

Appendix C – Ordinances or Resolutions and Municipal Code

- Resolution 2013-9: Adoption of Wellhead Protection Plan
- Ordinance 2012-2: Adoption of June 2011 Wellhead Protection Area Map

Relevant Sections

- Chapter 82: Utilities
 - Article 4: Water System
 - Division 3: Groundwater Management
 - Sections 82-186 thru 82-204
 - Division 4: Backflow Prevention
 - Sections 82-214 thru 82-218
 - Article 5: Sewer System
 - Sections 82-275 thru 82-280
- Source: <http://www.cityofwayne.org/index.aspx?NID=120>

RESOLUTION NO. 2013-9

A RESOLUTION ADOPTING WELLHEAD PROTECTION PLAN.

WHEREAS, in January of 2011, the City of Wayne moved forward with the establishment of the Wayne Source Water Protection Project with grant funding from the Nebraska Department of Environmental Quality Source Water Protection Program; and

WHEREAS, the overall intent of the Wayne Source Water Protection Project was to create a Wellhead Protection Plan, which will lay out a roadmap for pollution prevention action over the next 5-10 years, including encouragement of source water friendly land uses; and

WHEREAS, the Wellhead Protection Plan is complete and ready for public inspection; and

WHEREAS, NDEQ regulations require documentation that the plan has been formally adopted by the governing body of the City of Wayne in the form of a Resolution and further requires approval of the Plan at the State Level; and

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the City of Wayne, Nebraska, that the governing body of the City of Wayne does herewith adopt the Wellhead Protection Plan in its entirety and does herewith request approval of the plan at the State Level.

BE IT FURTHER RESOLVED, that the Wayne Wellhead Protection Plan Committee, a standing committee, is hereby established to provide continuous communication and management of the Wellhead Protection Plan, and that the members of the existing Wellhead Steering Committee are hereby appointed to serve on the Wayne Wellhead Protection Plan Committee.

PASSED AND APPROVED this 5th day of March, 2013.

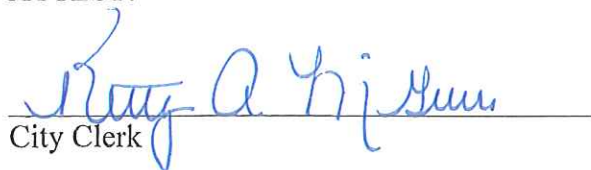
THE CITY OF WAYNE, NEBRASKA,

By



Mayor

ATTEST:


City Clerk

ORDINANCE NO. 2012-2

AN ORDINANCE DESIGNATING A WELLHEAD PROTECTOIN AREA, AS DRAWN BY THE NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY, WELLHEAD PROTECTION PROGRAM, JUNE 2011; TO PROVIDE FOR THE REPEAL OF ORDINANCES INCONSISTENT HEREWITH; TO PROVIDE WHEN THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT; AND TO PROVIDE FOR THE PUBLICATION OF THIS ORDINANCE IN PAMPHLET FORM.

Be it ordained by the Mayor and the City Council of the City of Wayne, Nebraska:

Section 1. Definitions. Wellhead Protection Area means 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 well field.

Section 2. The City Council designates a Wellhead Protection Area for the purpose of protecting the public water supply system. The boundaries of the Wellhead Protection Area are a parcel of land located in:

A PARCEL OF LAND LOCATED IN SECTIONS 9 THRU 16, ALL IN TOWNSHIP 27 NORTH, RANGE 3 EAST OF THE SIXTH P.M., WAYNE COUNTY, NEBRASKA, BEING DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHWEST CORNER OF SECTION 16; THENCE NORTHERLY ON THE WEST LINE OF SECTIONS 9 AND 16 TO THE NORTHWEST CORNER OF THE SOUTH HALF OF SAID SECTION 9; THENCE EASTERLY ON THE NORTH LINE OF SAID SOUTH HALF TO THE NORTHWEST CORNER OF THE SOUTH HALF OF SECTION 10; THENCE EASTERLY ON THE NORTH LINE OF SAID SOUTH HALF TO THE NORTHWEST CORNER OF THE SOUTH HALF OF SECTION 11; THENCE EASTERLY ON THE NORTH LINE OF SAID SOUTH HALF TO THE NORTHWEST CORNER OF THE SOUTHWEST QUARTER OF SECTION 12; THENCE EASTERLY ON THE NORTH LINE OF SAID SOUTHWEST QUARTER TO THE NORTHEAST CORNER OF SAID SOUTHWEST QUARTER; THENCE SOUTHERLY ON THE EAST LINE OF SAID SOUTHWEST QUARTER TO THE NORTHEAST CORNER OF THE WEST HALF OF SECTION 13; THENCE SOUTHERLY ON THE EAST LINE OF SAID WEST HALF TO THE SOUTHEAST CORNER OF SAID WEST HALF; THENCE WESTERLY ON THE SOUTH LINE OF SAID WEST HALF TO THE SOUTHEAST CORNER OF SECTION 14; THENCE WESTERLY ON THE SOUTH LINE OF SECTIONS 14, 15 AND 16 TO THE POINT OF BEGINNING.

AND

A PARCEL OF LAND LOCATED IN SECTIONS 1, 2, 3, 11, 12, ALL IN TOWNSHIP 26 NORTH, RANGE 3 EAST AND SECTIONS 6 AND 7, ALL IN TOWNSHIP 26 NORTH, RANGE 4 EAST OF THE SIXTH P.M., WAYNE COUNTY, NEBRASKA, BEING DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHWEST CORNER OF SECTION 3; THENCE NORTHERLY ON THE WEST LINE OF SAID SECTION 3 TO THE NORTHWEST CORNER OF SAID SECTION 3; THENCE EASTERLY ON THE NORTH LINE OF SECTIONS 1, 2, AND 3 TO THE NORTHWEST CORNER OF THE WEST HALF OF SECTION 6; THENCE EASTERLY ON THE NORTH LINE OF SAID WEST HALF TO THE NORTHEAST

CORNER OF SAID WEST HALF; THENCE SOUTHERLY ON THE EAST LINE OF SAID WEST HALF TO THE NORTHEAST CORNER OF THE NORTHWEST QUARTER OF SECTION 7; THENCE SOUTHERLY ON THE EAST LINE OF SAID NORTHWEST QUARTER TO THE SOUTHEAST CORNER OF SAID NORTHWEST QUARTER; THENCE WESTERLY ON THE SOUTH LINE OF SAID NORTHWEST QUARTER TO THE NORTHEAST CORNER OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 7; THENCE SOUTHERLY ON THE EAST LINE OF SAID NORTHWEST QUARTER OF THE SOUTHWEST QUARTER TO THE SOUTHEAST CORNER OF SAID NORTHWEST QUARTER OF THE SOUTHWEST QUARTER; THENCE WESTERLY ON THE SOUTH LINE OF SAID NORTHWEST QUARTER OF THE SOUTHWEST QUARTER TO THE SOUTHWEST CORNER OF SAID NORTHWEST QUARTER OF THE SOUTHWEST QUARTER; THENCE SOUTHERLY ON THE EAST LINE OF SECTION 12 TO THE SOUTHEAST CORNER OF SAID SECTION 12; THENCE WESTERLY ON THE SOUTH LINE OF SAID SECTION 12 TO THE SOUTHWEST CORNER OF SAID SECTION 12; THENCE NORTHERLY ON THE WEST LINE OF SAID SECTION 12 TO THE SOUTHEAST CORNER OF THE NORTHEAST QUARTER OF SECTION 11; THENCE WESTERLY ON THE SOUTH LINE OF SAID NORTHEAST QUARTER TO THE SOUTHWEST CORNER OF SAID NORTHEAST QUARTER; THENCE NORTHERLY ON THE WEST LINE OF SAID NORTHEAST QUARTER TO THE NORTHWEST CORNER OF SAID NORTHEAST QUARTER; THENCE WESTERLY ON THE SOUTH LINE OF SAID SECTIONS 2 AND 3 TO THE POINT OF BEGINNING.

CONTAINING 10.34 SQUARE MILES, MORE OR LESS.

Section 3. That a copy of the map of the Wellhead Protection Area for the City of Wayne, Nebraska is on file and shall be kept in the office of the Department of Utilities and Public Works for the City of Wayne, Nebraska.

Section 4. That all Ordinances previously adopted by the Mayor and the City Council of the City of Wayne, Nebraska, which are inconsistent and in conflict herewith this Ordinance are hereby repealed and without further force of effect.

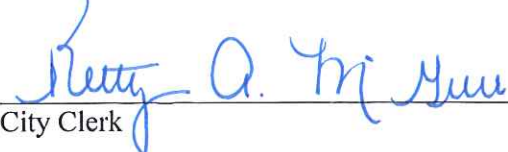
Section 5. That this ordinance shall be in full force and take effect from and after its passage, approval, and publication as required by law.

PASSED AND APPROVED this 17th day of January, 2012.

THE CITY OF WAYNE, NEBRASKA

By  _____
Mayor

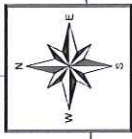
ATTEST:



City Clerk

NE3118104

R 2 E R 3 E



WAYNE

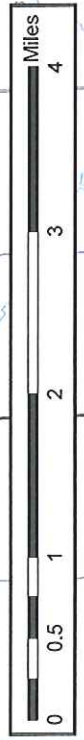
WAYNE COUNTY
Drawn by Nebraska Department of
Environmental Quality, Wellhead
Protection Program, June 2011

Time of Travel

- 0-1 Year
- 1-2 Year
- 2-10 Year
- 10-20 Year
- 20-50 Year

Time-of-Travel lines are created using the U.S. EPA's Wellhead Analytic Element Model, WHAEM2000, 3.2.1 which assumes steady-state flow and average groundwater travel times. This model is a representation of reality based on the best known geologic, water level, and pumping information available. NDEQ will continue to update and revise wellhead protection areas as new information becomes available.

The wellhead protection boundary was deliberately drawn slightly larger than time-of-travel lines shown on the map to allow for seasonal changes and some natural variability in the aquifer. The wellhead protection boundary is also drawn to conform to property boundaries, section lines, and water bodies to allow for easier land management and identification.



Generalized 50 Year Wellhead Protection Area Boundary
State Recognized Wellhead Protection Area Boundary

Wellhead Protection Area Boundary

C-155312
2009-1
Well #11

A-016927
80-1
Well #10

A-016525
80-1
Well #9

G-052209
75-2
Well #7

G-052208
75-1
Well #6

G-026980
34-1
Well #4

G-026981
34-1
Well #5

Deer Creek

R 3 E

T 27 N
T 26 N

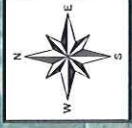
R 3 E R 4 E

NE3118104

R2E R3E

Generalized 50 Year Wellhead Protection Area Boundary

State Recognized Wellhead Protection Area Boundary



WAYNE

WAYNE COUNTY

Drawn by Nebraska Department of
Environmental Quality, Wellhead
Protection Program, June 2011



Time-of-Travel lines are created using the U.S. EPA's Wellhead Analytic Element Model, WhAEM2000, 3.2.1 which assumes steady-state flow and average groundwater travel times. This model is a representation of reality based on the best known geologic, water level, and pumping information available. NDEQ will continue to update and revise wellhead protection areas as new information becomes available.

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G-155312
2009-1
Well #11

A-016927
90-1
Well #10

A-016525
88-1
Well #9

G-662209
70-2
Well #8

G-662208
70-1
Well #6

G-229880
Well #4

G-229881
65-1
Well #5

Wellhead Protection Area Boundary

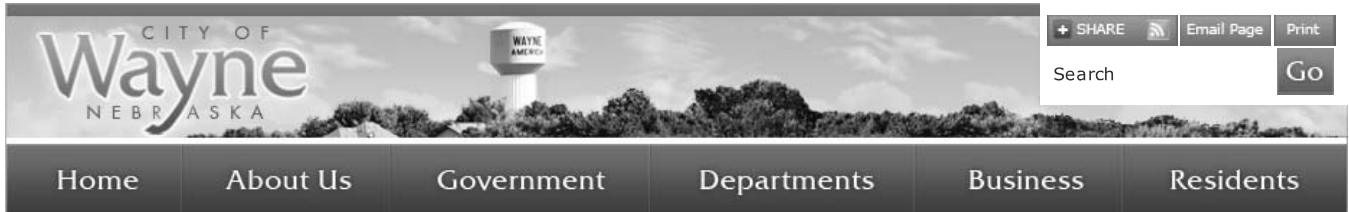
Deer Creek

Dog Creek

Wayne

T 27 N
T 26 N

R 3 E
R 4 E



Ordinances

Resolutions

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Chapter 82

Code of Ordinances for the City of Wayne, Nebraska

Chapter 82 - Utilities ([return to Index](#))

Cross references: Administration, ch. 2; Buildings and Building Regulations, ch. 18; Electrical Code, § 18-81 et seq.; Plumbing Code, § 18-181 et seq.; Businesses, ch. 22; Environment, ch. 34; Health and Sanitation, ch. 42; Solid Waste Management, ch. 66; Streets, Sidewalks and Other Public Places, ch. 70; Subdivisions, ch. 74.

State law references: Public utilities, R.R.S. 1943, § 18-401 et seq.

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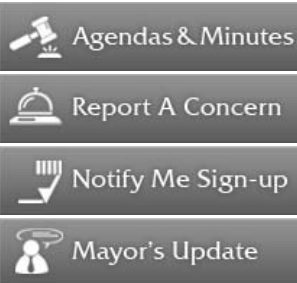
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Article I. In General

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Sec. 82-1. Meters generally

All utility meters which measure a utility provided by the city shall be furnished and set by the city. Only approved meters shall be installed and used by customers. Meters shall be and remain the property of the city. The customer shall keep all meters clean and in good repair at the expense of the customer. The owner or tenant of the premises where a meter is located shall provide ready and convenient access to the meter so it might be easily examined and read by appropriate city personnel. The city reserves the right to test utility meters at any time and if it is found to be beyond repair, the city shall have the right to place a new meter at the city's expense.

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Secs. 82-2--82-30. Reserved

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Article II. Utilities Disconnection

State law references: Delinquent water charges, R.R.S. 1943, § 16-682; denial or discontinuance of utility service, R.R.S. 1943, § 70-1601 et seq.

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Sec. 82-31. Notice procedure

(a) The city shall have the right to discontinue services and remove its properties if the charges for such services are not paid within 13 days after the date that they become delinquent. Before any termination, the city clerk shall first give notice by first class mail or in person to any domestic subscriber whose service is proposed to be terminated. If notice is given by first class mail, such mail shall be conspicuously marked as to its importance. Service shall not be discontinued for at least seven days. As to any subscriber who has previously been identified as a welfare recipient to the city by the department of social services, such notice shall be by certified mail; and notice of such proposed termination shall be given to the department of social services.

(b) The notice shall contain the following information:

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

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; which certificate shall be filed with the city clerk within five days of receiving notice under this section and will prevent the disconnection of the city's services for a period of 30 days from such filing; however, only one postponement of disconnection shall be allowed under this subsection for each incidence of nonpayment of any due account;

8. The cost that will be borne by the domestic subscriber for restoration of service;
9. A statement that the domestic subscriber may arrange with the city for an installment payment plan;
10. A statement to the effect that those domestic subscribers who are welfare recipients may qualify for assistance in payment of their utility bill and that they should contact their caseworker in that regard; and
11. Any additional information not inconsistent with this section which has received prior approval from the council.

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

(Code 1974, § 3-801)

State law references: Similar provisions, R.R.S. 1943, § 70-1606.

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Sec. 82-32. Request for conference

(a) Upon notice to the employee designated by the city of any request for a conference by a domestic subscriber, the employee shall:

1. Notify the domestic subscriber, in writing, of the time, place and date scheduled for the conference; and
2. Hold a conference within 14 days of the receipt of the domestic subscriber's request. Such conference shall be informal and not governed by state rules of evidence. If the employee determines at the conference that the domestic subscriber did not receive proper notice or was denied any other right afforded under this article, the employee shall recess and continue the conference at such time as the subscriber has been afforded his rights. Failure of a domestic subscriber to attend a scheduled conference shall relieve the city of any further action prior to the discontinuance of service. If a domestic subscriber shall contact the city prior to the scheduled conference and demonstrate that failure to attend was for a legitimate reason, the city shall make a reasonable effort to reschedule the conference.

(b) The employee of the city shall, based solely on the evidence presented at the conference, affirm, reverse or modify the city's decision which involves a disputed bill which results in a threatened termination of utility service. The employee shall allow termination of utility service only as a measure of last resort after the utility shall have exhausted all other remedies less drastic than termination.

(Code 1974, § 3-802)

State law references: Similar provisions, R.R.S. 1943, §§ 70-1610, 70-1611.

