

## CHAPTER 3 - DEPARTMENTS

### Article 1. Water Department

#### **§3-101. MUNICIPAL WATER DEPARTMENT; OPERATION AND FUNDING.**

The Municipality owns and operates the Municipal Water Department through the Utilities Superintendent. The Governing Body, for the purpose of defraying the cost of the care, management, and maintenance of the Municipal Water Department may each year levy a tax not exceeding the maximum limit prescribed by State law, on the actual valuation of all real estate and personal property within the corporate limits that is subject to taxation. The revenue from the said tax shall be known as the Water Fund and shall remain in the custody of the Municipal Treasurer. The Utilities Superintendent shall have the direct management and control of the Municipal Water Department and shall faithfully carry out the duties of his office. The Utilities Superintendent shall have the authority to adopt rules and regulations for the sanitary and efficient management of the Water Department subject to the supervision and review of the Governing Body. (*Ref. 17-531, 17-534, 19-1305 RS Neb.*)

**§3-102 MUNICIPAL WATER DEPARTMENT; DEFINITIONS.** The following definitions shall be applied throughout this Article. Where no definition is specified, the normal dictionary usage of the word shall apply.

**MAIN.** The term "main" is hereby defined to be any pipe other than a supply or service pipe that is used for the purpose of carrying water to, and dispersing the same in the Municipality.

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

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

**SEPARATE PREMISE.** The term "separate premise" is hereby defined to be more than one (1) consumer procuring water from the same service or supply pipe. The second (2nd) premise may be a separate dwelling, apartment, building, or structure used for a separate business.

**METER RATE.** The term "Meter Rate" as used in this Article, is hereby defined to be the rate or price to be charged for water based upon the quantity of water consumed on any premises as measured by a water meter or estimated where a meter has been taken out

for repair or not in working order or for any other reason requiring an estimate to be made.

**WATER DEPARTMENT.** The term "The Water Department of the Municipality" shall be deemed to include the property, organization and operation of the water supply system, water works, and each part thereof of the Municipality.

**§3-103. MUNICIPAL WATER DEPARTMENT; APPLICATION FOR.** Every person desiring a supply of water must make application for water service to the City Clerk for that purpose. The application must be made by the owner of the premises to be served, or by his agent or lessee. It shall state fully for what purpose the water is to be used, and different or additional use will not be permitted, except by written permission of the Superintendent. All applications shall be subject to the provisions of Article 4 of this Chapter.

**§3-104. MUNICIPAL WATER DEPARTMENT; WATER CONTRACT.** The Municipality through its Water Department, shall furnish water to persons within its corporate limits whose premises abut a street or alley in which a commercial main now is or may hereafter be laid. The Municipality may furnish water to persons within its corporate limits whose premises do not abut a street or alley in which a Municipal commercial main is now or may hereafter be laid and may also furnish water to persons whose premises are situated outside the corporate limits of the Municipality, as and when, according to law, the Governing Body may see fit to do so. The rules, regulations, and water rates hereinafter named in this Article, shall be considered a part of every application hereafter made for water service and shall be considered a part of the contract between every consumer now or hereafter served. Without further formality, the making of application on the part of any applicant or the use or consumption of water service by present consumers thereof and the furnishing of water service to said consumer shall constitute a contract between the consumer and the Municipality, to which said contract both parties are bound. If the consumer shall violate any of the provisions of said contract or any reasonable rules and regulations that the Governing Body may hereafter adopt, the Utilities Superintendent or his agent, may cut off or disconnect the water service from the building or premise or place of such violation. No further connection for water service to said building, premise, or place shall again be made save or except by order of said Superintendent or his agent.

**§3-105. MUNICIPAL WATER DEPARTMENT; 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. All service pipe must be laid as deep under the surface of the ground as the main in the street, unless otherwise ordered by the Superintendent and in all cases be so protected as

to prevent rupture by freezing. No supply pipe, service pipe or any other pipe connected with the water supply shall be laid or installed in a trench containing a sewer pipe carrying sewage, nor shall sewer pipe or pipe carrying sewage be laid in a trench containing a supply pipe, service pipe or any other pipe connected with the City water supply. No person shall leave an excavation made in the street, alley, or sidewalk open at any time without a barricade, and during the night, warning lights. After service pipes are laid, the streets, alleys, and sidewalks shall be restored to good condition. If the excavation in any street, alley, or sidewalk is left open or unfinished for a period of twenty-four (24) hours or more, the Utilities Superintendent shall have the duty to finish or correct the work, and all expenses so incurred shall be charged to the consumer. All installations or repairs of pipes require two (2) inspections by the Utilities Superintendent. The first (1st) inspection shall be made when connections or repairs are completed and before the pipes are covered. The second (2nd) inspection shall be made after the dirt work is completed and the service is restored. It is the customer's responsibility to notify the Superintendent at the time the work is ready for each inspection. All installation shall be done under the supervision and strictly in accordance with the rules, regulations, and specifications prescribed for such installation by the Utilities Superintendent. (*Ref. 17-537 RS Neb.*)

**§3-106. MUNICIPAL WATER DEPARTMENT; INSTALLATION SPECIFICATIONS.** Every service pipe must be provided with a stop and waste cock for each consumer, easily accessible and so situated that the water can be conveniently shut off and drained from the pipes. Stop cocks shall be of such pattern as shall be approved by the Superintendent, and shall be kept in workable condition.

Unless otherwise permitted, curb cocks shall be placed in the supply line on the outside of the sidewalk and protected by a box of iron pipe reaching from the top of the curb cock to the surface, of suitable size to admit a stop key for turning the water on and off; also with cast iron cover having the letter "W" marked thereon, visible and even with the sidewalk, and must be kept visible at all times.

All supply pipes hereafter installed, either in new construction or in replacement of old service, shall be of copper, brass, lead or cast iron. All service pipes from the point of union with the curb box to the meter shall be of copper, brass, lead, cast iron, steel or plastic of such strength and quality as prescribed by the Superintendent. Every copper service pipe must be sufficiently waving to allow not less than one (1') foot extra length and laid in such manner as to prevent rupture by settling.

A water meter of a standard make and design shall, at the cost and expense of the City, be installed on each new water service connected with a commercial main. No person other than the Superintendent or his assistants or a licensed plumber, under the direction of the Superintendent, shall be permitted to set meters. All meters so set and installed will be kept in repair at the expense of the City, unless the same are damaged by the negligence or the willful conduct or act of the consumer. When such meters are no longer serviceable, they will be replaced by the City.

All meters shall be sealed at three places to-wit; Once on the burr connection, on

each side, and on the cover of the registering dial. It shall be unlawful for any person to deface, injure or break said seal unless authorized to do so by the Superintendent.

**§3-107. MUNICIPAL WATER DEPARTMENT; METER PITS.** A water meter pit built according to specifications of the Superintendent shall, at the cost and expense of the City, be installed on each new water service connected with a commercial main. A water meter pit built according to specifications of the Superintendent shall, at the cost and expense of the City, be installed on each water connection now in use within the City whenever, in the opinion of the Superintendent, it is expedient to do so. Said meter pits shall be located at or near a point outside the sidewalk line and shall be flush with ground level.

**§3-108. MUNICIPAL WATER DEPARTMENT; INSTALLATION EXPENSE.** The Municipality shall pay the cost of tapping the main and installing the meter. No person other than the Utilities Superintendent or his duly authorized agent shall tap the water main. The customer shall pay a tap fee of five hundred (\$500.00) dollars. The customer shall at his own expense bring water service from the main to his own premise and shall employ a licensed plumber who shall install water service to the place of dispersement. Non-residents shall pay such tap fees and installation charges in such sums as the Utilities Superintendent, pursuant to resolution of the Governing Body, shall in each case fix. The extension of commercial mains into unsupplied territory within the corporate limits, may be made by means of water extension districts.*(Amended by Ord. No. 620, 9/4/12)*

**§3-109. MUNICIPAL WATER DEPARTMENT; REPAIRS AND MAINTENANCE.** The Municipality shall repair or replace, as the case may be, all supply pipe between the commercial main and the stop box. Each customer shall keep his own service pipes, stop and waste cocks, boilers, check valves, relief valves, curb boxes, meter boxes, and all other apparatus furnished by him or furnished by the City and paid for by him, in good conditions and free from leaks. When leaks occur in service pipes, the Utilities Superintendent shall shut off water service until the leak is repaired at the expense of the customer to the satisfaction of the Utilities Superintendent. All water meters shall be kept in repair by the Municipality at the expense of the Municipality. When meters are worn out, they shall be replaced and reset by the Municipality at the expense of the Municipality; Provided, that if the customer permits or allows a water meter to be damaged, injured, or destroyed through his own recklessness, carelessness, or neglect so that the meter must be repaired or replaced, the Utilities Superintendent shall bill and collect from the customer the cost of 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 two (2%) per cent or more fast, the expense of such test shall be borne by the Municipality. The

Municipality reserves the right to test any water service meter at any time, and if said meter is found to be beyond repair the Municipality 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 Utilities Superintendent. It shall be unlawful for any person to tamper with any water meter, or by any means or device to divert water from the service pipe so that the same shall not pass through said meter, or while passing through said meter, to cause the same to register inaccurately.

**§3-110. MUNICIPAL WATER DEPARTMENT; MINIMUM RATES.** All water consumers shall be liable for the minimum rate provided by ordinance unless and until the consumer shall, by written order, direct the Utilities Superintendent to shut off the water at the stop box, in which case he shall not be liable thereafter for water rental until the water is turned on again. (*Ref. 17-542 RS Neb.*)

**§3-111. MUNICIPAL WATER DEPARTMENT; BILLS.** Water bills shall be due and payable quarterly pursuant to Section 3-402.

**§3-112. MUNICIPAL WATER DEPARTMENTS; HOUSE BOILERS.** All house boilers shall be constructed with one (1) or more air holes near the top of the inlet pipe and sufficiently strong to bear the pressure of the atmosphere under vacuum. The stop cocks and other appurtenances must be sufficiently strong to bear the pressure and run off the water in the main. When a meter is placed on a line connected to a boiler or other hot water apparatus, a check valve and relief valve must be placed between such meter and said boiler or hot water apparatus to protect such meter from back pressure of steam or hot water. If valves are not placed as herein directed, the water may be shut off from the premises served until such violation of this rule is corrected.

**§3-113. MUNICIPAL WATER DEPARTMENT; SWING VALVE REQUIRED.**  
(*Repealed by Ord. No. 395, 12/3/91*)

**§3-114. MUNICIPAL WATER DEPARTMENT; SINGLE PREMISE.** No consumer shall supply water to other families, or allow them to take water from his premise, nor after water is supplied into a building shall any person make or employ a plumber or other person to make a tap or connection with the pipe upon the premise for alteration, extension, or attachment without the written permission of the Utilities Superintendent. It shall further be unlawful for any person to tamper with any water meter or by means of any contrivance or device to divert the water from the service pipe so that the water will not pass through the meter or while passing through said meter to cause the

meter to register inaccurately. (*Ref. 17-537 RS Neb.*)

**§3-115. MUNICIPAL WATER DEPARTMENT; RESTRICTED USE.** The Governing Body or the Utilities Superintendent may order a reduction in the use of water or shut off the water on any premise in the event of a water shortage due to fire or other good and sufficient cause. The Municipality shall not be liable for any damages caused by shutting off the supply of water of any consumer while the system or any part thereof is undergoing repairs or when there is a shortage of water due to circumstances over which the Municipality has no control. (*Ref. 17-537 RS Neb.*)

**§3-116. MUNICIPAL WATER DEPARTMENT; 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.

Any consumer of water, wishing to lay large pipes with fire hydrants and hose couplings to be used only in case of fire, will be permitted to connect with the street mains at their own expense, upon application to the Superintendent, and under his direction, they will be allowed the use of water free of charge for fire purposes only. Such installations shall be maintained at the expense of the consumer.

**§3-117. MUNICIPAL WATER DEPARTMENT; HOSE REGULATIONS.** No hose shall be used unless the water is furnished through a meter. The right is reserved to suspend the use of the fountains and hose for sprinkling yards and gardens whenever in the opinion of the Superintendent the public exigency may require.

**§3-118. MUNICIPAL WATER DEPARTMENT; 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. (*Ref. 17-536 RS Neb.*)

**§3-119. MUNICIPAL WATER DEPARTMENT; MANDATORY HOOK-UP.** All persons within three hundred (300') feet of a water main shall be required, upon notice by the Governing Body, to hook-up with the Municipal Water System. (*Ref. 17-539 RS Neb.*)

**§3-120. MUNICIPAL WATER DEPARTMENT; WATER SERVICE CONTRACTS.** Contracts for water service are not transferable. Any person wishing to change from one location to another shall make a new application and sign a new contract. If any consumer shall move from the premise where service is furnished, or if the said premise is destroyed by fire or other casualty, he shall at once inform the Utilities Superintendent who shall cause the water service to be shut off at the said premise. If the consumer should fail to give such notice, he shall be charged for all water used on the said

premise until the Utilities Superintendent is otherwise advised of such circumstances. (*Ref. 17-537 RS Neb.*)

**§3-121. MUNICIPAL WATER DEPARTMENT; INSPECTION.** The Utilities Superintendent, or his duly authorized agents, shall have free access, at any reasonable time, to all parts of each premise and building to, or in which, water is delivered for the purpose of examining the pipes, fixtures, and other portions of the system to ascertain whether there is any disrepair or unnecessary waste of water. (*Ref. 17-537 RS Neb.*)

**§3-122. MUNICIPAL WATER DEPARTMENT; POLICE REPORTS.** It shall be the duty of the Municipal Police to re-port to the Utilities Superintendent all cases of leakage and waste in the use of water and all violations of the Municipal Code relating to the Water Department. They shall have the additional duty of enforcing the observance of all such regulations.

**§3-123 MUNICIPAL WATER DEPARTMENT; 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 Utilities Superintendent.

**§3-124 MUNICIPAL WATER DEPARTMENT; LICENSED PLUMBER.** It shall be unlawful for any plumber or pipe fitter to do any work upon any of the pipes or appurtenances of the system of waterworks, or to make any connection with or extension of the supply pipes of any consumer taking water from the said system until such plumber or pipe fitter shall have first procured a license. All plumbing shall be done in the manner required by the Utilities Superintendent. The said licensed plumber shall be at all times subject to the inspection and approval of the Utilities Superintendent and it shall be further unlawful to cover or conceal willfully any defective or unsatisfactory plumbing work. (*Ref. 17-537 RS Neb.*)

**§3-125. MUNICIPAL WATER DEPARTMENT; TIME.** All taps or plumbing work done on or to the Municipal water system shall be done between the hours of eight o'clock (8:00) A.M. and six o'clock (6:00) P.M. (*Ref. 17-537 RS Neb.*)

**§3-126. MUNICIPAL WATER DEPARTMENT; WASTED WATER TO BE PAID FOR.** Consumers shall prevent unnecessary waste of water and shall be required to keep all hydrants, faucets, valves and all necessary appurtenances, in good condition at their own expense, and all waterways closed when not in use. There will be a charge for all water correctly registered, whether wasted or used.

