

# CHAPTER 42

## WASTEWATER

### Article.

1. Definitions.
2. Service.
3. Rates and Billing.
4. Rules and Regulations.
5. Building Sewer.
6. Discharges.
7. Administration and Enforcement.
8. Penalty.

### ARTICLE 1

#### DEFINITIONS

### Section.

- 42-101. Definitions.

#### **42-101. Definitions.**

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

(1) Biochemical Oxygen Demand (BOD) shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20°C, expressed in milligrams per liter.

(2) Building drain or house drain shall mean that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, or other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five feet (1.5 meters) outside the inner face of the building wall.

(3) Building sewer shall mean the extension from the building drain to the public sewer or other place of disposal, also called a House Connection.

(4) Combined sewer shall mean a sewer intended to receive both wastewater and storm or surface water.

(5) Consumer shall mean all users of the City wastewater system and the owners and tenants of real estate and buildings connected with said sewerage system or served thereby, and all users of said system who in any way use the same or discharge sanitary sewage, industrial wastes, water, or other liquids either directly or indirectly into the sewerage system.

(6) Easement shall mean an acquired legal right for the specific use of land owned by others.

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

(8) Garbage shall mean the animal and vegetable waste resulting from the handling, preparation, cooking, and serving of foods.

(9) Hearing Board shall mean the Board appointed according to provisions of this chapter.

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

(11) Local ventilating pipe shall mean any pipe through which foul air is removed from a room or fixture.

(12) May shall mean a permissive term.

(13) Natural outlet shall mean any outlet, including storm sewers and combined sewer overflows, into a watercourse, pond, ditch, lake, or other body of surface or groundwater.

(14) Normal sewage shall mean sewage not exceeding maximum tolerance of contamination of 300 milligrams per liter BOD or 350 milligrams per liter of suspended solids.

(15) Parts per million shall mean a weight-to-weight ratio. The parts per million value multiplied by the factor 8.345 shall be equivalent to pounds per million gallons of water.

(16) Person shall mean any individual, firm, company, association, society, corporation, or group.

(17) pH shall mean the logarithm of the reciprocal of the hydrogen-ion concentration. The concentration is the weight of hydrogen ions in grams per liter of solution. Neutral water, for example, has a pH value of 7 and a hydrogen-ion concentration of 10<sup>-7</sup>.

(18) Plumbing fixtures shall mean receptacles intended to receive and discharge liquid or water-carried wastes into the sewer system with which they are connected.

(19) Properly shredded garbage shall mean the wastes from the preparation, cooking, and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than ½-inch (1.27 centimeters) in any dimension.

(20) Public sewer shall mean a common sewer controlled by a governmental agency or public utility.

(21) Replacement shall mean expenditures for obtaining and installing equipment, accessories, or appurtenances which are necessary during the service life of the treatment works to maintain the capacity and performance for which such works were designed and constructed.

(22) Sanitary sewer shall mean a sewer that carries liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions together with minor quantities of ground, storm, and surface waters that are not admitted intentionally.

(23) Service charge shall mean the basic assessment levied on all users of the public sewer system whose waste does not exceed in strength the concentration values established as representative of normal sewage.

(24) Sewage shall mean the spent water of a community. The preferred term is Wastewater.

(25) Sewer shall mean a pipe or conduit that carries wastewater or drainage water.

(26) Sewer system shall mean all facilities for collecting, pumping, treating, and disposing of sewage.

(27) Shall shall mean a mandatory term.

(28) Single premises shall mean a single lot or tract of land under one ownership.

(29) Sludge shall mean any discharge of water or wastewater which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than 15 minutes more than five times the average 24-hour concentration or flows during normal operation, and shall adversely affect the performance of the wastewater treatment works.

(30) Soil pipe shall mean any pipe which conveys the discharge of water closets with or without the discharge from other fixtures to the house or building drain.

(31) Standard methods shall mean the examination and analytical procedures set forth in the most recent editions of "Standard Methods for the Examination of Water and Wastewater" published jointly by the American Public Health Association.

(32) Storm drain or storm sewer shall mean a drain or sewer for conveying water, groundwater, subsurface water, or unpolluted water from any source.

(33) Surcharge shall mean the assessment in addition to the service charge which is levied on those persons whose wastes are greater in strength than the concentration values established as representative of normal sewage.

(34) Suspended solids shall mean total suspended matter that either floats on the surface of, or is in suspension in, water, wastewater, or other liquids, and that is removable by laboratory filtering as prescribed in "Standard Methods for the Examination of Water and Wastewater," expressed in milligrams per liter (mg/l).

(35) Trap shall mean 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.

(36) Trap seal shall mean the vertical distance between the crown weir and the dip of the trap.

(37) Unpolluted water shall mean water of quality equal to or better than the effluent criteria of the current DEQ permit or water that would not cause violation of receiving water quality standards and would not be benefited by discharge into the wastewater treatment works.

(38) Vent pipe shall mean any pipe provided to ventilate a house or building drainage system and to prevent trap siphonage and back pressure.

(39) Waste pipe shall mean any pipe which receives the discharge of any fixture, except water closets, and conveys the same to the house drain, soil pipe, or waste stack.

(40) Wastewater shall mean the spent water of a community. From the standpoint of source, it may be a combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions, together with any groundwater, surface water, and stormwater that may be present.

(41) Wastewater Treatment Works shall mean the structures, equipment, and processes required to collect, carry away, and treat domestic and industrial wastes and dispose of the effluent.

(42) Water Pollution Control Facility shall mean an arrangement of devices and structures for treating wastewater, industrial wastes, and sludge. Sometimes used as synonymous with Waste Treatment Plant or Wastewater Treatment Plant.

(43) Watercourse shall mean a natural or artificial channel for the passage of water either continuously or intermittently.

## **ARTICLE 2 SERVICE**

Section.

- 42-201. Service applications.
- 42-202. Service deposit.
- 42-203. Connection and connection fees.
- 42-204. Service contracts.
- 42-205. Installation, connection, and excavation; permits.
- 42-206. Contractors.
- 42-207. Repair and replacement.

### **42-201. Service applications.**

(1) Application for permits to make connection with the City wastewater system must be in writing and signed by the owner or authorized agent of the owner of the property to be drained and be filed in the office of the City Clerk.

(2) The City shall not incur any cost or expense beyond its commercial mains in providing the means of such service inside and outside its corporate limits.

(3) Permits granted hereunder shall be subject to the condition that the lot owners shall take all risk of damage that may result from water settling back on their premises from the main sewer.

Statutory reference: Neb. RS 18-503, 18-509

Historical reference: Am. Ord. 843, passed 2-11-86; Am. Ord. 963, passed 4-9-91

### **42-202. Service deposit.**

(1) Said applicant for sewer service shall accompany his or her application with a service deposit in an amount set by the Council unless said applicant has a deposit on file for water service at the same location. Said service deposit shall be applied to the applicant's account at the end of twelve months of continuous service providing no more than one disconnection notice has been issued on that account during that twelve month period. The City may waive the service deposit if the applicant/customer supplies the City with two acceptable letters of reference from previous utility providers that verify the applicant/customer has not had a late payment or utility disconnect within the previous twelve months. If the City waives the service deposit after the deposit has been made, the City will credit the deposit amount to the customer's account.

(2) If said applicant is an individual or entity who has previously left the city with an unpaid utility bill, then the service deposit shall be three times the amount set by the Council.

(3) (a) If any consumer has received a total of two disconnection notices in any twelve months of continuous service, an additional deposit shall be required, which shall be the amount of the initial deposit, thereby increasing the total amount on deposit to double the normal service deposit.

(b) If any consumer has received a total of four disconnection notices in any twelve months of continuous service, a third deposit shall be required, which shall be the amount of the initial deposit, thereby increasing the total amount on deposit to triple the normal service deposit.

(4)(a) If a consumer's check or automatic bank withdrawal is not honored by the bank for reason of insufficient funds or no funds, the City shall initiate the appropriate procedure on said consumer's account as though no payment had been made. Consumer shall also be liable for non-sufficient funds (NSF) fee, as established by resolution, for insufficient funds check or non-honored automatic bank withdrawal.

(b) If there is a second occurrence of a consumer's check or automatic bank withdrawal not being honored by the bank for reason of insufficient funds or no funds in any twelve months of continuous service, an additional deposit shall be required, which shall be the amount of the initial deposit, thereby increasing the total amount on deposit to double the normal service deposit. Consumer shall also be liable for non-sufficient funds (NSF) fee, as established by resolution, for insufficient funds check or non-honored automatic bank withdrawal.

(c) If there is a third occurrence of a consumer's check or automatic bank withdrawal not being honored by the bank for reason of insufficient funds or no funds in any twelve months of continuous service, an additional deposit shall be required, which shall be the amount of the initial deposit, thereby increasing the total amount on deposit to triple the normal service deposit. Consumer shall also be liable for non-sufficient funds (NSF) fee, as established by resolution, for insufficient funds check or non-honored automatic bank withdrawal.