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Sec. 82-33. Appeal

Any domestic subscriber may appeal an adverse decision of the employee to the council, who shall by resolution establish a hearing procedure to resolve utility bills appealed by domestic subscribers. The procedure shall be in writing and a copy of such procedure shall be furnished upon the request of any domestic subscriber. Such appeal shall be filed with the council within the time specified in the procedures established. Nothing in this article shall prohibit the council from providing such additional stages of appeal as it may deem appropriate.

(Code 1974, § 3-803)

State law references: Similar provisions, R.R.S. 1943, § 70-1612.

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Sec. 82-34. Third-party notice

The city shall provide a third-party notice procedure for the notification of a designated third party of any proposed discontinuance of service, and shall advise its subscribers, including new subscribers, of the availability of such procedure.

(Code 1974, § 3-804)

State law references: Similar provisions, R.R.S. 1943, § 70-1607.

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Sec. 82-35. Applicability

This article shall not apply to any disconnections or interruptions of services made necessary by the city for reasons of repair or maintenance or to protect the health or safety of the domestic subscriber or of the general public.

(Code 1974, § 3-805)

State law references: Similar provisions, R.R.S. 1943, § 70-1615.

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Sec. 82-36. Diversion of services

(a) Definitions. The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Bypassing means the act of attaching, connecting, or in any manner affixing any wire, cord, socket, motor, pipe or other instrument, device or contrivance to the utility supply system or any part of the system in such a manner as to transmit, supply or use any utility service without passing through an authorized meter or other device provided for measuring, registering, determining or limiting the amount of electricity, gas or water consumed. Bypassing shall also mean the act of employing any means to obtain the use or benefit of electricity, gas or water without paying for the use at the rate established by the supplier for such utilities.

Customer means the person responsible for payment for utility services for the premises, and shall include employees and agents of the customer.

Tampering means the act of damaging, altering, adjusting or in any manner interfering with or obstructing the action or operation of any meter or other device provided for measuring, registering, determining or limiting the amount of electricity, gas or water consumed.

Unauthorized metering means the act of removing, moving, installing, connecting, reconnecting or disconnecting any meter or metering device for utility service by a person other than an authorized employee or agent of such utility.

Utility means any person lawfully operating in whole or in part for the purpose of supplying electricity, gas, water, including steam, or any combination, to the public or to any other person.

Utility service means the provision of electricity, gas, steam, water or any other service or commodity furnished by the utility for compensation.

Utility supply system means and includes all wires, conduits, pipes, cords, sockets, motors, meters, instruments, load control equipment, and all other devices used by the utility for the purpose of providing utility services.

(b) Civil actions.

1. The city may bring 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 the utility. The city may bring a civil action for damages pursuant to this subsection against any person receiving the benefit of utility service through means of bypassing, tampering or unauthorized metering.
2. In any civil action pursuant to this subsection, the city shall be entitled, upon proof of willful or intentional bypassing, tampering, or unauthorized metering, to recover as damages the amount of actual damages or loss if the amount of the damage or loss is susceptible of reasonable calculation, or liquidated damages of \$750.00.
3. In addition to any damage or loss under subsection (b)(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, cost of suit, and reasonable attorney's fees within the scope of R.R.S. 1943, § 25-1801.

(c) Presumptions.

1. There shall be a rebuttable presumption that a tenant or occupant at any premises where bypassing, tampering or unauthorized metering is proven to exist caused or had knowledge of such bypassing, tampering or unauthorized metering if the tenant or occupant:
 1. a. Had access to the part of the utility supply system on the premises where the bypassing, tampering or unauthorized metering is shown to exist; or
 2. b. Was responsible or partially responsible for payment, either directly or indirectly, to the utility or to any other person for utility services to the premises.
2. There shall be a rebuttal presumption that a customer at any premises where 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

supply system on the premises where the bypassing, tampering or unauthorized metering was proven to exist.

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

(Code 1974, §§ 3-806--3-806.03)

State law references: Similar provisions, R.R.S. 1943, § 86-331.04.

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Secs. 82-37--82-70. Reserved

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Article III. Electrical System

State law references: Authority to own, operate utility services, R.R.S. 1943, § 16-681.

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Sec. 82-71. Ownership

The city owns and operates the city electrical system through the city administrator. When performing duties for the electrical system, the city administrator shall be referred to as the light commissioner. The council, for the purpose of defraying the cost of the care, management, and maintenance of the city electrical system, may each year levy a tax not exceeding the maximum limit prescribed by state law on the actual valuation of all real estate and personal property within the corporate limits that is subject to taxation. The revenue from the tax shall be known as the electrical fund and shall remain in the custody of the city treasurer. The light commissioner shall have the direct management and control of the city electrical system and shall faithfully carry out the duties of his office. He shall have the authority to adopt rules and regulations for the safe and efficient management of the electrical system subject to the supervision and review of the council. The council shall, by resolution, set the rates to be charged for services rendered and shall file them in the office of the city clerk for public inspection at any reasonable time.

(Code 1974, § 3-701)

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Sec. 82-72. Contracts and terms

The city, through its electrical system, shall furnish electric current for light and power purposes to persons whose premises abut on any supply wire of the distribution system and may furnish electric current to such other persons within or without its corporate limits, as and when, according to law, its electrical department may see fit to do so. The rules, regulations and rates for electric service named in this article shall be considered a part of every application made for electric service and shall be considered a part of the contract between every consumer served by the electrical department. Without further formality, the making of application on the part of any applicant or the use or consumption of electric energy by customers and the furnishing of electric service to any applicant or customer shall constitute a contract between applicant or customer and the city, to which both parties are bound. If a customer should violate any of the provisions of the contract or any reasonable rules and regulations that the electrical system may adopt, the light commissioner or his agent shall cut off or disconnect the electric service from the building or place of such violation; and no further connection of electric service for such building or place shall again be made save or except by order of the commissioner or his agent.

(Code 1974, § 3-702)

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Sec. 82-73. Consumer's application

Every person desiring electrical service must make application to the light commissioner or his agent. Any applicant may be required to make a service deposit in such amount as has been set by the council and on file at the office of the city clerk. Electricity may not be supplied to any house or building except upon the written order of the light commissioner. The system shall not supply to any person outside the corporate limits electrical service without special permission from the council; and the entire cost of wire, installation and other expenses shall be paid by the consumer. Nothing in this section shall be construed to obligate the city to supply electrical service to nonresidents.

(Code 1974, § 3-703)

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Sec. 82-74. Electrical service contracts

Contracts for electrical service are not transferable. Any person wishing to change from one

contracts for electrical service are not transferable. Any person wishing to change from one location to another shall make a new application and sign a new contract. If any consumer shall sell, dispose or remove from the premises where service is furnished in his name, or if the premises are destroyed by fire or other casualty, he shall at once inform the light commissioner, who shall cause the electrical service to be shut off from the premises. If the consumer should fail to give such notice, he shall be charged for all electricity used on the premises until the light commissioner is otherwise advised of such circumstances.

(Code 1974, § 3-704)

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Sec. 82-75. Installation expense

The city shall provide a point of delivery on the customer's property line in reasonable proximity to the city's distribution system and will furnish the meter, meter socket and labor from such point of delivery to the point of distribution. The cost of wire beyond the point of delivery shall be borne by the customer.

(Code 1974, § 3-705)

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Sec. 82-76. Meters

(a) All electrical meters shall be read at least one time each month during which electrical service is used between the 15th day and the 28th day of each month.

(b) All electric current furnished customers by the electric distribution system of the city shall be measured by meter, furnished and set by the city. Only meters approved by the city shall be installed or used by customers. For convenience of the customers, the city will install meters for each customer of electricity, which meters shall be and remain the property of the city. No person, except an authorized agent of the city, shall be allowed to set meters or make connections to the electric service of the distribution system of the city. The customer shall keep all meters clean and

in repair at the expense of the customer. The owner or tenant of premises where a meter is located shall provide ready and convenient access to the meter so that it may easily be examined and read by the public works superintendent or his authorized agents. All meters shall be tested at the customer's request at the expense of the customer any reasonable number of times. If the test shows the electric meter to be running two percent or more fast, the expense of such test shall be borne by the city. The city reserves the right to test any electric service meter at any time; and if the meter is found to be beyond repair, the city shall always have the right to place a new meter on the customer's electric service fixtures at the city's expense. Should a customer's meter fail to register properly, the customer shall be charged for electric service during the time the meter is out of repair on the basis of the monthly consumption during the same month of the preceding year. If no such basis for comparison exists, the customer shall be charged such amount as may be reasonably fixed by the public works superintendent. It shall be unlawful for any person to tamper with any electric meter, or by any means or device to divert electricity from the service line so that the electricity shall not pass through the meter, or while passing through the meter, to cause the meter to register inaccurately.

(Code 1974, § 3-706)

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Sec. 82-77. Fees and collections

The council has the power and authority to fix the rates to be paid by electrical consumers for the use of electricity. All rates shall be on file for public inspection at the office of the city clerk. The light commissioner or his authorized agent shall bill the consumers and collect all money received by the city on the account of the city electrical system. He shall faithfully account for and pay over the money to the city treasurer all revenue collected by him, taking his receipt in duplicate, filing one with the city clerk, and keeping the other on file in his official records.

(Code 1974, § 3-707)

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Sec. 82-78. Minimum rates

All electrical consumers shall be liable for the minimum rate provided by resolution unless the consumer shall, by written order, direct the light commissioner to shut off the electricity, in which case he shall not be liable thereafter for electrical service until the electricity is turned on again.

(Code 1974, § 3-708)

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Sec. 82-79. Service deposit fund

The service deposit required for electrical service shall be promptly paid upon demand by all customers of the electrical system. From the deposit shall be deducted all delinquent electrical charges. The service deposit shall be collected by the light commissioner and immediately turned

charges. The service deposit shall be collected by the light commissioner and immediately turned over to the city treasurer, who shall keep the fees in a trust fund for the customers of the electrical system. This fund shall be put out at interest separate and apart from other funds. Interest arising from the fund shall be expended solely for the repair of equipment and property of the city electrical system.

(Code 1974, § 3-709)

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Sec. 82-80. Restricted use

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

(Code 1974, § 3-711)

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Sec. 82-81. Building moving

Should any house or building moving occur or be necessary and it becomes necessary in such work to remove or disturb any of the property or wires of the city electrical system, the work shall not be done except upon written permission received from the light commissioner, who shall then order paid in advance the actual cost of moving the wires; and such cost shall be paid by the applicant prior to the moving of the building or house. All expense of removing, changing, and replacing the wires or apparatus of the electrical system shall be paid out of the deposit made prior to moving; and any surplus remaining after all expenses are paid shall be returned to the applicant. If in the course of moving the building or house it becomes apparent that additional expense will be incurred, such additional deposit as deemed necessary may be demanded.

(Code 1974, § 3-712)

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Sec. 82-82. Posting signs

It shall be unlawful for any person to post, tack or fasten to the poles, structures, fixtures or equipment of the city electrical system any sign, poster, advertisement or banner without written permission from the light commissioner.

(Code 1974, § 3-713)

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Sec. 82-83. Common regulations

(a) Definitions. The following definitions shall apply where the defined terms are used in articles II and III of this chapter:

City means the electric distribution system of the city.

Customer means any person taking electrical service from the city.

Demand or measured demand means the number of kilowatts shown by the city's meter for the 15-minute period of the customer's greatest kilowatt-hour use during the billing period.

Primary voltages means any voltage higher than 600 volts in normal use in the city.

Residence means premises where the customer lives, such as a dwelling, trailer, apartment, or unit of a multifamily dwelling, equipped with cooking facilities.

Secondary voltages means any voltage less than 600 volts available from the city at the customer's premises.

(b) Access to city's equipment. The customer shall, without expense to the city, permit access to

all equipment and facilities owned by the city and located on the customer's premises at all reasonable hours. The customer shall permit the city to trim or cause to be trimmed the limbs and tops of trees to the extent that such trimming shall be necessary to avoid interference.

(c) Title to facilities installed on customer's premises. Title to all property installed or supplied by the city on a customer's premises is and shall remain in the city, and the property may be removed by the city at any time. The customer shall protect the property of the city on a customer's premises and maintain clear and safe access to such property at all reasonable times.

premises and maintain clear and safe access to such property at all reasonable times.

(d) Continuity of service.

1. The city will endeavor to supply but does not guarantee continuity of service of a generally accepted standard. Interruption of service for repairs, alterations, want of supply, conditions on a customer's premises dangerous to persons, property or service of the customer or others, nonpayment by the customer of amounts payable under this article, failure by the customer to provide means of access for obtaining regularly scheduled readings of the meter or for testing the city's metering equipment or prevention of fraud or abuse shall not be a breach by the city of its responsibility.
2. The customer waives claim for, and by accepting service, releases and discharges the city for claims for, and shall indemnify and save harmless the city from, any and all loss and damage arising from interruption of service, or on account of injury to persons (including death), or damage to property on the premises of a customer, or under a customer's control, unless such loss, damage or injury is the natural, probable and reasonably foreseeable consequence of the city's negligence, and such negligence is the sole and proximate cause for such loss or damage.

(e) Unlawful use of service. In any case of tampering with meter installation or interfering with its proper functioning or any other unlawful use or diversion of service by any person, or evidence of any such tampering, unlawful use or service diversion, the customer shall be liable to immediate discontinuance of service and to prosecution under applicable laws. The city shall be entitled to collect from the customer at the appropriate rate for all power and energy not recorded on the meter by reason of such unlawful use or diversion, plus all expenses incurred by the city on account of such unauthorized acts.

(f) Discrimination. No electric service shall be furnished to any customer under any other rate than as provided in this section, and there shall be no discrimination in rates as between customers using equal amounts of energy for the same purpose under the same condition.

(g) Combined residential and general service. A customer in a single-family dwelling, parts of which are used for a commercial purpose, shall purchase service under the applicable commercial rate schedule.

(h) Electric heating. The city does not assume responsibility for the installation or the operation of the customer's space heating equipment, nor does the city assume any responsibility with respect to the customer's premises, such as the insulation of the area to be heated. Electric space heating equipment shall conform to the following:

1. All permanently installed heaters larger than 1,650 watts shall be designed to operate at 208, 240, 277, or 480 volts.
2. Space heating equipment shall be permanently installed and so connected that a single thermostat controls no more than ten kilowatts of heating load. In the case of a central system, heating elements shall be energized in step stages of not more than ten kilowatts per step, with a minimum time delay of ten seconds between steps.

(i) Special facilities. The city's investment for special facilities or equipment to serve a customer shall not exceed 2 1/2 times the city's estimated annual revenue to be received from customer service.

(j) Temporary service. A charge will be made for each temporary single-phase service connection, consisting of service wires and meter only. When more than the connection of service wires is required, the customer shall pay for the work done for the city on a cost-plus basis.

(k) Underground service entrances.

1. Underground service entrances shall be installed, owned and maintained by the customer.
2. For residential customers, the city will provide a point of delivery at a point on the customer's property line in reasonable proximity to the city's distribution system.
3. For nonresidential customers, the city may, at its option, extend underground primary service to a transformer located on the customer's property. The customer shall pay the city the estimated excess costs of providing underground primary service in lieu of overhead service.
4. All new services and all service entrances replaced by reason of a change in the customer's load shall be underground. The city will continue to own and maintain existing overhead service so long as they are adequate to serve the customer's load.

(l) Service deposits. The city shall require each application for electrical service to have a service deposit in an amount set by council resolution. If a customer maintains record of prompt payment for approximately 12 to 18 consecutive months, the deposit shall be refunded. Prior to refunding of any deposit, there shall be deducted all delinquent electrical charges. The city reserves the right if delinquency occurs to require a service deposit again.

(m) Net monthly bill. The net monthly bill is the charge computed at the net monthly rate. The net monthly bill shall apply when payment is made on or before the due date.

(n) Gross monthly bill. The gross monthly bill is the charge computed at the gross monthly rate.

The gross monthly bill shall apply when payment is made after the due date.

(o) Due date. The due date is the tenth day of the month following the date on which a customer's bill is computed, after which date such bill shall become delinquent and the gross monthly bill shall apply. If the tenth day falls on a Saturday, Sunday or holiday, the deadline for payment without penalty shall be extended to the next working day.

(p) Payment. The customer shall pay for electric service monthly or at such other interval as is prescribed by the applicable rate schedule. The net bill shall apply if payment is made on or before the due date. If a bill is not paid by the due date, the gross bill shall apply and such bill shall become delinquent; and the city reserves the right to discontinue service. Discontinuance of service is governed in article II of this chapter. Service discontinued for delinquency will not be reconnected until all charges, including the reconnection charge, have been paid.

(q) Reconnection charge. If a customer whose service has been disconnected, either by his order or by reason of delinquency, requests a reconnection of such service within 12 months of the time of disconnection, a reconnection charge equal to the sum of the monthly minimum charges for the period of disconnection shall also be collected. The minimum reconnection charge shall be equal to the sum of three months' minimum charges.