**§3-127. MUNICIPAL WATER DEPARTMENT; RECONNECTION CHARGE.**

Whenever the water shall have been shut off from any premises for any reason provided by this Article or Article 2 or 4 of this Chapter, the same shall not be turned on again until payment has been made of all rent due from said premises, and until the removal of the cause for which said service was disconnected, and until the sum of fifty dollars (\$50.00) has been paid to the Superintendent by the customer as a reconnection fee. *(Amended by Ord. No. 513, 4/7/98)*

**§3-128. MUNICIPAL WATER DEPARTMENT; RATES.**

The Mayor and City Council shall have the power at any time by resolution, to adjust or amend rates to be charged for water consumers taking city water. *(Ref. 17-542 RS Neb.) (Amended by Ord. Nos. 338, 8/5/86; 394, 9/3/91; 410, 8/18/93; 478, 4/1/97)*

**§3-129. MUNICIPAL WATER DEPARTMENT; BUILDING REGULATIONS; PROHIBITION OF LEAD PIPES, SOLDER, AND FLUX.**

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 system shall be lead free. For purposes of this section, lead free shall mean:

- 1) Solders and flux - not more than two-tenths percent (.2%) lead, and
- 2) Pipe and pipe fittings - not more than eight percent (8%) lead. *(Ref. 71-5301 RS Neb.) (Ord. No. 363, 5/3/88)*

[Editor's Note: Sections 3-130 through 3-142 were adopted in their entirety by Ordinance No. 395, 12/3/91]

**§3-130. MUNICIPAL WATER DEPARTMENT; BACKFLOW/ BACKSIPHONAGE PREVENTION; STATEMENT OF POLICY.**

**A. Purpose:** The purpose of this ordinance, comprised of sections 3-130 to 3-142 is:

1. To protect the public potable water supply of the City of Red Cloud 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 water supply system.
2. 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 nonpotable water systems, plumbing fixtures and industrial process systems.
3. 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.

**B. Application:** Sections 3-130 through 3-142 shall apply to all premises served by the public potable water system of the City of Red Cloud, Nebraska.

**C. Policy:** Sections 3-130 through 3-142 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. The Municipal Water Department shall be primarily responsible for protection of the public potable water distribution system from contamination or pollution due to backflow of contaminants or pollutants through the water service connection. The cooperation of all consumers is required to implement and maintain the program to control cross connections. The consumer is responsible for preventing contamination of the water system within consumer's own premises.

**§3-131. MUNICIPAL WATER DEPARTMENT; BACKFLOW/BACKSIPHONAGE PREVENTION; DEFINITIONS.** The following definitions shall apply in the interpretation and enforcement of sections 3-130 through 3-142.

1. "Air gap separation" means the unobstructed vertical distance through the free atmosphere between the lowest opening from any pipe or faucet supplying water to a tank, plumbing fixture, or other device and the overflow level rim of the receptacle.
2. "Approved tester" means a person qualified to make inspections; to test and repair backflow prevention/cross connection control devices; and who is approved by the City.
3. "Authorized representative" means any person designated by the City to administer this cross connection control ordinance.
4. "Auxiliary water supply" means any water source system, other than the public water supply, that may be available in the building or premises.
5. "Backflow" means a flow in other than the intended direction of flow, or a flow of any foreign liquids, gases, or substances into the distribution system of a public water supply.
6. "Backsiphonage" means the flowing back of water, or other foreign liquids, gases, or substances into the water distribution system due to negative pressure in the piping of the water distribution system.

7. "Backflow prevention device" means any device, method, or type of construction intended to prevent backflow into a potable water system, provided backflow preventers have been tested and approved by a reputable testing laboratory.
8. "Consumer" means the owner or person in control of any premises supplied by or in any manner connected to a public water system.
9. "Containment" means protection of the public water supply by installing a cross connection control device or air gap separation on the main service line to a facility, or as an installation within equipment handling potentially hazardous materials
10. "Contamination" means an impairment of the quality of the water by sewage, process fluids, or other wastes, to a degree which could create an actual hazard to the public health through poisoning or through spread of disease by exposure,
11. "Cross connection" means any physical link. between a potable water supply and any other substance, fluid, or source, which makes possible contamination of the potable water supply due to the reversal of flow of the water in the piping or distribution system.
12. "Hazard, Degree of" means an evaluation of the potential risk to public health and the adverse effect of the hazard upon the potable water system.
  - a. Hazard-Health - any condition, device, or practice in the water supply system and its operation which could create or may create a danger to the health and well-being of the water consumer.
  - b. Hazard-Plumbing - a plumbing type cross connection in a consumer's potable water system that has not been properly protected by a vacuum breaker, air gap separation or backflow prevention device.
  - c. Hazard-Pollutional - an actual or potential threat to the physical properties of the water system or to the consumer's potable water system but which would constitute a nuisance or be aesthetically objectionable or could cause damage to the system or its appurtenances, but would not be dangerous to health.
  - d. Hazard-System - an actual or potential threat of severe damage to the physical properties of the public potable water system or the consumer's potable water system, or of a pollution or contamination which would have a protracted effect on the quality of the potable water in the system.
13. "Isolation" means protection of a facility service line by installing a cross connection

control device or air gap separation on an individual fixture, appurtenance, or system.

14. "Pollution" means the presence of any foreign substance (organic, inorganic, or biological) in water which tends to degrade its quality so as to constitute a hazard or impair the usefulness of the water to a degree which does not create an actual hazard to the public health, but which does adversely and unreasonably affect such waters for domestic use.
15. "Public Potable Water System" means any publicly or privately owned water system supplying water to the general public which is satisfactory for drinking, culinary and domestic purposes and meets the requirements of the Nebraska Department of Health.
16. "Service Connection" means the terminal end of a service line from the public water system. If a meter is installed at the end of the service, then the service connection means the down stream end of the meter.
17. "Water Department" means the Municipal Water Department of the City of Red Cloud, Nebraska.

**§3-132. MUNICIPAL WATER DEPARTMENT; BACKFLOW / BACKSIPHONAGE PREVENTION; CROSS CONNECTIONS PROHIBITED.**

- A. No water service connection shall be installed or maintained to any premises where actual or potential cross connections to the public water supply system may exist, unless such actual or potential cross connections are abated or controlled to the satisfaction of the City or its authorized representative.
- B. No connection shall be installed or maintained whereby an auxiliary water supply may enter a public water supply system.
- C. No water service connection shall be installed or maintained to any premises in which the plumbing system, facilities and fixtures have not been constructed and installed using acceptable plumbing practices considered by the Municipal Water Department as necessary for the protection of health and safety.

**§3-133. MUNICIPAL WATER DEPARTMENT; BACKFLOW / BACKSIPHONAGE PREVENTION; SURVEY AND INVESTIGATIONS.**

- A. The consumer's premises shall be open at all reasonable times to the City 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 in the consumer's water system.
- B. On request by the City or its authorized representative, the consumer shall furnish requested information on water use practices within his premises and in the consumer's water system.
- C. On request by the City or its authorized representative, the consumer shall conduct periodic surveys of water use practices on the premises of the consumer's water system to determine whether there are actual or potential cross connections. The consumer shall provide the survey results to the City or its authorized representative.

**§3-134. MUNICIPAL WATER DEPARTMENT; BACKFLOW / BACKSIPHONAGE PREVENTION; WHERE PROTECTION IS REQUIRED.**

- A. An approved backflow prevention device shall be installed between the service connection and the point of potential backflow into a consumer's water supply system when in the judgment of the City or authorized representative a health, plumbing, pollution or system hazard exists.
- B. An approved air gap separation or reduced pressure principal 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 materials stored on the premises, would present an immediate and dangerous hazard to health should a cross connection occur, even though such cross connection may not exist at the time the backflow prevention device is required to be installed. This includes, but is not limited to, the following situations:
  - 1. Premises having an auxiliary water supply, unless the quality of the auxiliary supply is acceptable to the City or its authorized representative and the Nebraska Department of Health.
  - 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 having a repeated history of cross connections being established or re-established.

5. Premises, which due to the nature of the enterprise therein, are subject to recurring modification or expansion.
6. Premises on which any substance is handled under pressure so as to permit entry into the public water supply system, or where a cross connection could reasonably be expected to occur. This shall include the handling of process waters and cooling waters.
7. Premises where toxic or hazardous materials are handled.

The following types of facilities fall into one or more of the categories or premises where an approved air gap separation or reduced pressure principal backflow prevention device may be required by the City or its authorized representative or the Nebraska Department of Health to protect the public water supply and must be installed at these facilities unless all hazardous or potentially hazardous conditions have been eliminated or corrected by other methods to the satisfaction of the City or its authorized representative and the Nebraska Department of Health:

1. Agricultural chemical facilities;
2. Auxiliary water systems, wells;
3. Premises having water recirculating system as used for boilers or cooling systems;
4. Bulk water loading facilities;
5. Car washes, automobile servicing facilities;
6. Chill water systems;
7. Feed lots;
8. Fire protection systems;
9. Hazardous waste storage and disposal sites;
10. Irrigation arid lawn sprinkler systems;
11. Laundries and dry cleaning;
12. Petroleum processing or storage plants;
13. Beauty salons;
14. Schools;
15. Sewage pumping stations;
16. Other commercial or industrial facilities which may constitute potential cross connection.

**§3-135. MUNICIPAL WATER DEPARTMENT; BACKFLOW / BACKSIPHONAGE PREVENTION; TYPE OF PROTECTION REQUIRED.**

- A. The type of protection required by sections 3-130 through 3-142 shall depend on the degree of hazard which exists, as follows:
  1. An approved air gap separation shall be installed where the potable water system may be contaminated with substances that could cause a severe health hazard.

2. An approved air gap separation or an approved reduced pressure principal backflow prevention device shall be installed where the public potable water system may be contaminated with a substance that could cause a health hazard.
3. An approved air gap separation or an approved reduced pressure principal backflow prevention device or an approved double check valve assembly shall be installed where the public potable water system may be polluted with substances which could cause a pollutional hazard not dangerous to health.

**§3-136. MUNICIPAL WATER DEPARTMENT; BACKFLOW/BACKSIPHONAGE PREVENTION; BACKFLOW PREVENTION DEVICES.**

Any backflow prevention device required by sections 3-130 through 3-142 shall be of a model or construction approved by the City or its authorized representative and the Nebraska Department of Health.

1. Air gap separation to be approved shall be at least twice the diameter of the supply pipe measured vertically above the tip rim of the vessel, but in no case less than one inch.
2. Double check valve assemblies or reduced pressure principal backflow prevention devices shall appear on the current list of approved backflow prevention devices established by the Nebraska Department of Health, unless the device was installed at the time sections 3-130 through 3-142 were passed and complies with required inspection and maintenance.

**§3-137. MUNICIPAL WATER DEPARTMENT; BACKFLOW/BACKSIPHONAGE PREVENTION; INSTALLATION.**

- A. Backflow prevention devices required by this policy shall be installed at a location and in a manner approved by the City or its authorized representative. All devices shall be installed at the expense of the consumer, unless the City or its authorized representative agrees otherwise
- B. Backflow prevention devices installed at the service connection shall be located on the consumer's side of the water meter (if one is installed) or the corporation stop, as close to the meter or corporation stop as is reasonably practical, and prior to any other connection.
- C. Backflow prevention devices shall be conveniently 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. All devices shall be installed according to manufacturer's recommendations.
- D. No backflow prevention device will be installed that requires special tools to install or service for testing.

**§3-138. MUNICIPAL WATER DEPARTMENT; BACKFLOW/**

**BACKSIPHONAGE PREVENTION; TESTING.** Backflow and backsiphonage prevention devices designed to be tested shall be tested for proper operation annually or when necessary in the opinion of the City or its authorized representative. Actual testing shall be at the expense of the consumer, unless the City or its authorized representative agrees otherwise. Any required maintenance or repairs shall be at the expense of the consumer and subject to the approval of the City. If testing shall require entry into the premises, the City's authorized representative shall give notice setting forth a proposed date and time to the customer at least ten (10) working days in advance by first class mail, return receipt requested. If the consumer cannot make the premises available for inspection on that date and time, the consumer shall contact the City's authorized representative to arrange another date and time.

**§3-139. MUNICIPAL WATER DEPARTMENT; BACKFLOW/BACKSIPHONAGE PREVENTION; AUTHORIZED REPRESENTATIVE; AUTHORITY.** The authorized representative shall have the authority to issue any order consistent with the provisions of sections 3-130 through 3-142 in order to protect the public health and safety. Any order of the authorized representative shall be in writing and shall clearly state the nature of the order, compliance requirements, and set a reasonable date by which compliance must be met. All orders will be mailed to the customer by first class mail, return receipts requested.

**§3-140. MUNICIPAL WATER DEPARTMENT; APPEALS.** In the event that it is claimed that the true intent and meaning of this Code has been wrongfully interpreted by the authorized representative; that the time allowed for compliance with any order of the authorized representative is too short; or that conditions peculiar to a particular premise make it unreasonably difficult to meet the literal requirements prescribed by this Code, the owner may file a written notice of appeal with the Municipal Clerk within ten (10) days after the decision or order of the authorized representative has been made. The Governing Body shall hear all appeals and shall have the power and authority, when appealed to, to modify the decision or order of the authorized representative. Such a decision shall be final, subject only to any remedy which the aggrieved party may have at law or equity. Appeals shall be in writing and shall state the reason for the appeal.

**§3-141. MUNICIPAL WATER DEPARTMENT; BACKFLOW/BACKSIPHONAGE PREVENTION; VIOLATION AND PENALTIES.**

- A. The City or its authorized representative 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 City or its authorized representative, 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 cross connection ordinance to the satisfaction of the City or its authorized representative.