(5) If a consumer has been required to make a new or additional deposit because of disconnection notices or dishonored checks or bank withdrawals, the amount so required to be on deposit shall not be returned by the Clerk until a period of thirty-six months of continuous service has elapsed in which no disconnection notice has been issued, and there have been no instances of dishonored checks or bank withdrawals.

Historical reference: Ord. 1241 passed 6-12-07

**42-203. Connection and connection fees.**

(1) Customers of the City wishing to connect to the sewer main shall pay a connection fee which shall amount to the cost of all materials furnished by the City plus a fee for labor, as set by resolution of the Council, a copy of which shall be kept available for public inspection in the office of the City Clerk.

(2) Material to be supplied by the City shall consist only of the material necessary to make a connection to the sewer main. No sewer service line shall be provided.

(3) The labor to be furnished by the City shall consist only of the actual tapping of the sewer main. It shall be unlawful for any person, except such persons as may be specifically authorized by the City Manager, to tap the sewer mains of the City or insert saddles thereon under any circumstances. The City shall not perform any excavation as part of the tap or connection. It shall be the responsibility of the customer to expose the main to be tapped.

(4) All applicants for connection to the City's sewer system which seek to connect to the system where a Sewer Extension District has been created and whose property shall not have been charged by way of special assessments for said sewer service, shall pay in addition to the deposit required by the Municipal Code, a sewer connection fee to the City Clerk/Treasurer, which sewer connection fee shall be based upon the same formula used to determine the amount of special assessments charged in the original district; provided that no connection shall be made to the sewer system until such deposit and appropriate sewer connection fee shall have been paid in full.

(5) To prevent such settling back of water the owner shall be required, at the owner's expense, to install and maintain in good repair a self-acting back-flow or check valve.

Statutory reference: Neb. RS 18-503, 18-509

**42-204. Service contracts.**

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

**42-205. Installation, connection, and excavation; permits.**

(1) No connection to a sewer main or lateral of the City shall be made prior to obtaining a permit from the City Manager. Such permit shall specify the property to be served by such sewer tap, the size of the service line to be laid into the sewer main, the method of entrance into the sewer main either through an existing Y or T branch or by sewer saddle installed by the City, and such other information as may be deemed necessary and appropriate.

(2) Connections to the main sewer or laterals shall be made into an exiting Y or T branch installed at the time of the construction of the sewer line or into a Y or T saddle installed by the City. No other entrances shall be made into the City sewer main other than those specified above. In those cases where an entrance into the sewer main is requested which requires the installation of a saddle, the applicant will apply at least 48 hours in advance of the time that the tap is required.

(3) 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. The customer shall comply with all procedures required by the City Manager in order to accomplish the sewer tap including the excavation of dirt down to the sewer line, the clearing of dirt around the sewer at the point where the tap is requested, and the proper back-filling around the sewer main after the saddle has been installed. All excavations in the public streets or alleys shall be properly back-filled as provided in this code. Every building shall have an independent connection with a public

or private sewer.

(4) No person shall leave an excavation made in the street, alley, or sidewalk open at any time without a barricade and, during the night, warning lights. After the house sewer is laid, the public ways and property shall be restored to good condition. If the excavation in the public ways and property is left open or unfinished for a period of 24 hours or more, the City Manager 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 installation shall be done under the supervision and strictly in accordance with the rules, regulations, and specifications for such installation prescribed by the City Manager; provided, that the rules, regulations, and specifications have been reviewed and approved by the Council.

**42-206. Contractors.**

It shall be unlawful for any person other than a licensed plumber or sewer contractor, as the agent of the owner, to make connection with the City wastewater system upon the premises of the owner.

**42-207. Repair and replacement.**

(1) The City Wastewater Department may require the owner of any property which is within the City and connected to the public sewers or drains to repair or replace any connection line which serves the owner's property and is broken, clogged, or otherwise in need of repair or replacement. The property owner's duty to repair or replace such a connection line shall include those portions upon the owner's property and those portions upon public property or easements up to and including the point of junction with the public main. The City Wastewater Department may also require the owner of any property which is within the City and connected to the public sewers or drains in order to prevent settling back of water to install and maintain in good repair a self-acting back-flow or check valve, at the owner's expense.

(2) The City Manager 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 or installation and maintenance of a self-acting back-flow or check valve, at the owner's expense. If within 30 days of mailing such notice the property owner fails or neglects to cause such repairs or replacements to be made, the City Manager may cause such work to be done and assess the cost upon the property served by such connection.

Statutory reference: Neb. RS 18-1748

**ARTICLE 3  
RATES AND BILLING**

Section.

- |         |                             |
|---------|-----------------------------|
| 42-301. | Rates.                      |
| 42-302. | Billing.                    |
| 42-303. | Delinquent accounts; liens. |

**42-301. Rates.**

(1) It shall be the duty of the Council to set an administrative fee and a schedule of rates based on monthly water consumption for each consumer of wastewater service. A schedule of said fees, rates and classification of consumer shall be on file at the office of the City Clerk.

(2) A wastewater service consumer shall be liable for the fees and rates provided by resolution unless and until the consumer shall direct the City Clerk to shut off the water at the stop box, in which case he or she shall not be liable thereafter for wastewater fees and rates until the water is turned on again. A wastewater service consumer with a private well, shall remain liable for wastewater fees and rates until such consumer provides evidence to the satisfaction of the City Clerk that the wastewater service is not being used.

(3) All water discharged into the wastewater system from a private well shall be metered by meters installed and maintained at the consumer's expense; provided, however, that any consumer who has his or her own water supply and would be required to meter the water under the above requirements and who fails to have the water metered shall pay a monthly charge set by the Council until such time as the water is properly metered.

(4) No deduction shall be made for the time any service remains out of use.

**42-302. Billing.**

(1) Wastewater charges shall commence when both a plumbing permit and a tapping permit have been issued for a new residence, commercial building, or other structure. Wastewater service shall be computed by the City Clerk under the direction of the City Manager and bills shall be made up for their collection by the Clerk on or about the first day of each succeeding month when the same are due.

(2) All consumers shall pay in net cash to the City Clerk, at the Clerk's office in the City Hall Building, the amount due the City for wastewater service. All bills for wastewater service shall be due on the first day of the month succeeding said monthly period in which service is used.

(3) If the consumer shall neglect or refuse to pay his or her bill on or before the twentieth day of the month when due, it shall be considered delinquent, and forthwith said consumer's water service shall be discontinued pursuant to the procedure set forth in this code and disconnected until all amounts in arrears are paid in full, together with all late fees and service charge(s) as set by the Council and on file at the office of the Clerk for the resumption of service.

(4) Any disputes or questions on any consumer's bill will be addressed to the City Clerk. In the event the dispute cannot be settled between the City Clerk and the consumer, an appeal may be made, in writing, to the City Manager. In the event the dispute cannot be settled between the City Manager and the consumer, an appeal may be made, in writing, to the City Council.

**42-303. Delinquent accounts; liens.**

(1) The charges shall become due and payable and shall be collected at the same time and in the same manner and by the same officers as water charges are collected. All charges shall be a lien upon the premises or real estate for which the sewerage system

is supplied and used. If the service charge so established is not paid when due, such sum may be recovered by the City in a civil action, or it may be certified to the tax assessor and assessed against the premises served, and collected or returned in the same manner as other municipal taxes are certified, assessed, collected and returned. If the charges are not paid within the time within which water service charges for the same consumer are required to be paid, then the charges shall be deemed to be delinquent and the wastewater service of such consumer shall be discontinued by disconnection of water service until such delinquent charges are paid.

(2) All monies raised from the charges for the use of the City wastewater system shall be used for the maintenance or operation of the existing system and for the principal and interest on bonds issued as provided by law or to create a reserve fund for the purpose of future maintenance or construction of a new wastewater system or construction of a new sewage treatment system. Any funds raised from this charge shall be placed in a separate fund established and designed as the Sewer Revenue Fund and shall not be used for any other purpose or diverted to any other fund.

Statutory reference: Neb. RS 18-503, 18-509

## **ARTICLE 4 RULES AND REGULATIONS**

Section.

- 42-401. Hookup required.
- 42-402. Unlawful deposit of wastes.
- 42-403. Unlawful discharge of untreated sewage.
- 42-404. Private sewage disposal.
- 42-405. Unlawful entry into manholes; unlawful deposits.
- 42-406. Destruction of property.

### **42-401. Hookup required.**

(1) Upon written notice by the City Manager, the property owner, occupant, or lessee shall, without delay, cause the building to be connected with the wastewater system and equipped with inside wastewater facilities. Every building hereafter erected shall be connected with the wastewater system pursuant to this code. In the event that any property owner, occupant, or lessee shall neglect, fail, or refuse, within a period of 90 days after notice has been given to him or her to make such connection, the Council shall have the power to cause the same to be done, to assess the cost thereof against the property, and to collect the assessment thus made in the manner provided for collection of other special taxes and assessments.