(r) Transfer of demand. When service is established to a new customer at an existing location, the demand established by the previous customer at that location will be considered as having been established by the new customer. Upon showing of good cause, the city may waive the transfer of demand to a new customer.

(s) Tax clause. To the total of all charges for services under the appropriate rate schedule shall be added applicable existing state and city taxes, and also added shall be any new or additional taxes or increases in the rates of existing taxes imposed after the effective date of the rate schedules by any governmental authority upon the service rendered by the city.

(t) Residential service. Residential service rates shall be applicable to single-phase service at secondary voltages to single-family residences.

(u) General service. General service rules shall be applicable to single-phase or three-phase service at primary or secondary voltages for nonresidential uses as determined by the city.

(v) General service demand. General service demand rates shall be applicable to existing or to new customers with demands of 50 kilowatts, but not more than 1,000 kilowatts for three consecutive months, whose entire requirements are taken through one meter, under a contract of standard form.

(w) Supplemental service. Supplemental service rates shall be applicable to the customer of the city receiving a base allotment of power from Western Area Power Administration and requiring supplemental power in order to meet its total requirements.

(x) Large power. Large power rates shall be applicable to existing customers or to new customers with demands of 1,000 kilowatts or more whose entire requirements are taken through one meter, under a contract of standard form.

(y) City service. City service rates shall be applicable to any customer meeting city criteria for service and to any electrical load in which the city has sole investment and interest.

(z) Dusk-to-dawn lighting. Dusk-to-dawn lighting rates shall be applicable to private, outdoor lighting service to customers taking service under the customer classifications of this article when the lighting facilities are installed and operated as an extension of the city's electric distribution system, except where, in the judgment of the city, service is impractical. Service under this rate shall be unmetered and the luminaries will operate automatically each night from dusk to dawn. All facilities necessary for service under this schedule shall be installed, owned, and maintained by the city. The customer, however, will be responsible for the cost of replacing any parts of the facilities damaged by vandalism.

(aa) Power procurement cost adjustment. There shall be added to or subtracted from each customer's bill an amount equal to the number of kilowatt hours of energy consumed by the customer during the billing period multiplied by the power procurement cost adjustment factor. The power procurement cost adjustment factor shall be based upon the power production cost adjustment included in the city's most recent invoice for wholesale services from Nebraska Public Power District.

(bb) Rates. The electrical rates for residential service, general service, general service demand, supplemental service, large power, city service, dusk-to-dawn lighting, and power procurement cost adjustment factor shall be established by council resolution.

(Code 1974, § 3-715; Ord. No. 97-22, § 2, 10-28-1997; Ord. No. 99-8, §§ 1--3, 8-17-1999; Ord. No. 2009-23, §, 11-17-2009)

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Secs. 82-84--82-120. Reserved

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Article IV. Water System

Cross references: Open fire hydrants, § 38-1.

State law references: Authority to purchase, provide for, construct, maintain, operate and regulate a waterworks system, R.R.S. 1943, § 16-674.

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Division 1. Generally

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Secs. 82-121--82-141. Reserved

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Division 2. Water Division

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Sec. 82-142. Operation and funding

The city owns and operates the city water division through the city administrator. When performing duties for the water division, the city administrator shall be referred to as the water commissioner. The city administrator shall direct the operation of the water division by and through the water/wastewater superintendent. The duties and responsibilities of the superintendent shall be determined by the city administrator. The council, for the purpose of defraying the cost of the care, management and maintenance of the water division, may each year levy a tax not exceeding the maximum limit prescribed by state law, on the actual valuation of all real estate and personal property within the corporate limits that is subject to taxation. The revenue from the tax shall be known as the water fund and shall remain in the custody of the city treasurer. The water commissioner shall have the direct management and control of the city water division and shall faithfully carry out the duties of his office. The water commissioner shall have the authority to adopt rules and regulations for the sanitary and efficient management of the water division, subject to the supervision and review of the council. 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.

(Code 1974, § 3-101; Ord. No. 97-5, § 2, 3-25-1997)

State law references: Authority to set rates for water service, R.R.S. 1943, § 16-681.

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Sec. 82-143. Definitions

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. Where no definition is specified, the normal dictionary usage of the word shall apply.

Main means any pipe other than a supply or service pipe that is used for the purpose of carrying water to and dispersing water in the city.

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

Service pipe means any pipe extending from the shutoff, stopbox or curb cock at or near the lot line to and beyond the property line of the consumer to the location on the premises where the water is to be dispersed.

Supply pipe means any pipe tapped into a main and extending from there to a point at or near the lot line of the consumer's premises where the shutoff, stopbox, or curb cock is located.

(Code 1974, § 3-102)

Cross references: Definitions generally, § 1-2.

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Sec. 82-144. Consumer's application

Every person desiring a supply of water must make application to the water commissioner. The water commissioner may require any applicant to make a service deposit in such amount as he

deems necessary subject to the review of the council. Water may not be supplied to any house or private service pipe except upon the written order of the water commissioner.

(Code 1974, § 3-103)

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Sec. 82-145. Water contract

The city, through its water division, shall furnish water to persons within its corporate limits whose premises abut a street or alley in which a commercial main is 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 laid. The rules, regulations and water rates named in this article shall be considered a part of every application made for water service and shall be considered a part of the contract between every consumer served. Without further formality, the making of application on the part of any applicant or the use or consumption of water service by consumers and the furnishing of water service to consumers shall constitute a contract between each consumer and the city, to which contract both parties are bound. If the consumer shall violate any of the provisions of the contract or any reasonable rules and regulations the council may adopt, the water commissioner or his agent may cut off or disconnect the water service from the building, premises or place of such violation. No further connection for water service to such building, premises or place shall again be made save or except by order of the commissioner or his agent.

(Code 1974, § 3-104)

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Sec. 82-146. Installation procedure

In making excavations in streets, alleys or sidewalks for the purpose of installing pipe, or making repairs, the paving, stones and earth must be removed and deposited in a manner that will occasion the least inconvenience to the public and provide for adequate drainage. No person shall leave an excavation made in the street, alley or sidewalk open at any time without a barricade, and during the night, warning lights. After service pipes are laid, the streets, alleys and sidewalks shall be restored to good condition. If the excavation in any street, alley or sidewalk is left open or unfinished for a period of 24 hours or more, the water commissioner may finish or correct the work; and all expenses so incurred shall be charged to the consumer. All installations or repairs of pipes require two inspections by the water commissioner. The first inspection shall be made when connections or repairs are completed and before the pipes are covered. The second inspection shall be made after the dirt work is completed and the service is restored. It is the customer's responsibility to notify the commissioner at the time the work is ready for each inspection. All installation shall be done under the supervision and strictly in accordance with the rules, regulations and specifications prescribed for such installation by the water commissioner provided such rules, regulations and specifications have been reviewed and approved by the council.

(Code 1974, § 3-105)

State law references: Authority to require connections, R.R.S. 1943, § 16-667.

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Sec. 82-147. Supply and service pipes; stopboxes; installation expense

Tapping of the commercial mains shall be done by the city, and in no case shall anyone other than the city clerk or his authorized agent tap the commercial water main. The consumer, owner or occupant shall pay the cost of furnishing and installing all supply pipes, stopboxes and service pipes from the commercial water main to the point of dispersement. The consumer shall pay the expense of procuring the services of a licensed plumber and shall pay the expense and necessary labor to bring water service from the water main to the point of dispersement.

(Code 1974, § 3-106)

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Sec. 82-148. Supply lines, service lines and stopboxes; replacement and repair

All replacements and repairs to supply pipes, service pipes and stopboxes shall be made at the consumer's expense. Should any consumer fail, neglect or refuse to take steps to replace the consumer's supply pipe, service pipe or stopbox after being notified in writing by the city clerk or his authorized agent to do so forthwith, water service may be cut off at the curbstop.

(Code 1974, § 3-106.01)

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Sec. 82-149. Water meters; installation expense

The city will furnish a three-fourths-inch by three-fourths-inch water meter and remote readout or the value of the meter and readout. If the consumer requires a larger size water meter than three-fourths-inch by three-fourths-inch, the cost of installing the water meter and remote meter readout shall be paid by the consumer.

readout shall be paid by the consumer.

(Code 1974, § 3-107)

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Sec. 82-150. Water meters; replacement and repair

All replacements and repairs to water meters, that are one inch by one inch in size or smaller, and other required meter apparatus, shall be by the city. All replacements and repairs to water meters, that are larger than one inch by one inch, shall be made at the consumer's expense; however, if any such repair or replacement is caused by the negligence or willful act of the owner or occupant of the premises served by the meters, the cost of such repair or replacement shall be charged to such owner or occupant.

(Code 1974, § 3-107.01)

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Sec. 82-151. Water meters; access

All water meters shall be of the straight reading type, registering in gallons. All remote meter readouts are to be placed in an outside location which is readily accessible to the city clerk or his authorized agent. The owner or tenant of premises where a water meter is located shall provide ready and convenient access to the water meter so that it may be easily examined and read by the city clerk or his authorized agent.

(Code 1974, § 3-107.02)

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Sec. 82-152. Approval

All supply pipes, service pipes, stopboxes, water meters, remote meter readouts, and other required meter apparatus shall be approved as to quality by the city clerk or his authorized agent.

(Code 1974, § 3-107.03)

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Sec. 82-153. Meter testing

Any consumer of water from the city water system shall have the right to request the city clerk, at the consumer's expense, to test, a reasonable number of times, the consumer water meter which the consumer may have reason to believe is not registering the true amount of water consumed. It shall be the duty of the city clerk or his authorized agent, at the consumer's expense, to test the water meter as requested.

(Code 1974, § 3-107.04)

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Sec. 82-154. Ownership

Notwithstanding the fact that the city shall be paid the cost of water meters, remote meter readouts and other required meter apparatus furnished by the city and used in the conveying or metering of city water, title to all water meters shall remain vested in the city.

(Code 1974, § 3-107.05)

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Sec. 82-155. Definitions

(a) Definitions. The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

City means the water distribution system of the city.

Customer means any person taking water service from the city.

Residence means the premises where the customer lives, such as a dwelling, trailer, apartment, or unit of a multifamily dwelling, equipped with complete kitchen facilities.

(b) Access to city's equipment. The customer shall, without expense to the city, permit access to all equipment and facilities owned by the city and located on the customer's premises at all reasonable hours.

(c) Continuity of service.

1. The city will endeavor to supply, but does not guarantee, continuity of service of a generally accepted standard. Interruption of service for repairs, alterations, want of supply, conditions

on a customer's premises dangerous to persons, the property or service of the customer or others, nonpayment of the customer of amounts payable, or failure by the customer to provide means of access for obtaining regularly scheduled readings of the meter or for the testing of the city's metering equipment or prevention of fraud or abuse shall not be a breach by the city of its responsibility.

2. The customer waives claim for, and by accepting service, releases and discharges the city for claims for and shall indemnify and save harmless the city from, any and all loss and damage arising from interruption of service, or on account of injury to persons (including death) or damage to property on the premises of a customer, or under a customer's control, unless such loss, damage or injury is the natural, probable and reasonably foreseeable consequence of the city's negligence, and such negligence is the sole and proximate cause for such loss, damage or injury.

(d) Unlawful use of service. In the case of tampering with meter installation or interfering with its proper functioning or any other lawful use or diversion of service by any person, or evidence of any such tampering, unlawful use or service diversion, the customer shall be liable to immediate discontinuance and to prosecution under applicable laws. The city shall be entitled to collect from customer at the appropriate rate, for all water not recorded on the meter by reason of such unlawful use or diversion, plus all expenses incurred by the city on account of such unauthorized act.

(e) Discrimination. No water service shall be furnished to any customer under any other rate than as provided in this section, and there shall be no discrimination in rates as between customers of the same class and using equal amounts of water for the same purpose under the same conditions.

(f) Combined residential and commercial service. The customer in a single-family dwelling, parts of which are used for a commercial purpose, shall purchase water service under the applicable commercial rate schedule.

(g) Special facilities. The city's investment for special facilities or equipment to serve a customer shall not exceed 2 1/2 times the city's estimated annual revenue to be received from customer service.

(h) Temporary service. The currently required charge shall be made for each temporary water service connection, and the customer shall pay for the work done for the city on a cost-plus basis.

(i) Service deposits. The city shall require each application for water service to have a service deposit in an amount set by council resolution. If a customer maintains a record of prompt payment for approximately 12 to 18 consecutive months, the deposit shall be refunded. Prior to refunding of any deposit, there shall be deducted all delinquent water charges. The city reserves the right if delinquency occurs to require a service deposit again.

(j) Net monthly bill. The net monthly bill is the charge computed at the net monthly rate.

(k) Gross monthly bill. The gross monthly bill is the charge computed at the gross monthly rate. The gross monthly bill shall apply when payment is made after the due date.

(l) Due date. The due date is on the tenth day of the month following the date on which a customer's bill is computed, after which date such bill shall become delinquent and the gross monthly bill shall apply. If the tenth day falls on a Saturday, Sunday or holiday, the deadline for payment without penalty shall be extended to the next working day.

(m) Payment. The customer shall pay for water service monthly or at such other interval as is prescribed by the applicable rate schedule. The net bill shall apply if payment is made on or before the due date. If a bill is not paid by the due date, the gross bill shall apply and such bill shall become delinquent; and the city reserves the right to discontinue service. Discontinuance of service is governed by article II of this chapter. Service disconnected for delinquency will not be reconnected until all charges, including reconnection charges, have been paid.

(n) Reconnection charge. If a customer whose service has been discontinued, either by his order or by reason of delinquency, requests a reconnection of such service within 12 months of the time of disconnection, a reconnection charge equal to the sum of the monthly minimum charges for the period of disconnection shall also be collected. The minimum reconnection charge shall be equal to the sum of three months' minimum charges.

(o) Tax clause. To the total of all charges for services under the appropriate rate schedule shall be added applicable existing state and city taxes, and also added shall be any new or additional taxes or increases in the rates of existing taxes imposed after the effective date of the rate schedules by any governmental authority upon service rendered by the city.

(p) Residential rate applicability. The residential rate is applicable to single-family residences.

(q) Commercial rate applicability. The commercial rate is applicable for all nonresidential (single-family residence) uses, including combined residential and commercial uses.

(Code 1974, § 3-108; Ord. No. 97-22, § 1, 10-28-1997)

Cross references: Definitions generally, § 1-2.

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Sec. 82-156. Residential and commercial rates

The residential and commercial rates for water service and usage shall be established by resolution.

(Code 1974, § 3-108.01)

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Sec. 82-157. Special water use

The term "special water use" shall mean any nonpolluting, i.e., not in violation of governmental laws or regulations, nondomestic use of water by a customer. Special water uses shall include but are not limited to the following:

1. Irrigating lawns or gardens.
2. Washing personal vehicles.
3. Cooling water for air conditioners.
4. Watering livestock.
5. General outdoor cleanup.

(Code 1974, § 3-108.02)

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Sec. 82-158. Special use application

Every person desiring a supply of water for special use must make application to the water commissioner and follow the procedures described in sections 82-144 and 82-145.

(Code 1974, § 3-108.03)

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Sec. 82-159. Meters and billing

Special use water shall be separately metered and separately billed from the normal water usage. All special users shall also receive residential and commercial service. Special water usage shall be exempt from sewer charges.

(Code 1974, § 3-108.04)

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Sec. 82-160. Special use water rate

Upon compliance with sections 82-157, 82-158 and 82-159, the special use water rate, established by resolution, shall be applicable.

(Code 1974, § 3-108.05)

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Sec. 82-161. Minimum rates

All water consumers shall be liable for the minimum rate provided by resolution unless the consumer shall, by written order, direct the water commissioner to shut off the water at the stopbox, in which case he shall not be liable thereafter for water rental until the water is turned on again.

(Code 1974, § 3-109)

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Sec. 82-162. Meters; billing

(a) Meters shall be so set that the dial or face of the meter shall be easily accessible to the water commissioner or his agent when reading or testing the meter and shall be located in meter pits or the basement. All meters shall be sealed; and no person shall deface, injure, or break any seals unless authorized to do so by the water commissioner. Accounts between the consumer and the city shall be kept by the water commissioner under such bookkeeping system as shall be approved by the council. A consumers' ledger shall be kept current with a separate account for each consumer on a separate sheet in the ledger. All meters shall be read not less often than quarterly by the water commissioner between the 15th day and the 28th day of the month. Water service meter reading shall be computed and bills made up for their collections by the water commissioner on or about the first day of each month.