**§3-142. MUNICIPAL WATER DEPARTMENT; BACKFLOW/BACKSIPHONAGE PREVENTION; LIABILITY CLAIMS.** The authorized representative shall be relieved from personal liability. The City shall hold harmless the authorized representative when acting in good faith and without malice, from all personal liability for any damage that may occur to any person or property as a result of any act required or authorized by sections 3-130 through 3-142, or by reason of any act or omission of the authorized representative in the discharge of his duties hereunder. Any suit brought carrying out the provisions of sections 3-130 through 3-142 shall be defended by the City, or the City's insurance carrier, if any, through final determination of such proceeding.

**§3-143. MUNICIPAL WATER DEPARTMENT; WELLHEAD PROTECTION AREA.**

- (1) Definitions. Wellhead Protection Area means the surface and subsurface area surrounding a water well or well field, supplying a public water system, through which contaminants are reasonably likely to move toward and reach such water or well field.
- (2) The Mayor and City Council designates a Wellhead Protection Area for the purpose of protection of the public water supply. The boundaries of the Wellhead Protection Area are designated by a map prepared by Nebraska Rural Water Association. Said boundaries are herein adopted by reference. A copy of the map may be obtained at the office of the City Clerk. (*Ord. No. 538, 8/23/98*)



## Article 2. Sewer Department

### 3-201. MUNICIPAL SEWER DEPARTMENT; OPERATION AND FUNDING.

- (1) The Municipality owns and operates the Municipal Sewer System through the Utilities Superintendent.
- (2) For the purpose of defraying the cost of the maintenance and repairing of any sewer or water utilities in the Municipality, the Governing Body may each year levy a tax not exceeding the maximum limit prescribed by State law on the taxable value of all the taxable property in the Municipality. The revenue from the tax shall be known as the Water and Sewer Maintenance Fund and shall be used exclusively for the purpose of maintenance and repairs of the water and sewer system.
- (3) The Utilities Superintendent shall have the direct management and control of the Sewer Department, shall faithfully carry out the duties of the office, and shall have the authority to adopt rules and regulations for the sanitary and efficient management of the Department subject to the supervision and review of the Governing Body. (*Ref. 17-149, 17-925.01 RS Neb.*) (*Amended by Ord. No. 536, 8/4/98; Ord No. 600, 3/08/2011, Ord. No. 632, 9/9/2014*)

**§3-202. MUNICIPAL SEWER DEPARTMENT; DEFINITIONS.** The following definitions shall be applied throughout this Article. Where no definition is specified, the normal dictionary usage of the word shall apply.

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

**BUILDING OR HOUSE DRAIN.** The terms "Building Drain" and "House Drain" shall mean and include that part of the lowest horizontal piping of a house or building drainage system which receives the discharge from soil, waste, or other drainage pipes inside the walls of any building or house.

**BUILDING OR HOUSE SEWER.** The terms "Building Sewer" and "House Sewer" shall mean and include that part of a house or building drainage system extending from the house or building drain to its connection with the main sewer.

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

accordance with procedures set forth in "Standard Methods. "

**COMBINED SEWER.** The term "Combined Sewer" shall mean a sewer receiving both surface runoff and sewage.

**FLOATABLE OIL.** The term "Floatable Oil" shall mean 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 term "Garbage" shall mean the animal and vegetable waste resulting from the residential or commercial handling, preparation, cooking, and serving of foods.

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

**LOCAL VENTILATING PIPE.** The term "Local Ventilating Pipe" shall mean and include any pipe through which foul air is removed from a room or fixture.

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

**NORMAL SEWAGE.** The term "Normal Sewage" shall mean sewage not exceeding maximum tolerance of contamination of 300 milligrams per liter BOD or 350 milligrams per liter of Suspended Solids.

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

**pH.** The term "pH" shall mean the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter (g/l) of solution. Neutral water, for example, has a pH value of 7 and a hydrogen-ion concentration of  $10^{-7}$  mol/L.

**PLUMBING FIXTURES.** The term "Plumbing Fixtures" shall mean and include receptacles intended to receive and discharge water liquid or water-carried wastes into the sewer system with which they are connected.

**PROPERLY SHREDDED.** The term "Properly Shredded" shall mean and include shredding to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers with no particle larger than one half (1/2") inch in any dimension.

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

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

**SEWAGE.** The term "Sewage" shall be a combination of water carried wastes from residences, commercial business buildings, institutions, and industrial buildings, together with such storm, surface, and groundwaters as may be present. It is more generally, the spent water of the community. The preferred term is "Wastewater."

**SEWAGE TREATMENT PLANT.** The term "Sewage Treatment Plant" shall mean any arrangement of devices and structures used for treating sewage.

**SEWAGE WORKS.** The term "Sewage Works" shall mean all facilities for collecting, pumping, treating and disposing of sewage.

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

**SEWERAGE.** The term "Sewerage" shall mean the system of sewers and appurtenances for the collection, transportation and pumping of sewage and industrial wastes.

**SHALL.** The term "Shall" is mandatory; the term "May" is permissive.

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

**SOIL PIPE.** The term "Soil Pipe" shall mean and include any pipe which conveys the discharge of water closets with or without the discharge from other fixtures to the house or building drain.

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

**SURCHARGE.** The term "Surcharge" shall mean 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.** The term "Suspended Solids" shall mean total suspended matter that either floats on the surface of, or is in suspension in, water, wastewater, 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.** The term "Trap" shall mean and include 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 term "Trap Seal" shall mean and include the vertical distance between the crown weir and the dip of the trap.

**UNPOLLUTED WATERS.** The term "Unpolluted Waters" is water of quality equal to or better than the effluent criteria in effect or water that would not cause violation of receiving water quality standards and would not be benefited by discharge to the sanitary sewers and wastewater treatment facilities provided.

**UTILITIES SUPERINTENDENT.** The term "Utilities Superintendent" shall mean the Utilities Superintendent of the Municipal Sewerage System of the City of Red Cloud, or their authorized deputy, agent or representative.

**VENT PIPE.** The term "Vent Pipe" shall mean and include any pipe provided to ventilate a house or building drainage system and to prevent trap siphonage and back pressure.

**WASTE PIPE.** The term "Waste Pipe" shall mean and include 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.

**WATERCOURSE.** The term "Watercourse" shall mean a natural or artificial channel in which water flows occur either continuously or intermittently. (*Amended by Ord No. 600, 3/08/2011; Ord. No. 632, 9/9/2014*)

**§3-203. MUNICIPAL SEWER DEPARTMENT; APPLICATION.** Every person desiring sewer service shall make application to the City Clerk as provided in Section 3-103. (*Amended by Ord No. 600, 3/08/2011; Ord. No. 632, 9/9/2014*)

**§3-204. MUNICIPAL SEWER DEPARTMENT; SEWER CONTRACT.** The Municipality through the Municipal Sewer Department shall furnish sewer services to persons within its corporate limits whose premises abut a street or alley in which a commercial main is now or may hereafter be laid. The rules, regulations, and sewer rental rates hereinafter named in this Article, shall be considered a part of every application

hereafter made for sewer service and shall be considered a part of the contract between every customer now or hereafter served. Without further formality, the making of the application on the part of any applicant or the use of sewer service by present customers thereof shall constitute a contract between the customer and the Municipality to which said contract both parties are bound. If the customer shall violate any of the provisions of said contract or any reasonable rules and regulations that the Governing Body may hereafter adopt, the Utilities Superintendent, or his agent, may cut off or disconnect the sewer service from the building or premise of such violation. No further connection for sewer service to said building or premise shall again be made save or except by order of the Utilities Superintendent. *(Ref. 17-901, 17-902, 18-503 RS Neb.) (Amended by Ord No. 600, 3/08/2011; Ord. No. 632, 9/9/2014)*

**§3-205. MUNICIPAL SEWER DEPARTMENT; SERVICE CONTRACTS.**

Contracts for sewer service are not transferable. Any person wishing to change from one location to another shall make a new application and sign a new contract. If any customer shall move from the premise where service is furnished, or if the said premise is destroyed by fire or other casualty, he shall at once inform the Utilities Superintendent who shall cause the sewer service to be shut off from the said premise. If the customer should fail to give notice, he shall be charged for that period of time until the official in charge of sewers is otherwise advised of such circumstances. *(Ref. 17-901, 17-902, 18-503 RS Neb.) (Amended by Ord No. 600, 3/08/2011; Ord. No. 632, 9/9/2014)*

**§3-206. MUNICIPAL SEWER DEPARTMENT; RATE SETTING.**

Customers of the Municipal Sewer Department shall be charged a flat rate based on water usage for the use of sewer service. Rates shall be set by Ordinance of the Governing Body; Provided however, nothing in the rate ordinance shall be construed to prevent the Utilities Superintendent from levying a surcharge pursuant to Sections 3-232, 3-238, 3-243 and 3-246. *(Ref. 18-509 RS Neb.) (Amended by Ord No. 600, 3/08/2011; Ord. No. 632, 9/9/2014)*

**§3-207. MUNICIPAL SEWER DEPARTMENT; BILLS.** Sewer rental bills shall be due and payable monthly pursuant to Section 3-402. *(Amended by Ord No. 600, 3/08/2011; Ord. No. 632, 9/9/2014)*

**§3-208. MUNICIPAL SEWER DEPARTMENT; CLASSIFICATION.**

The Governing Body may classify for the purpose of rental fees the customers of the Municipal Sewer Department; Provided, that such classifications are reasonable and do not discriminate unlawfully against any consumer or group of customers. *(Ref. 17-925.02 RS Neb.) (Amended by Ord No. 600, 3/08/2011; Ord. No. 632, 9/9/2014)*

**§3-209. PUBLIC SEWERS REQUIRED; UNLAWFUL DEPOSIT OF WASTES.** It shall be unlawful for any person to place or deposit, or permit to be deposited in any

unsanitary manner on public or private property within the Municipality or within two (2) miles of the corporate limits thereof, or in any area under the jurisdiction of said Municipality, any human or animal excrement, garbage, or other objectionable waste. *(Amended by Ord No. 600, 3/08/2011; Ord. No. 632, 9/9/2014)*

**§3-210. PUBLIC SEWERS REQUIRED; UNLAWFUL DISCHARGE OF UNTREATED SEWAGE.** It shall be unlawful to discharge to any natural outlet or storm sewer within the Municipality, or within two (2) miles of the corporate limits thereof, or in any area under the jurisdiction of said Municipality, any sewage or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this Article. *(Amended by Ord No. 600, 3/08/2011; Ord. No. 632, 9/9/2014)*

**§3-211. PUBLIC SEWERS REQUIRED; CESSPOOLS, PRIVIES AND SEPTIC TANKS PROHIBITED.** Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage. *(Amended by Ord No. 600, 3/08/2011; Ord. No. 632, 9/9/2014)*

**§3-212. PUBLIC SEWERS REQUIRED; MANDATORY HOOK-UP.** The owner of all houses, buildings, or properties used for human employment, recreation, or other purposes, situated within the Municipality and abutting on any street, alley, or right-of-way in which there is now located or may in the future be located a public sanitary or combined sewer of the Municipality, is hereby required at his expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this Article within ninety (90) days after date of official notice to do so; Provided, that said public sewer is within three hundred (300') feet of the property line. *(Amended by Ord No. 600, 3/08/2011; Ord. No. 632, 9/9/2014)*

**§3-213. PRIVATE SEWAGE DISPOSAL; WHEN APPLICABLE.** Where a public sanitary or combined sewer is not available under the provisions of Section 3-212, the building sewer shall be connected to a private sewage disposal system complying with the provisions of this Article.

At such time as a public sewer becomes available to a property served by a private wastewater disposal system, as provided in Section 3-212, a direct connection shall be made to the public sewer within sixty (60) days in compliance with this Article, and any septic tanks, cesspools, and similar private wastewater disposal facilities shall be cleaned of sludge and filled with suitable material or any other process that is in accordance with the Nebraska Department of Environmental Quality Title 124 Rules and Regulations for the Design, Operation and Maintenance of On-site Wastewater Treatment Systems. *(Amended by Ord No. 600, 3/08/2011; Ord. No. 632, 9/9/2014)*

**§3-214. PRIVATE SEWAGE DISPOSAL SYSTEM; PERMIT REQUIRED, FEE.** Before commencement of construction of a private sewage disposal system the owner shall first obtain a written permit signed by the Utilities 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 Utilities Superintendent. A permit and inspection fee of fifty (\$50.00) dollars shall be paid to the Municipality at the time the application is filed. *(Amended by Ord No. 600, 3/08/2011; Ord. No. 632, 9/9/2014)*

**§3-215. PRIVATE SEWAGE DISPOSAL SYSTEM; PERMIT, WHEN EFFECTIVE; INSPECTIONS.** A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the Utilities Superintendent. He shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for the permit shall notify the Utilities Superintendent when the work is ready for final inspection, and before any underground portions are covered. The inspection shall be made within forty-eight (48) hours of the receipt of notice by the Utilities Superintendent. *(Amended by Ord No. 600, 3/08/2011; Ord. No. 632, 9/9/2014)*

**§3-216. PRIVATE SEWAGE DISPOSAL SYSTEM; SPECIFICATIONS.** The type, capacities, location, and layout of a private sewage disposal system shall comply with the recommendations of the Nebraska Department of Environmental Quality Title 124 Rules and Regulations for the Design, Operation and Maintenance of On-site Wastewater Treatment Systems. No permit shall be issued for any private sewage disposal system employing subsurface soil absorption facilities when the area of the lot is less than ten thousand (10,000) square feet. No septic tank or cesspool shall be permitted to discharge to any natural outlet. *(Amended by Ord No. 600, 3/08/2011; Ord. No. 632, 9/9/2014)*

**§3-217. PRIVATE SEWAGE DISPOSAL SYSTEM; MAINTENANCE.** The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the Municipality. *(Amended by Ord No. 600, 3/08/2011; Ord. No. 632, 9/9/2014)*

**§3-218. PRIVATE SEWAGE DISPOSAL SYSTEM; ADDITIONAL REQUIREMENTS.** No statement contained in Sections 3-213 thru 3-217 shall be construed to interfere with any additional requirements that may be imposed by the Utilities Superintendent. *(Amended by Ord No. 600, 3/08/2011; Ord. No. 632, 9/9/2014)*

**§3-219. BUILDING SEWER INSTALLATION; PERMIT REQUIRED; LICENSED PLUMBER.** 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 Utilities Superintendent. Entrance into a manhole or such opening for any purpose except by authorized persons is hereby

prohibited.