(2) The owner of all houses, buildings, or properties used for human employment, recreation, or other purposes, including but not limited to car wash facilities situated within the City and abutting on any street, alley, or right-of-way in which there is now located or may in the future be located a public sanitary or combined sewer of the City, is hereby required at his or her expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this chapter within 90 days after the date of official notice to do so; provided, that said

public sewer is within 500 feet of the property line.

Statutory reference: Neb. RS 18-503

Historical reference: Am. Ord. 837, passed 12-10-85

**42-402. Unlawful deposit of wastes.**

It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the City or in any area under the jurisdiction of the City any human or animal excrement, garbage, or other objectionable waste.

**42-403. Unlawful discharge of untreated sewage.**

It shall be unlawful to discharge within the City or in any area under the jurisdiction of the City any sewage or other polluted waters, except where suitable treatment has been provided in accordance with the provisions of this chapter.

**42-404. Private sewage disposal.**

(1) Cesspools, privies, and septic tanks prohibited. Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage.

(2) Applicability.

(a) Where a public sanitary or combined sewer is not available under the provisions of this chapter, the building sewer shall be connected to a private sewage disposal system complying with the provisions of this chapter.

(b) At such time as a public sewer becomes available to a property served by a private wastewater disposal system, as provided in this chapter, a direct connection shall be made to the public sewer within 60 days in compliance with this chapter, and any septic tanks, cesspools, and similar private wastewater disposal facilities shall be cleaned of sludge and filled with suitable material.

(3) Permit and fee. Before construction of a private sewage disposal system, the owner shall first obtain a written permit signed by the Plumbing Inspector. The application for such permit shall be made on a form furnished by the City, which the applicant shall supplement by any plans, specifications, and other information as are deemed necessary by the Plumbing Inspector. A permit and inspection fee, as set by resolution of the Council, shall be paid to the City at the time the application is filed.

(4) Permit; when effective. A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the Plumbing Inspector. He or she shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for the permit shall notify the Plumbing Inspector when the work is ready for final inspection, and before any underground portions are covered.

(5) Specifications. The type, capacities, location, and layout of a private sewage disposal system shall comply with all recommendations of the Department of Public Health of the state. No permit shall be issued for any private sewage disposal system employing subsurface soil absorption facilities when the area of the lot is less than 10,000 square feet. No septic tank or cesspool shall be permitted to discharge to any natural outlet.

(6) Maintenance. The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the City.

(7) Additional requirements. No statement contained in this chapter shall be construed to interfere with any additional requirement that may be imposed by the City Health Officer

**42-405. Unlawful entry into manholes; unlawful deposits.**

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 wastewater system any substance which is not the usual and natural waste carried by the wastewater system.

**42-406. Destruction of property.**

No person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment which is part of the wastewater system.

**ARTICLE 5  
BUILDING SEWERS**

Section.

- 42-501. Permits.
- 42-502. Costs and expenses.
- 42-503. Single premises restriction.
- 42-504. Existing sewer usage.
- 42-505. Specifications.
- 42-506. Stormwater and the like.
- 42-507. Inspection and connection.
- 42-508. Excavations.

**42-501. Permits.**

Permit required. No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb the wastewater system without first obtaining a written permit from the Plumbing Inspector. The owner or his or her agent shall make application on a form furnished by the City. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the Plumbing Inspector. A permit fee set by resolution of the Council and on file with the City Clerk for a sanitary sewer permit shall be paid to the City at the time the application is filed.

**42-502. Costs and expenses.**

All costs and expenses incidental to the installation and connection of the sanitary sewer shall be paid by the owner. The owner shall indemnify the City from any loss or damage that may directly or indirectly result from the installation of the sanitary sewer.

**42-503. Single premises restriction.**

Sanitary sewer service connections shall be from a City owned sanitary sewer main to one single premise. No owner of a single premise that is provided with sanitary sewer by the City of Ogallala shall make a connection of sanitary sewer from their single premises to a service line on other single premises. When deemed in the best interest of the City, the City Manager or City Council may issue permission to allow a single sanitary sewer main connection to service more than one single premises provided that an approved mutual agreement defining the responsibilities of each single premises owner is filed with the register of deeds.

**42-504. Existing sewer usage.**

Existing sanitary sewers may be connected to new construction only when they are found, on examination and test by the Plumbing Inspector, to meet all requirements of this chapter.

**42-505. Specifications.**

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

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

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

**42-506. Stormwater and the like.**

No person shall make connection of roof downspouts, interior and exterior foundation drains, areaway drains, or other sources of surface runoff or groundwater to a sanitary sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer unless such connection is approved by the City Manager for purposes of disposal of polluted surface drainage; provided, that if responsibility can be determined, the party responsible for disposal of polluted surface drainage into the public sanitary sewer shall pay a user charge equivalent to the cost of treating the polluted drainage.

**42-507. Inspection and connection.**

The applicant for the sanitary sewer permit shall notify the Plumbing Inspector when the sanitary sewer is ready for inspection and connection to the public sewer. The connection and testing shall be made under the supervision of the Plumbing Inspector.

**42-508. Excavations.**

All excavations for sanitary sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the City.

**ARTICLE 6  
DISCHARGES**

Section.

- 42-601. Stormwater, cooling water, and the like.
- 42-602. Prohibited discharges; preliminary treatment.
- 42-603. Restricted discharges.
- 42-604. Remedies and options of City.
- 42-605. Grease, oil, and sand interceptors.
- 42-606. Maintenance of equipment.
- 42-607. Control manholes.
- 42-608. Measurements, tests, and analyses.
- 42-609. Special agreements.

**42-601. Stormwater, cooling water, and the like.**

(1) No person shall discharge or cause to be discharged any stormwater, surface water, groundwater, roof runoff, subsurface drainage, including interior and exterior foundation drains, uncontaminated cooling water, or unpolluted industrial waters to any sanitary sewer; except stormwater runoff from limited areas, where stormwater may be polluted at times, may be discharged into the sanitary sewer by permission of the City Manager.

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

**42-602. Prohibited discharges; preliminary treatment.**

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

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

(b) Any waters containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to contaminate the sludge of any wastewater works, to injure or interfere with any sewage treatment process, or to constitute a hazard in or have an adverse effect on the water receiving any discharge

from the treatment works, including but not limited to cyanides in excess of two mg/l as CN.

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

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

(2) Any waters or wastes having the following characteristics shall be subject to the review of the City Manager:

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

(b) More than 350 parts per million by weight of suspended solids;

(c) An average daily flow greater than 2% of the average sewage flow of the City;

or

(d) A chlorine requirement greater than demanded by normal sewage as evaluated by the City's consulting engineer.

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

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

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

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

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

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

#### **42-603. Restricted discharges.**

(1) The following described substances, materials, waters, or wastes shall be limited in discharge to wastewater works to concentrations or quantities which will not harm either the sewers, wastewater treatment process, or equipment, will not have an adverse effect on the receiving stream, or will not otherwise endanger life, limb, public property or constitute a nuisance.

(2) The City Manager may set limitations lower than the limitations established in the regulations (below) if in his or her opinion such more severe limitations are necessary to meet the above objectives. In forming his or her opinion as to the acceptability, the City Manager will give consideration to such factors as the quantity of subject waste in relation to flows and velocities in the sewers, materials of construction of the sewers, the wastewater treatment process employed, the capacity of the water pollution control facility, the degree of treatability of the waste in the water pollution control facility, and other pertinent factors.

(3) The limitations or restrictions on materials or characteristics of waste or wastewaters discharged to the sanitary sewer which shall not be violated without approval

of the City Manager are as follows:

- (a) Wastewater having a temperature higher than 150° F (65° C).
- (b) Wastewater containing more than 100 milligrams per liter of petroleum oil, nonbiodegradable cutting oils, or products of mineral oil origin.
- (c) Any garbage that has not been properly shredded. Garbage grinders may be connected to sanitary sewers from homes, hotels, institutions, restaurants, hospitals, catering establishments, or similar places where garbage originates from the preparation of food in kitchens for the purpose of consumption on the premises or when served by caterers.
- (d) Any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solutions whether neutralized or not.
- (e) Any water or wastes containing iron, chromium, copper, zinc, and similar objectionable or toxic substances; or wastes exerting an excessive chlorine requirement, to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the City Manager for such materials.
- (f) Any waters or wastes containing phenols or other taste- or odor-producing substances in such concentrations exceeding limits which may be established by the City Manager as necessary, after treatment of the composite sewage, to meet the requirements of state, federal, or other public agencies of jurisdiction for such discharge to the receiving waters.
- (g) Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the City Manager in compliance with applicable state or federal regulations.
- (h) Any waters or wastes having a pH in excess of 9.5.
- (i) Materials which exert or cause:
  - (i) Unusual concentrations of inert suspended solids (such as, but not limited to, Fuller's earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride or sodium sulfate).
  - (ii) Excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions).
  - (iii) Unusual BOD, chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.
  - (iv) Unusual volume of flow or concentration of wastes constituting "sludge" as defined herein.
- (j) Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.
- (k) Any water or wastes which, by interaction with other water or wastes in the public sewer system, release obnoxious gases, form suspended solids which interfere with the collection systems, or create a condition deleterious to structures and treatment processes.

