

CHAPTER 3: DEPARTMENTS

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ARTICLE 1: WATER DEPARTMENT

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

The Municipality owns and operates the Municipal Water Department through the City Administrator. 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 City Administrator shall have the direct management and control of the Municipal Water Department and shall faithfully carry out the duties of his office. The City Administrator 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. The Governing Body shall set the rates to be charged for services rendered by ordinance and shall file a copy of the rates in the office of the Municipal Clerk for public inspection at any reasonable time. (*Ref. 17-531, 17-534, 19-1305 RS Neb.*)

§ 3-102 MUNICIPAL WATER DEPARTMENT; DEFINITIONS.

The following definitions shall be applied throughout this Chapter. 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.

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.

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 premise where the water is to be dispersed.

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.

§ 3-103 MUNICIPAL WATER DEPARTMENT; CONSUMER'S APPLICATION.

Every person or persons desiring a supply of water must make application therefor to the City Administrator. Water may not be supplied to any house or private service pipe except upon the order of the City Administrator. (*Ref. 17-537 RS Neb.*)

§ 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 Water Department may, upon reaching a satisfactory agreement on the cost of additional mains, furnish water in an area where no main is currently accessible, including locations up to two thousand feet (2,000') outside the City limits. 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 City Administrator 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 Administrator or his agent. (*Amended by Ord. No. 617, 3/14/95*)

§ 3-105 MUNICIPAL WATER DEPARTMENT; INSTALLATION PROCEDURE.

Upon approval of the customer's application, within the corporate limits, the Municipality shall be responsible for tapping the Municipal main and installing the supply pipe from the main to the customer's lot line, including corporation cock, curb stop and stop box. The customer shall then be responsible for installation of all service pipe from the curb stop located on or near his lot line to the point of disbursement. Outside the corporate limits, the cost of all lines and installation shall be at the cost of the customer. The water meter shall be furnished by the Municipality and installed by the customer.

In making excavations in streets, alleys, or sidewalks for the purpose of installing pipe, or making repairs, the paving, stones, and earth must be removed and deposited in a manner that will occasion the least inconvenience to the public and provide for adequate drainage. No person shall leave an excavation made in the street, alley, or sidewalk open at any time without a barricade, and during the night, warning lights. After service pipes are laid, the streets, alleys, and sidewalks shall be restored to good condition. If the excavation in any street, alley, or sidewalk is left open or unfinished for a period of twenty-four (24) hours or more, the City Administrator 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 City Administrator. 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 City Administrator 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 City Administrator; provided that the said rules, regulations, and specifications have been reviewed and approved by the Governing Body. (*Ref. 17-537 RS Neb.*) (*Amended by Ord. No. 618, 3/14/95*)

§ 3-105.5 MUNICIPAL WATER DEPARTMENT; NEW WATER AND SEWER INSTALLATIONS; TRACER WIRE REQUIRED.

(A) The Mayor and Council acknowledge that installation of underground plastic water and sewer lines is now a common occurrence, but further note that location and tracing of such lines during other underground activities required in the City is becoming increasingly difficult, time consuming, and expensive.

(B) Therefore ALL new or replacement installations of water or sewer lines shall be accompanied by installation of a tracer wire along with the line, on the following terms:

(1) Wire shall be solid core copper, sized #12 gauge or larger;

(2) Wire will be installed along the entire run of each service line, from the curb stop or connection to the sewer main, to the customers service entry into the served structure, or other termination point above ground;

(3) Installation of the tracer wire shall be the sole responsibility of the owner of the property; any installation without a tracer wire may be denied service until the required wire is installed. (*Ord. No. 930, 12/8/15*)

§ 3-106 MUNICIPAL WATER DEPARTMENT; INSTALLATION EXPENSE.

The customer shall pay a tap fee based on the actual cost to the Municipality for pipe, fittings, standard meter, and other materials from the main to the lot line, plus an additional ten percent (10%) surcharge for said materials. The consumer shall then be required to pay the expense of furnishing and installing pipe, trenching, and the necessary labor to bring water service from the said lot line to the place of disbursement, including the cost of installation of the meter. Outside the corporate limits, the cost of all lines and installation shall be at the cost of the customer. (*Ref. 17-542 RS Neb.*) (*Amended by Ord. No. 619, 3/14/95*)

§ 3-107 MUNICIPAL WATER DEPARTMENT; REPAIRS.

Repairs to the service pipe shall be made by and at the expense of the customer. All other repairs to the property of the Water Department, including the meter, shall be made by the Municipality. All water meters shall be kept in repair by the Municipality at the expense of the Municipality. When meters are worn out, they shall be replaced and reset by the Municipality at the expense of the Municipality; provided, that if the customer permits or allows a water meter to be damaged, injured, or destroyed through his own recklessness, carelessness, or neglect so that the meter must be repaired or replaced, the City Administrator 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%) percent 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 quarter 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 City Administrator. (*Ref. 17-542 RS Neb.*)

§ 3-108 MUNICIPAL WATER DEPARTMENT; FEES AND COLLECTIONS.

The Governing Body has the power and authority to fix the rates to be paid by the water consumers for the use of water from the Water Department. All such fees shall be on file for public inspection at the office of the Municipal Clerk. The Municipal Clerk shall bill the consumers and collect all money received by the Municipality on the account of the Water Department. He shall faithfully account for, and pay to the Municipal Treasurer all revenue collected by him, taking his receipt therefor in duplicate, filing one with the Municipal Clerk and keeping the other on file in the Water Department's official records. (*Ref. 17-540 RS Neb.*)

§ 3-109 MUNICIPAL WATER DEPARTMENT; MINIMUM RATES.

All water consumers shall be liable for the following rates provided by ordinance unless and until the consumer shall, by written order, direct the City Administrator 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:

Water Rates Within Corporate Limits

METER FEE, per month.	\$11.24
Gallons used per month, per 1,000 gallons up to 10,000.	\$1.34
Over 10,000 gallons per month, per 1,000 gallons.	\$1.57

Water Rates Outside Corporate Limits

METER FEE, per month.	\$11.80
Gallons used up to 10,000 gallons, per month, per 1,000 gallons.	\$1.28
Over 10,000 gallons, per month, per 1,000 gallons.	\$2.86

(Ref. 17-542 RS Neb.) (Amended by Ord. Nos. 285, 7/11/77; 438, 12/11/84; 487, 12/8/87; 525, 8/14/90; 620, 3/14/95; 660, 11/12/96; 766, 3/12/02; 822, 5/11/04; 904, 11/13/12; 912, 10/8/13)

§ 3-110 MUNICIPAL WATER DEPARTMENT; WATER BILLS.

Water bills shall be due and payable quarterly at the office of the Municipal Clerk. The City Administrator shall read or cause to be read water meters quarterly during the months of January, April, July and October during which service is used. The City Administrator shall direct the Municipal Clerk to charge and collect from each customer for the amount of water consumed since the last examination together with any other charges, properly itemized, due the Water Department. Bills shall be mailed on the last day of the above named months and shall be due on the first (1st) day of the following month and shall be payable by the tenth (10th) of that month. Bills not paid by the tenth (10th) day of that month shall be deemed to be delinquent. Upon being deemed to be delinquent, as herein defined, the Municipal Clerk shall give a written notice to the customer of such delinquency and shall demand payment immediately. In the event that the bill is not paid within seven (7) days after the sending of said notice, it shall be the duty of the City Administrator to cut off service at any time; provided, if the delinquent customer is a known welfare recipient, it shall be the duty of the Municipal Clerk to notify the customer and the County Welfare Department by certified mail of the proposed termination. The City Administrator shall assess an additional fee of two (\$2.00) dollars in the event that water is shut off for the nonpayment of any water bill, to compensate the Municipality for the additional hookup necessary to again provide water service to the delinquent customer.

All utility bills past due as of the twentieth (20th) day of each month, or the first business day thereafter shall have added to the amount due a penalty in the amount of ten (10%) percent of the utility bill less any applicable sales tax, as a fee to offset the extra costs involved in collection of past due utility bills. (*Ref. 17-542, 18-416 RS Neb.*) (*Amended by Ord. No. 306, 2/13/78*)

§ 3-111 MUNICIPAL WATER DEPARTMENT; LIEN.

In addition to all other remedies, if a customer shall for any reason remain indebted to the Municipality for water service furnished, such amount due, together with any rents and charges in arrears, shall be considered a delinquent water rent which is hereby declared to be a lien upon the real estate for which the same was used. The Municipal Clerk shall notify in writing or cause to be notified in writing, all owners of premises or their agents whenever their tenants or lessees are sixty (60) days or more. It shall be the duty of the Utilities Superintendent on the first (1st) day of June of each year to report to the Governing Body a list of all unpaid accounts due for water together with a description of the premise upon which the same was used. The report shall be examined, and if approved by the Governing Body, shall be certified by the Municipal Clerk to the County Clerk to be collected as a special tax in the manner provided by law. (*Ref. 17-538 RS Neb.*)

§ 3-112 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 City Administrator. 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.*)

§ 3-113 MUNICIPAL WATER DEPARTMENT; WATER CONSERVATION PLAN.

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

(2) *Definitions.*

CLASSES OF USES.

(a) *Class 1:* Water used for outdoor watering; either public or private, for gardens, lawns, trees, shrubs, plants, parks, golf courses, playing fields, swimming pools or other recreational areas; or the washing of motor vehicles, boats, trailers, or the exterior of any building or structure.

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(b) *Class 2:* Water used for any commercial or industrial, including agricultural, purposes: except water actually necessary to maintain the health and personal hygiene of bona fide employees while such employees are engaged in the performance of their duties at their place of employment.

(c) *Class 3:* Domestic usage, other than that which would be included in Classes 1 or 2.

(d) *Class 4:* Water necessary only to sustain life and the lives of domestic pets and maintain standards of hygiene and sanitation.

CUSTOMER. The customer of record using water for any purpose from the City's water distribution system and for which either a regular charge is made, or in the case of coin sales, a cash charge is made at the site of delivery.

WASTE OF WATER. Includes, but is not limited to:

- (a) Permitting water to escape down a gutter, ditch, or other surface drain; or
- (b) Failure to repair a controllable leak of water due to defective plumbing.

WATER. Water available to the City by virtue of its water rights or any water introduced by the City into its water distribution system, including water offered for sale at any coin-operated site.