No person shall do any work upon any of the pipes or appurtenances of the system of water works in the City of Red Cloud, Nebraska, or make any connections with the system of water pipes of any customer taking water from the mains of said City, or open, uncover or in any manner make any connections with or lay any sewer or drain pipe, or attach or modify any appurtenances or sewer connections, to the sewers within the public streets, alleys or other public grounds within the City of Red Cloud, Nebraska, unless such person shall have or hold, in full force and effect, a license as a plumber or drain layer, or unless such person is operating under a special contract with the City.

Before receiving a permit, he shall also file in the office of the City Clerk a bond payable to the City of Red Cloud, Nebraska, with one responsible surety company as surety to be approved by the Governing Body in the sum of one thousand (\$1,000.00) dollars conditioned that he will indemnify and keep harmless the City from any defective materials furnished or used by him and from any and all liability for any damages arising from any negligence or unskillfulness in doing his work, or from any unfaithful, improper or inadequate work done by him as such plumber or drain layer; and that he will also restore or cause to be restored the streets, sidewalks and pavement; and fill or cause to be filled all excavations made by him, so as to leave said streets in as good condition as he found them, and to conform with all the rules and regulations of the Street and Sewer Departments; and that he will pay all the fines that may be imposed on him for violation of any of the rules and regulations adopted by said City and in force during the term of his permit.

Application for permits to connect, construct or modify attachments to the public sewers or their appurtenances, shall be made to the Utilities Superintendent. Such application shall show the exact location of the proposed connection, and appurtenances thereto. A record shall be kept by such plumber or drain layer, covering full details of such work and a return shall be filed with the Utilities Superintendent on the first of each month of all such work completed during the previous month. Willful violation of the provisions of this Article or of the lawful direction given by the Utilities Superintendent thereunder, or other officer assigned to the supervision of such work, shall be cause for the suspension of the permit of the offender, (*Ref. 17-149, 18-503 RS Neb.*) (*Amended by Ord No. 600, 3/08/2011; Ord. No. 632, 9/9/2014*)

**§3-220. BUILDING SEWER INSTALLATION; PROCEDURE.** The licensed plumber or drain layer who connects with the public sewers, shall be held responsible for any damage he may cause to the sewer or public streets. He shall restore the streets to the satisfaction of the Utilities Superintendent and make good any settlement of the ground or pavement caused by excavations made by said plumber or drain layer, under or by virtue of any permit issued under the provisions of this Article.

Work in public streets must not be unnecessarily delayed and when directed by the Utilities Superintendent, the number of workmen shall be increased to hasten the work to the extent the Utilities Superintendent may deem necessary to public interests.



Trenches in depth of six (6') feet or over, and in all sand or otherwise treacherous soil, or near large brick buildings, shall be properly braced, and the party excavating and his bondsmen shall be liable for all damages arising by reason of any neglect in this respect. No sewer pipe shall be laid into the same ditch with water pipe.

The refilling of all trenches if in unpaved streets or alleys, shall be well and thoroughly done in uniform layers of not exceeding nine (9") inches and tamped tight, or with puddled earth as may be directed by the Utilities Superintendent so as to replace all excavated material and leave the surface in as good condition as found before the commencement of the work.

The refilling of trenches in paved streets shall be done with flooring sand, except where otherwise directed by the Utilities Superintendent and all paving materials shall be renewed or replaced in as perfect and substantial condition as before excavating, and in the event of the trench settling within six (6) months after being refilled, the Utilities Superintendent shall have the right, and it shall be his duty to demand and require the restoration thereof by the party who made such excavation; all surplus trench material in all cases of excavation shall be taken off the streets and at once delivered to such points as said Utilities Superintendent may direct.

Trenches in public streets or alleys shall be excavated so as to impede public travel as little as possible. The crossings of gutters and all other ways shall be left in such shape as to admit the ready escape of water during storms. Planks shall always be provided where sidewalks or crossings are opened so as to facilitate easy crossing over trenches.

Red lights shall be kept around all unfinished work at night and sufficient barricades against accidents shall be placed around excavations at all times. *(Amended by Ord No. 600, 3/08/2011; Ord. No. 632, 9/9/2014)*

**§3-221. BUILDING SEWER INSTALLATION; CLASSIFICATION; PERMIT APPLICATION, FEE.** There shall be two (2) classes of building sewer permits: (a) for residential and commercial service, and (b) for service to establishments producing industrial wastes. In either case, the owner or his agent shall make application on a special form furnished by the Municipality. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the Utilities Superintendent. A permit and inspection fee of ten (\$10.00) dollars for a residential or commercial building sewer permit and ten (\$10.00) dollars for an industrial building sewer permit shall be paid to the Municipality at the time the application is filed. *(Amended by Ord No. 600, 3/08/2011; Ord. No. 632, 9/9/2014)*

**§3-222. BUILDING SEWER INSTALLATION; EXPENSE.** All costs and expense incidental to the installation and connection of the building sewer shall be borne by the owner; the minimum charge for such installation and connection shall be one hundred (\$100.00) dollars. The owner shall indemnify the Municipality from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer. *(Amended by Ord No. 600, 3/08/2011; Amended by Ord. No. 621, 9/4/12; Ord. No. 632,*

9/9/2014)

**§3-223. MUNICIPAL SEWER SYSTEM; REPAIRS AND REPLACEMENT.** The Municipal Sewer Department may require the owner of any property which is within the Municipality and connected to the public sewers or drains to repair or replace any connection line which serves the owner's property and is broken, clogged or otherwise in need of repair or replacement. The property owner's duty to repair or replace such a connection line shall include those portions upon the owner's property and those portions upon public property or easements up to and including the point of junction with the public main.

The Municipal Clerk shall give the property owner notice by registered letter or certified mail, directed to the last-known address of such owner or the agent of such owner, directing the repair or replacement of such connection line. If within thirty (30) days of mailing such notice the property owner fails or neglects to cause such repairs or replacements to be made, the Utilities Superintendent may cause such work to be done and assess the cost upon the property served by such connection. (*Ref. 18-1748 RS Neb.*) (*Amended by Ord No. 600, 3/08/2011; Ord. No. 632, 9/9/2014*)

**§3-224. BUILDING SEWER INSTALLATION; SINGLE PREMISE.** A separate and independent building sewer shall be provided for every building; except where one (1) building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one (1) building sewer, but the Municipality does not and will not assume any obligation or responsibility for damage caused by or resulting from any such single connection aforementioned. (*Amended by Ord No. 600, 3/08/2011; Ord. No. 632, 9/9/2014*)

**§3-225. BUILDING SEWER INSTALLATION; 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 Utilities Superintendent, to meet all requirements of this Article for new sewers. If the old sewers are found defective or deficient in any way, the Utilities Superintendent shall notify the owner, and the owner shall make all necessary changes to comply with the provisions of this Article. (*Amended by Ord No. 600, 3/08/2011; Ord. No. 632, 9/9/2014*)

**§3-226. BUILDING SEWER INSTALLATION; CONSTRUCTION CODES.** 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.

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.

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 Utilities Superintendent before installation. *(Amended by Ord No. 600, 3/08/2011; Ord. No. 632, 9/9/2014)*

**§3-227. BUILDING SEWER INSTALLATION; 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 Utilities Superintendent for purposes of disposal of polluted surface drainage; Provided, that if 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. In addition to any other remedies provided in this Article, the Municipality shall have the right to demand and secure the abatement of any connection or discharging violation of this Code. *(Amended by Ord No. 600, 3/08/2011; Ord. No. 632, 9/9/2014)*

**§3-228. BUILDING SEWER INSTALLATION; INSPECTIONS.** The applicant for the building sewer permit shall notify the Utilities Superintendent when the building sewer is ready for inspection and connection to the public sewer. The connection and testing shall be made under the supervision of the Utilities Superintendent. *(Amended by Ord No. 600, 3/08/2011; Ord. No. 632, 9/9/2014)*

**§3-229. PROHIBITED DISCHARGES; STORMWATER, SURFACE WATER, GROUNDWATER, COOLING WATER AND PROCESS WATER.** No person shall discharge or cause to be discharged any stormwater, surface water, groundwater, roof runoff, subsurface drainage, including interior and exterior foundation drains, uncontaminated cooling water, or unpolluted industrial waters to any sanitary sewer.

Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as combined sewers or storm sewers, or to a natural outlet approved by the Utilities Superintendent. Industrial cooling water or unpolluted process water may be discharged, on approval of the Utilities Superintendent, to a storm sewer, combined sewer, or natural outlet. The contributor of any identifiable discharge of polluted water to the sanitary sewer system shall be held responsible for reimbursing the

Municipality for any related costs. The costs shall be determined by the Utilities Superintendent with the approval of the Governing Body. (*Amended by Ord No. 600, 3/08/2011; Ord. No. 632, 9/9/2014*)

**§3-230. HAZARDOUS AND PROHIBITED DISCHARGES; FLAMMABLE, TOXIC, CORROSIVE AND OBSTRUCTIVE SUBSTANCES.** 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, including but not limited to cyanides in waters of the sewage treatment plant and cyanides in excess of two (2) mg/l as CN in the wastes as discharged to the public sewer.
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, etc., either whole or ground by garbage grinders. (*Amended by Ord No. 600, 3/08/2011; Ord. No. 632, 9/9/2014*)

**§3-231. HAZARDOUS AND PROHIBITED DISCHARGES; SPECIFIC PROHIBITIONS AS DETERMINED BY UTILITIES SUPERINTENDENT; PRELIMINARY TREATMENT.** No person shall discharge or cause to be discharged the following described substances, materials, waters, or wastes if it appears likely in the opinion of the Utilities Superintendent that such wastes can harm either the sewers, sewage treatment process, or equipment, have an adverse effect on the receiving stream, or can otherwise endanger life, limb, public property, or constitute a nuisance. In forming his opinion as to the acceptability of these wastes, the Utilities Superintendent will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of

construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant and other pertinent factors. The substances prohibited are:

1. Any liquid or vapor having a temperature higher than one hundred eighty (180°) degrees Fahrenheit (82° degrees C).
2. Any water or waste containing fats, wax, grease, or oils, whether emulsified or not, in excess of one hundred (100) mg/l or containing substances which may solidify or become viscous at temperatures between thirty-two (32°) degrees and one hundred eighty (180°) degrees (0 and 82° C).
3. Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor three fourths (3/4) horsepower (0.76 hp metric) or greater shall be subject to the review and approval of the Utilities 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 Utilities 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 Utilities 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 Utilities Superintendent in compliance with applicable State or Federal regulations.
8. Any waters or wastes having a pH in excess of [9.5].
9. Materials which exert or cause;
  - a. Unusual concentrations of inert suspended solids (such as, but not limited to, Fuller's earth, lime slurries, and lime residues) or 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.
  - d. Unusual volume of flow or concentration of wastes constituting "slugs" as defined herein.
10. Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.
11. Any waters or wastes having;
- a) a five (5) day BOD greater than 300 parts per million by weight or,
  - b) containing more than 350 parts per million by weight of suspended solids, or
  - c) having an average daily flow greater than two (2%) per cent of the average sewage flow of the Municipality, or
  - d) a chlorine requirement greater than demanded by normal sewage as evaluated by the Municipality's consulting engineer shall be subject to the review of the Utilities Superintendent.

Where necessary in the opinion of the Utilities Superintendent, the owner shall provide, at owner's expense, such preliminary treatment as may be necessary to:

- a) reduce the biochemical oxygen demand to 300 parts per million by weight, or
- b) reduce the suspended solids to 350 parts per million by weight, or
- c) control the quantities and rates of discharge of such waters or wastes, or
- d) reduce the chlorine requirement to conform with normal sewage.

Plans, specifications, and other pertinent information relating to proposed preliminary treatment facilities shall be submitted for the approval of the Utilities Superintendent and

no construction of such facilities shall be commenced until said approvals are obtained in writing.

*(Amended by Ord No. 600, 3/08/2011; Ord. No. 632, 9/9/2014)*

**§3-232. DISCHARGE OF HAZARDOUS AND PROHIBITED SUBSTANCES; REJECTION, PRETREATMENT, CONTROL OF DISCHARGE RATE OR USE FEE SURCHARGE.** If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in Section 3-231, and which in the judgment of the Utilities 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 Utilities 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 Section 3-246.

If the Utilities 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 Utilities Superintendent, and subject to the requirements of all applicable codes, ordinances and laws. *(Amended by Ord No. 600, 3/08/2011; Ord. No. 632, 9/9/2014)*

**§3-233. GREASE, OIL AND SAND INTERCEPTORS; WHEN REQUIRED.** Grease, oil, and sand interceptors shall be provided when, in the opinion of the Utilities Superintendent, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand, waste with an unusually high biochemical oxygen demand, 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 Utilities 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 Utilities Superintendent. Any removal and hauling of the collected materials not performed by owner(s)' personnel must be performed by currently licensed waste disposal firms. *(Amended by Ord No. 600, 3/08/2011; Ord. No. 632, 9/9/2014)*

**§3-234. 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 the owner's expense. *(Amended by Ord No. 600, 3/08/2011; Ord. No. 632, 9/9/2014)*

**§3-235. CONTROL MANHOLES/SAMPLING STATIONS; WHEN REQUIRED; INSTALLATION AND MAINTENANCE.** When required by the Utilities Superintendent, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such manhole, when required, shall be accessibly and safely located, and shall be constructed in accordance with plans approved by the Utilities Superintendent. The manhole shall be installed by the owner at his expense, and shall be maintained by him so as to be safe and accessible at all times.*(Amended by Ord No. 600, 3/08/2011; Ord. No. 632, 9/9/2014)*

**§3-236. CONTROL MANHOLES/SAMPLING STATIONS; METHOD.** All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this Article, shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater" published by the American Public Health Association, and shall be determined at the control manhole provided, or upon suitable samples taken at said control manhole. In the event no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb, and property. (The particular analyses involved will determine whether a twenty-four (24) hour composite of all outfalls of a premise is appropriate or whether a grab sample or samples should be taken. Normally, but not always, BOD and suspended solids analyses are obtained from twenty-four (24) hour composites of all outfalls whereas pH's are determined from periodic grab samples.) *(Amended by Ord No. 600, 3/08/2011; Ord. No. 632, 9/9/2014)*

**§3-237. SANITARY SUPPLY SYSTEM; DESTRUCTION OF PROPERTY.** No person or persons shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment which is part of the wastewater facilities. Any person or persons violating this provision shall be subject to immediate arrest under charge of disorderly conduct. *(Amended by Ord No. 600, 3/08/2011; Ord. No. 632, 9/9/2014)*



**§3-238. HAZARDOUS AND PROHIBITED SUBSTANCES; SPECIAL EXCEPTIONS PERMITTED; USE FEE SURCHARGE.** No statement contained in this Article shall be construed as preventing any special agreement or arrangement between the 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. *(Amended by Ord No. 600, 3/08/2011; Ord. No. 632, 9/9/2014)*

**§3-239. COMPLIANCE WITH ARTICLE; INSPECTIONS GENERALLY.** The Utilities Superintendent and other duly authorized employees of the Municipality bearing proper credentials and identification shall be permitted to enter all properties, at any reasonable time, for the purposes of inspection, observation, measurement, sampling, and testing system in accordance with the provisions of this Article. The Utilities Superintendent shall have no authority to inquire into any processes including metallurgical, chemical, oil, refining, ceramic, paper, or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment. *(Amended by Ord No. 600, 3/08/2011; Ord. No. 632, 9/9/2014)*

**§3-240. COMPLIANCE WITH ARTICLE; INSPECTIONS; INJURY LIABILITY.** While performing the necessary work on private properties referred to in section 3-239 above, the Utilities 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 section 3-235. *(Amended by Ord No. 600, 3/08/2011; Ord. No. 632, 9/9/2014)*

**§3-241. COMPLIANCE WITH ARTICLE; INSPECTIONS; EASEMENTS.** The Utilities 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, at any reasonable time, for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the sewage works lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved. *(Amended by Ord No. 600, 3/08/2011; Ord. No. 632, 9/9/2014)*

**§3-242. VIOLATION; NOTICE AND LIABILITY.** Any person found to be violating

any provision of this Article, except Section 3-237, 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.