**42-604. Remedies and options of City.**

- (1) If any waters or wastes are discharged or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics

enumerated in this chapter, and which, in the judgment of the City Manager, may have a deleterious effect upon the sewage works, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the City Manager may:

- (a) Reject the wastes;
- (b) Require pretreatment to an acceptable condition for discharge to the public sewers;
- (c) Require control over the quantities and rates of discharge; and/or
- (d) Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of 42-705.

(2) When considering the above alternatives, the City Manager shall give consideration to the economic impact of each alternative on the discharger. If the City Manager permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the City Manager.

**42-605. Grease, oil, and sand interceptors.**

Grease, oil, and sand interceptors shall be provided when, in the opinion of the City Manager, they are necessary for the proper handling of liquid wastes containing floatable grease in excessive amounts as specified in this chapter or any flammable wastes, sand, or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the City Manager and shall be located as to be readily and easily accessible for cleaning and inspection. In the maintaining of these interceptors the owner shall be responsible for the proper removal and disposal by appropriate means of the captured material and shall maintain records of the dates and means of disposal which are subject to review by the City Manager. Any removal and hauling of the collected materials not performed by the owner's personnel must be performed by currently licensed waste disposal firms.

**42-606. Maintenance of equipment.**

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

**42-607. Control manholes.**

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

**42-608. Measurements, tests, and analyses.**

All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this chapter shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater," published by the American Public Health Association. Sampling methods, locations, times, durations, and frequencies are to be determined on an individual basis subject to approval by the City Manager.

**42-609. Special agreements.**

No statement contained in this chapter shall be construed as preventing any special agreement or arrangement between the City and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the City.

**ARTICLE 7  
ADMINISTRATION AND ENFORCEMENT**

Section.

- 42-701. Wastewater Department.
- 42-702. Customer information required.
- 42-703. Inspections.
- 42-704. Liability of City and companies.
- 42-705. Powers of City.
- 42-706. Violations.

**42-701. Wastewater Department.**

(1) The City owns the City wastewater system and operates the same through the Wastewater Treatment Operator, who shall be under the control and supervision of the City Manager.

(2) The Council, for the purpose of defraying the cost of the management and maintenance of the City wastewater system, may each year levy a tax not exceeding the maximum limit prescribed by state law on the taxable value of all taxable property within the City.

(3) The City Manager shall have the direct management and control of the Wastewater Department and shall faithfully carry out the duties of his or her office. The City Manager 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 Council.

(4) Among the duties of the City Manager in regard to the City wastewater system shall be the following:

- (a) To keep or cause to be kept an accurate and complete record of connections made to the sewerage system and keep posted an up-to-date sectional map of Y branches furnished him or her for this purpose,
- (b) To keep, or cause to be kept, the City Wastewater Department and all appurtenances thereof in good working order and as sanitary as possible.
- (c) To issue or cause to be issued permits for sewer connections.
- (d) To inspect or cause to be inspected all sewer connections.

(e) To enforce the rules relating to sewer construction, repair, and operation.

Statutory reference: Neb. RS 16-667, 18-501, 18-503

**42-702. Customer information required.**

The City Manager may require a user of sewer services to provide information needed to determine compliance with this chapter. These requirements may include:

- (1) The wastewater discharge peak rate and volume over a specified time period.
- (2) Chemical analyses of wastewater.
- (3) Information on raw materials, processes, and products affecting wastewater volume and quality.
- (4) The quantity and disposition of specific liquid, sludge, oil, solvent, or other materials important to sewer-use control.
- (5) A plot plan of sewers on the user's property showing sewer and pretreatment facility location.
- (6) Details of wastewater pretreatment facilities.
- (7) Details of systems to prevent and control the losses of materials through spills to the sewer.

**42-703. Inspections.**

(1) The City Manager and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling, and testing the system in accordance with the provisions of this chapter. The City Manager or other duly authorized employees shall have no authority to inquire into any processes including metallurgical, chemical, oil, refining, ceramic, paper, or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways or wastewater works.

(2) The City Manager and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all private properties through which the City holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the sewage works lying within said easement. All entry and subsequent work, if any, on the easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

**42-704. Liability of City and companies.**

While performing the necessary work on private properties referred to in this chapter, the City Manager or duly authorized employees of the City shall observe all safety rules applicable to the premises established by the company and the company shall be held harmless for injury or death to the City employees and the City shall indemnify the company against loss or damage to its property by City employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions as required in this chapter.

**42-705. Powers of City.**

The City has the legal authority to enforce its system of user charges, industrial cost recovery charges, and sewer use regulations on all existing or future users of the system whether located inside or outside the City limits.

**42-706. Violations.**

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

(2) Any person violating any of the provisions of this chapter shall be liable to the City for any expense, loss, or damage occasioned the City by reason of such violation.

**ARTICLE 8  
PENALTY**

Section.

42-801. Penalty.

**42-801. Penalty.**

(1) Penalty amounts. Any person who violates any of the prohibitions or provisions of any section of this chapter shall be deemed guilty of a misdemeanor. Unless otherwise specified in this chapter or by statute, the penalty for such violation shall be in any amount not to exceed \$1,000, in the discretion of the court; and; provided, whenever any section of this chapter shall declare a nuisance, a violation of that section shall be penalized by a fine of not more than \$1,000, in which case a new violation shall be deemed to have been committed every 24 hours of such failure to comply.

(2) Abatement of nuisance.

(a) Whenever a nuisance exists as defined in this chapter, the City may proceed by a suit in equity to enjoin and abate the same, in the manner provided by law.

(b) Whenever in any action it is established that a nuisance exists, the court may, together with the fine or penalty imposed, enter an order of abatement as a part of the judgment in the case.

(3) Restitution. The court may, together with the fine or penalty imposed, enter an order of restitution as part of the judgment in the case.

Statutory reference: Neb. RS 16-225, 16-240, 16-246, 18-1720.

# CHAPTER 43

## WATER

### Article.

1. Definitions.
2. Service.
3. Rates and Billing.
4. Rules and Regulations.
5. Wellhead Protection Area Code.
6. Cross-Connection Control and Backflow Prevention Code.
7. Administration and Enforcement.
8. Penalty.

### ARTICLE 1 DEFINITIONS

### Section.

- 43-101. Definitions.

#### **43-101. Definitions.**

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

(1) Backflow shall mean the flow of water or other liquids into the distributing system of the City from any source other than its intended source.

(2) Main shall mean any pipe other than a supply or service pipe that is used for the purpose of carrying water to, and dispersing the same in, the City.

(3) Service pipe shall mean any pipe extending from the edge of the curb or the lot line, whichever is nearest to the main, to the location on the premises where the water is to be dispersed.

(4) Single premises shall mean a single lot or tract of land under one ownership.

(5) Supply pipe shall mean any pipe tapped into a main and extending from there to the edge of the curb or the lot line, whichever is nearest to the main.

### ARTICLE 2 SERVICE

### Section.

- 43-201. Service applications.
- 43-202. Service deposit.
- 43-203. Taps and tap fees.
- 43-204. Service contracts.
- 43-205. Installation, connection, and excavation; permits.
- 43-206. Contractors.
- 43-207. Meters.

- 43-208. Repair and replacement.
- 43-209. Diversion of service.

**43-201. Service applications.**

(1) Applications for permits to make connection with the City water system must be in writing upon forms furnished by the City Clerk and signed by the owner or authorized agent of the owner of the property to be served and be filed in the office of the City Clerk.

(2) The City shall not incur any cost or expense beyond its commercial mains in providing the means of such service inside and outside its corporate limits.

Statutory reference: Neb. RS 16-681, 16-682

**43-202. Service deposit.**

(1) The City Clerk shall require an applicant for water to accompany his or her application with a service deposit in an amount set by the Council. Said service deposit shall be applied to the applicant's account, at the end of twelve months of continuous service providing no more than one disconnection notice has been issued on that account during that twelve month period. The City may waive the service deposit if the applicant/customer supplies the City with two acceptable letters of reference from previous utility providers that verify the applicant/customer has not had a late payment or utility disconnect within the previous twelve months. If the City waives the service deposit after the deposit has been made, the City will credit the deposit amount to the customer's account.

(2) If said applicant is an individual or entity who has previously left the city with an unpaid water bill, then the service deposit shall be three times the amount set by the Council.

(3)(a) If any consumer has received a total of two disconnection notices in any twelve months of continuous service, an additional deposit shall be required, which shall be the amount of the initial deposit, thereby increasing the total amount on deposit to double the normal service deposit.