(3) *Declaration of Water Watch.* Whenever the Governing Body of the City finds that conditions indicate that the probability of a drought or some other condition causing a major water supply shortage is rising, it shall be empowered to declare, by resolution, that a Water Watch exists and that it shall take steps to inform the public and ask for voluntary reductions in water use. Such a Watch shall be deemed to continue until it is declared by resolution of the Governing Body to have ended. The resolutions declaring the existence and end of a Water Watch shall be effective upon their publication in the official City newspaper.

(4) *Declaration of Water Warning.* Whenever the Governing Body of the City finds that drought conditions or some other condition causing a major water supply shortage are present and supplies are starting to decline, it shall be empowered to declare, by resolution, that a Water Warning exists and that it will recommend restrictions on nonessential uses during the period of Warning. Such a Warning shall be deemed to continue until it is declared by resolution of the Governing Body to have ended. The resolutions declaring the beginning and ending of the Water Warning shall be effective upon their publication in the official City newspaper.

(5) *Declaration of Water Emergency.* Whenever the Governing Body of the City finds that an emergency exists by reason of a shortage of water supply needed for essential uses, it shall be empowered to declare, by resolution, that a Water Supply Emergency exists and that it will impose

mandatory restrictions on water use during the period of Emergency. Such an Emergency shall be deemed to continue until it is declared by resolution of the Governing Body to have ended. The resolutions declaring the existence and end of a Water Supply Emergency shall be effective upon their publication in the official City newspaper.

(6) *Voluntary Conservation Measures.* Upon the declaration of a Water Watch or Water Warning as provided in sections (3) and (4) above, the Mayor (or City Manager) is authorized to call on all water consumers to employ voluntary water conservation measures to limit or eliminate nonessential water uses including, but not limited to, limitations on the following uses:

- (a) Sprinkling of water on lawns, shrubs or trees (including golf courses).
- (b) Washing of automobiles.
- (c) Use of water in swimming pools, fountains and evaporative air conditioning systems,
- (d) Waste of water.

(7) *Mandatory Conservation Measures.* Upon the declaration of a Water Supply Emergency as provided in section (5) above, the Mayor (or City Manager) is also authorized to implement certain mandatory water conservation measures, including, but not limited to, the following:

- (a) Suspension of new connections to the City's water distribution system, except connections of fire hydrants and those made pursuant to agreements entered into by the City prior to the effective date of the declaration of the Emergency;
- (b) Restriction on uses of water in one or more classes of water use; wholly or in part;
- (c) Restrictions on sales of water at coin-operated facilities or sites;
- (d) The imposition of water rationing based on any reasonable formula including, but not limited to, the percentage of normal use and per capita or per consumer restrictions;
- (e) Complete or partial bans on the waste of water; and
- (f) Any combination of the foregoing measures.

(8) *Emergency Water Rates.* Upon the declaration of a Water Supply Emergency as provided in section (5) above, the Governing Body of the City shall have the power to adopt emergency water rates by ordinance designed to conserve water supplies. Such emergency rates may provide for, but are not limited to:

- (a) Higher charges for increasing usage per unit of use (increasing block rates);

- (b) Uniform charges for water usage per unit of use (uniform unit rate); or
- (c) Extra charges in excess of a specified level of water use (excess demand surcharge).

(9) *Regulations.* During the effective period of any Water Supply Emergency as provided for in section (5) above, the Mayor (or City Manager or Water Superintendent) is empowered to promulgate such regulations as may be necessary to carry out the provisions of this section, any Water Supply Emergency resolution, or emergency water rate ordinance. Such regulations shall be subject to the approval of the Governing Body at its next regular or special meeting.

(10) *Violations, Disconnections and Penalties.*

(a) If the Mayor, City Manager or Water Superintendent, or other City official or officials charged with implementation and enforcement of this section or a Water Supply Emergency resolution learn of any violation of any water use restrictions imposed pursuant to sections (7) or (9) above, a written notice of the violation shall be affixed to the property where the violation occurred and the customer of record or any other person known to the City who is responsible for the violation or its correction shall be provided with either actual or mailed notice. Said notice shall describe the violation and order that it be corrected, cured or abated immediately or within such specified time as the City determines is reasonable under the circumstances. If the order is not complied with, the City may terminate water service to the customer subject to the following procedures:

1. The City shall give the customer notice by mail or actual notice that water service will be discontinued within a specified time due to the violation and that the customer will have the opportunity to appeal the termination by requesting a hearing scheduled before the City Governing Body or a City official designated as a hearing officer by the Governing Body.

2. If such a hearing is requested by the customer charged with the violation, he or she shall be given a full opportunity to be heard before termination is ordered; and

3. The Governing Body or hearing officer shall make findings of fact and order whether service should continue or be terminated.

(b) A fee of fifty dollars (\$50.00) shall be paid for the re-connection of any water service terminated pursuant to subsection (a) above. In the event of subsequent violations, the re-connection fee shall be two hundred dollars (\$200.00) for the second re-connection and three hundred dollars (\$300.00) for any additional re-connections.

(c) Violations of this section shall be a municipal offense and may be prosecuted in County Court. Any person so charged and found guilty of violating the provisions of this section shall be guilty of a municipal offense. Each day's violation shall constitute a separate offense. The penalty for an initial violation shall be a mandatory fine of one hundred dollars (\$100.00). The penalty for a second or subsequent conviction shall be a minimum fine of two hundred dollars (\$200.00), with a maximum fine of five hundred dollars (\$500.00).

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

(12) *Severability.* If any provision of this section is declared unconstitutional, or the application thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the section and its applicability to other persons and circumstances shall not be affected thereby. (*Amended by Ord. No. 806, 3/19/03*)

§ 3-114 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.

§ 3-115 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.*)

§ 3-116 MUNICIPAL WATER DEPARTMENT; MANDATORY HOOKUP.

All persons within three hundred (300) feet of a water main shall be required, upon notice by the Governing Body, to hookup with the Municipal Water System. (*Ref. 17-539 RS Neb.*)

§ 3-117 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 City Administrator 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 City Administrator is otherwise advised of such circumstances. (*Ref. 17-537 RS Neb.*)

§ 3-118 MUNICIPAL WATER DEPARTMENT; INSPECTION.

The City Administrator 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.*)

§ 3-119 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 City Administrator.

§ 3-120 MUNICIPAL WATER DEPARTMENT; COMPLAINTS. (*Repealed by Ord. No. 340, 11/12/79*)

[§ 3-121 Begins on Page 9]

§ 3-121 MUNICIPAL UTILITIES; DISCONTINUANCE OF SERVICE, NOTICE PROCEDURE.
(This section was amended and moved to section 3-1101)

[Editor's Note: Sections 3-122 through 3-134 were adopted in their entirety by Ordinance No. 552, 10/13/92]

§ 3-122 MUNICIPAL WATER DEPARTMENT; BACKFLOW/BACKSIPHONAGE PREVENTION; DEFINITIONS.

The following definitions shall apply in the interpretation and enforcement of this policy:

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, and shall be at least double the diameter of the supply pipe measured vertically above the flood level rim of the vessel, but in no case less than one inch (1").
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 regulation or ordinance.
4. Auxiliary water supply means any water source or system other than "the City", that may be available in the building or premises. This does not include other NDOH permitted public water supply systems.
5. Backflow means the flow other than the intended direction of flow, of any foreign liquids, gases, used water or substances into the distribution system of a public water supply system.
6. Backflow prevention device means any device, method, or type of construction intended to prevent backflow into the public water supply system.
7. Consumer means any individual, firm, partnership, corporation or agency or their authorized agent receiving water from "the City".
8. Contamination means an introduction of any sewage, process fluids, chemicals, wastes or any other substance that would be objectionable. Contamination may be a threat to life or health, or may cause an aesthetic deterioration, color, taste or odor.
9. Cross connections means any physical connection or arrangement between two (2) otherwise separate piping systems; one of which contains potable water of the public water supply system, and the second, water of unknown or questionable safety, or steam, gases, chemicals, or substances whereby

there may be the backflow the second system to the public water supply system. No physical cross connection shall be permitted between a public water supply system and an auxiliary water supply system.

10. Degree of hazard means an evaluation of the potential risk to public health and the adverse effect of the hazard upon anyone using the water.

11. Health hazard means any condition, device, or practice in the public water supply system which could create or may create a danger to the health and well-being of anyone using the water or allow contamination of the water.

12. Public water system means the water supply source, distribution system and appurtenances to the service meter operated as a public utility which supplies potable water to the consumers' water systems.

13. Public water supply system means the public water system and the consumers' water systems.

14. Consumer's water system means all service pipe, all distribution piping and all appurtenances beyond the service meter of the public water system.

15. Service connection means the terminal end of the service lines from the public water system. If a meter is installed at the end of the service, then the service connection means the downstream end of the meter.

16. NDOH means Nebraska Department of Health.

17. Manager means City Manager.

18. "The City" shall mean Plainview.

§ 3-123 MUNICIPAL WATER DEPARTMENT; BACKFLOW/BACKSIPHONAGE PREVENTION; CROSS CONNECTION CONTROL; GENERAL POLICY.

A. Purpose. The purpose of this policy is:

1. To protect the public water supply system from contamination.

2. To promote the elimination, containment, isolation, or control of cross connection between the public water supply system and nonpotable water systems, plumbing fixtures, and industrial process systems or other systems which introduce or may introduce contaminants into the public water system or the consumer's water system.

3. To provide for the maintenance of a continuing program of cross connection control which will prevent the contamination of the public water supply system.

B. Application. This ordinance shall apply to all consumers' water systems. "The City" shall also require cross connection control devices at the service connections of other NDOH permitted public water supply systems served by "the City".

C. Intent. This policy will be reasonably interpreted by "the City". It is the intent of "the City" 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.

If, in the judgment of "the City" or its authorized representative, cross connection protection is required through either piping modification or installation of an approved backflow prevention device, due notice shall be given to the consumer. The consumers shall immediately comply by providing the required protection at his own expense. The City shall inspect and approve all installations of the required backflow prevention devices. Failure or refusal or inability on the part of the consumer to provide such protection shall constitute grounds for the discontinuation of water service to the premises until such protection has been provided.

§ 3-124 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.

§ 3-125 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, at least one (1) time every five (5) years, 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.

§ 3-126 MUNICIPAL WATER DEPARTMENT; BACKFLOW/BACKSIPHONAGE PREVENTION; WHERE PROTECTION IS REQUIRED.

A. An approved backflow prevention device shall be installed on each service line to a consumer's water system serving premises where, in the judgment of "the City" or its authorized representative or the NDOH, actual or potential cross connections exist. The type and degree of protection required shall be commensurate with the degree of hazard and/or type of contamination that may enter the public water supply system.