Any person violating any of the provisions of this Article shall become liable to the Municipality for any expense, loss, or damage occasioned the Municipality by reason of such violation. *(Amended by Ord No. 600, 3/08/2011; Ord. No. 632, 9/9/2014)*

**§3-243. MUNICIPAL SEWER DEPARTMENT; MUNICIPAL POWERS.** The Municipality has the legal authority to enforce its system of user charges, industrial cost recovery charge, and sewer use regulations on all existing or future users of the system whether located inside or outside the Municipal limits. *(Amended by Ord No. 600, 3/08/2011; Ord. No. 632, 9/9/2014)*

**§3-244. SEVERABILITY CLAUSE.** The invalidity of any section, clause, sentence, or provision of this Article shall not affect the validity of any other part of this Article which can be given effect without such invalid part or parts. *(Amended by Ord No. 600, 3/08/2011; Ord. No. 632, 9/9/2014)*

**§3-245. PENAL PROVISION; VIOLATION.** Any person who shall continue any violation beyond the time limit provided in Section 3-242, or pursuant to the authority therein, shall be guilty of a misdemeanor, and on conviction thereof shall be fined in the amount not exceeding one hundred (\$100.00) dollars for each violation. Each twenty-four (24) hour period in which any such violation shall continue shall be deemed a separate offense. *(Amended by Ord No. 600, 3/08/2011; Ord. No. 632, 9/9/2014)*

**§3-246. MUNICIPAL SEWER DEPARTMENT; RATES.** The Mayor and City Council may establish a tariff of sewer rates to consumers based on the amount discharged into the sewer system as measured by water consumption and a minimum charge, and said rates are as follows:

<u>Type of service</u>	<u>Usage charge</u>	<u>Minimum charge</u>
Residential	\$2.00 per 1000 gallons	\$12.00
Commercial	\$2.00 per 1000 gallons	\$13.00

The usage charge shall be based on the user's monthly water consumption; PROVIDED, however, that for residential users monthly water consumption shall mean the average monthly water consumption for the months of November through March preceding, and for commercial users it shall mean the actual consumption for the month. Commercial users may, at their own expense and subject to the approval of the Utilities Superintendent, provide metering of water used which is not discharged into the sewer

system, which usage shall be deducted from total usage prior to computing the bill.

In addition to the base rates established above the Mayor and City Council may from time to time by resolution establish a surcharge to said usage charge or minimum charge. (*Ref. 17-537, 18-503, 19-1404 RS Neb.*) (*Amended by Ord. Nos. 337, 8/5/86; 352, 8/4/87; 436, 12/7/94; 597, 12/8/09; Ord No. 600, 3/08/2011; Ord. No. 632, 9/9/2014*)

### **Article 3. Electrical System**

**§3-301. MUNICIPAL ELECTRICAL SYSTEM; OWNERSHIP.** The Municipality owns and operates the Municipal Electrical System through the Utilities Superintendent. The Governing Body, for the purpose of defraying the cost of the care, management, and maintenance of the Municipal Electrical System may each year levy a tax not exceeding the maximum limit prescribed by State law, on the actual valuation of all real estate and personal property within the corporate limits that is subject to taxation. The revenue from the said tax shall be known as the Electrical Fund and shall remain in the custody of the Municipal Treasurer. The Utilities Superintendent shall have the direct management and control of the Municipal Electrical System and shall faithfully carry out the duties of his office. He shall have the authority to adopt rules and regulations for the safe and efficient management of the Electrical System. (*Ref. 17-902 through 17-904, 17-906, 17-909 RS Neb.*)

**§3-302. MUNICIPAL ELECTRICAL SYSTEM; 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. The rules, regulations, and rates for electric service, hereinafter named, in this Article, 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 said applicant or customer shall constitute a contract between applicant or customer and the Municipality, to which both parties are bound. If customer should violate any of the provisions of said contract or any reasonable rules and regulations that the Governing Body may hereafter adopt, the Utilities Superintendent, or his 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 agent.

**§3-303. MUNICIPAL ELECTRICAL SYSTEM; APPLICATION.** Every person desiring electrical service must make application therefor to the City Clerk as provided in section 3-103.

**§3-304. MUNICIPAL ELECTRICAL SYSTEM; ELECTRICAL SERVICE CONTRACTS.** 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 premise where service is furnished in his name, or if the said premise is destroyed by fire or other casualty, he shall at once inform the Utilities Superintendent who shall cause the electrical service to be shut off from the said premise, if the consumer should fail to give such notice, he shall be

charged for all electricity used on the said premise until the Utilities Superintendent is otherwise advised of such circumstances. *(Ref. 17-902 RS Neb.)*

**§3-305. MUNICIPAL ELECTRICAL SYSTEM; LICENSED ELECTRICIAN.**

Under no circumstances shall connections be made between the wires of the electrical distribution system of this Municipality and the meter of the consumer, except by an employee of the Municipality or a licensed electrician authorized to do so by the Utilities Superintendent. The consumer may have wiring done by any competent licensed electrician from the meter to the points of distribution. All wiring, equipment, and apparatus shall be installed according to the electrical code duly adopted by the Municipality. All installation shall be done under the supervision and strictly in accordance with the rules, regulations, and specifications for such installation prescribed by the Utilities Superintendent and Building Inspector; provided, that such rules, regulations, and specifications have been reviewed and approved by the Governing Body. *(Ref. 17-902 RS Neb.)*

**§3-306. MUNICIPAL ELECTRICAL SYSTEM; INSTALLATION EXPENSE.**

The expense of installation and equipment up to and including the electrical meter shall be paid by the Municipality. The expense of installation and wiring from the meter to the points of distribution shall be the responsibility of the consumer. Maintenance and replacement expense shall be apportioned in the same manner. All underground service shall be in either rigid or Schedule 80 PVC plastic conduit. *(Ref. 17-902 RS Neb.)*  
*(Amended by Ord. No. 555, 7/2/02)*

**§3-307. MUNICIPAL ELECTRICAL SYSTEM; INTERIOR WIRING APPROVED BEFORE CONNECTION IS MADE.**

Under no circumstances shall connections be made with the wires of the City and the wires of the consumer except by an employee or agent of the City. All wires of consumers shall be installed in accordance with the rules of the National Board of Fire Underwriters, and the ordinances of the City of Red Cloud. The City of Red Cloud, Nebraska, shall not be liable in any way for damages from any wiring or motors inside any building.

**§3-308. MUNICIPAL ELECTRICAL SYSTEM; METERS.**

All electrical meters shall be read at least one (1) time each month during which electrical service is used. In the event a meter is broken or otherwise fails to register accurately the use of electricity by any consumer, the six (6) month average of the season one (1) year previous to such breakage shall be used for billing purposes.

**§3-309. MUNICIPAL ELECTRICAL SYSTEM; FEES AND COLLECTIONS.**

The Governing Body 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. The Utilities Superintendent shall bill the consumers and

collect all money received by the Municipality on the account of the Municipal Electrical System. He shall faithfully account for and pay over the same to the Municipal Treasurer all revenue collected by him, taking his receipt therefor in duplicate, filing one (1) with the Municipal Clerk and keeping the other on file in his official records. *(Ref. 17-902 RS Neb.)*

**§3-310. MUNICIPAL ELECTRICAL SYSTEM; MINIMUM RATES.** All electrical consumers shall be liable for the minimum rate provided by ordinance unless and until the consumer shall, by written order direct the Utilities Superintendent to shut off the electricity in which case he shall not be liable thereafter for electrical service until the electricity is turned on again. *(Ref. 17-902, 19-1404 RS Neb.)*

**§3-311. MUNICIPAL ELECTRICAL SYSTEM; BILLS.** Electrical bills shall be due and payable monthly pursuant to Section 3-402.

**§3-312. MUNICIPAL ELECTRICAL SYSTEM; 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 Utilities 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. *(Ref. 17-902 RS Neb.)*

**§3-313. MUNICIPAL ELECTRICAL SYSTEM; BUILDING MOVING.** Should any house or building moving occur or be necessary and it becomes necessary in said work to remove or disturb any of the property or wires of the Municipal Electrical System, the same should not be done except upon written permission received from the Utilities Superintendent, who shall then order paid in advance the actual cost of moving the said 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 said 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 said building or house it becomes apparent that additional expense will be incurred, such additional deposit as deemed necessary may be demanded.

**§3-314. MUNICIPAL ELECTRICAL SYSTEM; 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 Utilities Superintendent.

**§3-315. MUNICIPAL ELECTRICAL SYSTEM; TRIMMING TREES.** Any person desiring to cut or remove trees or branches thereof in close proximity to the lines of the Municipal Electrical System shall, before doing the said work, give reasonable written notice to the Utilities Superintendent and shall follow any and all rules and regulations which he may prescribe for doing such work. It shall be unlawful for any person felling or removing such trees or branches to disrupt or damage the lines without first giving proper notice and receiving permission in writing to do so. Whenever it becomes necessary to protect the lines or property of the Electrical System, the Utilities Superintendent shall have the power to order cut and remove any overhanging branches, or limbs of trees so that the lines will be free and safe.

**§3-316. MUNICIPAL ELECTRICAL SYSTEM; INSPECTIONS.** The Utilities Superintendent or his duly authorized agents shall have free access at any reasonable time to each premise and building to or in which electricity is supplied; provided, that in the event of an emergency, such inspections may take place at any time. (*Ref. 17-902 RS Neb.*)

**§3-317. MUNICIPAL ELECTRICAL SYSTEM; 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 Electrical System. (*Ref. 28-512 RS Neb.*)

**§3-318. MUNICIPAL ELECTRICAL SYSTEM; RECONNECTION CHARGE.** Whenever the electricity shall have been shut off from any premises for any reason provided by this Article and Article 4 of this Chapter, the same shall not be turned on again until payment has been made of all rent due from said premises, and until the removal of the cause for which said electricity was shut off, and until the sum of ten (\$10.00) dollars has been paid to the Superintendent by the customer as a fee for turning the electricity on again.

**§3-319. COGENERATION; PURPOSE.** In order to comply with Sections 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.

**§3-320. COGENERATION; DEFINITIONS.** For the purpose of this Article the following definitions will apply.

COGENERATION FACILITY means 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.

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

**SMALL POWER PRODUCTION FACILITY** means 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.

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

**INTERCONNECTION COSTS** means 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.)

**AVOIDED COSTS** means 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.

**§3-321. COGENERATION; INTERCONNECTIONS WITH QUALIFYING FACILITIES.** 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.

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- under voltage protection; harmonics; synchronization; and isolation.

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.



**§3-322. COGENERATION; RATES FOR SALES OF ELECTRIC ENERGY TO QUALIFYING FACILITIES.** Rates for sales of electric energy to qualifying facilities shall be those current standard rates adopted from time to time by resolution of the Mayor and City Council which apply to other customers of the utility in the same classification(s) of electric service.

**§3-323. COGENERATION; RATES FOR PURCHASES OF ELECTRIC ENERGY FROM QUALIFYING FACILITIES.** Rates for purchases of electric energy from qualifying facilities shall be established by resolution of the Mayor and City Council.

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.

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.

**§3-324. MUNICIPAL ELECTRIC SYSTEM; RATES.** The Mayor and City Council shall have the power at any time by resolution, to adjust or amend rates to be charged for electric energy for light and power purposes. (*Ref. 17-902 RS Neb.*) (*Ord. No. 409, 8/18/93*) (*Amended by Ord. No. 477, 4/1/97*)

#### Article 4. Utilities Generally

**§3-401. UTILITIES GENERALLY; DEPOSIT REQUIRED.** Applicants for any or all utility services provided by the Municipality shall be required to make a deposit prior to connection of utility services, in an amount established from time to time by the Council. When the applicant ceases to require utility services, said deposit shall be refunded to said applicant less any delinquent charges due to the City from the applicant for said utility services; PROVIDED that if the applicant does not return his recycling bins an additional charge may be imposed by the Council and withheld from said utility deposit. (*Ref. 17-537, 18-503, 19-1404 RS Neb.*) (*Amended by Ord. Nos. 352, 8/4/87; 433, 8/2/94*)

**§3-402. UTILITIES GENERALLY; BILLS.** Utility bills shall be a joint bill for all utility services and shall be due and payable monthly at the office of the Municipal Clerk. The monthly period for computing utility rentals shall commence on the first day of the month.

All utility meters shall be read by the Superintendent or his agent between the 15th day of the month during which the utility service is used and the first day of the succeeding month; provided however, water use may be estimated during the winter months when necessary due to cold conditions. The Superintendent or his duly authorized agents who are charged with the duty of reading utility meters, shall, as said utility meters are read, deliver the amount of utilities uses to the Clerk or bookkeeper who shall compute all utility bills.