(b) If any consumer has received a total of four disconnection notices in any twelve months of continuous service, a third deposit shall be required, which shall be the amount of the initial deposit, thereby increasing the total amount on deposit to triple the normal service deposit.

(4)(a) If a consumer's check or automatic bank withdrawal is not honored by the bank for reason of insufficient funds or no funds, the City shall initiate the appropriate procedure on said consumer's account as though no payment had been made. Consumer shall also be liable for a non-sufficient funds (NSF) fee, as established by resolution, for insufficient funds check or non-honored automatic bank withdrawal.

(b) If there is a second occurrence of a consumer's check or automatic bank withdrawal not being honored by the bank for reason of insufficient funds or no funds in any twelve months of continuous service, an additional deposit shall be required, which shall be the amount of the initial deposit, thereby increasing the total amount on deposit to double the normal service deposit. Consumer shall also be liable for a non-sufficient funds (NSF) fee, as established by resolution, for insufficient funds check or non-honored automatic bank withdrawal.

(c) If there is a third occurrence of a consumer's check or automatic bank withdrawal not being honored by the bank for reason of insufficient funds or no funds in

any twelve months of continuous service, an additional deposit shall be required, which shall be the amount of the initial deposit, thereby increasing the total amount on deposit to triple the normal service deposit. Consumer shall also be liable for a non-sufficient funds (NSF) fee, as established by resolution, for insufficient funds check or non-honored automatic bank withdrawal.

(5) If a consumer has been required to make a new or additional deposit because of disconnection notices or dishonored checks or bank withdrawals, the amount so required to be on deposit shall not be returned by the Clerk until a period of thirty-six months of continuous service has elapsed in which no disconnection notice has been issued, and there have been no instances of dishonored checks or bank withdrawals.

Statutory reference: Neb. RS 16-681, 16-682

Historical reference: Ord. 1241 passed 6-12-07

#### **43-203. Taps and tap fees.**

(1) Customers of the City wishing to connect to the water main shall pay a tap fee which shall amount to the cost of all material furnished by the City plus a fee for labor, as set by resolution of the Council, a copy of which shall be kept available for public inspection in the office of the City Clerk.

(2) Any tap material supplied by the customer shall meet the design standards of the City.

(3) The labor to be furnished by the City shall consist only of the actual tapping of the water main. It shall be unlawful for any person, except such persons as may be specifically authorized by the City Manager, to tap the commercial mains of the City or insert ferrules therein under any circumstances. The City shall not perform any excavation as part of the tap. It shall be the responsibility of the customer to expose the main to be tapped.

(4) All applicants for connection to the City's water distribution system which seek to connect to the system where a Water Extension District has been created and whose property shall not have been charged by way of special assessments for said water service, shall pay in addition to the deposit required by the Municipal Code, a water connection fee to the City Clerk/Treasurer, which water connection fee shall be based upon the same formula used to determine the amount of special assessments charged in the original district; provided that no connection shall be made to the water distribution system until such deposit and appropriate water connection fee shall have been paid in full.

#### **43-204. Service contracts.**

(1) The City, through its Water Department, shall furnish water to persons within its corporate limits whose premises abut a street or alley in which a commercial main now is or may hereafter be laid. The City may furnish water to persons within its corporate limits whose premises do not abut a street or alley in which a City commercial main is now or may hereafter be laid and may also furnish water to persons whose premises are situated outside the corporate limits of the City as and when, according to law, the Council may see fit to do so.

(2) The rules, regulations, and water rates hereinafter named in this chapter shall

be considered a part of every application hereafter made for water service and shall be considered a part of the contract between every consumer now or hereafter served.

(3) Without further formality, the making of an application on the part of any applicant or the use or consumption of water service by present consumers thereof and the furnishing of water service to said consumer shall constitute a contract between the consumer and the City, to which said contract both parties are bound.

(4) If the consumer shall violate any of the provisions of said contract or any reasonable rules and regulations that the Council or City Manager may hereafter adopt, the City Manager or his or her agent may cut off or disconnect the water service from the building or premises or place of such violation until such time as the City Manager is of the opinion that water service may be resumed without violation of said rules and regulations.

(5) 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 sell, dispose, or remove from the premises where service is furnished, or if the said premises is destroyed by fire or other casualty, he or she shall at once inform the City Manager who shall cause the water service to be shut off at the said premises. If the consumer should fail to give such notice, he or she shall be charged for all water used on the said premises until the City Manger is otherwise advised of such circumstances.

**43-205. Installation, connection, and excavation; permits.**

(1) Upon the filing of the application and payment of all fees, a permit will be issued to the duly licensed plumber, agent, or applicant to do the necessary work in bringing water service from the tap to the applicant's premises.

(2) All water service pipe shall be placed in the manner and at the depth as recommended by the Plumbing Inspector. All plumbing, including check and safety valves on hot water appliances, pipes, cocks, and other appurtenances, shall be sufficiently strong to resist the maximum water pressure. All plumbing shall be skillfully done according to the requirements of the Plumbing Code and shall be installed in such manner as will permit proper drainage to waste cocks and subject to inspection by the Plumbing Inspector.

(3) The quality and pattern of all cocks and appurtenances shall in like manner be subject to the approval of the Plumbing Inspector, and no work shall be covered or final connection made until examined by said Inspector.

(4) 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 as provided in Chapter 38. If the excavation in any street, alley, or sidewalk is left open or unfinished for a period of 24 hours or more, the City Manager shall have the duty to finish or correct the work, and all expenses so incurred shall be charged to the consumer.

Statutory reference: Neb. RS 16-232, 16-667

**43-206. Contractors.**

It shall be unlawful for any plumber or pipefitter to do any work upon any of the pipes or appurtenances of the system of waterworks, or to make any connection with or extension of the supply pipes of any consumer taking water from the said system, until such plumber or pipefitter shall have first procured a license and permit as prescribed in this code. All plumbing shall be skillfully done and in a manner required by the Plumbing Board and approved by the Council.

**43-207. Meters.**

(1) Meter requirement. No water shall be used unless water is furnished through a meter.

(2) All meters shall be placed in a substantially frostproof meter housing or pit to be located at or near the inner line of the sidewalk on the applicant's property and shall be of such specifications as may be prescribed by the City Manager, or placed in basements or inside residences or business buildings on the premises of the consumer if the Plumbing Inspector shall be convinced that water meters so placed will be properly protected. All meters shall be set in a horizontal position. Meters placed in basements or inside residences and business buildings shall be equipped with the necessary device to permit the reading of such meters from the outside. Water meters shall be of straight or round reading type, Pittsburgh or of similar kind, registering in hundreds or thousand gallons and shall be placed on all water services at the expense of the consumer. The City will set all water metering devices, including the moving of said devices at the expense of the consumer. All water meters set or installed shall be the property of the City; provided, that consumers may surrender to the City meters heretofore purchased by them and in consideration of such surrender the City will repair and replace from time to time said meters so surrendered at City expense.

(3) All water meters shall be read, as close as practically possible, monthly. Any business or residence not equipped with the necessary device to permit the reading of the water meter from the outside shall provide access to a City representative for the purpose of reading the water meter at least once every three months and more often than every three months if requested by a representative of the City. Should a consumer's meter be out of repair or fail to register properly, the consumer shall be billed and charged and shall pay for water during the time the meter is out of order or repair on the basis of monthly consumption during the same month of the preceding year; provided, if no such basis for comparison exists, then the consumer shall be charged such amount as is reasonably established by the City Clerk. Any disputes or questions on any consumer's bill will be addressed to the City Clerk. In the event the dispute cannot be settled between the City Clerk and the consumer, an appeal may be made, in writing, to the City Manager. In the event the dispute cannot be settled between the City Manager and the consumer, an appeal may be made, in writing, to the City Council.

(4) The City Manager shall, whenever it is inconvenient to make reading of any meter or when the meter housing or pit is not frostproof or for any other cause is out of condition, be empowered to give the consumer a ten-day notice in writing to reset the meter in a horizontal position or to reconstruct the meter pit or housing at the consumer's

expense; provided, if the consumer fails or neglects to do so, the City shall forthwith do said work and shall charge the expense thereof to the consumer and collect the same as water rent; and provided further, upon similar notice from the City Manager the consumer shall reset any meter located in a building or basement so that the same may be easily read by the City Manager and his or her agents, and upon the consumer's failure or neglect to do so the City shall proceed as in the case of a defective meter pit as above provided. All meters shall be set on swing or offset and not in a straight line with the pipe. All meters shall be sealed and no person shall deface, injure, or break any of said seals unless authorized to do so by the City Manager.

**43-208. Repair and replacement.**

(1) If any leak or break in any service pipe or any attachment thereto shall occur, the City Manager or his or her agent shall forthwith shut off water to said premises until said leak or break is repaired by the consumer, provided that such repairs or replacements shall be done by licensed plumbers or agents of the consumers under the supervision of the Plumbing Inspector. The City Manager or his or her agent shall restore water service to the premises upon receipt of written certification by the licensed plumber who made such repairs, that the repairs have been completed in compliance with all code requirements.