(b) All meters shall be tested at the customer's request at the expense of the customer any reasonable number of times; provided that if the test shows the water meter to be running two percent or more fast, the expense of such test shall be borne by the city. The city reserves the

right to test any water service meter at any time, and if the meter is found to be beyond repair the city shall always have the right to place a new meter on the customer's water service fixtures at city expense. Should a customer's meter fail to register properly, the customer shall be charged for water service during the time the meter is out of repair on the basis of the monthly consumption during the same month of the preceding year; provided that if no such basis for comparison exists, the customer shall be charged such amount as may be reasonably fixed by the water commissioner.

(Code 1974, § 3-110)

State law references: Authority to assess and collect reasonable charges for use of the waterworks system, R.R.S. 1943, § 16-682.

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Sec. 82-163. Lien

In addition to all other remedies, if a customer shall for any reason remain indebted to the city for water service furnished, such amount due, together with any rents and charges in arrears, shall be considered a delinquent water rent, which is declared to be a lien upon the real estate for which the water was used. The city clerk shall notify in writing or cause to be notified in writing all owners of premises or their agents whenever their tenants or lessees are 60 days or more delinquent in the payment of water rent. It shall be the duty of the water commissioner on June 1 of each year to report to the council a list of all unpaid accounts due for water, together with a description of the premises upon which the water was used. The report shall be examined and if

approved by the council shall be certified by the city clerk to the county clerk, to be collected as a special tax in the manner provided by law.

(Code 1974, § 3-111)

State law references: Similar provisions, R.R.S. 1943, § 16-682.

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Sec. 82-164. Single premises

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

(Code 1974, § 3-112)

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Sec. 82-165. Restricted use

The council or the water commissioner 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 of the system is undergoing repairs or when there is a shortage of water due to circumstances over which the city has no control.

(Code 1974, § 3-113)

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Sec. 82-166. Fire hydrants

All hydrants for the purpose of extinguishing fires are public hydrants; and it shall be unlawful for any person other than members of the fire department under the orders of the fire chief, the assistant fire chief, or members of the water division to open or attempt to open any of the hydrants and draw water from the hydrants or in any manner to interfere with the hydrants.

(Code 1974, § 3-114)

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Sec. 82-167. Pollution

It shall be unlawful for any person to pollute or attempt to pollute any stream or source of water for the supply of the city water division.

(Code 1974, § 3-115)

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Sec. 82-168. Mandatory hookup

SEC. 82-168. **Hookup fee**
All persons within 300 feet of a water main and located within the corporate limits of the City of Wayne shall be required, upon notice by the Council, to hook up with the city water system.

(Code 1974, § 3-116; Ord. No. 2006-14, §, 6-27-2006)

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Sec. 82-169. Hookup fee

(a) The hookup fee for a residential user with the city water system and sewer system when service is not within a duly constituted water extension district shall be set by the council from time to time for each system, and each fee shall be paid in full before such connection is permitted.

(b) The hookup fee for nonresidential users when the user to be served is not within a duly constituted water extension district shall be a fee set from time to time by the council for each system, and each fee shall be paid in full before such connection is permitted.

(Code 1974, § 3-116.01)

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Sec. 82-170. Water service contracts

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

(Code 1974, § 3-117)

State law references: Authority to set water rates, R.R.S. 1943, § 16-681.

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Sec. 82-171. Inspection

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

(Code 1974, § 3-118)

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Sec. 82-172. Police reports

It shall be the duty of the police to report to the water commissioner all cases of leakage and waste in the use of water and all violations of this Code relating to the water division. They shall have the additional duty of enforcing the observance of all such regulations.

(Code 1974, § 3-119)

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Sec. 82-173. 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 division. No person may deposit anything in a stopbox or commit any act tending to obstruct or impair the intended use of any of such property without the written permission of the water commissioner.

(Code 1974, § 3-120)

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Sec. 82-174. Licensed plumber; permit required

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 system until such plumber or pipefitter shall have first procured a permit from the city. All plumbing shall be done in the manner required by the water commissioner. The plumber shall be at all times subject to the inspection and approval of the water commissioner, and it shall be further unlawful to cover or conceal willfully any defective or unsatisfactory plumbing work.

(Code 1974, § 3-121)

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Sec. 82-175. Trailer courts

All trailer courts licensed in the city shall be metered through one master meter, and the usual tariff of rates shall be applied.

(Code 1974, § 3-122)

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Secs. 82-176--82-185. Reserved

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Division 3. Groundwater Management

State law references: Nebraska Groundwater Management and Protection Act, R.R.S. 1943, § 46-656 et seq.

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Sec. 82-186. Purpose

The city finds, recognizes and declares that the conservation of groundwater and its beneficial use are essential to the economic prosperity and future well-being of the city. Complete information as to the occurrence and the use of groundwater in the city and the areas within the zoning jurisdiction of the city is essential to the development of the sound groundwater policy. The groundwater in the geographic area around the city is declining, and shortages of groundwater may occur; and the public interest demands the implementation of management practices to conserve groundwater supplies and to prevent its inefficient or improper use. The registration of all wells within the zoning jurisdiction of the city shall be required.

(Code 1974, § 3-130)

State law references: Similar provisions, R.R.S. 1943, § 46-656.

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Sec. 82-187. Definitions

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Construction of a well means boring, drilling, jetting, digging or excavation, and installing casing, pumps and other devices for withdrawing or facilitating the withdrawal of groundwater.

Groundwater means that water which occurs or moves, seeps, filters or percolates through groundwater under the surface of the land.

Illegal well means:

1. Any well operated or constructed without or in violation of a permit required by the provisions of this division;
2. Any well operated or constructed within the city limits; or
3. Any well not in compliance with any other applicable laws of the state or the city.

Person means a natural person, partnership, association, corporation, municipality, irrigation district, and any agency or political subdivision of the state.

Pollution of groundwater means contamination or other alteration of the natural quality of such water, however caused, including contamination by salines, minerals, industrial wastes or sewage.

Well means any artificial opening or excavation in the ground through which groundwater flows under natural pressure or is artificially withdrawn.

(Code 1974, § 3-131)

Cross references: Definitions generally, § 1-2.

State law references: Similar definitions, R.R.S. 1943, § 46-656.07.

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Sec. 82-188. Preference

Preference in the use of underground water shall be given to those using the water for domestic purposes. They shall have preference over those claiming it for any other purposes other than use by the city. As used in this section, domestic use of groundwater shall mean all uses of groundwater required for human needs as it relates to health, fire control and sanitation.

(Code 1974, § 3-132)

State law references: Similar provisions, R.R.S. 1943, § 46-613.

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Sec. 82-189. Wells prohibited

It shall be unlawful for any person, other than the city, to have a well, construct a well, repair a well or pollute the groundwater within the city limits; however, an existing nonconforming well shall be allowed to continue until January 1, 1995, and on January 1, 1995, such nonconforming well shall be terminated and abandoned.

(Code 1974, § 3-133)

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Sec. 82-190. Registration

All persons having a well within the zoning jurisdiction of the city, as prescribed by R.R.S. 1943, § 16-901, shall register such well with the city clerk within 90 days after the effective date of this ordinance from which this article derives. Such registration shall be on a form furnished by the city

clerk and shall contain the following information:

1. Location of the well site;
2. Description of the use of the well;
3. Capacity of the well;
4. Name of the person drilling the well;
5. Date the well was completed, or date to be completed;
6. Depth of the well; and
7. Type and size of the pump installed.

(Code 1974, § 3-134)

State law references: Similar provisions, R.R.S. 1943, § 46-638.

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Sec. 82-191. Permit application

Any person desiring to drill a well or replacement well within the zoning jurisdiction of the city shall apply to the city for a permit for drilling of such well. All applications for permits shall be made on forms furnished by the city clerk.

(Code 1974, § 3-135)

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Sec. 82-192. Permit fees

The completed application for a well in which a pump of less than 100 gallons per minute capacity is to be installed, and the well is to be used for domestic use and for no other use, shall be accompanied by the current nonrefundable permit application fee. The completed application for a replacement well, which replaces a well that has been properly abandoned and capped as determined by the city engineer, shall be accompanied by the current nonrefundable permit application fee. Each completed application in which a pump of 100 gallons per minute capacity or more is to be installed, or the well is to be used for any nondomestic use, shall be accompanied by the current nonrefundable permit application fee.

(Code 1974, § 3-135.01)

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Sec. 82-193. Hearing

Upon receiving such application, the city clerk shall promptly notify the city engineer, who shall cause an investigation to be made of the proposed well and shall then report to the council as to whether the well will pollute or injure the source of water or supply of water of the city. Upon receiving such report, the council may hold a public hearing to consider the application for a well in which a pump of less than 100 gallons per minute capacity is to be installed, or a replacement well is to be installed; and the council shall hold a public hearing to consider the application for a well in which a pump of 100 gallons per minute capacity or more is to be installed, or the well is to be used for any nondomestic use, after which the council shall either grant or deny the application for permit upon determination as to whether the proposed well will pollute or injure the water source for the supply of water for the city.

(Code 1974, § 3-136)

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Sec. 82-194. Violations

Any person who violates any of the provisions of this article shall be deemed guilty of a misdemeanor and upon conviction shall be punished pursuant to section 1-9.

(Code 1974, § 3-137)

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Sec. 82-195. Remedies

If any well is planned or constructed in violation of this division, the city, in addition to all other remedies, may institute appropriate action to prevent such unlawful construction and to prevent the use of such well, including injunctive relief.

(Code 1974, § 3-138)

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Sec. 82-196. Emergency restrictions

The mayor is authorized and empowered to declare the existence of an emergency relating to the available water supply of the city water system and to impose restrictions on the use of water during such emergency. Whenever the mayor shall determine that the remaining available water supply is critically low, from whatever cause, the mayor may declare the existence of an emergency and impose reasonable restrictions on the use of such water as provided in section 82-198. It shall be unlawful for any person to fail to observe any such restriction so imposed by the mayor, providing public announcement of such restriction has been made.

(Code 1974, § 3-150)

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Sec. 82-197. Use of water during fire

It shall be unlawful for any person to use water supplied by the city water system during a fire if such use is ordered discontinued by the chief of the fire department or his authorized representative.

(Code 1974, § 3-151)

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Sec. 82-198. Water use restrictions

If the mayor declared the existence of an emergency, he shall impose restrictions as provided in phases I through IV as hereinafter set forth:

Phase I

Rationed use of water for all recreational purposes, including but not limited to parks, baseball fields, softball fields, football fields, golf courses, soccer fields, swimming pools and private wells, and rationed use of watering of trees, lawns and yards, providing that the use of water for recreational purposes and for watering of trees, lawns and yards shall be permitted between the hours of 8:00 p.m. and 11:00 a.m.; and the use of water for such purposes shall be terminated between the hours of 11:00 a.m. and 8:00 p.m. Watering of trees, lawns and yards shall not be deemed to be a domestic or agricultural purpose.

Phase II

Rationed use of water for all recreational purposes, including but not limited to parks, baseball fields, softball fields, football fields, golf courses, soccer fields, and private wells; rationed use of water for watering of trees, lawns and yards; rationed outdoor use of water for domestic

agriculture, manufacturing and industrial purposes, to correspond with house numbers. Those addresses with addresses ending in an even number may water on even-numbered calendar days and those addresses with addresses ending in an odd number may water on odd-numbered calendar days. In addition, all outdoor use of water shall be terminated between the hours of 1:00 p.m. and 8:00 p.m.

Phase III

Termination of water use for recreational purposes, including but not limited to parks, baseball fields, softball fields, football fields, golf courses and soccer fields. Termination of all outdoor use of water, except that used for domestic purposes or agricultural purposes. Termination of use of water, either indoors or outdoors, for manufacturing and industrial purposes; however, manufacturing and industrial use of water shall be permitted for personal sanitation and health. In addition, all outdoor use of water shall be terminated between the hours of 8:00 a.m. and 8:00 p.m. Watering of trees, lawns and yards shall not be deemed to be a domestic or agricultural purpose.

Phase IV

Termination of all use of water for all purposes, except water that shall be permitted for personal

termination of an use of water for all purposes, except water that shall be permitted for personal sanitation and health. A water emergency shall be declared, and the mayor shall request assistance from state or federal governmental authorities. Watering of trees, lawns and yards shall not be deemed to be a domestic or agricultural purpose.

(Code 1974, § 3-152)

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Sec. 82-199. Turning off water for failure to observe restrictions

The water system may turn off the water supply to the premises of any person who, after having been notified of the imposition of such emergency restrictions of the use of water, disregards such restrictions; and such supply of water shall not again be turned on until the cost of labor in turning off and renewing such service, has been paid to the water system, and the currently required bond conditioned upon the observance of such emergency restrictions and regulations has been filed with the water system.

(Code 1974, § 3-153)

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Sec. 82-200. Designating a wellhead protection area

(a) Definitions. Wellhead protection area means the surface and subsurface area surrounding a water well or well field, supplying a public water system, through which contaminants are reasonably likely to move toward and reach such water or wellfield.

(b) The city designates a wellhead protection area for the purpose of protecting the public water supply system. The boundaries of the wellhead protection area are on the map attached hereto.

(Ord. No. 2001-17, § 3, 10-30-2001)

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Sec. 82-201. Drilling and operation of wells and other underground facilities or contaminating facilities without permit unlawful

It shall be unlawful for any person, corporation or other legal entity to drill and/or operate any of the following facilities within the corporate limits or zoning jurisdiction of the city, without first having obtained the proper permit from the governing body of the city: potable water well; any other well; sewage lagoon; absorption or disposal field for water; cesspool; dumping grounds;

feedlot; livestock pasture or corral; chemical product storage facility; petroleum product storage facility; pit toilet; sanitary landfill; septic tank; sewage treatment plant; sewage well.

(Ord. No. 2001-17, § 3, 10-30-2001)

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Sec. 82-202. Utilizing the geothermal properties of the ground

In the event a geothermal well is drilled, the following are required:

1. Closed Loop System - Drilled Well
 1. (a) Joints must be made by heat fusion.
 2. (b) Antifreeze must be food grade substance.
 3. (c) Wells must be sealed from bottom to top with a cement slurry.
 4. (d) Piping will consist of polybutylene or polyethylene pipe.
 5. (e) Will be located no closer than 100 feet to the City of Wayne's drinking water source.
2. Cased Well Pump and Injection Well System
 1. (a) Both wells must be registered with Nebraska Health and Human Services Department and Natural Resources District.
 2. (b) Both wells must comply with all state and NRD regulations.
 3. (c) Property owner must sign permanent and recorded access agreement with City of Wayne to not use the well for any purpose other than the originally approved geothermal system and to allow water utility representative access to inspect or test geothermal wells and circulation system within 24 hours upon request.
 4. (d) Withdrawing well must be located at least 1000 feet from any city owned well.
 5. (e) Injection well must be located at least 1000 feet from any city owned well.
 6. (f) Property owner must sign permanent and recorded agreement with City of Wayne to abandon the injection well in accordance with Nebraska HHS standards and at his/her own cost, within 120 days of request by city in the event its location conflicts with the installation of a future new city well.
 7. (g) Property owner must sign permanent and recorded agreement to immediately cease the use of both wells in the case of an incident of contamination from the wells.
 8. (h) All of the above agreements by the owner must be recorded and transferable to all future property owners.

future property owners.

(Ord. No. 2001-17, § 3, 10-30-2001; Ord. No. 2005-23, §, 8-30-2005)

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Sec. 82-203. Procedure to obtain permit

In order to obtain a permit to drill and/or operate any of the facilities listed in sections 82-200 and 82-201, the owner of the property on which the proposed facility is to be located must make application on the proper form provided by the governing body of the city. Such application must be presented to the city council at any regular or special meeting. After reviewing the application of any person desiring to drill or operate any of the above-described facilities, the city council must approve or deny said permit.

(Ord. No. 2001-17, § 3, 10-30-2001)

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Sec. 82-204. Drilling or installation of other facilities within designated distance

from municipal water sources is prohibited

Under no circumstances shall the city council approve any permit to drill or operate any of the below-described facilities within the indicated number of feet from the city's municipal water wells.

1. Potable water well - within 1,000 feet.
2. Closed loop geothermal well - within 100 feet.
3. Any other well - within 1,000 feet.
4. Sewage lagoon - within 1,000 feet.
5. Absorption or disposal field for water - within 500 feet.
6. Cesspool - within 500 feet.
7. Dumping grounds - within 500 feet.
8. Feedlot or feedlot runoff - within 500 feet.
9. Livestock pasture or corral - within 500 feet.
10. Chemical product storage facility - within 500 feet.
11. Petroleum product storage facility - within 500 feet.
12. Pit toilet - within 500 feet.
13. Sanitary landfill - within 500 feet.
14. Septic tank - within 500 feet.
15. Sewage treatment plant - within 500 feet.
16. Sewage wet well - within 500 feet.

These footages are taken from R.R.S. 1943, tit. 179, Ch. 2, and will change automatically if said title footages are revised.