All bills for utilities service shall be due on the first day of the succeeding month, as aforesaid, and shall be payable monthly at the office of the Clerk or bookkeeper of the City of Red Cloud. Said water bills are due and payable as herein provided without any further notice to the consumer. If utility bills are not paid on or before the 10th day of each month after the same are due, as aforesaid, such bill shall be deemed delinquent. Upon being deemed delinquent such bill shall be subject to a delinquency fee of ten percent (10%) of the total bill and shall be subject to disconnection pursuant to section 3-403. (*Ref. 17-537, 18-503, 19-904 RS Neb.*) (*Amended by Ord. No. 377, 2/6/90*)

**§3-403. UTILITIES GENERALLY; DISCONTINUANCE OF SERVICE. NOTICE PROCEDURE.** The Municipality shall have the right to discontinue services and remove its properties if the charges for such services are past due. Before any termination. the Department of Utilities shall first give notice by first-class mail or in person to any domestic subscriber whose service is proposed to be terminated. If notice is given by first-class mail, such mail shall be conspicuously marked as to its importance. Service shall not discontinue for at least seven (7) days. Weekends and holidays shall be excluded from the seven (7) days. As to any subscriber who has previously been identified as a welfare recipient to the company by the Department of Health and Human Services, such notice shall be by certified mail and notice of such proposed termination shall be given to the Department.

The notice shall contain the following information:

1. The reason for the proposed disconnection;
2. A statement of the intention to disconnect unless the domestic subscriber either pays the bill or reaches an agreement with the 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 any inquiry or complaint;
5. The domestic subscriber's right, prior to 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 (5) days of receiving notice under this section and will prevent the disconnection of the utility's service for a period of thirty (30) days from such filing. Only one (1) postponement of disconnection shall be allowed under this subdivision 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 board of directors or administrative board of any utility.

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

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

This section shall not apply to any disconnection or interruptions of services made necessary by the utility for reasons of repair or maintenance or to protect the health and safety of the domestic subscriber or of the general public. (*Ref. 70-1605 et seq. RS Neb.*)(*Amended by Ord. Nos. 493, 8/5/97; 512, 4/7/98*)

**§3-404. UTILITIES GENERALLY; DIVERSION OF SERVICES; PENALTY.** The Municipality may bring a civil action for damages against any person who commits, authorizes, solicits, aids, abets, or attempts (a) bypassing, (b) tampering, or (c) unauthorized metering when such act results in damages to a Municipal Utility. A Municipality may bring a civil action for damages pursuant to this section against any person receiving the benefit of utility service through means of bypassing, tampering or unauthorized metering.

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

- A. The amount of actual damage or loss if the amount of the damage or loss is susceptible of reasonable calculation; or
- B. Liquidated damages of seven hundred fifty dollars (\$750.00) if the amount of actual damage or loss is not susceptible of reasonable calculation.

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

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

other person for utility services to the premises.

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

The remedies provided by this section shall be deemed to be supplemental and additional to powers conferred by existing laws and the remedies provided in this section are in addition to and not in limitation of any other civil or criminal statutory or common law remedies. *(Ref. 86-331.01 through 86-331.04 RS Neb.)*

**§3-405 UTILITIES CONTRACT GENERALLY; LIEN.** All applicants for utility service shall enter into a contract for such service in the form approved by the council from time to time. In addition to all other remedies, at law or in equity, if a customer, whether owner or tenant, shall for any reason remain indebted to the Municipality for utilities service furnished, such amount due, together with any rents and charges in arrears shall be considered a delinquent utility rent which is hereby declared to be a lien upon the real estate for which the same was furnished. The Municipal Clerk shall immediately notify by first class mail or cause to be notified by personal service, the owner of the premises or their agents whenever their tenants or lessees request a disconnect or are delinquent in the payment of the utilities rent. It shall be the duty of the Utilities Superintendent to regularly report to the Governing Body a list of all unpaid accounts due for utilities service. Such report shall first be placed on the agenda for the meeting and a notice of hearing thereon sent by first class mail to the customer and owner. The report shall be examined, and if approved by the Governing Body, the contracts shall be filed in the real estate records of Webster County, Nebraska, and shall thereupon become a lien upon the real estate served to be collected in any manner provided by law. If the Governing Body so decides, the list shall be certified by the Municipal Clerk to the County Clerk to be collected as a special tax in the manner provided by law. *(Ref. 17-538, 17925.01, 18-503 RS Neb.; Amended by Ordinance No 584, 7/3/07)*

**§3-406. UTILITIES GENERALLY; SERVICE TO NONRESIDENTS.** The Municipality shall not supply utility service to any person outside the corporate limits without special permission from the Governing Body; provided, the cost of laying mains, lines, service pipe and supply pipe shall be paid by the consumer in an amount approved by the Utilities Superintendent and approved by the Governing Body; provided further, nothing herein shall be construed to obligate the Municipality to provide utility service to nonresidents; and provided further, nonresidents shall be required to pay any additional rates for service that the Governing Body deems necessary. *(Ref. 17-537, 18-503, 19-2701 RS Neb.)*

**§3-407. UTILITIES GENERALLY; DIVERSION OF SERVICES; METER**

**TAMPERING, UNAUTHORIZED RECONNECTION, PROHIBITED;  
EVIDENCE.**

(1) Any person who connects any instrument, device, or contrivance with any wire supplying or intended to supply electricity or electric current or connects any pipe or conduit supplying water, without the knowledge and consent of the Municipality, in such 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 provided for measuring or registering the amount or quantity passing through it, and any person who knowingly uses or knowingly permits the use of electricity, electric current, or water obtained in the above mentioned unauthorized ways, shall be deemed guilty of an offense.

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

(3) When electrical or water service has been disconnected pursuant to sections 70-1601 to 70-1615 RS Neb. or section 3-403 of this Code, any person who reconnects such service without the knowledge and consent of the Municipality shall be deemed guilty of an offense.

(4) Proof of the existence of any wire, pipe, or conduit connection or reconnection or of any injury, alteration, or obstruction of a meter, as provided in this section, shall be taken as prima facie evidence of the guilt of the person in possession of the premises where such connection, reconnection, injury, alteration, or obstruction is proved to exist. *(Ref. 86-329 through 86-331 RS Neb.) (Ord. No. 468, 11/5/96)*

## Article 5. Fire Department

**§3-501. MUNICIPAL FIRE DEPARTMENT; OPERATION AND FUNDING.** The Municipality operates the Municipal Fire Department through the Municipal Fire Chief and Firemen. The Governing Body, for the purpose of defraying the cost of the management, maintenance, and improving the Fire Department may each year levy a tax not exceeding the maximum limits prescribed by State law, on the actual valuation of all real estate and personal property within the Municipality that is subject to taxation. The revenue from the said tax shall be known as the Fire Department Fund. The Fund shall be at all times in the possession of the Municipal Treasurer. (*Ref. 17-147, 17-718, 17-953 RS Neb.*)

**§3-502. MUNICIPAL FIRE DEPARTMENT; FIRE CHIEF.** The Fire Chief shall manage the Fire Department and it shall be his duty to inform the Governing Body when any of the fire engines, hose, ladders, or other apparatus needs repair. Upon the written consent and directive of the Governing Body, the Fire Chief shall cause the repair, improvement, or maintenance of the said equipment and shall personally supervise and approve of the same. It shall be the duty of the Fire Chief to come before the Governing Body at the regular meeting in January of each year to give an annual report to the Governing Body of the general condition and the proposed additions or improvements recommended by him.

**§3-503. MUNICIPAL FIRE DEPARTMENT; MEMBERSHIP.** The Fire Chief shall appoint no more than twenty-five (25) members for each Fire Department Company subject to the review and approval of the Governing Body. All vacancies shall be filled in this manner. Said members shall be considered to be employees of the Municipality for the purpose of providing them with workmen's compensation and other benefits. Each member shall be entitled to a term life insurance policy in the amount of at least five thousand dollars (\$5,000.00) for death from any cause to age sixty-five (65) and such policy shall, at the option of the individual fireman, be convertible to a permanent form of life insurance at age sixty-five (65): provided, that the firemen covered are actively and faithfully performing the duties of their position. The Fire Department shall consist of so many members as may be decided by the Governing Body. The members may organize themselves in any way they may decide, subject to the review of the Governing Body. They may hold meetings and engage in social activities with the approval of the Governing Body. The secretary shall upon request keep a record of all meetings and shall make a report to the Governing Body of all meetings and activities of the Fire Department. The Governing Body may, for services rendered, compensate or reward any member or members of the Fire Department in an amount set by resolution. All members of the Fire Department shall be subject to such rules and regulations, and shall perform such duties, as may be prescribed or required of them by the Fire Chief or the Governing Body. The members of the Fire Department shall, during the time of a fire or great public danger,

have and exercise the powers and duties of policemen and shall have full power and authority to arrest all persons guilty of any violation of the Municipal Code, or the laws of the State of Nebraska.

Provided, however, Volunteer Firefighters and rescue squad members testifying as a witness in connection with his or her officially assigned duties in that capacity alone shall not be deemed employees of the State of Nebraska or of the Municipality. (*Ref. 33 139.01, 35-101 through 35-103, 35-108 RS Neb.*) (*Amended by Ord. No. 326, 11/5/85*)

**§3-504. MUNICIPAL FIRE DEPARTMENT; RECORDS.** The Fire Chief shall keep or cause to be kept a record of all meetings of the Fire Department, the attendance record of all members, a record of all fires, and shall make a full report of such records to the Municipal Clerk during the last week in April each year. The record of any fire shall include the cause, origin, circumstances, property involved, and whether criminal conduct may have been involved. In the event of sizable property damage, he shall include the information of whether such losses were covered by insurance, and if so, in what amount. All records shall be available to the public at any reasonable time.

**§3-505. MUNICIPAL FIRE DEPARTMENT; FIRES.** It shall be the duty of the Fire Department to use all proper means for the extinguishment of fires; to protect property within the Municipality; and to secure the observance of all ordinances, laws, and other rules and regulations with respect to fires and fire prevention.

**§3-506. MUNICIPAL FIRE DEPARTMENT; DISTANT FIRES.** Upon the permission of the Mayor or Fire Chief, or pursuant to any agreement with a Rural Fire District for mutual aid and protection, such fire equipment of the Municipality as may be designated by the Governing Body as rural equipment may be used beyond the corporate limits to extinguish reported fires. (*Ref. 35-530 RS Neb.*)

**§3-507. MUNICIPAL FIRE DEPARTMENT; HOSE TESTED.** All fire hose shall be pressure tested at least two (2) times each year.

**§3-508. MUNICIPAL FIRE DEPARTMENT; INSPECTIONS.** It shall be the duty of the Fire Chief, when directed to do so by the Governing Body, to inspect or cause to be inspected by Fire Department officers, members, or some other official as often as may be necessary, but not less than two (2) times a year in outlying districts and four (4) times a year within the fire limits, all buildings, premises and public thoroughfares, except the interiors of private dwellings, for the purpose of ascertaining and causing to be corrected any conditions liable to create a fire hazard. The inspection shall be of the storage, sale and use of flammable liquids, combustibles, and explosives; electric wiring and heating; and the means and adequacy of exits, in case of fire in schools, churches, hotels, halls, theaters, factories, hospitals, and all other buildings in which numbers of persons congregate from time to time for any purpose whether publicly or privately owned; the design,



construction, location, installation, and operation of equipment for storing, handling, and utilizing of liquefied petroleum gases, specifying the odorization of said gases and the degree thereof; and chemicals, prozylin plastics, nitrocellulose films, or any other hazardous material that may now or hereafter exist. (*Ref. 81-512 RS Neb.*)

**§3-509. MUNICIPAL FIRE DEPARTMENT; NOTICE OF VIOLATION.** Upon the finding that the Municipal Code has been violated, the Fire Chief shall notify, or cause to be notified, the owner, occupant, or manager of the premise where a violation has occurred. Notice may be made personally or by delivering a copy to the premise and affixing it to the door of the main entrance of the said premise. Whenever it may be necessary to serve such an order upon the owner, such order may be served personally, or by mailing a copy to the owner's last known post office address if the said owner is absent from the jurisdiction. Any such order shall be immediately complied with by the owner, occupant, or manager of the premise or building. The owner, occupant, or manager may, within five (5) days after such order by the Chief of the Fire Department or his agent, appeal the order with the Governing Body requesting a review and it shall be the duty of the Governing Body to hear the same within not less than five (5) days nor more than ten (10) days from the time when the request was filed in writing with the Municipal Clerk. The Governing Body shall then affirm, modify, or rescind the said order as safety and justice may require and the decision shall then be final, subject only to any remedy which the aggrieved person may have at law or equity. The said order shall be modified or rescinded only where it is evident that reasonable safety exists and that conditions necessitate a variance due to the probable hardship in complying literally with the order of the Fire Chief. A copy of any decision so made shall be sent to both the Fire Chief and the owner, occupant, or manager making the appeal.

**§3-510. MUNICIPAL FIRE DEPARTMENT; IMPERSONATING FIREMEN.** It shall be unlawful for any person to falsely impersonate a fireman by wearing a badge or other apparel usually worn by a fireman for the purpose of obtaining any benefit whatsoever. Nothing herein shall be construed to prohibit the theatrical representation of a fireman for bona fide entertainment purposes when there is no intent to defraud. (*Ref. 28-609 RS Neb.*)

**§3-511. MUNICIPAL FIRE DEPARTMENT; POWER OF ARREST.** The Municipal Fire Chief or the assistant Fire Chief shall have the power during the time of a fire and for a period of thirty-six (36) hours after its extinguishment, to arrest any suspected arsonist, or other person hindering or resisting the fire fighting effort, or any person who conducts himself in a noisy or disorderly manner. The said officials shall be severally vested with the usual powers and authority of Municipal Policemen to command all persons to assist them in the performance of their duties.

**§3-512. MUNICIPAL FIRE DEPARTMENT; FIRE INVESTIGATION.** It shall be

the duty of the Fire Department to investigate or cause to be investigated, the cause, origin, and circumstances of every fire occurring in the Municipality in which property has been destroyed or damaged in excess of fifty dollars (\$50.00). All fires of unknown origin shall be reported, and such officers shall especially make an investigation and report as to whether such fire was the result of carelessness, accident, or design. Such investigation shall be begun within two (2) days of the occurrence of such fire and the State Fire Marshal shall have the right to supervise and direct the investigation whenever he deems it expedient or necessary. The officer making the investigation of fires occurring within the Municipality shall immediately notify the State Fire Marshal and shall, within one (1) week of the occurrence of the fire, furnish him with a written statement of all the facts relating to the cause and origin of the fire. and such further information as he may call for. (*Ref. 81-506 RS Neb.*)

## Article 6. Police Department

**§3-601. POLICE DEPARTMENT; DUTIES.** The Police Department shall consist of the Chief of Police, or the County Sheriff as Chief of Police ex officio, and such further number of regular policemen as may be duly ordered by resolution of the Council. The Chief of Police shall, subject to the direction of the Mayor, have control and management of all matters relating to the Police Department, its officers and members, and shall have the custody and control of all property and books belonging to the department. He shall devote his whole time to the municipal affairs, interests of the Municipality, and to the preservation of peace, order, safety, and cleanliness thereof. The Department shall execute and enforce all laws and also the orders of the Mayor. It shall be the duty of the Department to protect the rights of persons and property. There shall be a proper police force at all fires. The Department shall take notice of all nuisances, impediments, obstructions, and defects in the streets, avenues, alleys, business places, and residences of the Municipality. The Department shall execute, or cause to be executed, the processes issued and shall cause all persons arrested to be brought before the proper court for trial as speedily as possible. The Chief of Police and all regular and special policemen shall become thoroughly conversant with the laws of the Municipality, and shall see that the same are strictly enforced and shall make sworn complaints against any person or persons for violation of the same.

