other body of water;

(F) *Offensive or hazardous waste.* No person shall have waste on his or her property that is offensive or hazardous to the health or safety of others or which creates offensive odors or a condition of unsightliness;

(G) *Accumulation of waste.* Any accumulation of solid waste remaining on any premises for a period of more than 30 days shall be deemed a nuisance and in addition to any action for criminal sanctions, the city may proceed to abate such nuisances by initiating a civil action in District Court, or through such other means as the city ordinances may provide;

(H) *Scavenging.* It shall be unlawful for any scavengers or unlicensed collectors to collect solid waste within the city's jurisdiction; and

(I) *Failure to dispose of solid waste.* It shall be unlawful to fail to arrange for the collection and disposal of solid waste by a licensed hauler or in the alternative to fail to provide proof of the proper disposal in accordance with § 53.075.

(1977 Code, § 3-917) (Ord. 2005-2030SW, passed - -2005) Penalty, see § 53.999

**§ 53.063 RULES AND REGULATIONS.**

The City Manager or the City Manager's designee may propose and prepare rules and regulations pertaining to this chapter. The rules and regulations shall be printed or typewritten and be maintained for inspection in the office of the City Clerk-Treasurer. All proposed rules and regulations to be promulgated under the authority of this chapter and all amendments thereto shall be immediately forwarded to the licensed haulers operating under this chapter for response. The licensed haulers shall have 30 days to respond in writing to such proposed rules and regulations. The rules and regulations and any amendments thereto may be approved by the City Council following said 30-day period. (1977 Code, § 3-920) (Ord. 2005-2030SW, passed - -2005)

***RATES AND CHARGES*****§ 53.075 LIABILITY FOR CHARGES; PROOF OF PROPER DISPOSAL.**

(A) Each customer within the city's jurisdiction shall arrange for the collection and disposal of solid waste, yard waste and recyclables by a licensed hauler unless the owner or occupant proves to the governing body that:

(1) The premises are unoccupied; or

(2) The solid waste generated at the premises during the applicable billing period was lawfully collected and hauled to a permitted facility or otherwise disposed of in conformity with all applicable laws, regulations and ordinances.

(B) Proof of proper disposal during the applicable billing period must be provided by the owner or occupant of the premises by means of any one of the following:

(1) A billing receipt or other statement from a licensed hauler for collection of solid waste at the premises during the applicable billing period;

(2) A billing receipt or register tab from a duly permitted transfer station or disposal facility or landfill for solid waste received during the applicable billing period; or

(3) Such other documentation of proper disposal as may be acceptable to the governing body. (Neb. RS 13-2020)

(C) No documentation required by divisions (B)(2) or (B)(3) above shall be considered by the city unless the same is delivered to the city's business office by the owner or occupant of the premises, either in person or by U.S. mail, postage prepaid, not later than the fifth day of each month. Photocopies or

faxes of documentation delivered personally by the customer to the city's business office shall be considered valid proof of proper disposal of solid wastes.  
(1977 Code, § 3-918) (Ord. 2005-2030SW, passed - -2005)

### ***ADMINISTRATION AND ENFORCEMENT***

#### **§ 53.090 ENFORCEMENT.**

The City Manager shall enforce the provisions of this chapter, and the City Manager's agents, including police officers and other employees so designated, may enter affected premises at reasonable times for the purpose of determining compliance with the provisions and terms of this chapter.  
(1977 Code, § 3-919) (Ord. 2005-2030SW, passed - -2005)

#### **§ 53.091 AUTHORITY.**

The governing body for the city may provide for the collection and removal of solid waste found upon any premises within its corporate roads, or alleys abutting such lot or land which constitutes a public nuisance. The city may require the owner, duly authorized agent or tenant of such premises to remove the solid waste from such premises and streets.  
(1977 Code, § 3-924) (Ord. 2005-2030SW, passed - -2005)

#### **§ 53.092 NOTICE; REMOVAL.**

Notice that removal of solid waste is necessary shall be given to each owner or owner's duly authorized agent and to the tenant if any. Such notice shall be provided by personal service or by certified mail. After providing such notice, the city through its proper offices shall, in addition to other proper remedies, remove the solid waste, or cause it to be removed, from such premises and streets, roads and alleys.  
(1977 Code, § 3-925) (Ord. 2005-2030SW, passed - -2005)

#### **§ 53.093 NUISANCE.**

If the City Manager or his or her designee declares that the accumulation of such solid waste upon any premises constitutes an immediate nuisance and hazard to public health and safety, the city shall remove the solid waste, or cause it to be removed, from such premises within 48 hours' notice by personal service or following receipt of a certified letter in accordance with § 53.092 if such solid waste has not been removed.  
(1977 Code, § 3-926) (Ord. 2005-2030SW, passed - -2005)

**§ 53.094 LIEN.**

Whenever a city removes any solid waste, or causes it to be removed, from any premises pursuant to this chapter, it shall after a hearing conducted by the governing board, assess the cost of the removal against such lot or land.