(Ord. No. 2001-17, § 3, 10-30-2001)

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Sec. 82-205. Penalties and abatement procedure

Any person, corporation, or other legal entity found violating any provision of this ordinance shall be subject to a fine, not to exceed \$100. The continuation of a violation of this ordinance shall be deemed an additional crime for every 24 hours of such continued violation. In addition, the city may obtain injunctive relief, and sue for damages and remediation, and pursue any other remedy available to it under the laws of the State of Nebraska or other authority having jurisdiction over such matters.

(Ord. No. 2001-17, § 3, 10-30-2001)

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Secs. 82-206--82-210. Reserved

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Division 4. Backflow Prevention

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Sec. 82-211. Title

This article shall be known as the backflow prevention ordinance.

(Code 1974, § 3-180)

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Sec. 82-212. Definitions

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Air gap separation means the unobstructed vertical distance through the free atmosphere between the lowest opening of any pipe or faucet supplying water to a tank, plumbing fixture or other device and the flood level rim of the receptacle. An approved air gap shall be at least double the diameter of the supply pipe, measured vertically, above the top of the rim of the receptacle and in no case less than one inch.

Antisiphon vacuum breaker means a device which restricts the backflow of water into a potable water system by a simple checkvalve. The vacuum is broken by allowing air to enter upstream of the checkvalve.

Approved means that a backflow prevention device or method has been accepted by the water commissioner as being suitable for the intended use.

Auxiliary water system means any water supply system available to the premises other than the public water supply system and includes the water supplied by such system. These auxiliary water systems may include water from another owner's public water supply system; polluted or contaminated water, process fluids; used water; or other sources of water over which the owner of the public water supply system does not have sanitary control.

Backflow or backsiphonage means the flow of water or other liquids, mixtures or substances into the water distribution system from any other source than the intended source of the potable water supply.

Backflow prevention device means any device, method or type of construction intended to prevent backflow into a potable water system. Devices such as an approved air gap, double checkvalve assembly, antisiphon vacuum breaker, or reduced pressure principle devices can be used which have been approved by the water commissioner.

Consumer means the owner or person in control of any premises supplied by or in any manner connected to a public water supply system.

Consumer's water supply system means any water supply system located on the consumer's premises, supplied directly or indirectly by or in any manner connected to a public water supply system. A household plumbing system is considered to be a consumer's water supply system. A fire suppression system is also considered a consumer's water supply system. A privately owned distribution piping network which serves one or more consumers, including subdivisions, mobile home parks, etc., is considered to be a consumer's water supply system.

Contamination means an impairment of the quality of the water by sewage or waste to a degree which could cause an actual hazard to the public health through poisoning or through spread of disease by exposure.

Cross connection means any arrangement whereby contamination due to backflow or backsiphonage can occur.

Degree of hazard is derived from an evaluation of the potential risk to health and the adverse effects upon the potable water system.

Double checkvalve assembly means an assembly composed of two single, independently acting, checkvalves, including 100 percent closing shutoff ball valves located at each end of the assembly and suitable connections for testing the watertightness of the consumer.

Health hazard means any condition, device or practice in a water system or its operation that creates a real or potential danger to the health and well-being of the consumer.

Interchangeable connection means an arrangement or device that will allow alternate but not simultaneous uses of two sources of water.

Licensed plumber means a person which has obtained the appropriate permit or registration from the city to perform plumbing-related work within the city limits.

Nonpotable water means water not safe for drinking, personal or culinary use, or which does not meet the requirements of the state department of health and human services.

Person means the state, any political subdivision, public or private corporation, individual, partnership or other legal entity.

Plumbing hazard means a plumbing type cross connection in a consumer's potable water system that has not been properly protected by air gap separation or backflow prevention devices.

Pollution means the presence in water of any foreign substance (organic, inorganic or biological)

that degrades the quality of water to a degree which does not necessarily cause an actual hazard to the public health, but which does adversely and unreasonably affect such waters for any desired use.

Pollution hazard means a condition through which an aesthetically objectionable or degrading material not dangerous to health may enter the public water supply system or the consumer's water supply system.

Potable water means water which is satisfactory for drinking, culinary and domestic purposes and meets the requirements of the state department of health and human services.

Public water supply system means a water supply system designed and intended to provide potable water to a designated consumer. The water supply shall include the water supply source and distribution piping network. The water supply source is defined as any artificial or natural accumulation of water used to supply the potable water system. The distribution piping network includes all piping, pumping and treatment devices used to convey an adequate quality and quantity of potable water to the consumer.

Reduced pressure zone backflow prevention device means a device containing a minimum of two independently acting checkvalves, together with an automatically operated pressure differential relief valve located between two checkvalves. During normal flow and at the cessation of normal flow, the pressure between these two checks shall be less than the supply pressure. In case of leakage of either checkvalve, the differential relief valve, by discharging to the atmosphere, shall operate to maintain the pressure between the checkvalves at less than the supply pressure. The unit must include 100 percent closing shutoff ball valves located at each end of the device, and each device shall be fitted with properly located test cocks.

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

System hazard means a condition posing an actual or potential threat of damage to the physical properties of the public's or the consumer's water supply system.

Used water means any water supplied by the public water supply system to a consumer's water supply system after it has passed through the service connection and is no longer under the sanitary control of the water supplier.

Water commissioner means the city administrator or his authorized representative.

(Code 1974, § 3-180)

Cross references: Definitions generally, § 1-2.

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Sec. 82-213. Responsibility

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

(Code 1974, § 3-180)

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Sec. 82-214. Policy and purpose

(a) The purpose of this division 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 division provides for the maintenance of a continuing program of cross connection control which will systematically and effectively prevent the contamination or pollution of the potable water supply systems.

(b) The water commissioner shall be responsible for the implementation of the backflow prevention program as outlined within this division. If in the judgment of the water commissioner an approved backflow prevention device is required for the safety of the public water supply system, such shall give notice in writing to the consumer to install such device at each recommended location. The water commissioner shall inspect and approve all installations of the required backflow prevention devices. The costs for purchasing, installing and maintaining a backflow prevention device shall be the responsibility and sole expense of the consumer. The installation of backflow prevention devices, except for outlet fixture vacuum breakers, shall be by a licensed plumber. Annual testing of all double checkvalves and reduced pressure zone devices shall be performed at the expense of the consumer by a state-certified grade VI water operator. The results of all tests performed shall be filed with the water commissioner within ten days of completion. If deemed necessary, the consumer shall be contacted and issued an order to make all necessary repairs or maintenance. The consumer shall complete all maintenance or repairs within 30 days; if not the consumer shall

The consumer shall complete all maintenance or repairs within 30 days; if not, the consumer shall be considered in violation of this division and will be subject to disconnection of the service as provided in section 82-222.

(c) No person shall install or maintain a water service connection containing cross connections to a public water supply system or a consumer's potable water supply system unless such cross connections are abated or controlled in accordance with this division, and as required by the laws and regulations of the state department of health and human services.

(d) For the purposes of this division, whenever the water commissioner is to make any decision or interpretation, or whenever reference is made to the fact that the water commissioner is to exercise judgment, such decision, interpretation or judgment shall be in accordance with the provisions of this division, any other applicable provisions of this Code, and state and federal law.

(Code 1974, § 3-181)

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Sec. 82-215. Surveys and investigations

(a) It shall be the responsibility of the water consumer to conduct or cause to be conducted periodic surveys of water use practices on his premises as necessary to determine whether there are actual or potential cross connections in the consumer's water supply system. The water commissioner shall have the authority to conduct or cause to be conducted periodic surveys and investigations of a frequency as determined by the water commissioner 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 commissioner may conduct these surveys to provide information in determining what level of protection will be necessary to protect the public health and safety.

(b) On request by the water commissioner, the consumer shall furnish the water commissioner information on water use practices within the consumer's premises. If the consumer refuses to submit the proper information or to cooperate in obtaining the proper information, the water commissioner 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 as required in section 82-216.

(c) The water commissioner shall have the right to enter 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. In order to inspect the premises, the water commissioner shall give notice setting forth a proposed date and time to the consumer at least ten days in advance. If the consumer cannot make the premises available for inspection at the proposed date and time, the consumer shall contact the water commissioner and arrange for another date and time for the inspection. If the water commissioner and the consumer cannot agree on a date and time, the water commissioner shall treat the premises as if no appropriate cross connection survey has been completed; in such event, the consumer shall be required to install an approved backflow prevention device as required in section 82-216.

(d) The council is appointed as a hearing board to hear differences between the water commissioner and the consumer on matters concerning interpretation and execution of the provisions of this division by the water commissioner. Any consumer aggrieved by being required to pay the expense of installing, furnishing, testing and/or maintaining a backflow prevention device may, within 14 days of the act or event causing the grievance, request a hearing in writing to present those grievances to the hearing board. The hearing board shall schedule the matter for hearing within 30 days and provide written notice of the meeting by first class mail to the consumer. The notice shall be mailed to the consumer at least seven days and not more than 21 days before the hearing. At the hearing, the consumer shall first state the nature of the grievance, and the water commissioner shall be entitled to respond thereto; whereupon the hearing board shall render its decision, which will be binding upon the consumer and the water commissioner.

(Code 1974, § 3-182)

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Sec. 82-216. Where protection is required

(a) An approved backflow prevention device shall be installed between the service connection and the point of potential backflow into a consumer's water supply system when in the judgment of the water commissioner a health, plumbing, pollution or system hazard exists.

(b) An approved backflow prevention device shall be installed when the following conditions are found by the water commissioner to exist:

1. Premises on which any substance is handled in such a fashion as to create an actual or potential hazard to a public water supply system. This shall include premises having sources or systems containing process fluids or waters originating from a public water supply system which are no longer under the sanitary control of the consumer.
2. Premises having internal cross connections that, in the judgment of the water commissioner,

are not correctible, or there exists intricate plumbing arrangements which make it impracticable to determine whether or not cross connections exist.

3. Premises where, because of security requirements or other prohibitions or restrictions, it is impossible or impractical to make a complete cross connection survey.
4. Premises having a repeated history of cross connections being established or reestablished.
5. Premises having more than one customer service connection which could constitute a potential cross connection.

(c) An approved backflow prevention device shall be installed on each service line to a consumer's water supply system or such other location deemed appropriate by the water commissioner serving the following types of facilities unless the water commissioner determines that no health, pollution or system hazard to the public water supply system exists:

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

(Code 1974, § 3-183)

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Sec. 82-217. Type of protection required

(a) The type of protection required under sections 82-216(a) and 82-216(b) shall depend on the degree of hazard that exists as follows:

1. An approved air gap separation or an approved reduced pressure principle backflow prevention device shall be installed where a public water supply system may be contaminated with any substance that could cause a system hazard or health hazard;
2. An approved double checkvalve assembly shall be installed where a public water supply system may be contaminated with any substance that could cause a pollution hazard;
3. An approved reduced pressure principle backflow prevention device shall be installed at the service connection where there exists a plumbing hazard; and
4. In the case of any premises where, because of security requirements or other prohibitions, it is impossible or impractical to make a complete cross connection survey of the consumer's potable water system, a reduced pressure principle backflow prevention device shall be installed at the service connection.

(b) An approved antisiphon vacuum breaker may be used as a backflow prevention device where it is not subjected to back pressures. This device shall not be used for applications where water flow is expected to be continuous for 12 or more hours. The device shall be installed ahead of the potential source of contamination on the discharge side of the last control valve. It shall be placed at least 18 inches above the highest point reached by any water passing through the potential source of contamination. Typically, this type of device is used for such equipment as lawn sprinklers, water-cooled compressors, or other water-cooled equipment.

(Code 1974, § 3-184)

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Sec. 82-218. Backflow prevention devices

(a) Any approved backflow prevention device required by section 82-216 shall be installed at a

(a) Any approved backflow prevention device required by section 82-219 shall be installed at a location and in a manner approved by the water commissioner. The consumer, at his sole expense, shall obtain and install approved backflow prevention devices within 90 days of notice and as directed by the water commissioner.

(b) Existing backflow prevention devices approved by the water commissioner prior to the effective date of the ordinance from which this division derives and which are properly maintained shall, except for inspection, testing and maintenance requirements, be excluded from the requirements of subsection (a) of this section, but only if the water commissioner determines that the devices will satisfactorily protect the public water supply system; and 100 percent closing shutoff ball valves for testing shall be provided on existing backflow prevention devices if deemed necessary for proper testing by the water commissioner. If deemed necessary by the water commissioner that an existing backflow prevention device requires replacement, it shall be replaced with an approved backflow prevention device.

(Code 1974, § 3-185)

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Sec. 82-219. Booster pumps

(a) No person shall install or maintain a water service connection to any premises where a booster pump has been installed on the service line to or within such premises unless such booster pump is equipped with a low-pressure cutoff designed to shut off the booster pump when the pressure in the service line on the suction side of the pump drops to 20 pounds per square inch gauge or less.

(b) It shall be the duty of the water customer to maintain the low-pressure cutoff device in proper working order.

(Code 1974, § 3-186)

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Sec. 82-220. Yard hydrants

(a) The installation of yard hydrants where water is available or accessible for drinking or culinary purposes and which have drip openings below ground surface is prohibited unless such hydrants are equipped with an approved device to prevent entrance of groundwater into chambers connected with the water supply.

(b) Yard hydrants or hose bibs which would be used by the consumer to provide water to mix pesticides, fertilizer or other chemicals for direct use or aerial application to surface areas shall be equipped with an antisiphon vacuum breaker.

(c) All underground lawn and garden sprinkler systems shall be equipped with an approved backflow prevention device.

(Code 1974, § 3-187)

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Sec. 82-221. Fire suppression system

(a) All proposed installations of fire suppression systems shall be reviewed by the water commissioner to determine the appropriate type of backflow prevention device required.

(b) All proposed fire suppression systems requiring an antifreeze solution shall use a pharmaceutical grade antifreeze. The consumer shall provide to the water commissioner a certification identifying the type of pharmaceutical grade antifreeze which shall be used. A double checkvalve backflow prevention device shall be installed in an approved manner.

(c) A double checkvalve of an approved type shall be installed on all proposed fire suppression systems not utilizing antifreeze, but this may be done only when there are no other cross connections.

(d) All existing fire suppression systems shall meet the requirements of subsection (b) or (c) of this section, whichever applies. An inspection by a certified fire suppression specialist shall be done to determine whether pharmaceutical grade antifreezes have been utilized. This shall be done at the expense of the consumer. If it cannot be certified that only pharmaceutical grade antifreezes have been used, a reduced pressure principle backflow prevention device shall be installed as approved by the water commissioner. This also shall be done at the expense of the consumer.

(e) If cross connections, such as those found in using auxiliary water supply systems or in providing other water additives such as foaming agents, are necessary for the proper operation of the fire suppression system, a reduced pressure zone backflow prevention device shall be installed in an approved manner.

(Code 1974, § 3-188)

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Sec. 82-222. Violations

(a) The water commissioner shall deny or discontinue, after notice to the consumer, the water service to any premises wherein:

1. Any backflow prevention device required by this division is not installed or maintained in a manner acceptable to the water commissioner;
2. It is found that the backflow prevention device has been removed or bypassed;
3. An unprotected cross connection exists on the premises;
4. A low-pressure cutoff required by section 82-219 is not installed and maintained in working order; or
5. The water commissioner is denied entry to determine compliance with this division.

(b) The water commissioner shall immediately deny or discontinue, without notice to the consumer, 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 commissioner shall notify the consumer within 24 hours of denial or discontinuation of service.

(c) Water service to such premises shall not be restored until the consumer has corrected or eliminated such conditions or defects in conformance with this division and to the satisfaction of the water commissioner.

(Code 1974, § 3-189)

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Sec. 82-223. Approval standards

(a) Any backflow prevention device required in this division shall be of a model and size approved by the water commissioner. The term "approved backflow prevention device" shall mean a device that has been manufactured in full conformance with the standards established by the American Water Works Association (AWWA) entitled AWWA C506-69 Standards for Reduced Pressure Principle and Double Check Valve Backflow Prevention Devices, and by the American Society of Sanitary Engineers (ASSE) entitled:

- No. 1001 Pipe Applied Atmospheric Type Vacuum Breakers - ANSI Approved 1982 - Revised 1988
- No. 1011 Hose Connection Vacuum Breakers - ANSI Approved 1982
- No. 1012 Backflow Preventer/Intermediate Atmospheric Vent - 1978
- No. 1013 Reduced Pressure Principle Backflow Preventer - Revised 1988
- No. 1015 Double Check Backflow Prevention Assembly - Revised 1988
- No. 1019 Wall Hydrants, Freezeless, Automatic Draining, Anti-Backflow Types - ANSI Approved 1978
- No. 1020 Vacuum Breakers, Anti-Siphon, Pressure Type - ANSI Approved 1982
- No. 1024 Dual Check Valve Type Backflow Preventers - ANSI Approved 1984 - Revised 1988
- No. 1035 Laboratory Faucet Vacuum Breakers - ANSI Approved 1984
- No. 1948 Double Check Detector Assembly Backflow Preventer - 1989

These standards and specifications have been adopted by the water commissioner. Final approval shall be evidenced by a certificate of approval issued by an approved testing laboratory certifying full compliance with these standards and specifications.