(2) If any leak or break in any supply pipe or any attachment thereto shall occur, the City Manager or his or her agent shall repair such leak or break. The costs and expenses of any such repair shall be paid by City.

(3) All supply or service pipe or any attachment thereto when leaking or out of condition shall be replaced or repaired. When the work is performed by a plumber licensed by the City, he or she shall warrant the work during the period of 12 months from and after construction is completed and the work is accepted and approved by the Plumbing Inspector and, after the maintenance period shall have expired, all replacements and repairs to shall be made as in the case of leaks or breaks as provided hereinbefore.

(4) If the consumer permits or allows a water meter to be damaged, injured, or destroyed through his or her own recklessness, carelessness, or neglect so that the meter must be repaired or replaced, the City shall bill and collect from such consumer the cost of such meter repair or replacement in the same manner as water rent. The permitting of a water meter not surrendered to the City to be damaged or destroyed by freezing shall always be considered negligence on the part of the consumer; provided, the City shall keep in repair all water meters belonging to it at City expense.

(5) The City shall have the exclusive power to repair and test all meters. All repairs and tests of water meters belonging to or surrendered to the City shall be made at the expense of the City. If any water meter in service belonging to or surrendered to the City is beyond repair, worn out, and unfit for further use by reason of natural wear and tear, the same shall be replaced at the expense of the City. The meter so replaced shall at all times thereafter be and remain property of the City.

(6) The City reserves the right to test any water meter at any time. The consumer is hereby granted the reciprocal right to have the water meter attached to his or her water pipe tested by the City any reasonable number of times upon request if the consumer shall have reason to believe that the meter is registering inaccurately. Any water meter

belonging to the consumer shall, when necessary, be repaired, replaced, or tested by the City at the expense of the consumer or owner of the property who shall be billed for and shall pay for the same in the same manner as water rent regardless of whether or not the consumer requests the City to repair, replace, or test said meter.

**43-209. Diversion of service.**

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

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

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

(b) Liquidated damages of \$1000, if the amount of actual damage or loss is not susceptible of reasonable calculation.

(3) In addition to damage or loss under subsections (1) or (2) of this section, the City may recover all reasonable expenses and costs incurred on account of the bypassing, tampering, or unauthorized metering, including, but not limited to, disconnection, reconnection, service calls, equipment, costs of the suit, and reasonable attorneys' fees in cases within the scope of Neb. RS 25-1801.

(4) There shall be a rebuttable presumption that a tenant or occupant at any premises where bypassing, tampering, or unauthorized metering is proven to exist, did cause or had knowledge of such bypassing, tampering, or unauthorized metering if the tenant or occupant 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 was responsible or partially responsible for payment, either directly or indirectly, to the utility or to any other person for utility services to the premises.

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

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

Statutory reference: Neb. RS 86-331.01, 86-331.02, 86-331.03, 86-331.04

**ARTICLE 3  
RATES AND BILLING**

Section.	
43-301.	Rates.
43-302.	Billing.
43-303.	Discontinuance of service.
43-304.	Delinquent accounts; liens.

**43-301. Rates.**

(1) It shall be the duty of the Council to set an administrative fee and a schedule of rates based on monthly consumption for each consumer of water service from the City Water Department. A schedule of said fees, rates and classification of consumer shall be on file at the office of the City Clerk.

(2) All water consumers shall be liable for the fees and rates provided by resolution unless and until the consumer shall direct the City Clerk to shut off the water at the stop box, in which case he or she shall not be liable thereafter for water fees and rates until the water is turned on again.

(3) No deduction shall be made for the time any service remains out of use.

(4) All water sold shall be measured and delivered to consumers at the metered or bulk rate as established by resolution. No water shall be furnished to any consumer under any other rate than is provided by this section except to consumers using water service on premises outside the corporate limits in which case the water service shall be furnished to the consumer at such rates as the Council may by resolution uniformly fix.

**43-302. Billing.**

(1) Water charges shall commence when both a plumbing permit and a tapping permit have been issued for a new residence, commercial building, or other structure. Water service meter readings shall be computed by the City Clerk under the direction of the City Manager and bills shall be made up for their collection by the Clerk on or about the first day of each succeeding month when the same are due.

(2) All consumers shall pay in net cash to the City Clerk, at the Clerk's office in the City Hall Building, the amount due the City for water service. All bills for water service shall be due on the first day of the month succeeding said monthly period in which service is used.

(3) If the consumer shall neglect or refuse to pay his or her bill on or before the twentieth day of the month when due, it shall be considered delinquent, and forthwith said consumer's water service shall be discontinued pursuant to the procedure set forth in this code and disconnected until all amounts in arrears are paid in full, together with all late fees and service charge(s) as set by the Council and on file at the office of the Clerk for the resumption of service.

(4) Any disputes or questions on any consumer's bill will be addressed to the City Clerk. In the event the dispute cannot be settled between the City Clerk and the consumer, an appeal may be made, in writing, to the City Manager. In the event the dispute cannot be settled between the City Manager and the consumer, an appeal may be made, in writing, to the City Council.

**43-303. Discontinuance of service.**

(1) The City shall have the right to collect a late fee, as established by resolution, and begin procedures to discontinue services and remove its properties if the charges for such services are not paid within twenty (20) days after the date that the same becomes due. Before any termination of service, the Water Department shall first give notice by first class mail or in person to any subscriber whose service is proposed to be terminated. If notice is given by first class mail, such mail shall be conspicuously marked as to its importance. Service shall not be discontinued for at least seven days after notice is sent or given. Holidays and weekends shall be excluded from the seven days. As to any subscriber who has previously been identified as a welfare recipient to the City by the Department of Health and Human Services, such notice shall be by certified mail and notice of such proposed termination shall be given to the Department.

(2) The notice shall contain the following information:

(a) The reason for the proposed disconnection;

(b) A statement of the intention to disconnect unless the domestic subscriber either pays the bill or reaches an agreement with the utility regarding payment of the bill. All agreements must result in account payment in full. No agreement shall be allowed for any account 90-days or more in arrears. No agreement shall be allowed to exceed 12 months. Payments that are made later than the terms and conditions of the payment agreement shall be assessed the usual and customary late fees;

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

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

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

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

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

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

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

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

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

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

(4) The City Council shall establish, by resolution a fee for the disconnection and/or reconnection of service.

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

(6) This section shall not apply to any disconnection or interruption 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.

Statutory reference: Neb. RS 70-1601 et seq

**43-304. Delinquent accounts; liens.**

(1) The City shall have the right and power to tax, assess, and collect from the inhabitants thereof such rent or rents for the use and benefit of water used or supplied to them by such waterworks, mains, pump, or extension of any system of waterworks, or water supply, as the Council shall by ordinance deem just or expedient.

(2) Such water rates, taxes or rents, when delinquent, shall be a lien upon the premises or real estate upon or for which the same is used or supplied; and such water taxes, rents or rates shall be paid and collected and such lien enforced in such manner as provided herein.

(3) Any delinquent water rentals which remain unpaid for a period of three months after they become due may be, by resolution of the said Council assessed against said real estate as a special assessment, which said special assessment shall be certified by the City Clerk to the Keith County Clerk. Keith County Clerk shall thereupon place same on the tax rolls for collection, subject to the same penalties and to be collected in like manner as other City taxes; provided, that the City Council shall notify in writing nonoccupying owners of premises or their agents whenever their tenants or lessees are sixty days delinquent in the payment of water rent. Thereafter if the owner of said real estate or his agent within City shall notify the Council in writing to discontinue water service to said real estate or the occupants thereof, it shall be the duty of the City Manager to promptly to discontinue said service; and rentals for any water furnished to the occupants of said real estate in violation of said notice shall not be a lien thereon.

Statutory reference: Neb. RS 16-682

**ARTICLE 4  
RULES AND REGULATIONS**

Section.

43-401. Single premises restriction.

43-402. Water reduction and shutoff.

43-403. Hydrants.

- 43-404. Water restrictions.
- 43-405. Hookup required.
- 43-406. Destruction of property.
- 43-407. Private wells.

**43-401. Single premises restriction.**

Water service connections shall be from a City owned water main to one single premise. No owner of a single premise that is provided with water by the City of Ogallala shall make a connection of water from their single premises to other single premises. When deemed in the best interest of the City, the City Manager may issue permission to allow a single water main connection to service more than one single premises provided that an approved mutual agreement defining the responsibilities of each single premises owner is filed with the register of deeds.

**43-402. Water reduction and shutoff.**

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

**43-403. 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 City 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 without permission of the City Manager.