(1977 Code, § 3-927) (Ord. 2005-2030SW, passed - -2005)

**§ 53.999 PENALTY.**

Violation by any person of the provisions of this chapter shall be deemed to be a misdemeanor and shall be punishable upon conviction by a fine of not more than \$500. Any person who refuses to comply with the enforcement of the provisions of this chapter, set forth at length herein or in rules and regulations promulgated pursuant to this chapter, shall be deemed to have committed a new offense every 24 hours of such failure to comply.

(1977 Code, § 3-922) (Ord. 2005-2030SW, passed - -2005)





Section

*General Provisions*  
**CHAPTER 54: ELECTRIC**

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***GENERAL PROVISIONS*****§ 54.01 CONTRACTS AND TERMS.**

The municipality through its Electrical Department, shall furnish electric current for light and power purposes to persons whose premises abut on any supply wire of the distribution system and may furnish electric current to such other persons within or without its corporate limits, as and when, according to law, the City Council may see fit to do so. The rules, regulations and rates for electric service, hereinafter named, in this chapter, shall be considered a part of every application hereafter made for electric service and shall be considered a part of the contract between every consumer now served by the Electrical Department. Without further formality, the making of application on the part of any applicant or the use or consumption of electric energy by present customers and the furnishing of electric service to the applicant or customer shall constitute a contract between applicant or customer and the municipality, to which both parties are bound. If a customer should violate any of the provisions of the contract or any reasonable rules and regulations that the City Council may hereafter adopt, the Electrical Superintendent, or his or her agent, shall cut off or disconnect the electric service from the building or place of such violation and no further connection of electric service for such building or place shall again be made save or except by order of the Superintendent or his or her agent. (1977 Code, § 3-1002)

**§ 54.02 CONSUMER APPLICATION.**

Every person or persons desiring electrical service must make application thereof to the Electrical Superintendent. Every applicant shall be required to pay a service deposit in the amount of \$70 for residential customers (including trailers) and \$100 for commercial and industrial customers. Electricity may not be supplied to any house or building except upon the written order of the Electrical Superintendent, and in the case of commercial and industrial customers, no electricity shall be supplied without the additional approval of the State Fire Marshal. The system shall not supply to any person outside the corporate limits electrical service without any person outside the corporate limits electrical service without special permission from the governing body; provided, that the entire cost of wire, installation and other expenses shall be paid by the consumer. Nothing herein shall be construed to obligate the municipality to supply electrical service to nonresidents. (1977 Code, § 3-1003) (Ord. 2011-2111EL, passed 1-13-2011)

**§ 54.03 CONTRACTS NOT TRANSFERABLE.**

Contracts for electrical service are not transferable. Any person wishing to change from one location to another shall make a new application and sign a new contract. If any consumer shall sell, dispose or remove from the premises where service is furnished in his or her name, or if the premises is destroyed by fire or other casualty, he or she shall at once inform the Electrical Superintendent who shall cause the electrical service to be shut off from the premises. If the consumer should fail to give such notice,

he or she shall be charged for all electricity used on the premises until the Electrical Superintendent is otherwise advised of such circumstances.  
(1977 Code, § 3-1004)

#### **§ 54.05 INSTALLATION.**

In general, electric service shall be supplied to a customer's premises through only one set of service conductors except where a separate service may be required for fire pumps, emergency lighting purposes or additional service of different voltages or characteristics. Within the city limits, under normal circumstances, the city shall furnish, install and maintain overhead or underground service conductors from the city's supply system to a point on the customer's property line designated by the city as the point of delivery. Unless otherwise provided, the point of delivery shall be considered as the point where the city's lines connect with the customer's lines at the customer's property line, without regard, necessarily, to the city's metering equipment, transformer or other apparatus. All wiring and equipment, exclusive of city-owned metering equipment and transformers beyond this point, shall be approved, installed and maintained by the city at the customer's expense. If the customer should desire underground installation of the electrical service line, the customer shall provide the necessary excavation and covering-up.  
(1977 Code, § 3-1005) (Ord. 638-E1, passed 9-13-1978)

#### **§ 54.06 EXTENSION OF SERVICE.**

The rates for service prescribed herein contemplate delivery of electric power by the city from existing facilities except as otherwise provided in this chapter. The city, at its option, may make extensions of its lines and facilities of a permanent character, without cost to the customer, where the estimated revenue to be received from the service will provide an adequate and continuous return on the city's investment. Extensions made by the city shall be and remain permanently the property of the city.  
(1977 Code, § 3-1005.01) (Ord. 638-E1, passed 9-13-1978)