(b) The water commissioner shall keep a current list of all certified suppliers and their appropriate list of makes and models of backflow prevention devices which the water commissioner has deemed approved.

(c) The water commissioner may require a strainer of approved type and size to be installed in conjunction with required backflow prevention devices. The installation of strainers shall preclude the fouling of backflow devices due to foreseen and unforeseen circumstances occurring to the water supply system such as water main repairs, water main breaks, fires, periodic cleaning and flushing of mains. These occurrences may cause debris such as scale deposits and sand to flush through the mains causing fouling of backflow devices.

(Code 1974, § 3-190)

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Sec. 82-224. Liability claims

The water commissioner shall be relieved from personal liability. The city shall hold harmless the water commissioner, when acting in good faith and without malice, from all personal liability for any damage that may occur to any person or property as a result of any act required or authorized by this division, or by reason of any act or omission of the water commissioner in the discharge of his duties under this division. Any suit brought carrying out the provisions of this division shall be defended by the city, or the city's insurance carrier, if any, through final determination of such proceeding.

(Code 1974, § 3-191)

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Secs. 82-225--82-260. Reserved

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Article V. Sewer System

State law references: Authority to create a system of sewerage and drainage, R.R.S. 1943, § 16-667; authority to borrow money for the purpose of constructing a system of sewerage, R.R.S. 1943, § 16-680; authority to construct a sanitary sewer system, R.R.S. 1943, § 18-501.

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Sec. 82-261. Operation and funding

The city owns and operates the city sewer system through the city administrator. When performing duties for the sewer system, the city administrator shall be referred to as the sewer commissioner. The city administrator shall direct the operation of the sewer system by and through the water/wastewater superintendent. The duties and responsibilities of the superintendent shall be determined by the city administrator. The council for the purpose of defraying the cost of the management and maintenance of the city sewer system may each year levy a tax not exceeding the maximum limit prescribed by state law on the actual valuation of all real estate and personal property within the corporate limits that is subject to taxation, and may charge user fees based on the actual use of the system. The revenue from the tax and user charge system shall be known as the sewer fund and shall remain in the custody of the city treasurer. The water/wastewater superintendent shall have the direct management and control of the sewer department and shall faithfully carry out the duties of his office. He shall have the authority to adopt rules and regulations for the sanitary and efficient management of the department, subject to the supervision and review of the council. 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.

(Code 1974, § 3-201; Ord. No. 97-5, § 3, 3-25-1997)

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Sec. 82-262. Definitions

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

BOD (denoting biochemical oxygen demand) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20 degrees Celsius, expressed in milligrams per liter.

Building drain means 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.

Building sewer means the extension from the building drain to the public sewer or other place of disposal.

Combined sewer means a sewer receiving both surface runoff and sewage.

Garbage means solid wastes from the domestic and commercial preparation, cooking and dispensing of food, and from the handling, storage and sale of produce.

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

Natural outlet means any outlet into a watercourse, pond, ditch, lake, or other body of surface water or groundwater.

Operation and maintenance means all expenditures during the useful life of the treatment works for materials, labor, utilities and other items which are necessary for managing and maintaining the sewer works to achieve the capacity and performance for which such works were designed and constructed.

pH means the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

Properly shredded garbage means 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 one-half inch (1.27

centimeters) in any dimension.

Public sewer means a sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.

Replacement means expenditures for obtaining and installing equipment, accessories or appurtenances which are necessary during the useful life of the treatment works to maintain the capacity and performance for which such works were designed and constructed. The term "operation and maintenance" includes replacement.

Sanitary sewer means a sewer which carries sewage and to which stormwaters, surface waters and groundwaters are not intentionally admitted.

Sewage means a combination of the water-carried wastes from residences, business buildings, institutions and industrial establishments, together with such groundwaters, surface waters and stormwaters as may be present.

Sewage treatment plant means any arrangement of devices and structures used for treating sewage.

Sewer means a pipe or conduit for carrying sewage.

Sewer system means all facilities for collecting, pumping, treating and disposing of sewage.

Slug means any discharge of water, sewage or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than 15 minutes more than five times the average 24-hour concentration or flows during normal operation.

Storm drain (sometimes termed "storm sewer") means a sewer which carries stormwaters and surface waters and drainage, but excludes sewage and industrial wastes, other than unpolluted cooling water.

Superintendent means the water/wastewater superintendent of the city or his authorized deputy, agent or representative.

Suspended solids means and includes solids that either float on the surface of or are in suspension in water, sewage or other liquids, and which are removable by filtering.

Treatment works means any devices and systems for the storage, treatment, recycling and reclamation of city sewage, domestic sewage, or liquid industrial wastes. These include intercepting sewers, outfall sewers, sewage collection system, individual systems, pumping, power and other equipment and their appurtenances; extensions, improvement, remodeling, additions and alterations; and any works, including site acquisition of the land that will be an integral part of the treatment process or is used for ultimate disposal of residues resulting from such treatment; or any other method or system for preventing, abating, reducing, storing, treating, separating or disposing of city waste or industrial waste.

Useful life means the estimated period during which a treatment works shall be operated.

Watercourse means a channel in which a flow of water occurs either continuously or intermittently.

(Code 1974, §§ 3-202, 3-211; Ord. No. 97-5, § 4, 3-25-1997)

Cross references: Definitions generally, § 1-2.

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Sec. 82-263. Sewer contract

The city through the city sewer department shall furnish sewer services to persons within its corporate limits whose premises abut a street or alley in which a commercial main is laid. The city may also furnish sewer service to persons whose premises are situated outside the corporate limits of the city, as and when, according to law, the council may see fit to do so. The rules, regulations and sewer rental rates named in this article shall be considered a part of every application made for sewer service and shall be considered a part of the contract between every customer served. Without further formality, the making of the application on the part of any applicant or the use of sewer service by present customers shall constitute a contract between the customer and the city, to which contract both parties are bound. If the customer shall violate any of the provisions of the contract or any reasonable rules and regulations the council may adopt, the superintendent or his agent may cut off or disconnect the sewer service from the building or premises of such violation. No further connection for sewer service to such building or premises shall again be made save or except by order of the superintendent or his agent.

(Code 1974, § 3-204)

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Sec. 82-264. Service contracts

Sec. 82-261. 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 premises is destroyed by fire or other casualty, he shall at once inform the sewer commissioner, who shall cause the sewer service to be shut off from the premises. If the customer should fail to give notice, he shall be charged for that period of time until the official in charge of sewers is otherwise advised of such circumstances.

(Code 1974, § 3-207)

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Sec. 82-265. Installation expense

The customer, upon approval of the application for sewer service, shall pay to the city clerk any fees as required by section 82-169. The customer shall then be required to pay the expense of procuring the materials required and the services of a licensed plumber, and shall pay all other costs of the installation. These costs shall include all pipe and services required to the sewer line from the sewer main to the point of collection.

(Code 1974, § 3-208)

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Sec. 82-266. Repairs and maintenance

The city shall repair or replace, as the case may be, all pipe constituting major sewer mains. It shall be the responsibility of the customer to repair or replace all other sewer pipe and appurtenances from the main, to and including the customer's property. All replacements and repairs made by the customer shall be done in the manner and with the materials approved by the sewer commissioner provided they have been previously approved by the council.

(Code 1974, § 3-209)

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Sec. 82-267. Classification

The council may classify for the purpose of rental fees the customers of the city sewer system provided such classifications are reasonable and do not discriminate unlawfully against any consumer or group of consumers.

(Code 1974, § 3-110)

State law references: Authority to make rules and regulations, R.R.S. 1943, § 18-503.

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Sec. 82-268. Rate setting

(a) For the purpose of paying the cost of maintenance, operation and retiring the debt of the sanitary sewer system, including the wastewater treatment plant of the city, there shall be established, fixed and imposed upon the users of the system rates and charges for sewer service in the city.

(b) Each user shall pay for the services provided by the city based upon use of the treatment works, as determined by water meters acceptable to the city.

(c) If an industrial or institutional contributor has a consumptive use of water, or in some other manner uses water which is not returned to the wastewater collection system, the user charge for that contributor may be based on a wastewater meter or separate water meter installed and maintained at the contributor's expense, in any manner acceptable to the city. All contributors shall pay a charge as provided in section 82-269.

(d) Any user which discharges any toxic pollutants which cause an increase in the cost of managing the effluent or the sludge from the city's treatment works or any works which discharges any substance, which singly or by interaction with other substances causes identifiable increases in the cost of operation, maintenance or replacement of the treatment works, shall pay for such increased cost. The charge to each such user will be as determined by the responsible plant operation personnel, and approved by the council.

(e) The user charge system shall generate adequate revenues to pay cost of annual operation and maintenance, including replacement and costs for debt retirement of bonded capital associated with financing the treatment works, which the city may, by ordinance, designate to be paid by the user charge system.

(f) That portion of the total user charge collected, which is designated for operation and maintenance, including replacement purposes as established in this section, shall be deposited in a separate nonlapsing fund known as the operation, maintenance and replacement fund. The operation, maintenance and replacement fund shall be a subfund of the sewer fund. The operation

operation, maintenance and replacement fund shall be a subfund of the sewer fund. The operation, maintenance and replacement fund will be maintained in two primary accounts and subaccounts as follows:

1. An account designated for the specific purpose of deferring operation and maintenance costs, excluding replacement of the treatment works, known as the operation and maintenance account, provided the city may maintain separate subaccounts known as the operation account and maintenance account.
2. An account designated for the specific purpose of ensuring replacement needs over the useful life of the treatment works, known as the replacement account. Deposits in the replacement account shall be made annually from the operation, maintenance and replacement revenue in an adequate amount.

(g) Fiscal year-end balances in the operation and maintenance account and the replacement account shall be carried over to the same accounts in the subsequent fiscal year and shall be used for no other purposes than those designated for these accounts. Moneys which have been transferred from other sources to meet temporary shortages in the operation, maintenance and replacement fund shall be returned to their respective accounts upon appropriate adjustment of the user charge rates. The user charge rate shall be adjusted such that the transferred moneys will be returned to their respective accounts within the fiscal year following the fiscal year in which the moneys were borrowed.

(h) Of the revenue collected, a sufficient amount per year shall be allocated for debt service retirement, to be apportioned among the users according to the rates established in this section.

(i) Anything in this section to the contrary notwithstanding, the city shall have the right to issue additional bonds or notes payable from the revenues of its sanitary sewer system, such bonds being either revenue bonds, or notes or bonds payable from special or general taxes levied by the city. The city shall have the right to impose rates and charges sufficient to provide for the payment of debt service on such bonds or notes, and such reasonable reserves for such bonds and notes as the council deems appropriate.

(j) Anything in this section to the contrary notwithstanding, the city shall have the right to issue additional combined water and sanitary sewer revenue bonds, as provided by statute.

(Code 1974, § 3-211.01)

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Sec. 82-269. Rates

All contributors to the sanitary sewer system shall be subject to the following and pay charges as follows:

1. Net monthly bill. The net monthly bill is the charge computed at the net monthly rate. The net monthly rate shall apply when payment is made on or before the due date.
2. Gross monthly bill. The gross monthly bill is the charge computed at the gross monthly rate. The gross monthly rate shall apply when payment is made after the due date.
3. Due date. The due date is the tenth day following the date on which a customer's bill is computed, after which date such bill shall become delinquent and the gross monthly bill shall apply. If the tenth day falls on a Saturday, Sunday or holiday, the deadline for payment of net monthly bills shall be extended to the next working day.
4. Payment. The contributor shall pay for sanitary sewer service monthly or at such other interval as is prescribed by the applicable rate schedule. The net bill shall apply if payment is made on or before the due date. If the bill is not paid by the due date, the gross bill shall apply; and such bill shall become delinquent.
5. Tax clause. To the total of all charges under the appropriate rate schedules shall be added the applicable existing state and city taxes; and also added shall be any new or additional taxes, or increases in the rates of existing taxes, imposed after the effective date of the rate schedule by any governmental authority upon the service rendered by the city.
6. Rates. The sewer service and user rates shall be established by resolution.
7. Applicability. The charge shall be levied to each property served by the sanitary sewer system, regardless of location.

(Code 1974, § 3-211.02)

State law references: Authority to set rates for the use of the sewer system, R.R.S. 1943, § 18-503.

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Sec. 82-270. Service deposit

The council, in its discretion, may require a service deposit from any or all customers of the city sewer system in a sum set by resolution and filed in the office of the city clerk for public inspection at any reasonable time. From the fund shall be deducted all delinquent sewer charges. The deposit shall be collected by the city clerk, who shall immediately turn the deposit over to the city treasurer, who shall keep the deposit in a trust fund for customers of the sewer system. The fund

shall be put out at interest separate and apart from other funds. Interest arising from the fund shall be expended solely for the repair of equipment and property belonging to the city sewer system.

(Code 1974, § 3-212)

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Sec. 82-271. Fees and collections; user charge review; special assessments

(a) Each user charged for sewer service shall pay to the city clerk at the city hall the amount due the city for the sewer use charge. The city clerk is authorized and directed to render bills for sewer service every month.

(b) If a bill is not paid by the due date, the gross bill shall apply; such bill shall become delinquent, and the city reserves the right to discontinue service. Service disconnected for delinquency will not be reconnected until all charges, including the current resumption of service fee have been paid. Discontinuance of service procedures are specifically governed by section 82-31 et seq.

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

(d) At least once every year, the council shall review the sewer user charge system in order to maintain its adequacy to pay the costs of operation and maintenance, including replacement costs and debt service.

(e) The city will notify each user, at least annually, in conjunction with a regular bill, of the rate being charged for operation and maintenance, including replacement of the treatment works.

(f) The council shall have the power, by resolution, to establish fair and reasonable special assessments to the sewer users of the city to apply only in special cases which are not covered by the schedule of rates as provided in section 82-269.

(Code 1974, § 3-213)

State law references: Discontinuance of utility service, R.R.S. 1943, § 70-1601 et seq.

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Sec. 82-272. Manholes

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

(Code 1974, § 3-217)

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Sec. 82-273. Service to nonresidents

Any person whose premises is located outside the corporate limits of the city and who desires to install a house or building sewer that will be connected with the city sewer system shall file a written application with the city clerk for a permit for such connection, setting forth the name of the owner, occupant or lessee of the premises, the use to which the premises are devoted, and such other information as the council may require. If the application is approved, the provisions of sections 82-169 and 82-265 shall apply to the applicant.

(Code 1974, § 3-219)

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Sec. 82-274. Use of public sewers required

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

(b) It shall be unlawful to discharge to any natural outlet 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 article.

(c) Except as otherwise 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.

(d) The owner of all houses, buildings or properties used for human occupancy, employment,

recreation or other purposes situated within the city abutting on any street, alley or right-of-way in which there is located a public sanitary or combined sewer of the city is required at his expense to install suitable toilet facilities and to connect such facilities directly with the proper public sewer in accordance with the provisions of this article, within 60 days after date of official notice to do so, provided the public sewer is within 300 feet of the property line.

(Code 1974, § 3-222)

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Sec. 82-275. Private sewage disposal

(a) Where a public sanitary or combined sewer is not available under the provisions of section 82-274(d), the building sewer shall be connected to a private sewage disposal system complying with the provisions of this article.

(b) Before commencement of construction of a private sewage disposal system, the owner shall first obtain a written permit signed by the superintendent. The application for such permit shall be made on a form furnished by the city, which the applicant shall supplement by any plans, specifications and other information as are deemed necessary by the superintendent. A permit and inspection fee of \$50.00 shall be paid to the city at the time the application is filed.

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

(d) The type, capacities, location and layout of a private sewage disposal system shall comply with all recommendations of the state department of health and human services. No permit shall be issued for any private sewage disposal system employing subsurface soil absorption facilities where the area of the lot is less than 108,900 square feet. No septic tank or cesspool shall be permitted to discharge to any natural outlet.

(e) At such time as a public sewer becomes available to a property served by a private wastewater disposal system, as provided within this section, a direct connection shall be made to the public sewer in compliance with this article; and any septic tanks, cesspools and similar private sewage disposal facilities shall be abandoned and filled with suitable material.

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

(g) No statement contained in this section shall be construed to interfere with any additional requirements that may be imposed by the health officer.

(h) When a public sewer becomes available, the building sewer shall be connected to the public sewer within 60 days, and the private sewage disposal system shall be cleaned of sludge and filled with clean bank-run gravel or dirt.