B. An approved air gap separation or reduced pressure principle backflow retention device shall be installed at the service connection or within any premises where, in the judgment of "the City" or its authorized representative or the NDOH, the nature and extent of activities on the premises, or the materials used in connection with the activities, or material stored on the premises, would present a health hazard or contamination of the public water supply system from a cross connection. This includes but it 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 NDOH.

2. Premises having internal plumbing arrangement which make it impractical to ascertain whether or not cross connections exist.

3. Premises where entry is restricted so that inspection 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 reestablished.

5. Premises, which due to the nature of the enterprise therein, are subject to recurring modifications 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.

C. The following types of facilities fall into one (1) or more of the categories or premises where an approved air gap separation or reduced pressure principle backflow prevention device may be required by "the City" or its authorized representative or the NDOH 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 NDOH:

1. Hospitals, mortuaries, dental clinics, nursing and convalescent homes, medical buildings;

2. Testing laboratories, film laboratories, film development facilities;
3. Sewage treatment plants, sewage pumping stations, or storm water pumping stations;
4. Food or beverage processing plants;
5. Chemical plants;
6. Metal degreasing, plating industries, machine tool plants, dye and metal processing or productions;
7. Chemical and petroleum processing or storage plants;
8. Car washes, automobiles servicing facilities;
9. Lawn irrigation systems and swimming pools;
10. Laundries and dry cleaners;
11. Packing houses;
12. Power plants;
13. Premises having radioactive materials such as laboratories, industries, hospitals;
14. Rendering plants;
15. Premises having water recirculating system as used for boilers or cooling system, cooling towers; chill water system;
16. Veterinary establishments, kennels, feedyards, stables, rodeo grounds, stockyards, pet grooming salons;
17. Beauty salons, barbershops, massage parlors, health clubs;
18. Fire suppression systems;
19. Multistoried buildings greater than three (3) stories in height;
20. Schools, universities, colleges;
21. Other commercial or industrial facilities which may constitute potential cross connection;
22. Bulk water loading facilities;

23. Auxiliary water systems, wells;
24. Hazardous waste storage and disposal sites.

§ 3-127 MUNICIPAL WATER DEPARTMENT; BACKFLOW/BACKSIPHONAGE PREVENTION; LAWN IRRIGATION SYSTEMS. (Repealed by Ord. No. 733, 3/9/00)

§ 3-128 MUNICIPAL WATER DEPARTMENT; BACKFLOW/BACKSIPHONAGE PREVENTION; BACKFLOW PREVENTION DEVICES.

A. Any backflow prevention device required by this ordinance shall be of a model or construction approved by "the City" or its authorized representative and NDOH.

1. Air gap separation to be approved shall be at least twice the diameter of the supply pipe, measured vertically above the top rim of the vessel, but in no case less than one inch (1").

2. Double check valve assemblies or reduced pressure principle backflow prevention devices shall appear on the current list of approved backflow prevention devices established by the NDOH, unless the device was installed at the time this regulation/ordinance was passed and complies with required inspection and maintenance. No device shall have gasketed fittings or require special tools for maintenance.

§ 3-129 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 agent. All devices shall be installed at the expense of the water consumer.

B. Backflow prevention devices installed at the service connection shall be located on the consumer's side of the water meter, as close to the meter as is reasonably practical, and prior to any other connection.

C. Backflow prevention devices shall be conveniently accessible for maintenance and testing, (no more than five feet (5') above floor), 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 manufacturers' recommendations.

§ 3-130 MUNICIPAL WATER DEPARTMENT; BACKFLOW/BACKSIPHONAGE PREVENTION; INSPECTION AND MAINTENANCE.

A. The consumer is required by this ordinance to inspect, test, and overhaul backflow prevention devices in accordance with the following schedule or more often as determined by "the City" or its authorized representative.

1. Air gap separation shall be inspected at the time of installation and checked by owner monthly.

2. Double check valve assemblies shall be inspected and tested for tightness at the time of installation and at least every twelve (12) months thereafter. They shall be dismantled, inspected internally, cleaned, and repaired whenever needed at least every five (5) years.

3. Reduced pressure principle backflow prevention devices shall be inspected and tested for tightness at the time of installation and at least every twelve (12) months thereafter. They shall be dismantled, inspected internally, cleaned, and repaired whenever needed and at least every five (5) years.

B. Inspections, tests, and overhauls of backflow prevention devices shall be made at the expense of the consumer and shall be performed by an approved tester.

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

D. The consumer must maintain a complete record of each backflow prevention device from purchase to retirement. This shall include a comprehensive listing that includes a record of all tests, inspections, and repairs. All records of inspections, tests, repairs, and overhauls shall be provided within thirty (30) days of completion to "the City" or its authorized representative.

E. All backflow prevention devices shall have a tag showing the date of the last inspection, test, or overhaul or other maintenance.

F. Backflow prevention devices shall not be bypassed, made inoperative, removed, or otherwise made ineffective without specific authorization by "the City" or its authorized representative.

§ 3-131 MUNICIPAL WATER DEPARTMENT; BACKFLOW/BACKSIPHONAGE PREVENTION; VIOLATIONS 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, by deadline stated in section 3-133, 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 regulation/ordinance to the satisfaction of "the City" or its authorized representative.

§ 3-132 MUNICIPAL WATER DEPARTMENT; BACKFLOW/BACKSIPHONAGE PREVENTION; LIABILITY CLAIMS.

The Manager or his authorized representative shall be relieved from personal liability. The City shall hold harmless the Manager or his 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 this title, or by reason of any act or omission of the Manager or his authorized representative in the discharge of his duties hereunder. Any suit brought carrying out the provisions of the title shall be defended by the City or the City's insurance carrier, if any, through final determination of such proceeding.

§ 3-133 MUNICIPAL WATER DEPARTMENT; BACKFLOW/BACKSIPHONAGE PREVENTION; SCHEDULE OF DEADLINES FOR COMPLIANCE.

A. High hazard (as defined by Nebraska State regulations). One (1) year from date of the ordinance.

B. Low hazards (as defined by Nebraska State regulations). Two (2) years from date of this ordinance.

C. New construction: At time of water service connection.

§ 3-134 MUNICIPAL WATER DEPARTMENT; BACKFLOW/BACKSIPHONAGE PREVENTION; DEVICES.

The following devices are recognized for cross connection control and backflow prevention by the NDOH:

AIR GAP

Gap must be two (2) pipe diameters (in no instance less than one inch {1"}). Must be inspected annually. Satisfactory for any material. Whenever practical the control method of choice.

REDUCED PRESSURE PRINCIPLE BACKFLOW PREVENTER.

Contains two (2) specifically designed, soft seated, independently acting check valves with a reduced pressure zone (with relief valve) between the two (2) checks. Shut off valves before and after the device. Satisfactory for most toxic materials. Significant pressure loss (10 psi or more). Must be tested and inspected annually. Repaired as necessary.

DOUBLE CHECK VALVE ASSEMBLY

Contains two (2) soft seated independently acting check valves in series. Shut of valves before and after device. Adequate for nontoxic applications only. Minor pressure loss. Must be inspected and tested annually. Repaired as necessary.

PRESSURE VACUUM BREAKER

Must be installed a minimum of twelve inches (12") above highest point of usage. No backpressure, only backsiphonage. Can operate under constant pressure. Shut off valve can be located beyond the vacuum breaker. Must be inspected and tested annually. Repaired as necessary.

ATMOSPHERIC VACUUM BREAKER

Must be installed a minimum of six inches (6") above highest point of usage. No backpressure, only backsiphonage. Not for use under constant pressure. Shut off valve must be located ahead of vacuum breaker. No downstream valves. Must be inspected annually and repaired as necessary.

§ 3-135 DRILLING AND OPERATION OF WELLS, AND OTHER UNDERGROUND FACILITIES OR CONTAMINATING FACILITIES UNLAWFUL.

From and after the effective date of this section, it shall be unlawful for any person, corporation or other legal entity to drill and/or operate any of the following facilities within the corporate limits of the City of Plainview, without first having obtained the proper permit from the Governing Body of the City of Plainview: Sewage lagoon; Absorption or disposal field for water; Cesspool; Dumping grounds; Feedlot; Livestock pasture or corral; Chemical product storage facility; Petroleum product storage facility; Pit toilet; Sanitary landfill; Septic tank; Sewage treatment plant; Sewage wet well. On or after November 21, 2002, no new water wells of any type shall be drilled or operated within the corporate limits, with the exception of closed loop systems used for heating and cooling. Closed loop systems shall be subject to setbacks and permits as otherwise set forth in this code. (*Ord. No. 659, 10/8/96*) (*Amended by Ord. No. 788, 11/12/02*)

§ 3-136 WELLS AND OTHER FACILITIES; PROCEDURE TO OBTAIN PERMIT.

In order to obtain a permit to drill and/or operate any of the facilities listed in section 3-135, the owner of property on which the proposed facility is to be located, must make application on the proper form provided by the Governing Body of the City of Plainview. Such application must be presented to the Plainview City Council at any regular or special meeting. After reviewing the application of any person desiring to drill or operate any of the above-described facilities, then the Plainview City Council must approve or deny said permit. (*Ord. No. 659, 10/8/96*)

§ 3-137 DRILLING OR INSTALLATION OF OTHER FACILITIES WITHIN DESIGNATED DISTANCE FROM MUNICIPAL WATER SOURCES; PROHIBITED.

Under no circumstances shall the Plainview City Council approve any permit to drill or operate any of the above-described facilities within the below-referenced number of feet from the City of Plainview Municipal water wells:

Potable Water Well	1,000 feet
Any Other Well	1,000 feet
Sewage Lagoon	1,000 feet
Absorption or Disposal Field for Water	500 feet
Cesspool	500 feet
Dumping Grounds	500 feet
Feedlot or Feedlot Runoff	500 feet
Livestock Pasture or Corral	500 feet
Chemical Product Storage Facility	500 feet
Petroleum Product Storage Facility	500 feet
Pit Toilet	500 feet
Sanitary Landfill	500 feet
Septic Tank	500 feet
Sewage Treatment Plant	500 feet
Sewage Wet Well	500 feet

(Ord. No. 659, 10/8/96)

§ 3-138 WELLS AND OTHER FACILITIES; PENALTIES AND ABATEMENT PROCEDURE.