**§3-602. POLICE DEPARTMENT; RESERVE OFFICER BOND.** No appointment of a law enforcement reserve officer shall be valid until a bond in the amount of two thousand (\$2,000.00) dollars, payable to the City, has been filed with the Municipal Clerk by the individual appointed, or a blanket surety bond arranged and paid for by the Governing Body and bonding all such officers of the Governing Body has been filed. Such bonds shall be subject to the provisions of Chapter 11, Article I, Nebraska Revised Statutes. (*Ref. 81-1444 RS Neb.*) (*Ord. No. 334, 10/7/86*)

**§3-603. POLICE DEPARTMENT; ARREST AND ENFORCEMENT JURISDICTION.** (1) Every Municipal law enforcement officer shall have the power and authority to enforce the laws of this state and the Municipality or otherwise perform the functions of that office anywhere within his or her primary jurisdiction. Primary jurisdiction shall mean the geographic area within territorial limits of the Municipality.

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

- (a) Any Municipal law enforcement officer, if in a fresh attempt to apprehend a person suspected of committing a felony, may follow such person into any other jurisdiction in this state and there arrest and detain such person and return such person to the officer's primary jurisdiction;
- (b) Any Municipal law enforcement officer, if in a fresh attempt to apprehend a person suspected of committing a misdemeanor or a traffic infraction, may follow such person anywhere in an area within twenty-five (25) miles of the boundaries of the officer's primary jurisdiction and there arrest and detain such person and return such person to the officer's primary jurisdiction;
- (c) Any Municipal law enforcement officer shall have such enforcement and arrest and detention authority when responding to a call in which a local, state, or federal law enforcement officer is in need of assistance. A law enforcement officer in need of assistance shall mean (i) a law enforcement officer whose life is in danger or (ii) a law enforcement officer who needs assistance in making an arrest and the suspect (A) will not be apprehended unless immediately arrested, (B) may cause injury to himself or herself or others or damage to property unless immediately arrested, or (C) may destroy or conceal evidence of the commission of a crime; and
- (d) If the Municipality, under the provisions of the Interlocal Cooperation Act, enters into a contract with any other municipality or county for law enforcement services or joint law enforcement services, law enforcement personnel may have such enforcement authority within the jurisdiction of each of the participating political subdivisions if provided for in the agreement. Unless otherwise provided in the agreement, the Municipality shall provide liability insurance coverage for its own law enforcement personnel as provided in section 13-1802 RS Neb.

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

subsection. (*Ref. 29-215, 81-829.65 RS Neb.*) (*Ord. No. 445, 7/6/95*) (*Amended by Ord. No. 529, 8/4/98*)

## **Article 7. Municipal Parks**

**§3-701. MUNICIPAL PARKS; OPERATION AND FUNDING.** The Municipality owns and operates the Municipal Parks and other recreational areas through the Board of Park Commissioners. The Governing Body, for the purpose of defraying the cost of the care, management, and maintenance of the Municipal Park may each year levy a tax not exceeding the maximum limit prescribed by State law, on the actual valuation of all real estate and personal property within the corporate limits that is subject to taxation. The revenue from the said tax shall be known as the Park Fund and shall remain in the custody of the Municipal Treasurer. The Board shall have the authority to adopt rules and regulations for the efficient management of the Municipal Parks and other recreational areas of the Municipality. The Board shall not enter into a contract of any nature which involves an expenditure of funds, except for ordinary operating expenses, unless the contract has been approved by resolution of the majority of the members of the Governing Body prior to the contractual agreement. *(Ref. 17-948 through 17-952 RS Neb.)*

**§3-702. MUNICIPAL PARKS; INJURY TO PROPERTY.** It shall be unlawful for any person to maliciously or willfully cut down, injure, or destroy any tree, plant, or shrub. It shall be unlawful for any person to injure or destroy any sodded or planted area, or injure or destroy any building, structure, equipment, fence, bench, table, or any other property of the Municipal Parks and recreational areas. No person shall commit any waste on or litter the Municipal Parks or other public grounds.

**§3-703. MUNICIPAL PARK; HOURS.** It shall be unlawful for any person to be in the Red Cloud City Park between the hours of 11:00 o'clock P.M. and 7:00 o'clock A.M. except during the progress of activities sponsored by local service or community organizations. *(Ref. 17-949 RS Neb.)*

## **Article 8. Swimming Pool**

**§3-801. MUNICIPAL SWIMMING POOL; OPERATION AND FUNDING.** The Municipality owns and manages the Municipal Swimming Pool. The Governing Body, for the purpose of defraying the cost of the management, maintenance, and improvements of the Swimming Pool may each year levy a tax not exceeding the maximum limit prescribed by State law, on the actual valuation of all real estate and personal property within the Municipality that is subject to taxation. The revenue from the said tax shall be known as the Swimming Pool Fund and shall include all gifts, grants, deeds of conveyance, bequests, or other valuable income-producing personal property and real estate from any source for the purpose of endowing the Swimming Pool. The Swimming Pool Fund shall at all times be in the custody of the Municipal Treasurer. The Board of Park Commissioners shall manage the Swimming Pool. The Board shall have the power and authority to hire and supervise the Swimming Pool Manager and such employees as they may deem necessary and shall pass such rules and regulations for the operation of the Swimming Pool as may be proper for its efficient operation. All actions by the Board shall be under the supervision and control of the Governing Body. (*Ref. 17-948, 17-951, 17-952 RS Neb.*)

**§3-802. MUNICIPAL SWIMMING POOL; ADMISSION CHARGE.** The Board of Park Commissioners may, for the purpose of defraying the expenses involved in maintaining, improving, managing, and beautifying the Swimming Pool, make a reasonable admission charge for the use by any person of the Municipal Swimming Pool. The said charges shall be on file at the office of the Municipal Clerk and shall also be posted in a conspicuous place at the Municipal Swimming Pool for public inspection. Such rates may be structured for classes of persons in a reasonable manner; Provided, that nothing herein shall be construed to permit or allow discrimination on the basis of race, creed, color, or national origin in the classification of persons for admission charges. (*Ref. 17-949 RS Neb.*)

**§3-803. MUNICIPAL SWIMMING POOL; RENTALS.** The Board of Park Commissioners shall have the authority to rent the Municipal Swimming Pool to such organizations and other persons as they may in their discretion see fit, subject to the review of the Governing Body. The Board shall prescribe rules and regulations for such rentals and shall require an appropriate number of qualified lifeguards to be in attendance during the rental period. Such fees and other costs shall be on file at the office of the Municipal Clerk and posted in a conspicuous place at the Municipal Swimming Pool. (*Ref. 17-949 RS Neb.*)

**§3-804. MUNICIPAL SWIMMING POOL; RULES AND REGULATIONS.** The Board of Park Commissioners shall have the power and authority to enact bylaws, rules, and regulations for the protection of those using the Swimming Pool and for the efficient management thereof. They may provide suitable penalties for the violation of such by-

laws, rules, and regulations subject to the review and supervision of the Governing Body.  
(*Ref. 17-949 RS Neb.*)



**Article 9. Library**

**§3-901. PUBLIC LIBRARY; ESTABLISHMENT; TAX; LIBRARY FUND.** The Municipality owns and manages the Municipal Library through the Library Board. The Governing Body, for the purpose of defraying the cost of the management, purchases, improvements and maintenance of the Library may each year levy a tax not exceeding the maximum limit prescribed by State law, on the actual valuation of all real estate and personal property within the Municipality that is subject to taxation. The revenue from said tax shall be known as the Library Fund. *(Ref. 51-201, 51-202, 51-211 RS Neb.) (Amended by Ord. No. 506, 8/5/97)*

**§3-902. PUBLIC LIBRARY; FUND; DISBURSEMENTS.** All taxes levied or collected and all funds donated or in any way acquired for the erection, maintenance, or support of any public library shall be kept for the use of the library, separate and apart from all other funds of the city, and shall be drawn upon and paid out by the treasurer of the city upon voucher or claims signed by the president of the library board and authenticated by the secretary of such board, and shall not be used or disbursed for any other purpose or in any other manner. *(Ref. 51-207, 51-209 RS Neb.) (Amended by Ord. No. 506, 8/5/97)*

**§3-903. LIBRARY BOARD; BYLAWS, RULES, AND REGULATIONS.** The library board shall have the power to make and adopt such bylaws, rules and regulations for its own guidance and for the government of the library and reading room as it may deem expedient, not inconsistent with other sections of this Article. *(Ref. 51-205 RS Neb.) (Amended by Ord. No. 506, 8/5/97)*

**§3-904. LIBRARY BOARD; FUNDS; BUILDINGS; CUSTODY AND CONTROL.** The library board shall have exclusive control of expenditures, of all money collected or donated to the credit of the library fund, of the renting and construction of any library building, and the supervision, care and custody of the grounds, rooms or buildings constructed, leased or set apart for that purpose. *(Ref. 51-207 RS Neb.) (Amended by Ord. No. 506, 8/5/97)*

**§3-905. LIBRARY BOARD; GENERAL POWERS AND DUTIES.** The library board shall have the power to erect, lease, or occupy an appropriate building for the use of such library and to appoint a suitable librarian and assistants, to fix their compensation, and to remove such appointees at pleasure. It shall have the power to establish rules and regulations for the government of such library as may be deemed necessary for its preservation and to maintain its usefulness and efficiency. It shall have the power to fix and impose, by general rules, penalties and forfeitures for trespasses upon or injury to the library grounds, rooms, books, or other property, for failure to return any book, or for violation of any bylaw, rule, or regulation and to fix and impose reasonable fees, not to

exceed the library's actual cost, for nonbasic services. The board shall have and exercise such power as may be necessary to carry out the spirit and intent of this Article in establishing and maintaining a public library and reading room. *(Ref. 51-211 RS Neb.) (Amended by Ord. No. 506, 8/5/97)*

**§3-906. MUNICIPAL LIBRARY; USE AND PURPOSE.** Except as provided in section 3-905, every library and reading room supported by public tax shall be forever free to the use of the inhabitants of the city maintaining such library, subject always to such reasonable regulations as the library board may adopt to render such library of the greatest use to the inhabitants of the city. The board may exclude from the use of the library and reading rooms any person who willfully violates or refuses to comply with rules and regulations established for the government thereof. *(Ref. 51-212 RS Neb.) (Amended by Ord. No. 506, 8/5/97)*

**§3-907. LIBRARY BOARD; ANNUAL REPORT.** The library board shall, on or before the second Monday in February in each year, make a report to the City Council of the condition of its trust on the last day of the prior fiscal year. The report shall show all money received and credited or expended; the number of materials held, including books, video and audio materials, software programs, and materials in other formats; the number of periodical subscriptions on record, including newspapers; the number of materials added and the number withdrawn from the collection during the year; the number of materials circulated during the year; and other statistics, information, and suggestions as the library board may deem of general interest or as the City Council may require. The report shall be verified by affidavit of the president and secretary of the library board. *(Ref. 51-213 RS Neb.) (Amended by Ord. Nos. 506, 8/5/97; 568, 1/4/05)*

**§3-908. PENALTIES; ACTION TO RECOVER; DISPOSITION OF FUNDS COLLECTED.** Penalties imposed or accruing by any bylaw or regulation of the library board and any court costs and attorney's fees may be recovered in a civil action before any court having jurisdiction, such action to be instituted in the name of the library board of the city. Money, other than any court costs and attorney's fees, collected in such actions shall be forthwith placed in the treasury of the city library fund. Attorney's fees collected pursuant to this section shall be placed in the treasury of the city, and credited to the budget of the city. *(Ref. 51-214 RS Neb.) (Amended by Ord. No. 506, 8/5/97)*

**§3-909. PUBLIC LIBRARY; DONATIONS; LIBRARY BOARD MAY ACCEPT.** Any person may make donation of money, lands or other property for the benefit of any public library. The title to property so donated may be made to and shall vest in the library board of such library and their successors in office, and the board shall thereby become the owners thereof in trust to the uses of the public library of the city. *(Ref. 51-215 RS Neb.) (Amended by Ord. No. 506, 8/5/97)*

**§3-910. REAL ESTATE; SALE AND CONVEYANCE; CONDITIONS.** The library board may, by resolution, direct the sale and conveyance of any real estate owned by the library board or by the public library, which is not used for library purposes, or of any real estate so donated or devised to the library board or to the public library upon such terms as the library board may deem best. Before any such sale is made the library board shall advertise such sale for three weeks in a legal newspaper published or, if none is published, of general circulation in the city in which the public library is situated. and such notice shall set out the time, place, terms, manner of sale, legal description of such real estate, and the right to reject any and all bids. If such bid or bids have not been rejected, then the real estate shall be sold to the highest bidder for cash, and the chairperson of the library board, upon resolution of the library board directing him or her so to do, shall convey such real estate to the purchaser of such real estate upon his or her payment of his or her bid. If a remonstrance against such sale signed by thirty percent of the electors of such city at the last regular city election is filed with the governing body of such city, or county three or more days prior to the day set for sale, such property shall not then, nor within one year thereafter, be sold. (*Ref. 51-216 RS Neb.*) (*Ord. No. 506, 8/5/97*)

**§3-911. PRIVATE AND ASSOCIATE LIBRARIES; DEPOSIT AND USE; AUTHORIZED; REQUIREMENTS.** The library board shall have power to authorize any circulating library, reading matter, or work of art belonging to any private person, association or corporation, to be deposited in the public library rooms, to be drawn or used outside of the rooms only on payment of such fee or membership as the person, corporation or association owning the same may require. Deposits may be removed by the owner thereof at pleasure, but the books or other reading matter so deposited in the rooms of any such public library shall be separately and distinctly marked and kept upon shelves apart from the books of the public city or town library. Every such private or associate library or other property so deposited in any public library, while so placed or remaining, shall, without charge, be subject to use and reading within the library room by any person who is an inhabitant of such city or town and entitled to the use of the free library. (*Ref. 51-219 RS Neb.*) (*Ord. No. 506, 8/5/97*)