(Code 1974, § 3-223)

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Sec. 82-276. Building sewers and connections; permits

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

(b) There shall be two classes of building sewer permits: for residential and commercial service and for service to establishments producing industrial wastes. In either case, the owner or his agent shall make application on a special form furnished by the city. The permit application shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the superintendent.

(c) All costs and expenses incidental to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the city from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

(d) A separate and independent building sewer shall be provided for every building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.

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

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

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

(h) No person shall make connection of roof downspouts, exterior and/or interior foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.

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

(j) The applicant for the building sewer permit shall notify the superintendent when the building sewer is ready for inspection and connection to the public sewer. The connection and testing shall be made under the supervision of the superintendent or his representatives.

(k) All excavations for building 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.

(Code 1974, § 3-224)

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Sec. 82-277. Use of the public sewers

(a) No person shall discharge or cause to be discharged any stormwater, surface water, groundwater, roof runoff, subsurface drainage, including interior and exterior foundation drains, uncontaminated cooling water, or unpolluted industrial waters to any sanitary sewer.

(b) 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 superintendent. Industrial cooling water or unpolluted process water may be discharged, on approval of the superintendent, to a storm sewer, combined sewer, or natural outlet.

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

1. Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid or gas.
2. Any waters or wastes containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any waste treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant, including but not limited to cyanides in excess of two mg/l as CN in the wastes as discharged to the public sewer.
3. Any waters or wastes having a pH lower than 5.5, or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the sewer works.
4. Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewer works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.

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

1. Any liquid or vapor having a temperature higher than 150 degrees Fahrenheit (65 degrees Celsius)

cesses.

2. Any waters or waste containing fats, wax, grease or oils, whether emulsified or not, in excess of 100 mg/l or containing substances which may solidify or become viscous at temperatures between 32 degrees and 150 degrees Fahrenheit (0 and 65 degrees Celsius).
3. Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor three-fourths horsepower (0.76 hp metric) or greater shall be subject to the review and approval of the superintendent.
4. Any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solutions whether neutralized or not.
5. Any waters or wastes containing iron, chromium, copper, zinc and similar objectionable or toxic substances; or wastes exerting an excessive chlorine requirement, to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the superintendent for such materials.
6. Any waters or wastes containing phenols or other taste- or odor-producing substances, in such concentrations exceeding limits which may be established by the superintendent as necessary, after treatment of the composite sewage, to meet the requirements of state, federal or other public agencies of jurisdiction for such discharge to the receiving waters.
7. Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the superintendent in compliance with applicable state or federal regulations.
8. Any waters or wastes having a pH in excess of 9.5.
9. Materials which exert or cause:
 1. a. Unusual concentrations of inert suspended solids (such as but not limited to fuller's earth, lime slurries, and lime residues) or of dissolved solids (such as but not limited to sodium chloride or sodium sulfate).
 2. b. Excessive discoloration (such as but not limited to dye wastes and vegetable tanning solutions).
 3. c. Unusual BOD, chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.
 4. d. Unusual volume of flow or concentration of wastes constituting slugs.
10. Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.
11. Any waters or wastes having a five-day biochemical oxygen demand greater than 300 parts per million by weight, containing more than 350 parts per million by weight of suspended solids, or having an average daily flow greater than two percent of the average sewage flow of the city shall be subject to the review of the superintendent.

(e) Where necessary in the opinion of the superintendent, the owner shall provide, at his expense, such preliminary treatment as may be necessary to reduce the biochemical oxygen demand to 300 parts per million by weight, reduce the suspended solids to 350 parts per million by weight, or control the quantities and rates of discharge of such waters or wastes. Plans, specifications and other pertinent information relating to proposed preliminary treatment facilities shall be submitted for the approval of the superintendent; and no construction of such facilities shall be commenced until such approvals are obtained in writing.

(f) 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 subsection (d) of this section, and which in the judgment of the superintendent may have a deleterious effect upon the sewer works, processes, equipment or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the superintendent may:

1. Reject the wastes;
2. Require pretreatment to an acceptable condition for discharge to the public sewers;
3. Require control over the quantities and rates of discharge; and/or
4. Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of subsection (h) of this section.

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

(h) Grease, oil and sand interceptors shall be provided when, in the opinion of the superintendent, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the superintendent and shall be located as to be readily and easily accessible for cleaning and inspection.

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

(j) When required by the superintendent, the owner of any property serviced by a building sewer

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

(k) All measurements, tests and analyses of the characteristics of waters and wastes to which reference is made in this article shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater," published by the American Public Health Association, and shall be determined at the control manhole provided, or upon suitable samples taken at the control manhole. If no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewer works and to determine the existence of hazards to life, limb and property. (The particular analyses involved will determine whether a 24-hour composite of all outfalls of premises is appropriate or whether a grab sample should be taken. Normally, but not always, BOD and suspended solids analyses are obtained from 24-hour composites of all outfalls whereas pHs are determined from periodic grab samples.)

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

(Code 1974, § 3-225)

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Sec. 82-278. Protection from damage

No unauthorized person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is part of the sewer works. Any person violating this section shall be subject to immediate arrest under charge of disorderly conduct.

(Code 1974, § 3-226)

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Sec. 82-279. Powers and authority of inspectors

(a) The superintendent 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 in accordance with the provisions of this article. The superintendent or his representatives shall have no authority to inquire into any processes including metallurgical, chemical, oil, refining, ceramic, paper or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment.

(b) While performing the necessary work on private properties referred to in this section, the superintendent 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 section 82-227(f).

(c) The superintendent 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 sewer works lying within the easement. All entry and subsequent work, if any, on the easement shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

(Code 1974, § 3-227)

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Sec. 82-280. Penalties

(a) Any person found to be violating any provision of this article except section 82-277 shall be served by the city with written notice stating the nature of the violation and providing a reasonable time limit for its satisfactory correction. The offender shall, within the period of time stated in such notice, permanently cease all violations.

(b) Any person who shall continue any violation beyond the time limit provided for within this section shall be guilty of a misdemeanor, and an conviction thereof shall be punished in accordance

section shall be guilty of a misdemeanor, and on conviction thereof shall be punished in accordance with section 1-9.

(c) Any person violating any of the provisions of this article shall become liable to the city for any expense, loss or damage occasioned the city by reason of such violation.

(Code 1974, § 3-228)

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Sec. 82-281. Repairs and replacement

(a) The superintendent 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.

(b) The city clerk shall give the property owner notice by registered letter or certified mail, directed to the last known address of such owner or the agent of such owner, directing the repair or replacement of such connection line. If within 30 days of mailing such notice the property owner fails or neglects to cause such repairs or replacements to be made, the superintendent may cause such work to be done and assess the cost upon the property served by such connection.

(Code 1974, § 3-229)

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Secs. 82-282--82-310. Reserved

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Article VI. Natural Gas

State law references: Municipal Natural Gas Regulation Act, R.R.S. 1943, § 19-4601 et seq.

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Sec. 82-311. Definitions

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Area rate means the rate charged for natural gas service to a class of customers located within the city as determined from the cost of service for the rate area.

Base year means either the most recent calendar year or a consecutive 12-month period ending not more than six months prior to the date of filing.

Countable days means those calendar days not subject to suspension as provided for in the Municipal Natural Gas Regulation Act.

Customer means any noninterruptible purchaser of natural gas within a municipality with requirements of less than 100,000 cubic feet of natural gas per day.

Date of filing means the first day of the month following the date the rate filing is received by the office of the clerk of each municipality in the rate area.

Date of final action means the date upon which the last municipality in a rate area adopts or fails to adopt a rate ordinance under a rate filing or the 180th day, counted as provided in section 82-316, whichever comes first.

District court means the district court of the county.

Judicial review means but is not limited to injunctive relief and other equitable relief.

Interim rates means the newly filed rates charged by a utility for natural gas after the 90th countable day following the date of filing but prior to final action by the city on the rate filing.

Municipality means any city of the primary class, city of the first class, city of the second class, or village or, when the context requires, any combination acting in concert in a properly created rate area.

Natural gas means either unmixed natural gas or any mixture of natural gas with one or more artificial gases and other hydrocarbons.

Rate means every compensation, charge, fare, toll, tariff, rental, late payment charge or classification which is demanded, observed, charged or collected by a utility for natural gas and

classification which is demanded, observed, charged or collected by a utility for natural gas and any rules affecting any such compensation, charge, fare, toll, tariff, rental, late payment charge, or classification.

Rate area means the municipalities within a geographic area within the state which is properly established under section 82-315 for the purpose of determining an area rate applicable to the customers within the municipalities within the rate area. A rate area shall be served by a single utility through a common pipeline system from the same natural gas supply source within the common system for which the utility has similar costs for serving customers.

Rate filing means the formal application by a utility for a change in rates, together with the information required by section 82-320.

Test year means either a consecutive 12-month period commencing on the proposed effective date of the rate increased or a base year adjusted for known and measurable changes.

Utility means any investor-owned utility maintaining and operating a natural gas distribution system within a municipality in this state.

(Code 1974, § 10-801)

Cross references: Definitions generally, § 1-2.

State law references: Similar provisions, R.R.S. 1943, § 19-4602.

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Sec. 82-312. Municipal authority and power

A utility shall be subject to:

1. All rights, powers and authority now or hereafter possessed by a municipality to regulate rates charged by the utility for natural gas service to customers within the municipality;
2. All provisions of this article; and
3. When not inconsistent with subsection (1) or (2) of this section, the provisions of any validly executed franchise agreement.

(Code 1974, § 10-802)

State law references: Similar provisions, R.R.S. 1943, § 19-4603.

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Sec. 82-313. Rates; reasonable

(a) Every rate made, demanded or received by any utility shall be just and reasonable. Rates shall not be unreasonably preferential or discriminatory and shall be reasonably consistent in application to a class of customers and to a rate area. Rates negotiated under subsection (c) of this section shall not be considered discriminatory.

(b) No utility shall, as to rates or service, make or grant any unreasonable preference or advantage to any person or subject any person to any unreasonable prejudice or disadvantage.

(c) No utility shall impose any rate any portion of which subsidizes activities of the utility or associated company which are not directly related to the purposes of such rate as set out in section 82-321.

(d) A utility may negotiate price and other contract terms with customers whose natural gas requirements exceed 50,000 cubic feet per day.

(Code 1974, § 10-803)

State law references: Similar provisions, R.R.S. 1943, § 19-4604.

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Sec. 82-314. Rate schedules

A utility shall provide to each municipality it serves, for informational purposes, copies of rate schedules for all rates charged customers and the requirements for service under such schedules within the municipality. The schedules shall also show the natural gas supply costs and natural gas supply cost adjustments included in the total end rate.

(Code 1974, § 10-804)

State law references: Similar provisions, R.R.S. 1943, § 19-4605.

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Sec. 82-315. Rate area; notice

(a) Except as provided in subsection (e) of this section, each utility providing service to customers within a municipality in this state which intends to include a municipality within a rate area shall file notice of proposed area boundaries with the office of the clerk of each affected municipality. There shall be no filing fee charged for filing the notice. The notice shall include an explanation of how

the boundaries of the rate area were determined and a map showing the boundaries of the rate area. Each time a new rate area is established or the boundaries of rate area are changed, all municipalities in the rate area shall receive notice.

(b) A municipality shall have 60 days after the notice of proposed area boundaries is filed to accept or reject its inclusion within the rate area. Failure of the municipality to accept or reject its inclusion within the boundaries of the proposed rate area within the 60-day period shall be deemed acceptance. Rejection of the boundaries may be appealed by the utility to the district court. The court shall determine the reasonableness of the inclusion of the municipality within the rate area or the reasonableness of the boundaries. If more than one municipality within a rate area rejects the boundaries, all appeals by the utility shall be joined in a single action except upon good cause shown by a municipality to have its rejection heard separately. The court may accept or reject the boundaries but may not draft boundaries of its own.

(c) After a rate area has been accepted, all rate filings shall be initiated simultaneously in each municipality within the rate area and area rates shall be deemed appropriate for each municipality within the rate area.

(d) If area rates are applied to municipalities in a rate area which do not have uniform rates for customers on the effective date of the ordinance from which this article derives, the rates in each municipality shall be adjusted in a manner which equalizes the rates in all municipalities in the rate area. Such equalization of rates shall be established by January 1, 1992, or in the first rate case filed after such date by the utility under section 82-319.

(e) Any utility proposing to increase rates on any areawide basis within 90 days of the effective date of the ordinance from which this article derives shall be permitted to make a rate filing based on proposed area boundaries before a final determination of area boundaries is made as provided in this section. The requirements of this article shall be complied with fully, except that the time periods provided for proposed rate area boundary determinations in this section and the time periods provided for area rate filing shall run concurrently and not consecutively. If the rate area boundaries are ultimately determined to be other than those that formed the basis for the rate filing, the municipality may request that an amended rate filing based on the final rate area boundaries be provided. In no event shall the filing of the notice of proposed area boundaries provided for in subsection (a) of this section be made later than the date of filing of the rate filing. Nothing in this subsection shall suspend the time periods provided for in section 82-316 from the date of the rate filing. Rate filings under this subsection shall not be subject to section 82-317, except that a utility shall provide as much prior notice of a proposed rate filing as it reasonably can.

(Code 1974, § 10-805)

State law references: Similar provisions, R.R.S. 1943, § 19-4606.

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Sec. 82-316. Interim rates

(a) No utility shall impose, charge or collect any rate upon its customers until such time as any proposed rate has been finally determined; except that a utility shall have the right to collect interim rates, subject to refund, if the municipality has not taken final action to allow the rate increase within 90 countable days of the date of filing for the increase. The rates requested in the rate filing shall become final and no longer subject to refund if the municipality has not taken final action within 180 countable days of the date of filing.

(b) If the utility takes timely action to initiate judicial review of the rates adopted by a municipality as provided in section 82-315, the utility shall be permitted to continue to collect interim rates from the date the rates are adopted by the municipality until a rate ordinance adopted by the municipality is affirmed by the district court or accepted by the utility subject to refund as provided in this section.

(c) Upon final order of the district court, when no further appeal to the supreme court is pursued, or upon acceptance by the utility of a lower rate than that being collected, a utility shall, within 60 days of such final order or acceptance, refund the difference between the rate found proper or agreed to and the rate collected, plus interest on such amount as provided in subsection (d) of this section.

(d) Any amounts refunded pursuant to this section shall bear interest fixed at a rate equal to 1 1/2 percentage points above the rate, calculated pursuant to R.R.S. 1943, § 45-103, in effect on the date of final determination of the rates by the municipality.

(e) Upon final determination of rates following the exhaustion of all appeals, the utility shall be permitted to recover the amount of revenue which would have been produced had the finally determined rates been in effect throughout the period following the decision by the district court

until the final rates were adopted by the municipality. If the revenue actually collected by the utility through interim rates is less than that which would have been collected had the final rates been effective throughout such period, the utility shall be permitted to recover the deficiency plus interest at the rate provided in this section through a surcharge on customer billings over a reasonable period not to exceed 12 months. If the revenue actually collected by the utility through interim rates exceeds that which would have been collected had the final rates been effective throughout such period, the utility shall refund the excess with interest as provided in this section.

(Code 1974, § 10-806)

State law references: Similar provisions, R.R.S. 1943, § 19-4607.

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Sec. 82-317. Filing; notice

The utility shall notify the municipality of its intent to change the rates charged to customers in the municipality under the provisions of this article by filing a notice of proposed filing with the office of the clerk of the municipality at least 60 days prior to the date of filing of any request for change.

(Code 1974, § 10-807)

State law references: Similar provisions, R.R.S. 1943, § 19-4608.

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Sec. 82-318. Supply-cost-adjustment; review

(a) A utility shall be permitted to file and implement natural gas supply-cost-adjustment rate schedules which provide for adjustment and collection of rates to reflect changes in natural gas supply costs for natural gas sold in the municipality.

(b) The municipality may review natural gas supply-cost-adjustment rate schedules. The municipality shall initiate such review by resolution of the council and shall provide a copy of the resolution to the utility at least 30 days prior to the hearing on the issue. The municipality may request and the utility shall provide all documents and workpapers supporting the actually purchased natural gas adjustment amounts charged customers. The municipality shall give the utility at least 30 days' prior notice of the time and place of the hearing and a copy of the proposed findings of fact. If after review and hearing the municipality concludes that the utility is charging more than the amount allowed by the natural gas supply-cost-adjustment rate schedule, the municipality shall order the utility to refund excess amounts collected from customers plus interest at the rate provided for in section 82-316. The utility may initiate judicial review of such an order by a municipality, and if it does so, the order of the municipality shall not take effect during the pendency of such review. The provisions of subsection (e) of section 82-316 shall be applicable to this section.