In the event any of the above-described facilities are installed or operated without first having obtained a permit from the City of Plainview and/or within a designated number of feet from the Plainview Municipal Wells, then such facilities shall be deemed a nuisance and the Governing Body shall abate such facility as a public nuisance pursuant to Chapter 4, Section 4-303 of the Plainview Municipal Code. In addition thereto, any person violating any of the terms of sections 3-135 through 3-137 is hereby determined to be "Guilty" of a Class III Misdemeanor as the same is defined by Nebraska Revised Statutes. The penalty for such violation shall be that as defined by the Nebraska Revised Statutes for the violation of a Class III Misdemeanor. *(Ord. No. 659, 10/8/96)*

§ 3-139 WELLHEAD PROTECTION AREA.

(1) Definition: 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 City of Plainview hereby designates a Wellhead Protection Area for the purpose of protecting the community water supply system. The boundaries of the Wellhead Protection Area are designated in a map prepared by Nebraska Department of Environmental Quality, dated November 2003, which is attached to the original Ordinance 821 and incorporated herein by reference. (*Ord. No. 821, 5/11/04*)

ARTICLE 2: SEWER DEPARTMENT

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

(1) The Municipality owns and operates the Municipal Sewer System through the City Administrator.

(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 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 City Administrator 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. 705, 8/11/98)*

§ 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.

BIOLOGICAL OXYGEN DEMAND. The term "Biological Oxygen Demand" as used in this Code, 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 (20o) degrees C., expressed in parts per million by weight.

GARBAGE. The term "Garbage" as used in this Code, shall mean and include solid wastes from the preparation of cooking and dispensing of food and produce.

pH. The term "pH" as used in this Code, shall mean and include the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

PROPERLY SHREDDDED. The term "Properly Shredded" as used in this Code, 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 (½") inch in diameter.

SANITARY SEWER. The term "Sanitary Sewer" as used in this Code, 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" as used in this Code, shall mean and include a combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments together with such ground, surface, and storm waters as may be present.

SEWER SYSTEM. The term "Sewer System" as used in this Code, shall mean and include all facilities for collecting, pumping, treating, and disposing of sewage.

STORM SEWER. The term "Storm Sewer" as used in this Code, shall mean and include a sewer which carries storm and surface drainage, but excludes sewage and polluted industrial wastes.

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

TRAP. The term "Trap" as used in this Code, 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.

§ 3-203 MUNICIPAL SEWER DEPARTMENT; APPLICATION FOR PERMIT.

Any person wishing to connect with the Sewer System shall make an application therefor to the City Administrator. Sewer service may not be supplied to any house or building except upon the order of the City Administrator. (*Ref. 17-149 RS Neb.*)

§ 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 City Administrator 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 City Administrator or his agent.

§ 3-205 MUNICIPAL SEWER DEPARTMENT; MANDATORY HOOK-UP.

Upon written notice by the City Administrator the property owner, occupant, or lessee of any premise within three hundred (300') feet of any sewer main shall without delay cause the said building to be connected with the Sewer System and equipped with inside sewerage facilities. Every building hereafter erected shall be connected with the Sewer System at the time of its construction. In the event that any property owner, occupant, or lessee shall neglect, fail, or refuse, within a period of ten (10) days after notice has been given to him to do so by registered mail or by publication in a newspaper in or of general circulation in the Municipality, to make such connection, the Governing Body shall have the power to cause the same to be done, to assess the cost thereof against the property, and to collect the assessment thus made in the manner provided for collection of other special taxes and assessments. (*Ref. 17-149, 17-149.01 RS Neb.*)

§ 3-206 MUNICIPAL SEWER DEPARTMENT; DIRECT CONNECTIONS.

Each and every building must make a direct connection with the main sewer line. Under no circumstances will two (2) or more houses be allowed to make such connections through one (1) pipe. (*Ref. 18-503 RS Neb.*)

§ 3-207 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 City Administrator 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 City Administrator is otherwise advised of such circumstances.

§ 3-208 MUNICIPAL SEWER DEPARTMENT; INSTALLATION PROCEDURE.

Upon the approval of his application, the customer shall be responsible for all installation of sewer service from the Municipal main to the premises to be served. The Municipality shall install all Municipal mains.

In making excavations in streets, alleys, or sidewalks for the purpose of installing pipe, or making repairs, the paving, stones, and earth must be removed and deposited in a manner that will occasion the least inconvenience to the public and provide for adequate drainage. No person shall leave an excavation made in the street, alley, or sidewalk open at any time without a barricade, and during the night, warning lights. After the house sewer is laid, the public ways and property shall be restored to good condition. If the excavation in the public ways and property is left open or unfinished for a period of twenty-four (24) hours or more, the City Administrator shall have the duty to finish or correct the work, and all expenses so incurred shall be charged to the owner, occupant, or lessee of the property. All installations

or repairs of pipes require two (2) inspections by the City Administrator. The first (1st) inspection shall be made when connections or repairs are complete and before the pipes are covered. The second (2nd) inspection shall be made after the dirt work is completed and the service restored. It is the customers responsibility to notify the City Administrator at the time the work is ready for each inspection. All installation shall be done under the supervision and strictly in accordance with the rules, regulations, and specifications for such installation prescribed by the City Administrator; Provided, that the said rules, regulations, and specifications have been reviewed and approved by the Governing Body.

All sewer pipe from the Municipal main to the lot line of the customer shall be of clay tile construction approved by the City Administrator. Sewer pipe from the lot line to the premises served may be of any type approved by the City Administrator.

§ 3-209 MUNICIPAL SEWER DEPARTMENT; INSTALLATION EXPENSE.

The customer, upon approval of his application for sewer service, shall pay to the Municipal Clerk an inspection fee of two dollars and fifty cents (\$2.50) to compensate the Municipality for the expense of inspecting the sewer installation. The customer shall then be required to pay the expense of installation from the main to the premises to be served.

§ 3-209.01 MUNICIPAL SEWER DEPARTMENT; SEWER CONNECTION FEES; ADDITIONAL FEES IN CERTAIN SPECIAL ASSESSMENT AREAS.

In addition to other connection fees required by this Article, in an area where special assessments have been imposed for sewer construction, any property served but not previously subjected to payment of special assessments shall pay an additional connection fee as follows:

1. Upon connection to the line created in the special assessment project, the City Administrator shall collect a fee at ten (\$10.00) dollars per foot, for each foot that the connecting property abuts the special assessment project.

2. This fee shall be payable as are any other connection fees, to the City of Plainview, for deposit in the account designated for the receipt of connection fees.
(Ord. No. 363, 1/12/81)

§ 3-210 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 City Administrator 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. 432, 9/11/84)

§ 3-211 MUNICIPAL SEWER DEPARTMENT; CLASSIFICATION.

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

§ 3-212 MUNICIPAL SEWER DEPARTMENT; RATE SETTING.

Customers of the Municipal Sewer Department shall be charged the following rates for the use of sewer service. Rates shall be set by ordinance and shall be on file at the office of the Municipal Clerk for public inspection at any reasonable time:

Sewer Rates

Residential Customers, per month. \$15.73, plus \$1.69/1,000 gallons, based on winter usage

Commercial Customers, per month

Minimum charge, user fee. \$22.46, plus \$1.69/1,000 gallons, based on actual usage year round. Exceptions to the year round usage may be set up for those business who water lawns or other usage which does not go down the sewer.

Non-resident Customers:

Any sewerage system user located outside the corporate limits shall pay at a rate which is exactly double the above rates, depending upon what type of service is used by said user.

(Amended by Ord. Nos. 286, 7/11/77; 439, 12/11/84; 476, 9/8/87; 486, 12/8/87; 524, 8/14/90; 767, 3/12/02; 822, 5/11/04; 861, 9/12/07; 905, 11/13/12; 913, 10/8/13)

§ 3-213 MUNICIPAL SEWER DEPARTMENT; FEES AND COLLECTIONS.

The Municipal Clerk shall have the duty of collecting the rental fees of the customers of the Sewer Department quarterly on the last day of March, June, September and December. Bills shall be sent on that date and shall be due and payable until the tenth (10th) day of the following month. Bills paid after the tenth (10th) shall be considered delinquent. Upon being deemed delinquent, the Municipal Clerk shall proceed to give notice to the delinquent customer and demand payment immediately. In the event the said bill is not paid within seven (7) days after sending such written notice, the City Administrator

shall proceed to disconnect the water service immediately; provided, if the delinquent customer is a known welfare recipient, it shall be the duty of the Municipal Clerk to notify the customer and the County Welfare Department by certified mail of the proposed termination.

All utility bills past due as of the twentieth (20th) day of each month, or the first business day thereafter shall have added to the amount due a penalty in the amount of ten (10%) percent of the utility bill less any applicable sales tax, as a fee to off-set the extra costs involved in collection of past due utility bills. (*Amended by Ord. No. 306, 2/13/78*)

§ 3-214 MUNICIPAL SEWER DEPARTMENT; UNLAWFUL USE.

It shall be unlawful for any person to discharge or cause to be discharged any storm water, surface water, ground water, roof runoff, surface drainage, or unpolluted industrial process waters into the sanitary sewer. Except as hereinafter provided, no person shall discharge or cause to be discharged any of the following described waters or wastes into the Municipal Sewer System:

1. Liquids or vapors having a temperature higher than one hundred fifty (150) degrees F.
2. Water or waste which may contain more than one hundred (100) parts per million by weight of fat, oil or grease.
3. Gasoline, benzene, naphtha, fuel oil, other flammable or explosive liquid, solid, or gas.
4. Garbage that has not been properly shredded.
5. Sand, mud, metal, rags, paper, or other solid or viscous substance capable of causing obstruction to the flow in the sewer system.
6. Toxic or poisonous substances in sufficient quantity to interfere with or injure the sewage treatment process, constitute a hazard to humans, animals, or fish, or create any hazard in the receiving area of the sewage treatment plant.
7. Suspended solids of such character and quantity that unusual attention or expense is required to handle such materials.
8. Waters or wastes having a pH lower than 5.5 or higher than 9.0 or having other corrosive properties capable of causing damage to the structures, equipment, and personnel of the Municipal Sewer Department.
9. Any noxious or malodorous gas or substance capable of creating a public nuisance.
(*Ref. 17-145 RS Neb.*)

§ 3-215 MUNICIPAL SEWER DEPARTMENT; SPECIAL EQUIPMENT.

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

§ 3-216 MUNICIPAL SEWER DEPARTMENT; MANHOLES.

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

§ 3-217 MUNICIPAL SEWER DEPARTMENT; INSPECTIONS.

The chief sewer official or his authorized agents, shall have free access at any reasonable time to all parts of each premise and building which is connected with the Sewer System to ascertain whether there is any disrepair or violations of this Article therein.