**43-404. Water Restrictions.**

(1) Water Emergency restrictions. The City reserves the right to suspend or limit the use of water whenever in the opinion of the City Manager or City Council a public emergency may require the same. The City Manager or City Council is authorized and empowered to declare the existence of an emergency relating to the available water supply of the municipal water system and to impose restrictions on the use of water during such emergency. Whenever an emergency restriction is imposed, public announcement of such restriction shall be made on the local radio stations, and no water shall be used for the restricted purpose.

(2) Water conservation. The City Manager or City Council is authorized and empowered to declare a need to restrict the use of the available water supply of the municipal water system. Whenever such restriction is imposed, public announcement of such restriction shall be made on the local radio stations.

(3) Turning off water for failure to observe restrictions. The City may turn off the water supply to the premises of any person who, after having been notified of the imposition of such emergency restrictions on the use of water, disregards such

restrictions. Notice shall be deemed given when a resident of the premises has been personally served with a notice by a City employee informing said resident that the water supply to the premises will be turned off if the watering does not immediately cease. Such supply of water shall not be turned on again until the current resumption fee established by Council and a fine in the sum of \$100 dollars has been paid to the City Clerk. Each time the water is turned off shall be deemed a violation and the resumption fee and fine shall be imposed.

**43-405. Hookup required.**

(1) All private property within the City and located within 300 feet of the City water system shall be required, upon notice by the City Manager, to make a proper connection to the City water system.

(2) It shall be the duty of the owner of such private property to make or cause to be made, maintained, and repaired a proper connection with the City water system within ten days of the notice set forth in division (1) above.

(3) Should the owner of such property fail or neglect for ten days after service of notice to comply with this section, then the City shall cause such connection to be made and the costs thereof, including all necessary water meters, when certified to the City Council, shall by the Council, be assessed against such property as a special assessment, and the costs will be collected as other special assessments and special taxes as provided by law.

Statutory reference: Neb. RS 16-667.03

**43-406. 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 City 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 abovementioned property without the written permission of the City Manager.

**43-407. Private wells.**

No private wells shall be drilled, constructed, or used on any private property within the City if the water is being used for human consumption, including drinking, culinary, or domestic purposes, if the water being used for human consumption has been determined by proper authority not to meet safe drinking water requirements.

**ARTICLE 5  
WELLHEAD PROTECTION AREA CODE**

Section.

- |         |                                      |
|---------|--------------------------------------|
| 43-501. | Title.                               |
| 43-502. | Purpose.                             |
| 43-503. | Definitions.                         |
| 43-504. | Wellhead Protection Area Plan.       |
| 43-505. | Wellhead Protection Area Boundaries. |

43-506. Encroachment of potential sources of contamination.

**43-501. Title.**

This subchapter, and any amendments pertaining hereto, shall be known as the Wellhead Protection Area Code.

**43-502. Purpose.**

The purpose of this subchapter is to protect the public water supply system of the City from contaminants which are reasonably likely to move toward and reach a municipal water well or wellfield.

The City has designated a Wellhead Protection Area and Wellhead Protection Area Plan for the purpose of protecting the public water supply system. The boundaries are based upon the Wellhead Protection Area Map presented to the City by the Nebraska Department of Environmental Quality, dated October 2004, and incorporated by reference herein.

**43-503. Definitions.**

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

(1) Wellhead Protection Area shall mean the surface and subsurface area surrounding a public water supply well or wellfield, supplying a public water supply system, through which contaminants are reasonably likely to move toward and reach such water well or wellfield.

**43-504. Wellhead Protection Area Plan.**

The City has adopted a Wellhead Protection Area Plan for the purpose of protecting the public water supply system. The Wellhead Protection Area Plan is incorporated by reference herein.

**43-505. Wellhead Protection Area Boundaries.**

For the purpose of this subchapter, the following boundaries shall apply:

(1) North Wellfield – Referring to the NW corner of Section 24, Township 14 North, Range 39 West of the 6th P.M. that being the point of beginning; thence east along the north line of said Section 24 to the NE corner of said Section 24; thence south along the east line of said section 24 to the midpoint of the east line of said Section 24 ; thence east to the center point of Section 19 Township 14 North, Range 38 West of the 6th P.M. ; thence north to the midpoint of the north line of said Section 19; thence east to the SW corner of Section 17, Township 14 North, Range 38 West of the 6th P.M. ; thence north along the west line of said Section 17 a distance of 2,050 feet; thence east in a perpendicular manner to the center line of Section 16 Township 14 North, Range 38 West of the 6th P.M.; thence south to the midpoint of the north line of Section 21, Township 14 North, Range 38 West of the 6th P.M.; thence east to the NE corner of said Section 21; thence south to the SE corner of Section 28 Township 14 North, Range 38 West of the 6th P.M.; thence west along the south line of Sections 28, 29 and 30 Township 14 North, Range 38 West of the 6th P.M. a distance of 11,880 feet; thence south a distance of 3,895 feet; thence west in a perpendicular manner to the centerline of North Spruce Street;

thence in a southwesterly direction on the centerline of North Spruce Street to a point on the south line of Section 31 Township 14 North, Range 38 West of the 6th P.M.; thence west along the south line of said Section 31 to the SW corner of Section 36 Township 14 North, Range 39 West of the 6th P.M.; thence north to the NW corner of Section 24, Township 14 North, Range 39 West of the 6th P.M. that being the point of beginning.

(3) South Wellfield – Referring to Section 7, Township 13 North, Range 38 West of the 6th P.M. midpoint of the west line of said Section 7 that being the point of beginning; thence east along the centerline of said Section 7 to the centerline of South Highway 61; thence south along said highway centerline to a point being the intersection of the centerlines of Prospector Drive and South Highway 61; thence northeasterly along the centerline of Prospector Drive to a point being the centerline of said Section 7; thence east to the midpoint of the east line of said Section 7; thence south along the east line of said Section 7 for a distance of 3,361 feet ; thence west and parallel to the south line of said Section 7 to the centerline of South Highway 61; thence in a southwesterly direction along said centerline of the highway to a point being a projection of the south line of Lot 5 of Cumming’s First Subdivision; thence west along said south line of Lot 5 to a point being the southeast corner of Koenig’s Subdivision; thence north along the east line of said Koenig’s Subdivision to the midpoint of the south line of Section 7, Township 13 North, Range 38 West of the 6th P.M.; thence west to the southwest corner of said Section 7; thence north to the point of beginning that being the midpoint of the west line of Section 7, Township 13 North, Range 38 West of the 6th P.M.

**43-506. Encroachment of potential sources of contamination.**

The minimum distance separating the Municipal water supply wells of the City of Ogallala from potential sources of contamination shall be as follows:

- (1) 1,000 Feet - All Water Wells, including but not limited to, Domestic Supply Wells, Irrigation Wells, Stock Wells, and Heat Pump Wells
- (2) 1,000 Feet - Sewage Lagoon
- (3) 1,000 Feet - Feed Lot, Feed Lot Runoff, or Animal Waste Disposal
- (4) 1,000 Feet - Sanitary Landfill
- (5) 500 Feet - Septic Tank
- (6) 500 Feet - Sewage Treatment Plant
- (7) 500 Feet - Sewage Wet Well
- (8) 500 Feet - Absorption or Disposal Field for Waste
- (9) 500 Feet - Land Application of Solid or Liquid Waste
- (10) 500 Feet - Sanitary or Industrial Discharges
- (11) 500 Feet - Chemical Storage (Dry or Liquid)
- (12) 500 Feet - Petroleum Storage
- (13) 500 Feet - Corral or Animal Enclosure
- (14) 100 Feet - Sanitary Sewer Connection
- (15) 100 Feet - Sanitary Sewer Manhole
- (16) 50 Feet - Sanitary Sewer Line
- (17) 10 Feet - Sanitary Sewer Line (Permanently Water Tight)

If the City of Ogallala or the Nebraska State Department of Health determine that surface runoff or underground movement from potential sources of contamination may

adversely affect the quality of water in a Municipal water supply well, the distance separating these potential sources of contamination and the Municipal water supply well shall be greater than the minimum distance listed in the above schedule, as determined by the City of Ogallala or the Nebraska State Department of Health.

Any person who intends to construct a potential source of contamination or enlarge an existing potential source of contamination shall file a written application for a permit with the City Manager. The City Manager may approve a permit which conforms to the distance requirements of this section; provided, however, if the City Manager determines that the proposed construction poses a risk of contaminating a Municipal water supply well, the City Manager shall deny the permit. The applicant may appeal the decision of the City Manager to the Ogallala City Council by filing a notice with the City Clerk within 30 days of the City Manager's decision. Appeal of the decision of the Ogallala City Council shall be to the District Court of Keith County, Nebraska within 30 days of the Ogallala City Council's decision.