**Article 10. Cemetery**

**§3-1001. MUNICIPAL CEMETERY; OPERATION AND FUNDING.** The Municipality owns and manages the Municipal Cemetery through the Cemetery Board. The Governing Body, for the purpose of defraying the cost of the care, management, maintenance, and beautification of the Cemetery may each year levy a tax not exceeding the maximum limit prescribed by State law, on the actual valuation of all real estate and personal property within the Municipality that is subject to taxation. The revenue from the said tax shall be known as the Cemetery Fund and shall include all gifts, grants, deeds of conveyance, bequests, money, stocks, bonds, or other valuable income-producing personal property and real estate from any source for the purpose of endowing the Cemetery. The Cemetery Fund shall at all times be in the custody of the Municipal Treasurer. The Board shall have the power and authority to hire and supervise such employees as they may deem necessary and to pass such rules and regulations for the operation of the Cemetery as may be proper for its efficient operation. All actions by the Board shall be under the supervision and control of the Governing Body. *(Ref 12-301 through 12-403 RS Neb.)*

**§3-1002. MUNICIPAL CEMETERY; SEXTON.** The Cemetery Board, subject to the approval of the Governing Body, shall have the authority to appoint a Sexton who shall perform such duties and make such reports as the Cemetery Board shall direct. It shall be the duty of the Sexton, upon receiving a burial permit to locate and direct the party named in the permit to the lot mentioned therein and to dig and excavate, or cause the same to be dug or excavated, in compliance with the rules and regulations of the Cemetery Board. *(Ref. 12-403 RS Neb.)*

**§3-1003. MUNICIPAL CEMETERY; CONVEYANCE OF LOTS.** The Governing Body may convey cemetery lots by Certificate signed by the Mayor, and countersigned by the Municipal Clerk under the Municipal Seal specifying that the person to whom the same is issued is the owner of the lot described therein by number for the purpose of interment. The said Certificate shall give a right in fee simple to the proprietor, his heirs, and assigns. The Certificate shall then be recorded in the office of the County Clerk. *(Ref. 17-941 RS Neb.)*

**§3-1004. MUNICIPAL CEMETERY; FORFEITURE OF LOTS.** If, for three (3) consecutive years, all charges and liens are not paid by the holders of the Lot Certificates, the said Certificates shall be declared forfeited and subject to resale. All Certificates sold shall contain a forfeiture clause to the effect that if no interment is made on the said lot and all liens paid, the Certificate and the rights under the same may, at the option of the Cemetery Board, with the sanction of the Governing Body, be declared null and void and the lot shall be subject to resale. *(Ref. 17-938 RS Neb.)*

**§3-1005. MUNICIPAL CEMETERY; LOT TRANSFERS.** Any person who wishes

to transfer a certificate may do so by surrendering the original certificate to the Municipal Clerk, who shall issue a new certificate upon the receipt of the recording fee set by resolution of the Governing Body.

**§3-1006. MUNICIPAL CEMETERY; PERPETUAL CARE.** The Municipal Treasurer shall allocate and set apart a percentage of the entire amount paid for lots or burial spaces if the said lots or burial spaces are to be endowed with perpetual care. The fund shall be permanent in nature, and as it accumulates shall be invested in such interest bearing securities as are authorized by State law. The income earned thereon shall be used solely for the purposes of perpetual care for the Cemetery lots. Any lot owner who shall not have, prior to the purchase of his lot, endowed his holdings with perpetual care, may do so by paying to the Secretary of the Cemetery Board such sum of money as the Board may in each case fix and determine. Thereafter, the owner shall not be liable for the payment of an annual maintenance assessment.

**§3-1007. MUNICIPAL CEMETERY; BURIAL PERMIT.** All persons desiring to bury a deceased person shall first be required to file a completed death certificate with the Registrar of the County before any body may be buried in the Municipal Cemetery. If it is impossible to complete the certificate of death within the legal period of time prescribed by State law, the funeral director shall notify the Registrar and obtain his written approval before the deceased person may be buried in the Municipal Cemetery. The burial permit so issued by the Registrar shall then be filed with the Municipal Clerk. It shall be unlawful for the Sexton, or other person, to allow the interment of a body without first receiving such permit. The burial permit shall then be countersigned and dated by the Sexton. The interment of any body shall be performed under the direct supervision of a licensed funeral director. The applicant shall also file with the burial permit an application containing the name, age, sex, race, and cause of death of the deceased person for the records of the Cemetery Board. Upon completion of the requirements herein, the Municipal Clerk shall then issue a Municipal Burial Permit which shall entitle the applicant to bury a deceased person in the Municipal Cemetery. In the event that the removal of the body of any deceased person is requested the Municipal Clerk shall issue no permit until the applicant shall have first complied with the laws of the State of Nebraska with respect to such disinterment. (*Ref. 71-605 RS Neb.*)

**§3-1008. MUNICIPAL CEMETERY; BURIAL OF INDIGENTS.** Within the Municipal Cemetery there shall be included a plot of ground which shall be available for the free burial of indigents and unknown travelers who may die while they are within the Municipality.

**§3-1009. MUNICIPAL CEMETERY; LOT CURBING.** It shall be hereafter unlawful for the owner of any lot to construct, maintain, or suffer to remain any curbing around any lot or burial space therein of a height greater than one (1") inch.

**§3-1010. MUNICIPAL CEMETERY; SHRUBS AND TREES.** It shall be unlawful, without the written permission of the Cemetery Board, to plant, maintain, or suffer to remain on any Cemetery lot a shrub or tree attaining a height of more than four feet (4').

**§3-1011. MUNICIPAL CEMETERY; MONUMENTS.** Persons desiring to erect monuments, tombstones, or other structures shall first procure a permit from the Municipal Clerk. The Cemetery Board shall review all such applications and shall give written approval for any permit prior to the issuance by the Municipal Clerk of the said permit.

**§3-1012. MUNICIPAL CEMETERY; GRAVE DEPTH.** Graves shall not be less than six feet (6') deep; provided, nothing herein shall be construed to prohibit the use of mausoleums or other recognized methods of interring deceased persons if such a burial procedure is approved by the Cemetery Board.

**§3-1013. MUNICIPAL CEMETERY; DESTRUCTION OF PROPERTY.** Any person who shall willfully destroy, mutilate, deface, injure, or remove any tomb, monument, or gravestone placed in the Cemetery, or any fence, railing, or other work for the protection or ornamentation of the Cemetery, or who shall willfully destroy, cut, break, or injure any tree, shrub, or plant shall be deemed to be guilty of a misdemeanor. (*Ref. 28-512 RS Neb.*)

**§3-1014 MUNICIPAL CEMETERY; CASKET REQUIRED.** No burial permit shall be issued unless or until arrangements are made for burial in a casket. (*Ref. 17-943 RS Neb.*)

**§3-1015. MUNICIPAL CEMETERY; RECLAMATION.** When any lot has been transferred by warranty deed or by a deed conveying a fee simple title, but there has been no burial in any such lot or subdivision thereof and no payment of annual assessments for a period of three (3) years, the Cemetery Board with the sanction of the Governing Body, may reclaim the unused portion of such lot or subdivision after notifying the record owner or his or her heirs or assigns, if known, by certified mail and publishing notice of its intention to do so. Such notice shall be published once each week for four (4) weeks in a newspaper of general circulation throughout the county in which the cemetery is located, shall describe the lot or subdivision proposed to be reclaimed, and shall be addressed to the person in whose name such portion stands of record or, if there is no owner of record, to all persons claiming any interest in such lot or subdivision. If no person appears to claim such lot or subdivision and pay all delinquent assessments with interest within fifteen (15) days after the last date of such publication, the Cemetery Board may by resolution reclaim such lot or subdivision. Such reclamation shall be complete upon a filing of a ended copy of such resolution, together with proof of publication, in the office of the Register of

Deeds. (*Ord. No. 343, 10/7/86*)

## Article 11. Landfill

**§3-1101. MUNICIPAL LANDFILL; OPERATION AND FUNDING.** The Municipality owns and operates the Municipal Landfill through the Utilities Superintendent. The Governing Body, for the purpose of defraying the cost of the care, management, and maintenance of the Municipal Landfill may each year levy a tax not to exceed the maximum limit prescribed by State law, on the actual valuation of all real estate and personal property within the corporate limits that is subject to taxation. The revenue from the said tax shall be known as the Landfill Fund and shall remain in the custody of the Municipal Treasurer. The Utilities Superintendent shall have the direct management and control of the Municipal Landfill and shall faithfully carry out the duties of his position. The Utilities Superintendent shall have the authority to adopt rules and regulations for the sanitary and efficient management of the Landfill subject to the supervision and review of the Governing Body. On and after January 1, 1993, dumping of garbage, rubbish, trash and waste is prohibited at the Municipal Landfill. The Governing Body shall provide by resolution for the management and operation of the Landfill, specifying what types of materials and items will be accepted at the Municipal Landfill, and setting the rates to be charged for services rendered, and shall file the same in the office of the Municipal Clerk for public inspection at any reasonable time. (*Ref. 19-2101 through 19-2106 RS Neb.*) (*Amended by Ord. No. 406, 12/8/92*)

**§3-1102. MUNICIPAL LANDFILL; STATE REGULATION.** The Municipality shall apply for a license to operate the Municipal Landfill. Application shall be made to the Department of Environmental Control on forms provided by the Department. No fee shall be charged for such licensing. Each license so issued shall expire five (5) years following the date of issuance, but may be renewed if the Municipality has complied with the provisions of sections 81-1501 to 81-1533 RS Neb. and the rules and regulations adopted thereunder. It shall be the duty of the Utilities Superintendent to comply with the rules and regulations prescribed by the Department of Environmental Control for the use and operation of the Municipal Landfill. (*Ref. 81-1517, 81-1519 RS Neb.*)

**§3-1103. MUNICIPAL GARBAGE AND RUBBISH; MANDATORY COLLECTION.** Commencing January 1, 1993, all garbage, rubbish, trash and waste (other than those materials and items which may lawfully be accepted by the Municipal Landfill) generated by households and businesses within the corporate limits of the Municipality, shall be collected by the Municipality or by the person, firm or corporation selected by the Municipality to provide such services. Any contract awarded to such person, firm or corporation for collection services shall be approved by the Governing Body and shall set forth the obligations of the parties thereto. The Governing Body shall by resolution regulate the frequency and mode of pickup and set the collection fees to be charged from time to time for such services. (*Ref. 19-2101 through 19-2106 RS Neb.*) (*Amended by Ord. Nos. 406, 12/8/92; 457, 4/16/96*)



**§3-1104. MUNICIPAL GARBAGE, RUBBISH, TRASH AND WASTE; DISPOSAL.** All garbage, rubbish, trash and waste (other than those materials and items which may lawfully be accepted by the Municipal Landfill) generated by households and businesses within the corporate limits of the Municipality shall be disposed of in a properly licensed landfill selected by the Governing Body. The Governing Body shall make such arrangements and enter into any contracts or interlocal agreements as shall be necessary to provide for the proper disposal of such garbage, rubbish, trash and waste. (*Ref. 19-2101 through 19-2106, 13-801 et seq. RS Neb.*) (*Amended by Ord. No. 406, 12/8/92*)

## Article 12. Auditorium

**§3-1201. MUNICIPAL AUDITORIUM; OWNERSHIP.** The Municipality owns and manages the Municipal Auditorium through the Administrator. The Governing Body, for the purpose of defraying the cost of the management, maintenance, and improvements on the Municipal Auditorium may each year levy a tax not exceeding the maximum limit prescribed by State law, on the actual valuation of all real estate and personal property within the Municipality that is subject to taxation. The revenue from the said tax shall be known as the Auditorium Fund and shall include all gifts, grants, deed of conveyance, bequests, or other valuable income-producing personal property and real estate from any source for the purpose of endowing the Municipal Auditorium. The Auditorium Fund shall at all times be in the custody of the Municipal Treasurer. The Administrator shall have the power to hire and supervise such employees as they may deem necessary and shall pass such rules and regulations for the operation of the Auditorium as may be proper for its efficient management. (*Ref. 17-953 through 17-955 RS Neb.*)

**§3-1202. MUNICIPAL AUDITORIUM; RENTALS.** The Administrator may, for the purpose of defraying the expenses involved in maintaining, improving, managing, and beautifying the Auditorium, make a reasonable rental charge for the use by any person or organization of the Auditorium. The Administrator shall prescribe rules and regulations for such rentals subject to the review of the Governing Body. Rental rates may be structured for classes of persons and organizations in a reasonable manner; Provided, that nothing herein shall be construed to permit or allow discrimination on the basis of race, creed, color, or national origin in the classification of persons and organizations for rental purposes. (*Ref. 17-953 RS Neb.*)

**§3-1203. MUNICIPAL AUDITORIUM; RULES AND REGULATIONS.** The Administrator shall have the power and authority to enact bylaws, rules, and regulations for the protection of the Municipal Auditorium and the safety of those using the Auditorium facilities. They may provide suitable penalties for the violation of such by-laws, rules, and regulations subject to the supervision and review of the Governing Body. All damage suffered by the Auditorium during any rental shall be assessed against the person or organization responsible for the rental thereof, or shall be deducted from the damage deposit which the Administrator may in his discretion have required prior to the said rental. The Administrator may require during any rental, persons deputized as Municipal Police to insure that the said rules and regulations, and the Municipal Code is not violated. The wages of such persons shall be set by the Administrator and shall be paid prior to the beginning of the rental period. All rental fees, rules, and regulations shall be on file for public inspection at the office of the Municipal Clerk at any reasonable time. (*Ref. 17-953 RS Neb.*)

**§3-1204. MUNICIPAL AUDITORIUM; ALCOHOLIC LIQUORS.** Any person,

firm, organization or corporation desiring to serve alcoholic liquors in the Municipal Auditorium shall first receive permission from the Governing Body to serve such liquors and shall pay any damage deposit required by the Governing Body prior to any such rental. (*Ref. 17-953 RS Neb.*)

**Article 13. Penal Provision**

**§2-1301 VIOLATION: PENALTY.** (*Repealed by Ord. No. \_\_\_\_\_, 1-08-05. See §12-101*)