§ 3-218 MUNICIPAL SEWER DEPARTMENT; LIEN.

In addition to all other remedies, if a customer shall for any reason remain indebted to the Municipality for sewer service furnished, such amount due, together with any rents and charges in arrears shall be considered a delinquent sewer rent which is hereby declared to be a lien upon the real estate for which the same was furnished. The Municipal Clerk shall notify in writing or cause to be notified in writing, all owners of premises or their agents whenever their tenants or lessees are sixty (60) days or more delinquent in the payment of sewer rent. It shall be the duty of the Utilities Superintendent on the first (1st) day of June of each year to report to the Governing Body a list of all unpaid accounts due for sewer service together with a description of the premise served. The report shall be examined, and if approved by the Governing Body, shall be certified by the Municipal Clerk to the County Clerk to be collected as a special tax in the manner provided by law. (*Ref. 17-925.01 RS Neb.*)

ARTICLE 3: FIRE DEPARTMENT AND AMBULANCE

§ 3-301 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.

In addition to the above, the Fire Department is authorized to enter into agreement with the appropriate Rural Fire District for the mutual aid and protection of the residents of both the Municipality and Rural Fire District. The agreement so entered, shall be on file at the office of the Municipal Clerk for public inspection. (*Ref. 17-147, 17-718, 17-953 RS Neb.*)

§ 3-302 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.

§ 3-303 MUNICIPAL FIRE DEPARTMENT; AMBULANCE SQUAD MERGER; MEMBERSHIP.

(A) The Fire Department shall consist of so many members as may be decided by the City Council. The members may organize themselves in any way they may decide, subject to the review of the City Council. The Fire Chief shall appoint no more than 25 members for each fire department company subject to the review and approval of the City Council. All vacancies shall be filled in this manner. The Municipal Ambulance Squad, established under Chapter 5 RS Neb. 1996, as amended, relating to Emergency Medical Services, shall be and hereby is merged with the Municipal Fire Department, as a separate Company thereof, to be known as the EMS Division. The Ambulance Squad may maintain a separate budget within the general Fire Department operations.

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(B) All members of the Fire Department shall be subject to such rules and regulations, and shall perform such duties, as may be prescribed or required of them by the Fire Chief or the City Council. The members of the Fire Department shall, during the time of a fire or great public danger, have and exercise the powers and duties of police officers and shall have full power and authority to arrest all persons guilty of any violation of the municipal code or the laws of the State of Nebraska.

(C) Members of the Fire Department may hold meetings and engage in social activities with the approval of the City Council. The secretary shall, upon request, keep a record of all meetings and shall make a report to the City Council of all meetings and activities of the Fire Department.

(D) Members of the Fire Department shall be considered to be employees of the city for the purpose of providing them with workers' compensation and other benefits. The City Council may compensate or reimburse any member of the Fire Department for expenses incurred in carrying out his or her duties in an amount set by resolution.

(E) The City Council shall purchase and maintain in force a policy of group term life insurance to age sixty-five (65) covering the lives of all of the City's active volunteer fire and rescue personnel, except that when any such person serves more than one municipality or rural or suburban fire protection district, the policy shall be purchased only by the first municipality or district which he or she serves. The policy shall provide a minimum death benefit of \$10,000 for death from any cause and shall, at the option of the insured, be convertible to a permanent form of life insurance at age sixty-five (65). The coverage of such policy shall terminate as to any individual who ceases to be an active volunteer member of the Fire Department of the City. *(Ref. 35-108 RS Neb.)*

(F) For purposes of section 33-139.01 RS Neb., volunteer firefighters and rescue squad members testifying as witnesses in that capacity alone shall not be deemed employees of the City. *(Ref. 33-139.01 RS Neb.) (Amended by Ord. Nos. 454, 11/12/85; 715, 9/10/98; 811, 3/9/03)*

§ 3-304 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.

§ 3-305 MUNICIPAL FIRE DEPARTMENT; DISTANT FIRES.

Upon the permission of the Mayor or Fire Chief, 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.

§ 3-306 MUNICIPAL FIRE DEPARTMENT; FIGHTING DISTANT FIRES.

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

§ 3-307 MUNICIPAL FIRE DEPARTMENT; PRESERVATION OF PROPERTY.

Any official of the Municipal Fire Department shall have the power during the time of a fire to cause the removal of any private or public property whenever it shall become necessary to do so for the preservation of such property from fire, to prevent the spreading of fire, or to protect adjoining property. The said officials may direct the Municipal firefighters to remove any building, structure, or fence for the purpose of checking the progress of any fire, and the official in charge of the fire fighting effort shall have the power to blow up, or cause to be blown up, with powder or otherwise, any building or erection during the progress of a fire for the purpose of extinguishing or checking the same.

§ 3-308 MUNICIPAL FIRE DEPARTMENT; IMPERSONATING FIREMEN.

It shall be unlawful for any person to falsely personate 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.*)

§ 3-309 MUNICIPAL FIRE DEPARTMENT; MANDATORY ASSISTANCE.

Any official of the Municipal Fire Department may command the assistance and services of any person present at a fire to help in extinguishing the fire, or in the removal and protection of property. In the event that a spectator refuses, neglects, or fails to assist the Fire Department after a lawful order to do so, he shall be deemed guilty of a misdemeanor.

§ 3-310 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.

§ 3-311 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 (\$50.00) dollars. 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 4: POLICE DEPARTMENT

§ 3-401 POLICE DEPARTMENT; DUTIES.

(1) The Police Department shall consist of the Chief of Police and such further number of regular policemen as may be duly ordered by resolution of the Council.

(2) 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. The Chief of Police shall:

(a) Prepare and submit a monthly report to the City Council, detailing the month's activity of the Police Department, along with progress on and status of any specific matters assigned by the Mayor and Council; and

(b) Attend each regular meeting of the Mayor and City Council to discuss or answer questions on his report or any other matters coming before the Council that involve any member of the Police Department.

(3) 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 times. 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.

(4) 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. (*Amended by Ord. No. 847, 2/14/06*)

§ 3-402 POLICE DEPARTMENT; ARREST AND ENFORCEMENT JURISDICTION.

(A) The police officers of the City shall have the power to arrest all offenders against the laws of the state or of the City, by day or by night, in the same manner as the County Sheriff and to keep such offenders in the City Prison, County Jail or other place of confinement to prevent their escape until trial can be had before the proper officer. (*Ref. 17-118 RS Neb.*)

(B) Every City law enforcement officer has the power and authority to enforce the laws of this state and the City or otherwise perform the functions of that office anywhere within his or her primary jurisdiction.

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

LAW ENFORCEMENT OFFICER IN NEED OF ASSISTANCE.

- (a) A law enforcement officer whose life is in danger; or
- (b) A law enforcement officer who needs assistance in making an arrest and the suspect:
 1. Will not be apprehended unless immediately arrested;
 2. May cause injury to himself or herself or others or damage to property unless immediately arrested; or
 3. May destroy or conceal evidence of the commission of a crime.

PRIMARY JURISDICTION. The geographic area within territorial limits of the City.

(D) Any City law enforcement officer who is within this state, but beyond his or her primary jurisdiction, has 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 his or her primary jurisdiction in the following cases:

- (1) Any City law enforcement officer, if in a fresh attempt to apprehend a person suspected of committing a felony, may follow that person into any other jurisdiction in this state and there arrest and detain that person and return that person to the officer's primary jurisdiction;
- (2) Any City law enforcement officer, if in a fresh attempt to apprehend a person suspected of committing a misdemeanor or a traffic infraction, may follow that person anywhere in an area within twenty-five (25) miles of the boundaries of the officer's primary jurisdiction and there arrest and detain that person and return that person to the officer's primary jurisdiction;
- (3) Any City law enforcement officer has this 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; and
- (4) If the City, under the provisions of the Interlocal Cooperation Act or the Joint Public Agency Act, enters into a contract with any other city or county for law enforcement services or joint

law enforcement services, law enforcement personnel may have this enforcement authority within the jurisdiction of each of the participating political subdivisions if provided for in the agreement. Unless otherwise provided in the agreement, the city shall provide liability insurance coverage for its own law enforcement personnel as provided in section 13-1802 RS Neb.

(E) When probable cause exists to believe that a person is operating or in the actual physical control of any motor vehicle, motorboat, personal watercraft, or aircraft while under the influence of alcoholic liquor or of any drug or otherwise in violation of sections 28-1465, 28-1466, 28-1472, 37-1254.01, 37-1254.02, 60-4,163, 60-4,164, 60-6,196, 60-6,197, 60-6,211.01, or 60-6,211.02 RS Neb., a City law enforcement officer has the power and authority to do any of the following or any combination thereof:

(1) Transport that person to a facility outside of the law enforcement officer's primary jurisdiction for appropriate chemical testing of the person;

(2) Administer outside of the law enforcement officer's primary jurisdiction any post-arrest test advisement to the person; or

(3) With respect to that person, perform other procedures or functions outside of the law enforcement officer's primary jurisdiction which are directly and solely related to enforcing the laws that concern a person operating or being in the actual physical control of any motor vehicle, motorboat, or aircraft while under the influence of alcoholic liquor or of any other drug or otherwise in violation of sections 28-1465, 28-1466, 28-1472, 37-1254.01, 37-1254.02, 60-4,163, 60-4,164, 60-6,196, 60-6,197, 60-6,211.01, or 60-6,211.02 RS Neb.. (*Ref. 29-215 RS Neb.*)

(F) If city law enforcement personnel are rendering aid in their law enforcement capacity outside the limits of the city in the event of disaster, emergency, or civil defense emergency or in connection with any program of practice or training for a disaster, emergency, or civil defense emergency when that program is conducted or participated in by the Nebraska Emergency Management Agency or with any other related training program, the law enforcement personnel 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 their primary jurisdiction. The city shall self-insure or contract for insurance against any liability for personal injuries or property damage that may be incurred by it or by its personnel as the result of any movement made pursuant to this division. (*Ref. 81-829.65 RS Neb.*) (*Ord. No. 609, 2/14/95*) (*Amended by Ord. Nos. 706, 8/11/98; 3-402, 5/8/12; 942, 2/13/18*)

§ 3-403 POLICE DEPARTMENT; POLICE OFFICERS; DISCIPLINE OR REMOVAL FROM DUTY; NOTICE AND HEARING; DETERMINATION.

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

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

(3) At the hearing, the police officer shall have the right to:

- (a) Respond in person to the charges and to present witnesses and documentary evidence;
- (b) Confront and cross-examine available adverse witnesses; and
- (c) To be represented by counsel.