The City Council may consider an application for potential sources of contamination which are proposed to be in closer proximity than the minimum distances listed above. The City Council may only approve such potential sources of contamination when there is no other reasonable location for the potential sources of contamination and when the City Council and the Nebraska State Department of Health determine that such location will not constitute a pollution hazard to a Municipal water supply well. The City of Ogallala shall be required to retain a professional engineer to provide a written report demonstrating that such location will not constitute a pollution hazard to a Municipal water supply well. The cost of the professional engineer, including and fees, and estimated costs and expenses, shall be paid by the applicant prior to the commencement of the engineering report. The applicant may appeal the decision of the Ogallala City Council by filing a notice of appeal with the District Court of Keith County, Nebraska within 30 days of the Ogallala City Council's decision.

Fees for contamination source permits shall be established by resolution of the City Council.

The provisions of this section shall apply to all land within the City of Ogallala, Nebraska, Wellhead Protection Area boundaries.

The provisions of this section shall supersede any land use regulation which allows the installation of a potential source of contamination. Nothing in this section shall be construed to allow the installation of any potential source of contamination which is restricted or prohibited by any federal, state or local law, statute, regulation or ordinance.

Statutory reference: Neb. RS 46-1501 – 46-1509

## **ARTICLE 6**

### **CROSS-CONNECTION CONTROL AND BACKFLOW PREVENTION CODE**

Section.	
43-601.	Title.
43-602.	Purpose.
43-603.	Designation of consumer's representative.
43-604.	Cross-connection control and backflow prevention program.

- 43-605. Surveys and investigations.
- 43-606. Violations.

**43-601. Title.**

This subchapter, and any amendments pertaining hereto, shall be known as the Cross-Connection Control and Backflow Prevention Code.

**43-602. Purpose.**

The purpose of this subchapter is to protect the public water supply system of the City from the possibility of contamination by isolating real or potential sources of contamination or pollution which may backflow into the public water supply system. This subchapter in accordance with, and as required by the laws and regulations of the Nebraska Department of Health, provides for the maintenance of a continuing program of cross-connection control and backflow prevention which will systematically and effectively prevent the contamination or pollution of the potable water supply systems.

**43-603. Designation of consumer's representative.**

The consumer, if requested by the Water Superintendent, shall designate an individual or individuals who shall be responsible for contact and communications with the Water Superintendent in matters relating to system alteration and construction, monitoring and sampling, maintenance, operation, record keeping, and reporting, as required by law and these regulations. Any change in assigned responsibilities or designated individuals shall be promptly reported to the Water Superintendent.

**43-604. Cross-connection control and backflow prevention program.**

(1) The Water Superintendent shall be responsible for the implementation of the cross connection control and backflow prevention program in accordance with this subchapter, and as required by the laws and regulations of the Nebraska Department of Health. No person shall install or maintain a water service connection containing cross connections to a public water supply system unless such cross connections are abated or controlled in accordance with this subchapter, and as required by the laws and regulations of the Nebraska Department of Health.

(2) If in the judgment of the Water Superintendent, an approved backflow prevention device is required for the safety of the public water supply system, they shall give notice in writing to the consumer to install said device at each recommended location. The consumer shall obtain and install said approved backflow prevention devices within 90 days of notice. The Water Superintendent shall inspect and approve all installations of the required backflow prevention devices. The cost for purchasing, installing, maintaining, and testing a backflow prevention device will be the responsibility and sole expense of the owner.

(3) Testing of backflow prevention devices equipped with test ports shall be performed annually, prior to the one year anniversary date of the last annual test, by a Certified Grade 6 water operator. All test results shall be certified to the Water Superintendent not more than thirty (30) calendar days after the test. If the owner fails to timely certify the test results or if maintenance or repairs are necessary, the owner will be subject to immediate disconnection of water service as provided in this subchapter.

(4) If maintenance or repairs are necessary, the owner shall immediately make such repairs and submit a test report to the Water Superintendent for certification. If a disconnection occurs, water service shall not be restored until the owner has completed the maintenance or repairs or has certified the test results.

(5) The Water Superintendent shall conduct an on-going public information program to further the public water system customers' understanding and awareness of cross-connection hazards, the types of remedies available and the need to protect the public water system against backflow no less often than once per year.

#### **43-605. Surveys and investigations.**

(1) It shall be the responsibility of the water consumer to conduct or cause to be conducted periodic surveys of water use practices on his or her premises as necessary to determine whether there are actual or potential cross connections in the consumer's water supply system. The Water Superintendent shall have the authority to conduct or cause to be conducted periodic surveys and investigations, of a frequency as determined by the Water Superintendent, of water use practices within a consumer's premises to determine whether there are actual or potential cross connections to the consumer's water supply system through which contaminants or pollutants could backflow into the public water supply system. The Water Superintendent may conduct these surveys to provide information in determining what level of protection will be necessary to protect the public health and safety. If the consumer refuses to submit the proper information or to cooperate in obtaining the proper information, the Water Superintendent shall treat the premises as if no appropriate cross connection survey has been completed, and in such event the consumer shall be required to install an approved backflow prevention device.

(2) The Water Superintendent shall have the right to enter a premises served by the public water supply system at all reasonable times for the purpose of making surveys and investigations of water use practices within the premises after giving at least ten days notice in advance setting forth a proposed date and time to the consumer. If the consumer cannot make the premises available for inspection at the proposed date and time, the consumer shall contact the Water Superintendent and arrange for another date and time for the inspection. If an agreement cannot be reached on a date and time, the Water Superintendent shall treat the premises as if a cross connection exists which constitutes an immediate threat to the safety of the public water system and subject to immediate disconnection of water service as provided in this subchapter.

#### **43-606. Violations.**

(1) The Water Superintendent shall deny or discontinue, after notice to the consumer thereof, the water service to any premises wherein:

(a) Any backflow prevention device required by these regulations is not installed or maintained in accordance with the provisions of this subchapter.

(b) It is found that the backflow prevention device has been removed or by-passed.

(c) An unprotected cross connection exists on the premises.

(d) A low pressure cut-off required by this subchapter is not installed and maintained in working order.

(e) The Water Superintendent is denied entry to determine compliance with these regulations.

(2) The Water Superintendent shall immediately deny or discontinue, without notice to the consumer thereof, the water service to any premises wherein a severe cross connection exists which constitutes an immediate threat to the safety of the public water system. The Water Superintendent shall notify the consumer within 24 hours of said denial or discontinuation of service.

(3) Water service to such premises shall not be restored until the consumer has corrected or eliminated such conditions or defects in conformance with this subchapter.

## **ARTICLE 7 ADMINISTRATION AND ENFORCEMENT**

Section.

43-701. Water Department.

43-702. Powers of City.

43-703. Liability of City.

43-704. Inspections.

43-705. Duties of police.

### **43-701. Water Department.**

(1) The City owns and operates the City Water Department through the Water Superintendent, who shall be directly under the control and supervision of the City Manager.

(2) The Council, for the purpose of defraying the cost of the care, management, improvement, and maintenance of the City Water Department, may each year levy a tax, not exceeding the maximum limit prescribed by state law, on the taxable value of all taxable property within the City.

(3) The City Manager shall have the direct management and control of the City Water Department and shall faithfully carry out the duties of the office. The City Manager 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 Council.

(4) The Council shall set the rates to be charged for services rendered by resolution and shall file a copy of the rates in the office of the City Clerk for public inspection at any reasonable time.

Statutory reference: Neb. RS 19-1305

### **43-702. Powers of City.**

The Council and the City Manager hereby reserve the right at all times to shut off the water for necessary repairs or extensions. The Council reserves the right to amend or alter any ordinances, rules, or regulations pertaining to water and water service, including the rates herein established when they deem advisable.

### **43-703. Liability of City.**

The City shall not be liable for any damage suffered by any person through any portion of its waterworks system by virtue of the fact that the Plumbing Inspector may

have supervised, inspected, or approved said water services.

**43-704. Inspections.**

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

**43-705. Duties of police.**

It shall be the duty of the City Police to report to the City Manager all cases of leakage and waste in the use of water and all violations of the municipal code relating to the Water Department. They shall have the additional duty of enforcing the observance of all such regulations.

**ARTICLE 8  
PENALTY**

Section.

43-801. Penalty

**43-801. Penalty**

(1) Penalty amounts. Any person who violates any of the prohibitions or provisions of any section of this chapter shall be deemed guilty of a misdemeanor. Unless otherwise specified in this chapter or by statute, the penalty for such violation shall be in any amount not to exceed \$1,000, in the discretion of the court; and; provided, whenever any section of this chapter shall declare a nuisance, a violation of that section shall be penalized by a fine of not more than \$1,000, in which case a new violation shall be deemed to have been committed every 24 hours of such failure to comply.

(2) Abatement of nuisance.

(a) Whenever a nuisance exists as defined in this chapter, the City may proceed by a suit in equity to enjoin and abate the same, in the manner provided by law.

(b) Whenever in any action it is established that a nuisance exists, the court may, together with the fine or penalty imposed, enter an order of abatement as a part of the judgment in the case.

(3) Restitution. The court may, together with the fine or penalty imposed, enter an order of restitution as part of the judgment in the case.

Statutory reference: Neb. RS 16-225, 16-240, 16-246, 18-1720.