#### **§ 54.07 RESTRICTED USE.**

The municipal electrical system does not guarantee the delivery of electric current over the lines of the distribution system except when it has sufficient power, current, equipment and machinery to do so. The Electrical Superintendent has the power and authority to disconnect or discontinue such service for any good and sufficient reason without liability. The municipality shall use due care and reasonable diligence to provide and supply uninterrupted service to consumers, but shall not be liable for damages resulting from interruption of service due to causes over which the municipality has no control and the municipality expressly reserves the right to discontinue or disconnect any consumer's service without preliminary notice.  
(1977 Code, § 3-1009)

**§ 54.08 BUILDING MOVING.**

Should any house or building moving occur or be necessary and it becomes necessary in the work to remove or disturb any of the property or wires of the municipal electrical system, the same should not be done except upon written permission received from the Electrical Superintendent, who shall then order paid in advance the actual cost of moving the wires and such cost shall be paid by the applicant prior to the moving of the building or house. All expense of removing, changing and replacing the wires or apparatus of the electrical system shall be paid out of the deposit made prior to moving and any surplus remaining after all expenses are paid shall be returned to the applicant; provided, that if in the course of moving the building or house it becomes apparent that additional expense will be incurred, such additional deposit as deemed necessary may be demanded.  
(1977 Code, § 3-1010)

**§ 54.09 METER IN DISREPAIR.**

In the event that any customer's meter falls out of repair or fails to register properly, the Electrical Superintendent shall charge such customer the same amount billed one year previous to such disrepair. In the event that there is no such basis for comparison, the Superintendent shall charge the customer such amount as he or she deems is fair both to the customer and the municipality.  
(1977 Code, § 3-1011)

**§ 54.10 POSTING SIGNS.**

It shall be unlawful for any person to post, tack or fasten to the poles, structures, fixtures or equipment of the municipal electrical system any sign, poster, advertisement or banner without written permission from the Electrical Superintendent.  
(1977 Code, § 3-1012) Penalty, see § 10.99

**§ 54.11 ACCESS TO CITY'S EQUIPMENT.**

The customer shall, without expense to the city, permit access to all equipment and facilities owned by the city and located on the customer's premises at all reasonable hours.  
(1977 Code, § 3-1007) (Ord. 98-1040M, passed 5-18-1998; Ord. 98-1047M, passed 10-19-1988; Ord. 2000-1063, passed 5-15-2000)

**§ 54.12 TRIMMING TREES.**

The customer shall permit the city to trim or cause to be trimmed the limbs and tops of trees to the extent that such trimming shall be necessary to avoid interference with the city's electrical system.  
(1977 Code, § 3-1007) (Ord. 98-1040M, passed 5-18-1998; Ord. 98-1047M, passed 10-19-1988; Ord. 2000-1063, passed 5-15-2000)

**§ 54.13 COMPLAINTS.**

Any consumer feeling himself or herself aggrieved by reason of any controversy with the Electrical Superintendent may appear before the City Manager and present his or her grievance. Any consumer who considers himself or herself aggrieved by being required to pay the charge demanded for the use of electric service, or for the resumption of electric service after the same shall have been shut off, shall pay such charge under protest, in which event the Municipal Clerk-Treasurer shall write on the receipt given such customer the words, "Paid Under Protest". Such consumer may then present his or her 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 City Council in the same manner as other claims against the municipality.  
(1977 Code, § 3-1013)

***RATES AND CHARGES*****§ 54.25 SETTING OF RATES; COLLECTION.**

The City Council has the power and authority to fix the rates to be paid by electrical consumers for the use of electricity. All rates shall be on file for public inspection at the office of the Municipal Clerk-Treasurer. Electrical meters shall be read at the same time as water meters, and electricity fees shall be collected in the same manner and at the same time as water fees. All penalties and procedures for delinquent water bills shall also apply to electric bills. The Municipal Clerk-Treasurer shall bill the consumers and collect all money received by the municipality on the account of the municipal electrical system. He or she shall faithfully account for and pay over to the Municipal Clerk-Treasurer all revenue collected by him or her, taking his or her receipt therefor in duplicate, filing one with the Electrical Superintendent and keeping the other on file in his or her official records.  
(1977 Code, § 3-1006)

**§ 54.26 RATES ADOPTED BY REFERENCE.**

The rates for electric service are hereby adopted by reference. Copies of the electric rates shall be on file for public inspection at the office of the Clerk-Treasurer.  
(1977 Code, § 3-1007) (Ord. 98-1040M, passed 5-18-1998; Ord. 98-1047M, passed 10-19-1988; Ord. 2000-1063, passed 5-15-2000; Ord. 2002-1090EL, passed 3-18-2002; Ord. 2003-2006EL, passed 2-17-2003; Ord. 2014-2177M, passed 11-13-2014)

**§ 54.27 RECONNECTION FEES.**

The reconnection fees that are charged to customers for delinquency and non-delinquency reasons are hereby adopted by reference. A copy of the ordinance with the fees set out can be found in the office of the City Clerk-Treasurer.