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

(5) Nothing in this section shall be construed to prevent the preemptory suspension or immediate removal from duty of an officer, pending the hearing authorized by this section, in cases of gross misconduct, neglect of duty, or disobedience of orders. (*Ref. 17-107 RS Neb.*) (*Ord. No. 640, 2/13/96*)

§ 3-404 CONTINUING EDUCATION REQUIREMENTS; COURSE OFFERINGS.

(1) In order to maintain his or her professional status and serve the law enforcement profession, the community, and the residents of Nebraska, each law enforcement officer shall attend at least twenty (20) hours of continuing education courses in the areas of criminal justice and law enforcement during each calendar year beginning on January 1 and ending on December 31. A law enforcement officer is not required to meet the continuing education requirements in the year in which he or she first becomes fully certified.

(2) Continuing education courses may be offered in the form of seminars, advanced education which may include college or university classes, conferences, instruction conducted within the law enforcement officer's law enforcement agency, or instruction conducted over the Internet, except that instruction conducted over the Internet shall be limited to ten (10) hours annually, and shall be of a type which has application to and seeks to maintain and improve the skills of the law enforcement officer in carrying out his or her duties and responsibilities. (*Ord. No. 908, 5/14/13*)

ARTICLE 5: PARKS

§ 3-501 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. (*Ref. 17-948 thru 17-952 RS Neb.*)

§ 3-502 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.

ARTICLE 6: SWIMMING POOL

§ 3-601 MUNICIPAL SWIMMING POOL; OPERATION AND FUNDING.

The Municipality owns and manages the Municipal Swimming Pool through the Swimming Pool Board. 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 Swimming Pool 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. (*Ref. 17-948, 17-951, 17-952 RS Neb.*)

§ 3-602 MUNICIPAL SWIMMING POOL; ADMISSION CHARGE.

The Swimming Pool 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.*)

§ 3-603 MUNICIPAL SWIMMING POOL; RENTALS.

The Swimming Pool Board shall have the authority to rent the Municipal Swimming Pool to such organizations and other persons as they may in their discretion see fit. 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.*)

§ 3-604 MUNICIPAL SWIMMING POOL; RULES AND REGULATIONS.

The Swimming Pool Board 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 bylaws, rules, and regulations subject to the review and supervision of the Governing Body. (*Ref. 17-949 RS Neb.*)

ARTICLE 7: LIBRARY

§ 3-701 MUNICIPAL LIBRARY; OPERATION AND FUNDING.

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 the said tax shall be known as the Library Fund and shall include all gifts, grants, deeds of conveyance, bequests, or other valuable income-producing personal property and real estate from any source for the purpose of endowing the Municipal Library. The Library Fund shall at all times be in the custody of the Municipal Treasurer. The Board shall have the power and authority to appoint the librarian and to hire such other employees as they may deem necessary and may pass such other rules and regulations for the operation of the Library as may be proper for its efficient operation. *(Ref. 51-201, 51-202, 51-211 RS Neb.)*

§ 3-702 MUNICIPAL LIBRARY; BOOKS.

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

§ 3-703 MUNICIPAL LIBRARY; RULES AND REGULATIONS.

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

§ 3-704 MUNICIPAL LIBRARY; DAMAGED AND LOST BOOKS.

Any person who injures or fails to return any book taken from the Library shall forfeit and pay to the Library not less than the value of the book in addition to any replacement costs and penalty which the Library Board may assess. *(Ref. 51-211 RS Neb.)*

§ 3-705 MUNICIPAL LIBRARY; BOOK REMOVAL.

It shall be unlawful for any person not authorized by the regulations made by the Library Board to take a book from the Library, without the consent of the Librarian, or an authorized employee of the Library. Any person removing a book from the Library without properly checking it out shall be deemed to be guilty of a misdemeanor. (*Ref. 51-211 RS Neb.*)

§ 3-706 MUNICIPAL LIBRARY; COST OF USE.

The Municipal Library shall be free for the use of the inhabitants of the Municipality. The Librarian may exclude from the use of the Library and reading rooms any person who shall willfully violate or refuse to comply with the rules and regulations established for the government thereof. (*Ref. 51-201, 51-212 RS Neb.*)

§ 3-707 MUNICIPAL LIBRARY; MONEY COLLECTED.

Any money collected by the Library shall be turned over monthly by the Librarian to the Municipal Treasurer along with a report of the sources of the revenue. (*Ref. 51-209 RS Neb.*)

ARTICLE 8: LANDFILL

§ 3-801 MUNICIPAL LANDFILL; OPERATION AND FUNDING.

The Municipality owns and operates the Municipal Landfill through the Landfill Caretaker. 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 Landfill Caretaker shall have the direct management and control of the Municipal Landfill and shall faithfully carry out the duties of his position. The Landfill Caretaker 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. The Governing Body shall provide by ordinance for the management and operation of the Landfill and shall set the rates to be charged for services rendered by ordinance and file the same in the office of the Municipal Clerk for public inspection at any reasonable time. *(Ref. 19-2101 thru 19-2106 RS Neb.)*

§ 3-802 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 on October 1, following the date of issuance. It shall be the duty of the Landfill Caretaker 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.)*

§ 3-803 MUNICIPAL LANDFILL; RATES.

(A) All material not priced below “per item” must be weighed on certified scales and scale tickets provided to the city.

(B) The rates for the Municipal Landfill sites shall be set as follows:

C and D site:

(1) Base for construction debris except concrete:

(a) Twenty-five dollars per ton or .0125 per pound if below one ton;

(b) Five dollar minimum; and

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(c) At the discretion of the operator on site, a “pickup load” may be accepted without scale tickets for a charge of \$10 and “1/2 pickup load” may be accepted for a charge of \$5.

(2) Appliances and “white goods”:

(a) Ten dollars each/window air, TV, microwave, washer, dryer, stove, refrigerator, and the like; and

(b) Additional \$30 for each item with Freon in it.

(3) Concrete: \$5 per ton.

(4) Scale fees will be added to the fee based on material or tonnage.

(5) Any billing not paid within 30 days shall be subject to a 10% late payment surcharge.

(6) Trees and brush from within city limits: no charge. (*Ord. No. 877, 6/16/09*)

ARTICLE 9: ELECTRICAL SYSTEM

§ 3-901 MUNICIPAL ELECTRICAL SYSTEM; OWNERSHIP.

The Municipality owns and operates the Municipal Electrical System through the City Administrator. 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 City Administrator 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 subject to the supervision and review of the Governing Body. The Governing Body shall by ordinance set 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. 17-902 through 17-904, 17-906, 17-909 RS Neb.)*

§ 3-902 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 and may furnish electric current to such other persons within or without its corporate limits, as and when, according to law, its Electrical Department may see fit to do so. 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 a customer should violate any of the provisions of said contract or any reasonable rules and regulations that the Electrical Department may hereafter adopt, the City Administrator, 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 City Administrator or his agent.

§ 3-903 MUNICIPAL ELECTRICAL SYSTEM; CONSUMER'S APPLICATION; HOOK-UP AND TRANSFERS.

(A) Every person or persons desiring electrical service must make application therefor to the City Administrator. Every applicant shall be required to pay the utility deposit as provided by this Code or have previously qualified for a refund of the same.

(B) Every person or persons making application shall have their original hook-up connected at no charge upon satisfying the deposit requirement. Any subsequent move, transfer, or reconnection shall require a \$25.00 service charge if installed during normal working hours and a \$50.00 service charge on weekends and holiday, and after normal working hours.

(Ref. 17-902, 19-2701 RS Neb.) (Amended by Ord. No. 789, 12/10/02)

§ 3-904 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 City Administrator 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 City Administrator is otherwise advised of such circumstances. *(Ref. 17-902 RS Neb.)*

§ 3-905 MUNICIPAL ELECTRICAL SYSTEM; INSTALLATION EXPENSE AND OWNERSHIP.

The expense of installation and ownership of equipment shall be as follows:

1. The Municipality shall own, furnish, and install electrical wiring up to the weather head on the meter loop;
2. The meter loop, meter socket, CT's in three phase service, and all other associated distribution lines or equipment shall be installed, maintained and owned by the consumer, with the exception of the meter which shall remain the property of the Municipality and shall be installed by the Municipality in the meter socket provided by the consumer;
3. All new electrical services and old services being replaced shall be installed on the outside of the building and completely accessible to the Municipality. In the event that a meter loop is determined to be unsafe or will not meter accurately, the Municipality shall notify the consumer in writing to have the problem corrected, and if the problem is not corrected within thirty (30) days, the Municipality will treat the bill as any other unpaid electrical utility bill;

4. All electrical services shall be approved by the City Administrator or his representative for meter type and style previous to installation;

5. In the event the consumer requests underground service, the City will furnish the needed underground wire (max. 200 Amp) up to the meter loop; the consumer shall be required to pay any cost incurred by the Municipality which would be in addition to the cost of above ground installation. Maintenance and replacement expense shall be apportioned in the same manner;

6. Whenever service is terminated or disconnected for any reason, the Municipality may remove its property from the consumer's premises.

(Amended by Ord. Nos. 473, 5/12/87; 918, 1/14/14)

§ 3-906 MUNICIPAL ELECTRICAL SYSTEM; METERS.

All electrical meters shall be read at least one (1) time each month during which electrical service is used.

§ 3-907 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.)*

§ 3-908 MUNICIPAL ELECTRICAL SYSTEM; MINIMUM RATES.

(A) All electrical consumers shall be liable for the minimum rate provided by ordinance unless and until the consumer shall, by written order, direct the City Manager to shut off the electricity in which case he shall not be liable thereafter for electrical service until the electricity is turned on again.

(B) *Summer and winter rates.* As provided in this section, summer rates will be for the summer months of June - September and winter rates will be for the months of October - May.

(C) *Residential service.* This schedule is applicable to all Kwh sales inside City limits for residential lighting, cooking, electric irons, toaster, radios, television, ovens, refrigeration, air conditioning and heating, water heaters and other socket appliances and also small single-phase utility motors served through a service meter. This schedule is applicable to mobile home parks.

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Summer Rate

Customer Service Charge.	\$12.00
First 200 Kwh..	\$0.1720/Kwh
Next 300 Kwh..	\$0.1391/Kwh
Over 500 Kwh.	\$0.1322/Kwh

Winter Rate

Customer Service Charge.	\$12.00
First 200 Kwh..	\$0.1357/Kwh
Next 300 Kwh..	\$0.1271/Kwh
Over 500 Kwh.	\$0.1180/Kwh

(D) *Residential Electric Heat Service.* This schedule is applicable to all Kwh sales for residential homes inside City limits with electric heat as the primary source of heating. Before electric heat rate is applied, and on occasions thereafter, an inspection of the heating system will be done by the City.

Summer Rate

Customer Service Charge.	\$12.00
First 200 Kwh..	\$0.1720/Kwh
Next 300 Kwh..	\$0.1391/Kwh
Next 500 Kwh..	\$0.1322/Kwh
Over 1,000 Kwh.	\$0.1322/Kwh

Winter Rate

Customer Service Charge.	\$9.00
First 200 Kwh..	\$0.1156/Kwh
Next 300 Kwh..	\$0.1083/Kwh
Next 500 Kwh..	\$0.0791/Kwh
Over 1,000 Kwh.	\$0.0757/Kwh

(E) *Rural Residential Service.* This schedule is applicable to all Kwh sales outside City limits for residential lighting, cooking, electric irons, toaster, radios, television, ovens, refrigeration, air conditioning and heating, water heaters and other socket appliances and also small single-phase utility motors served through a service meter. This schedule is applicable to mobile home parks.

Summer Rate

Customer Service Charge.	\$14.00
First 200 Kwh..	\$0.1858/Kwh
Next 300 Kwh..	\$0.1522/Kwh
Over 500 Kwh.	\$0.1322/Kwh

Winter Rate

Customer Service Charge.	\$14.00
First 200 Kwh..	\$0.1500/Kwh
Next 300 Kwh..	\$0.1357/Kwh
Over 500 Kwh.	\$0.1180/Kwh

(F) *Rural Residential Electric Heat Service.* This schedule is applicable to all Kwh sales for residential homes outside City limits with electric heat as the primary source of heating. Before electric heat rate is applied, and on occasions thereafter, an inspection of the heating system will be done by the City.

Summer Rate

Customer Service Charge.	\$14.00
First 200 Kwh..	\$0.1858/Kwh
Next 300 Kwh..	\$0.1522/Kwh
Next 500 Kwh..	\$0.1322/Kwh
Over 1,000 Kwh.	\$0.1322/Kwh

Winter Rate

Customer Service Charge.	\$10.00
First 200 Kwh..	\$0.1278/Kwh
Next 300 Kwh..	\$0.1156/Kwh
Next 500 Kwh..	\$0.0791/Kwh
Over 1,000 Kwh.	\$0.0757/Kwh

(G) *Commercial Service (Single Phase).* This schedule is applicable to all Kwh sales to all establishments which are operating as a business and shall include single phase lighting and power. This schedule will include apartments, churches, offices, small manufacturers, stores, shops, trailer camps and similar operations where metered under one name. All service will be at the system’s standard voltages.

Summer Rate

Customer Service Charge.	\$16.00
First 400 Kwh..	\$0.1581/Kwh
Next 600 Kwh..	\$0.1285/Kwh
Next 5,000 Kwh.	\$0.1147/Kwh
Over 6,000 Kwh.	\$0.1045/Kwh

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Winter Rate

Customer Service Charge.	\$16.00
First 400 Kwh..	\$0.1336/Kwh
Next 600 Kwh..	\$0.1205/Kwh
Next 5,000 Kwh.	\$0.1067/Kwh
Over 6,000 Kwh.	\$0.0999/Kwh

(H) *Commercial Service (Single Phase) Electric Heat.* This schedule is applicable to all Kwh sales to single phase commercial services with commercial electric heat. If a separate meter is provided for all commercial electric heat circuits, the City will add meters and consider as one account. All meters will be the property of the City regardless of their location. Before the electric heat rate is applied, and on occasion thereafter, an inspection of the heating system will be done by the City. All service will be at the system’s standard voltages.

Summer Rate

Customer Service Charge.	\$16.00
First 400 Kwh..	\$0.1581/Kwh
Next 600 Kwh..	\$0.1285/Kwh
Next 5,000 Kwh.	\$0.1147/Kwh
Over 6,000 Kwh.	\$0.1045/Kwh

Winter Rate

Customer Service Charge.	\$12.00
First 400 Kwh..	\$0.1155/Kwh
Next 600 Kwh..	\$0.1037/Kwh
Next 5,000 Kwh.	\$0.0859/Kwh
Over 6,000 Kwh.	\$0.0761/Kwh

(I) *Commercial Service (Three Phase).* This schedule is applicable to all Kwh sales to all establishments which are operating as a business and have three phase power. This schedule shall include apartments, churches, offices, care centers, small manufacturers, retail stores, shops and similar operations where metered under one customer, all at the system’s standard voltage.

Summer Rate

Customer Service Charge.	\$20.00
First 400 Kwh..	\$0.1884/Kwh
Next 600 Kwh..	\$0.1541/Kwh
Next 5,000 Kwh.	\$0.1404/Kwh
Over 6,000 Kwh.	\$0.1130/Kwh

Winter Rate

Customer Service Charge.	\$20.00
First 400 Kwh..	\$0.1572/Kwh
Next 600 Kwh..	\$0.1426/Kwh
Next 5,000 Kwh.	\$0.1330/Kwh
Over 6,000 Kwh.	\$0.1068/Kwh

(J) *Commercial Service (Three Phase) Electric Heat.* This schedule is applicable to all Kwh sales to three phase commercial services with commercial electric heat. If a separate meter is provided for all commercial electric heat circuits, the City will add meters and consider as one account. All meters will be the property of the City regardless of their location. Before the electric heat rate is applied, and on occasion thereafter, an inspection of the heating system will be done by the City. All service will be at the system’s standard voltages.

Summer Rate

Customer Service Charge.	\$20.00
First 400 Kwh..	\$0.1884/Kwh
Next 600 Kwh..	\$0.1541/Kwh
Next 5,000 Kwh.	\$0.1404/Kwh
Over 6,000 Kwh.	\$0.1130/Kwh

Winter Rate

Customer Service Charge.	\$15.00
First 400 Kwh..	\$0.1302/Kwh
Next 600 Kwh..	\$0.1181/Kwh
Next 5,000 Kwh.	\$0.0884/Kwh
Over 6,000 Kwh.	\$0.0757/Kwh

(K) *Industrial (Demand).* This schedule is applicable to all establishments which are operating as a business and have three phase power and have 50kW demand or more for any two consecutive months with an annual usage of 12,500 Kwh/month average. The City will furnish equipment necessary for one transformation and regulation of power and energy. Service under this schedule is not applicable to breakdown, standby, auxiliary, resale or shared service.

Summer Rate

Customer Service Charge.	\$25.00
Summer demand.	\$9.66/KW
All kwh energy.	\$0.0805/Kwh

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Winter Rate

Customer Service Charge.	\$25.00
Winter demand.	\$8.05/KW
All kwh energy.	\$0.0680/Kwh

Minimum Bill: The minimum billing demand charge.

(L) *Manufacturing Electric Heat and Air Exchange Rate.* A separate meter will be provided for all manufacturing electric heat and air exchange as the primary source of heat, specifically excluding cooling and air conditioning systems, as determined by the Municipal Electrical System. All meters will be the property of the Municipal Electrical System regardless of their location. All inspection of the circuit by the Municipal Electrical System must be completed before the Manufacturing Electric Heat and Air Exchange Rate will be applied.

Summer Rate

Customer Service Charge.	\$25.00
Summer demand.	\$9.66/KW
All kwh energy.	\$0.0805/Kwh

Winter Rate

Customer Service Charge.	\$20.00
Winter demand.	\$6.67/KW
All kwh energy.	\$0.0502/Kwh

(M) *Municipal Buildings.* This schedule is applicable to all Kwh sales to all establishments which are operating as a municipal building and shall include both single phase and three phase. All service will be at the system’s standard voltages.

Summer Rate

Customer Service Charge.	\$0.00
All kwh energy.	\$0.0775/Kwh

Winter Rate

Customer Service Charge.	\$0.00
All kwh energy.	\$0.0775/Kwh

(N) *Flat Rates.* This schedule is applicable to all customers who contract all Kwh sales for a flat rate. This schedule shall include all small miscellaneous loads with minimal yearly use where metered under one name. All service will be at the system’s standard voltages.

Customer Service Charge.	\$12.50
All motors in excess of 25 HP charge.	\$0.894/hp

(O) *Effective Date.* These rates will be effective for the January 2016 billing.

(P) *Production Cost Adder.* The City may add by resolution to the individual electric bill covering all rates in section any increase in the cost of production over and above the price of purchased and/or generated energy cost as of April 1, 2015. If the purchased and/or generated energy cost should decrease, the decrease in cost may be deducted from the individual bill.

(Ref. 17-902 RS Neb.) (Amended by Ord. Nos. 275, 10/4/76; 280, 2/14/77; 448, 366, 3/9/81; 7/9/85; 482, 11/10/87; 524, 8/14/90; 562, 8/10/93; 604, 2/14/95; 633, 1/9/96; 690, 11/13/97; 748, 3/13/01; 764, 3/12/02; 765, 3/12/02; 793, 2/11/03; 829, 10/20/04; 862, 11/13/07; 885, 9/14/10; 903, 11/13/12; 911, 10/8/13; 931, 1/12/16)

§ 3-908.01 MUNICIPAL ELECTRICAL SYSTEM; MANUFACTURING RATES. *(Repealed by Ord. No. 829, 10/20/04)*

[Editor's Note: Material formerly in this section has been incorporated into Section 3-908.]

§ 3-908.02 MUNICIPAL ELECTRICAL SYSTEM; INCENTIVES FOR ELECTRIC HEAT INSTALLATIONS

Installation of electric heat as primary heat source shall qualify for a one time incentive payment upon completion of the installation and inspection by the City of Plainview Electric Department personnel or the City Manager. Payment will be made in the form of a one time check from the City of Plainview.

Heat Pump Air Source.	\$150.00
Electric Furnace (Resistance).	100.00

(In addition any incentive offered by other entities shall be passed through to the customer.)

Commercial and Residential are the same. NO UPGRADE REBATES (just gas to electric)
(Ord. No. 830 10/20/04)

§ 3-909 MUNICIPAL ELECTRICAL SYSTEM; DELINQUENT PAYMENTS.

Electrical fees shall be due and payable monthly at the office of the City Light Plant. If said fees are not paid within twenty (20) days after the same become due, the electricity will be turned off in compliance with section 3-121 and not turned on again until all back fees and charges are paid, including any penalty charge which the Governing Body may, by resolution, prescribe. *(Amended by Ord. Nos. 306, 2/13/78; 339, 11/12/79)*

§ 3-910 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 City Administrator 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.*)

§ 3-911 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 City Administrator, 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.