(1977 Code, § 3-1007) (Ord. 98-1040M, passed 5-18-1998; Ord. 98-1047M, passed 10-19-1988; Ord. 2000-1063, passed 5-15-2000; Ord. 2014-2177M, passed 11-13-2014)

**§ 54.28 ELECTRIC RESERVE FUND.**

(A) For emergency purposes, there is hereby established a reserve cash fund to be known as the "Electric Reserve Fund", which shall be created and maintained by revenue from the city electric fund. The fund shall be not less than \$500,000 and invested in accordance with law and sound accounting practices.

(B) The Council may, by resolution, transfer unobligated funds from the city electric fund as deemed appropriate and may from time to time utilize the funds in excess of \$500,000 to reduce the utility billings to its customers. The funds shall be transferred to the city electric fund from the Electric Reserve Fund for disbursement as deemed necessary by resolution.

(1977 Code, § 3-1007) (Ord. 98-1040M, passed 5-18-1998; Ord. 98-1047M, passed 10-19-1988; Ord. 2000-1063, passed 5-15-2000)

**§ 54.29 ADMINISTRATIVE FEE.**

A fee as adopted by reference and is available for public inspection in the office of the Clerk-Treasurer shall be assessed to and collected from customers with regard to any of the following services:

(A) Automatic switching of the account names; and

(B) Any other administrative service not ordinarily provided to customers in the routine handling of their accounts.

(1977 Code, § 3-1007) (Ord. 98-1040M, passed 5-18-1998; Ord. 98-1047M, passed 10-19-1988; Ord. 2000-1063, passed 5-15-2000)

**§ 54.30 SERVICE DEPOSIT FUND.**

The service deposit required for electrical service shall be promptly paid upon demand by all customers of the electrical system. From the deposit shall be deducted all delinquent electrical charges. The service deposit shall be collected by the Electrical Superintendent and immediately turned over to the Municipal Clerk-Treasurer who shall keep the fees in a trust fund for the customers of the Electrical System. The fund shall be put out at interest separate and apart from other funds. Interest arising

therefrom shall be expended solely for the repair of equipment and property of the municipal electrical system.  
(1977 Code, § 3-1008)

## ***COGENERATION***

### **§ 54.45 DEFINITIONS.**

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

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

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

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

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

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

***SMALL POWER PRODUCTION FACILITY.*** A facility which produces electric energy solely by the use, as a primary energy source, of biomass, waste, renewable resources or any combination thereof totaling not greater than 80 megawatts at one site.  
(1977 Code, § 3-1015) (Ord. 81-868EL, passed 3-9-1981)

**§ 54.46 PURPOSE.**

In order to comply with §§ 201 and 210 of the Public Utility Regulatory Policies Act of 1978 and with the rules and regulations of the Federal Energy Regulatory Commission pertaining thereto, the following policies relating to interconnections of the electric system of the municipality with cogeneration and small power production facilities, rates for sales of electric energy to such facilities, and rates for purchases of electric energy from such facilities are hereby established.  
(1977 Code, § 3-1014) (Ord. 81-868EL, passed 3-9-1981)

**§ 54.47 INTERCONNECTIONS WITH QUALIFYING FACILITIES.**

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

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

(C) Interconnection costs associated with the interconnection with a qualifying facility shall be paid for by such qualifying facility. Qualifying facilities shall be required to execute contractual agreements with the municipality before any interconnection is established.  
(1977 Code, § 3-1016) (Ord. 81-868EL, passed 3-9-1981)

**§ 54.48 SALES TO QUALIFYING FACILITIES; RATES.**

Rates for sales of electric energy to qualifying facilities shall be those current standard rates adopted from time to time by resolution of the City Council which apply to other customers of the utility in the same classification(s) of electric service.  
(1977 Code, § 3-1017) (Ord. 81-868EL, passed 3-9-1981)

**§ 54.49 PURCHASES FROM QUALIFYING FACILITIES; RATES.**

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

(B) Such rates shall be just and reasonable to the electric consumer of the utility and in the public interest, shall not discriminate against qualifying cogeneration and small power production facilities, and shall be related to avoided costs; however, in no case is the utility required to pay more than the avoided costs.



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

(1977 Code, § 3-1018) (Ord. 81-868EL, passed 3-9-1981)