§ 3-912 MUNICIPAL ELECTRICAL SYSTEM; METER IN DISREPAIR.

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

§ 3-913 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 City Administrator.

§ 3-914 MUNICIPAL ELECTRICAL SYSTEM; COMPLAINTS. (*Repealed by Ord. No. 340, 11/12/79*)

§ 3-915 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 City Clerk and shall follow any and all rules and regulations which he or she 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. Any owner or contractor hired by an owner may enter into an agreement with the Municipality that such work be accomplished by or with the assistance of the Municipality and the expense and interest shall be declared to be a lien on such property from the time the same becomes due until paid. If the owner fails to reimburse the Municipality after being properly billed, the costs shall be assessed against the property and certified by the Municipal Clerk to the County Treasurer to be collected in the manner prescribed by law. Such agreement shall include a waiver in which the owner and contractor, if applicable, shall hold harmless the Municipality from any liability arising from the work of the Municipality. (*Amended by Ord. No. 444, 4/9/85*)

§ 3-915.01 MUNICIPAL ELECTRIC SYSTEM; TRIMMING TREES.

The owner or occupant of any lot, piece, or parcel of ground on which lines or property of the Electrical System is located, or owners of any lot, piece or parcel of ground adjacent or abutting any property on which property of the Electrical System is located shall keep the branches or limbs of trees on their property trimmed in such a manner to keep the electrical lines free and safe.

Whenever the limbs or branches interfere with or endanger the lines of the Electrical System, the Governing Body at any regular or special meeting may pass a resolution ordering the owner or occupant to cut or remove said obstructions, within ten (10) days from the date of said resolution. Within forty-eight (48) hours of the passage of said resolution, the City Clerk shall mail a copy of the same to the owner and occupant, by ordinary first class mail, together with a notice stating that the Municipality will remove said branches and charge the costs thereof to the owner or occupant as a special assessment for improvements as herein provided, if said resolution is not complied with.

In the event the property owner is a nonresident of the county in which the property lies, the Municipality shall, before levying any special assessment against that property, send a copy of any notice required by law to be published by means of certified mail, return receipt requested to the last known address of the nonresident property owner. The last known address shall be that address listed on the current tax rolls at the time such required notice was first published. (*Ref. 17-557.01 RS Neb.*) (*Ord. No. 445, 4/9/85*)

§ 3-916 MUNICIPAL ELECTRICAL SYSTEM; INSPECTIONS.

The City Administrator 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.*)

§ 3-917 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.*)

ARTICLE 10: COGENERATION

§ 3-1001 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. (*Ord. No. 365, 3/9/81*)

§ 3-1002 COGENERATION; DEFINITIONS.

For the purpose of this Article the following definitions will apply.

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.

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.

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.)

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.

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.

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. (*Ord. No. 365, 3/9/81*)

§ 3-1003 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. (*Ord. No. 365, 3/9/81*)

§ 3-1004 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. (*Ord. No. 365, 3/9/81*)

§ 3-1005 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. (*Ord. No. 365, 3/9/81*)

ARTICLE 11: UTILITIES GENERALLY

§ 3-1101 UTILITIES GENERALLY; DISCONTINUANCE OF SERVICE, NOTICE PROCEDURE.

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

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

(B) No public or private utility company, including any utility owned and operated by the City, furnishing water, natural gas, or electricity at retail in this City shall discontinue service to any domestic subscriber for nonpayment of any past-due account unless the utility company first gives notice to any subscriber whose service is proposed to be terminated. Such notice shall be given in person, by first-class mail, or by electronic delivery, except that electronic delivery shall only be used if the subscriber has specifically elected to receive such notices by electronic delivery. If notice is given by first-class mail or electronic delivery, such notice shall be conspicuously marked as to its importance. Service shall not be discontinued for at least seven (7) days after notice is sent or given. Holidays and weekends shall be excluded from the seven (7) days. (*Ref. 70-1605 RS Neb.*)

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

- (1) The reason for the proposed disconnection;
- (2) A statement of the intention to disconnect unless the domestic subscriber either pays the bill or reaches an agreement with the utility regarding payment of the bill;
- (3) The date upon which service will be disconnected if the domestic subscriber does not take appropriate action;
- (4) The name, address, and telephone number of the utility's employee or department to whom the domestic subscriber may address an inquiry or complaint;
- (5) The domestic subscriber's right, prior to the disconnection date, to request a conference regarding any dispute over such proposed disconnection;
- (6) A statement that the utility may not disconnect service pending the conclusion of the conference;

(7) A statement to the effect that disconnection may be postponed or prevented upon presentation of a duly licensed physician's certificate which shall certify that a domestic subscriber or resident within such subscriber's household has an existing illness or handicap which would cause such subscriber or resident to suffer an immediate and serious health hazard by the disconnection of the utility's service to that household. Such certificate shall be filed with the utility within five (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 division for each incidence of nonpayment of any past-due account;

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

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

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

(11) Any additional information not inconsistent with this section which has received prior approval from the City Council or Board of Public Works, in the case of a City utility, or the board of directors or administrative board of any other utility. (*Ref. 70-1606 RS Neb.*)

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

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

(F) The procedures adopted for resolving utility bills by the City Council or Board of Public Works for any City utility, one (1) copy of which is on file in the office of the City Clerk, are hereby incorporated by reference in addition to any amendments thereto and are made a part of this section as though set out in full.

(G) This section shall not apply to any disconnections or interruptions of services made necessary by the utility for reasons of repair or maintenance or to protect the health or safety of the domestic subscriber or of the general public. (*Ref. 70-1615 RS Neb.*)
(*Ord. No. 338, 11/12/79*) (*Amended by Ord. Nos. 433, 9/11/84; 680, 7/8/97; 3-1101, 12/8/15*)

§ 3-1102 UTILITIES GENERALLY; METER TESTING.

Upon the deposit of twenty-five (\$25.00) dollars by a utility customer who believes his or her meter is functioning improperly, the City shall test said meter. If said meter after testing is found to be

functioning properly, the twenty-five (\$25.00) dollar deposit shall not be refunded to the utility customer. If said meter after testing is found to be functioning improperly, the meter shall be replaced, the deposit shall be refunded and an adjustment made to the utility customer's current bill. Adjustment shall also be made to previous utility billings, limited to a maximum of one (1) previous billing. A meter shall be deemed functioning properly, if, upon testing, the meter is found to be accurate within five (5%) percent of the test reading. Utility customers shall be defined as any person using electricity or water supplied and billed by the City of Plainview. (*Ord. No. 437, 10/9/84*)

§ 3-1103 UTILITIES GENERALLY; UTILITY DEPOSITS, COLLECTION, REFUND, OR WAIVER PROCEDURE.

(1) Unless waived as set out in division (3) below, every applicant for City utility connection shall be subject to a deposit:

(a) In the sum of one hundred fifty (\$150.00) dollars; and

(b) The applicant shall be entitled to a refund of the deposit as set out in division (2) below.

(2) An applicant's utility deposit shall be refunded when:

(a) All services are disconnected and all bills are paid; or

(b) The consumer has completed a twelve (12)-month period without a delinquent notice or insufficient fund check on any City utility service.

(3) The utility deposit may be waived by the City Administrator (in the Administrator's discretion) upon co-signature on the application by a consumer who has previously qualified for a refund. (*Ord. No. 499, 2/14/89*) (*Amended by Ord. Nos. 735, 6/13/00; 946, 12/11/18*)

§ 3-1104 UTILITIES GENERALLY; RENTAL UNITS.

(1) All owners of rental property shall be required to sign an agreement indicating whether they want the utilities left on or disconnected when a tenant moves.

(2) If the utilities are to be left on, the agreement shall bind the owner for any utility charges incurred after the tenants have notified the City for a read out.

(3) The making of an application on the part of any applicant or the use or consumption of utility services by present consumers thereof and the furnishing of utility services to said consumer shall constitute a contract between the consumer and the City, of which said contract and both parties are bound.

(4) In the event that a building, premises or place is rental property, the City shall require the owner of said property, either alone or as co-signer with the tenant, to sign any written application or contract for utility services. In the event of failure to timely pay utility service bills by either the tenant or the owner, either of them shall be fully responsible for said bills. Any duties or obligations created by the lease of the premises shall be relevant only between the owner and the tenant and shall not relieve the duty to pay. However, in any case where the occupant of a property is not the owner, any deposit shall be held by the City until service has been satisfactorily terminated. No early refund of deposit shall apply. (*Ord. No. 497, 2/14/89*) (*Amended by Ord. Nos. 910, 9/10/13; 917, 12/10/13*)

§ 3-1105 UTILITIES GENERALLY; DIVERSION OF SERVICES, METER TAMPERING, UNAUTHORIZED RECONNECTION, PROHIBITED; EVIDENCE.

(A) It is an offense for any person:

(1) To connect any instrument, device, or contrivance with any wire supplying or intended to supply electricity or electric current or to connect any pipe or conduit supplying gas or 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, gas, or water may be consumed without passing through the meter made or provided for measuring or registering the amount or quantity thereof passing through it;

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

(3) To reconnect electrical, gas, or water service without the knowledge and consent of the municipality if the service has been disconnected pursuant to sections 70-1601 to 70-1615 RS Neb.; or

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

(B) Proof of the existence of any wire, pipe, or conduit connection or reconnection or of any injury, alteration, interference, or obstruction of a meter is prima facie evidence of the guilt of the person in possession of the premises where such connection, reconnection, injury, alteration, interference, or obstruction is proved to exist. (*Ref. 28-515.02 RS Neb.*) (*Ord. No. 797, 4/8/03*)

§ 3-1106 UTILITIES GENERALLY; DIVERSION OF SERVICES; CIVIL ACTION.

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

(B) (1) 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.

The 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.

(2) 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.

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

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

(2) There shall be a rebuttable presumption that a customer at any premises where bypassing, tampering, or unauthorized metering is proven to exist caused or had knowledge of 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. *(Ref. 25-21,277 RS Neb.)*

(D) The remedies provided by this section shall be deemed to be supplemental and additional to powers conferred by existing laws. The remedies provided in this section are in addition to and not in limitation of any other civil or criminal statutory or common-law remedies. *(Ref. 25-21,278 RS Neb.) (Ord. No. 786, 4/8/03)*

ARTICLE 12: PENAL PROVISION

§ 3-1201 VIOLATION; PENALTY.

(Repealed by Ord. No. 744, 7/11/00)

For penalty provisions, see section 12-101 of Chapter 12.