(c) Any refund, including interest, if any, received by the utility with respect to natural gas purchased under a Federal Energy Regulatory Commission natural gas tariff at the border station of a municipality related to increased rates paid by the utility, subject to refund, and applicable to natural gas purchased for resale within the municipality shall be passed on to presently served customers by an appropriate adjustment shown as a credit on subsequent bills during a period selected by the utility, not to exceed 12 months, or by a cash refund at the option of the utility. Refunds unpaid after 60 days from the date of receipt by the utility shall bear interest at the rate set in R.R.S. 1943, § 45-103.

(d) Nothing contained in this section shall change or modify existing natural gas supply-cost-adjustment rate provisions in an ordinance or franchise agreement without the review specified in subsection (b) of this section. The municipality may initiate an action to change the purchased natural gas supply-cost-adjustment rate schedules under section 82-327.

(Code 1974, § 10-808)

State law references: Similar provisions, R.R.S. 1943, § 19-4609.

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Sec. 82-319. Rate filing; fee; appeal

(a) If a utility desires to change its rates for natural gas service within a municipality other than to reflect an adjustment for natural gas supply costs, the utility shall present to the municipality copies of present and proposed rate schedules and information supporting the proposed rates for natural gas service within the municipality as required by section 82-320.

(b) The municipality may charge and collect a filing fee for a rate filing. Such fee shall not exceed, for a city of the first class, \$1,000.00.

(c) Within 45 days after the date of filing, a municipality may reject a rate filing only on the grounds that the information required by section 82-320 has not been filed with the municipality. The utility shall be given at least seven days' prior written notice of any meeting to consider

rejection of the utility's rate filing. Rejection shall be made by resolution of the municipality and shall state the reasons upon which the rejection is based. In the event of any such rejection, a copy of the written resolution shall be delivered to the utility within seven days after final action by the municipality. After receipt of the resolution, the utility shall have 15 days to remedy the deficiencies stated in such resolution and the time periods under section 82-316 shall not be suspended during such 15-day period. If the municipality has not received the information to cure the deficiencies within the 15-day period or within such additional period of time as may be agreed to by the utility and the municipality, the filing shall be deemed to be rejected and the utility shall be required to initiate a new rate filing.

(d) The utility may appeal from the decision of the municipality rejecting a rate filing. The appeal shall be to the district court.

(e) If a rate filing is rejected and the rejection is appealed, the utility may place the interim rates into effect pursuant to the time periods specified in section 82-316, subject to refund, pending district court determination. If the utility appeals the rejection of the filing and if the court rules that the rejection was unreasonable, the times specified in section 82-316 shall run from the date of filing.

(Code 1974, § 10-809)

State law references: Similar provisions, R.R.S. 1943, § 19-4610.

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Sec. 82-320. Rate filing; information required

When making a rate filing, the utility shall provide to the municipality three copies of the most recent annual report to the stockholder and three copies of the following information, verified by a statement under oath by an officer of the utility:

1. A description of the base year and test year.
2. A financial summary showing aggregate amounts for rate base, operating revenue, operating expenses, and rate of return for the base year and test year:
 1. a. Using natural gas rates currently in effect; and
 2. b. Using proposed natural gas rates.
3. Except as provided in subsection (b) of section 82-322, rate-base schedules showing beginning and ending balances for the base year and test year of:
 1. a. Utility plant and accumulated depreciation and amortization showing the balances by functional account totals;
 2. b. Working capital, showing the manner in which it is calculated;
 3. c. Other rate-base components; and
 4. d. Allocated rate-base components showing the manner in which the components are calculated.
4. Operating expense schedules for the base year and test year.
5. Rate-of-return and cost-of-capital schedules showing:
 1. a. Longterm debt, preferred stock, and common equity amounts, ratios and percentage cost rates for the base year and test year; and
 2. b. Longterm debt, preferred stock, and common equity amounts at the beginning and end of the base year and test year.
6. Operating revenue schedules showing:
 1. a. Number and classification of customers, volume of sales, and operating revenue by customer classes for the base year on an unadjusted basis; and
 2. b. Number and classification of customers, volume of sales, and operating revenue by customer classes for the test year on a normalized basis:
 1. 1. Using current rates; and
 2. 2. Using proposed rates.

(Code 1974, § 10-810)

State law references: Similar provisions, R.R.S. 1943, § 19-4611.

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Sec. 82-321. Cost of service; determination

(a) The municipality, in the exercise of its power under this article to determine just and reasonable rates for public utilities, shall give due consideration to the public need for adequate, efficient and reasonable natural gas service and to the need of the utility for revenue sufficient to enable it to meet the cost of furnishing the service, including adequate provisions for depreciation of its utility property used and useful in rendering service to the public, and to earn a fair and reasonable return upon the investment in such property.

(b) Cost of service shall include operating expenses and a fair and reasonable return on the rate base, less appropriate credits.

(c) In determining a fair and reasonable return on the rate base of a utility, a rate of return percentage shall be employed that is representative of the utility's weighted average cost of capital, including but not limited to longterm debt, preferred stock and common equity capital.

(d) The rate base of the utility shall consist of the utility's property, used and useful in providing utility service, including the applicable investment in utility plant, less accumulated depreciation and amortization, allowance for working capital, such other items as may be reasonably included, and reasonable allocations of common property, less such investment as may be reasonably attributed to other than investor-supplied capital unless such deduction is otherwise prohibited by law.

(e) Operating expenses shall consist of expenses prudently incurred to provide natural gas service, including a reasonable allocation of common expenses.

(f) In determining the cost of service, the municipality shall give effect to all costs and allocations upstream of the town border station of the utility as reflected in the rate schedules approved by the Federal Energy Regulatory Commission or its successor.

(Code 1974, § 10-811)

State law references: Similar provisions, R.R.S. 1943, § 19-4612.

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Sec. 82-322. Base year; rejection

(a) For utilities using a base year adjusted for known and measurable changes, the utility shall provide at the time of filing explanations of the adjustments used to arrive at known and measurable changes. For utilities using a projected test year, the utility shall provide at the time of filing the assumptions underlying its projected test year.

(b) A municipality may not reject a utility's rate filing for failing to provide beginning balances for the rate base of the base year and test year under subsection (3) of section 82-320 if the utility states at the time of filing that the rate base which it proposes to use for ratemaking purposes properly matches the number of customers, sales volume, expenses, and any other relevant factors and provides supporting explanations and data.

(Code 1974, § 10-812)

State law references: Similar provisions, R.R.S. 1943, § 19-4613.

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Sec. 82-323. Supplemental information

(a) After a rate filing has been filed with a municipality, the municipality may request supplemental information from the utility relevant to the rate filing. As used in this section, relevant or relevance shall relate only to the limitations on information requests that are authorized by this section. Relevant supplemental information shall relate to factors involved in setting appropriate rates. The utility shall not be required to perform analyses or analytical studies of information in responding to requests for supplemental information. Historical data more than one calendar year older than the date of the last general rate filing shall be presumed to be irrelevant except to the extent that such data was utilized by the utility in the rate filing. Requests for data related to the management, operations and profitability of affiliated businesses or operations of the utility shall be presumed irrelevant except to the extent such requests relate to the question of whether the municipal customer is subsidizing the cost of the affiliate. Data from any report or records or data required by the Federal Energy Regulatory Commission to be kept by the utility are presumed to be relevant. Any records of the utility used in filings or in the preparation of filings to the Federal Energy Regulatory Commission shall be open for inspection by the municipality or its agents at the utility's principal place of business during regular business hours.

(b) All supplemental information requests shall be made as soon as reasonably possible after the filing. The utility shall respond completely and faithfully to any relevant request for supplemental information and shall make a good-faith effort to respond within 20 days of receipt of such requests. Except as provided in subsection (c) of this section, failure to so respond shall suspend the running of the 180-day time period provided for in section 82-316 until the supplemental information is provided. Such suspension shall not affect the calculation of time for the imposition of interim rates.

(c) Request for supplemental information made by a municipality shall be subject to appeal to the district court. The court shall review the request and enter an order requiring the utility to respond or to reject the request based on the standards set forth in this section. Any appeal from a supplemental information request shall suspend the running of the 180-day time period provided for in section 82-316 during the pendency of such appeal unless the court rules that the request was irrelevant. Such suspension shall not affect the calculation of the time for the imposition of interim rates.

(Code 1974, § 10-813)

(Code 1974, § 10-813)

State law references: Similar provisions, R.R.S. 1943, § 19-4614.

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Sec. 82-324. Rate increase; notice to public

(a) Notice of filings for any rate increase under this article shall be given within 30 days of filing by publication by placing a notice to the public of the proposed change in a newspaper having general circulation in the municipality, except that a utility may provide notice to the public by mailing such notice by United States mail, postage prepaid, to the billing address of each directly affected customer or by including the notice in such customer's bill in a conspicuous form. An affidavit signed by an official of a utility and describing the method of publication of the notice shall be filed with the office of the clerk of the municipality. The notice shall contain:

1. The name and address of the utility;
2. The dollar amount of the increase as it pertains to the typical residential customer;
3. The percentage amount of the increase; and
4. The name and address of the clerk of the municipality.

(b) No later than 20 days prior to the scheduled date of the area rate hearing provided for in section 82-325, the utility shall inform affected utility customers of the hearing by mailing notice by United States mail, postage prepaid, to the billing address of each directly affected customer or by including the notice in such customer's bill in a conspicuous form. The notice shall contain a brief statement of the purpose of the hearing and the date, time, and place of the hearing or nearest videoconference site and shall inform the customer of his right to attend the hearing and to appear, participate and present testimony.

(Code 1974, § 10-814)

State law references: Similar provisions, R.R.S. 1943, § 19-4615.

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Sec. 82-325. Report; rebuttal; hearing; judicial review

(a) A report specifying the reasons supporting any action recommended to the municipality by the municipal staff or any agent or employee employed by or on behalf of the municipality to assist it in rate regulation shall be provided to the municipality and the utility within 120 countable days of the date of the rate filing. Relevant information requests regarding the report may be made by the

utility to the municipality and shall be responded to as soon as reasonably possible prior to the date for the filing of the rebuttal.

(b) Within seven countable days after receipt of the report, the utility and the municipality identified in section 82-326 may mutually agree to discuss resolution of the rate filing issues and may mutually agree to suspend the date of final action and time periods set forth in this article for a period not to exceed 30 days.

(c) Within 14 countable days after receipt of the report, the utility shall file its rebuttal. Relevant information requests regarding the rebuttal may be made by the municipality to the utility and shall be responded to as soon as reasonably possible prior to the area rate hearing provided for in this section.

(d) No sooner than seven days after the utility files its rebuttal, an area rate hearing shall be held in the municipality having the largest number of customers in the rate area. Such hearing shall be conducted by a hearing officer appointed by the municipality identified in section 82-326 of this article. Such hearing officer shall have experience in the conduct of hearings so as to ensure the fair, impartial and expeditious conduct of the proceedings and the creation of a record of the proceedings. The utility shall be given written notice of such rate hearing and the name of the hearing officer by the end of the 128th countable day after the date of filing. The municipalities and the utility shall be granted the opportunity at such hearing to call witnesses, present evidence, cross examine witnesses, and argue the evidence. Prior to such hearing, the hearing officer shall establish procedures for the conduct of the hearing to comply with this provision. The utility shall present as evidence at the hearing all the information which it desires to have considered by the municipality in its consideration of the rates to be adopted. Following the hearing, the utility and the municipalities shall provide to the hearing officer their proposed findings of fact and conclusions of law. A certified court reporter shall be present at the hearing and shall prepare a transcript of the proceedings.

(e) The official record of the hearing shall consist of the rate filing, all reports, all evidence presented by the utility and the municipalities, all documents and information presented at the hearing, the transcript of the proceedings, and the proposed findings of fact and conclusions of law presented to the hearing officer by the municipalities and the utility. A copy of the official record shall be transmitted by the hearing officer to each municipality in the rate area.

(f) Following the hearing and within 180-countable-days of the date of filing, each municipality within the rate area shall take final action on the rate filing by adopting findings of fact and conclusions of law and a rate ordinance based on such findings and conclusions. If the municipality

conclusions of law and a rate ordinance based on such findings and conclusions. If the municipality does not take action within that 180-countable-day period, the rates filed by the utility in its rate filing shall become final and no longer subject to refund. Notwithstanding any other provisions of state law or any local ordinance, the adoption of a rate ordinance shall require no more than a vote of a majority of the elected members of any governing body of a municipality made at one public meeting after compliance with public notice requirements and a public hearing on the proposed ordinance.

(g) Within 30 days of the date of final action by the municipalities within a rate area, a utility may initiate proceedings for judicial review of the decision of any municipality in the rate area to the district court. At the time the utility initiates action for judicial review, it shall join in such action as parties all municipalities in the rate area whose actions are being challenged.

(h) In no event shall the district court render a decision upon a judicial review of municipal action later than 180 days after the filing of the action.

(i) The utility shall, within 30 days of the date of final action, unless it takes timely action to initiate judicial review, implement the rates established by the action of the municipality and shall, within 60 days of such action, make refunds, if any, with interest as provided in section 82-316.

(Code 1974, § 10-815)

State law references: Similar provisions, R.R.S. 1943, § 19-4616.

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Sec. 82-326. Loan fund; applicants

(a) The municipal natural gas regulation revolving loan fund shall be used to make loans to municipalities for rate regulation and to pay the costs of administration. The fund shall consist of money appropriated from the Nebraska Energy Resource Fund and money from repayment of loans. The fund shall be administered by the policy research office, which shall adopt and promulgate rules and regulations to carry out this subsection. The rules and regulations shall include:

1. Loan application procedures and forms; and
2. Fund-use monitoring and quarterly accounting of fund use.

Applicants for a loan from the fund shall provide a budget statement which specifies the proposed use of the loan proceeds. Such proceeds may only be used for the costs and expenses incurred by the municipality to analyze rate filings and establish areawide rates and to finance litigation costs of any appeals. Such costs and expenses may include the cost of rate consultants, attorneys, hearing officers, preparation of transcripts and hearing records provided for by this article, expert witnesses, and any other necessary costs related to the conduct and administration of the hearing provided for in subsection (d) of section 82-325. One loan may be made under this subsection to each rate area, and such loan shall be made to the applicant representing the largest number of customers. All loans made under this subsection shall be paid by the utility to the policy research office within 30 days of being billed by the office. The utility may recover the amount paid on a loan through a special surcharge on customers which may be billed on the monthly statements for up to a 12-month period to be shown on the statements as a charge for rate regulation expense.

(b) The municipal natural gas regulation revolving loan fund shall be audited as part of the regular audit of the policy research office budget and copies of the audit shall be available to all municipalities and any utility supplying natural gas in this state.

(c) Any money in the municipal natural gas regulation revolving loan fund available for investment shall be invested by the state investment officer pursuant to R.R.S. 1943, §§ 72-1237--72-1269. If the fund balance exceeds \$400,000.00, the income on the money in the fund shall be credited to the permanent school fund until the balance of the municipal natural gas regulation revolving loan fund falls below such amount.

(d) A municipality which receives a loan under this section shall be responsible to provide for the opportunity for all other municipalities to participate in all rate area activities. Such municipality shall not exclude any other municipality in the rate area from the information or benefits accruing from the use of the loan funds.

(Code 1974, § 10-816)

State law references: Similar provisions, R.R.S. 1943, § 19-4617.

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Sec. 82-327. Review and adjustment

(a) Once in any 36-month period, one or more municipalities in each rate area may initiate a proceeding for a review and possible adjustment in rates to conform such rates to the standards of section 82-321 by the introduction of a resolution for such purpose. The municipality shall provide to the utility seven days' prior written notice of the meeting at which such resolution is to be considered and a copy of the proposed resolution. Following adoption of the resolution, the municipal clerk shall send a copy of the resolution by certified mail to the utility. The municipality

may request the information required by section 82-320 to be provided by the utility within 120 days of the receipt of the notice unless otherwise agreed. Following filing of the information required in section 82-320, the municipality may make additional requests as provided in section 82-323. The utility shall be provided with a copy of any reports and analyses prepared for the municipality in its consideration of a rate adjustment. To the fullest extent possible, the general procedures provided for in subsections (a)--(f) of section 82-325 shall be followed by the municipality and the utility, except that calculations of time periods shall be from the date on which the municipality receives the information specified in section 82-320 and not from the date of filing. Nothing in this subsection shall require the participation in the proceedings of every municipality in the rate area. During the pendency of all proceedings under this section and through the period of judicial review of those proceedings, the rate in effect prior to the time the municipality adopts the resolution provided for in this section shall remain in effect. The provisions of subsection (e) of section 82-316 shall be applicable to this section.

(b) Except as provided in this article, no municipality shall be entitled to any filing fees or assessments against the utility when the municipality initiates a rate adjustment, nor shall the municipality receive a loan under section 82-326 for such purposes. If the utility initiates judicial review of the decision of a municipality under this section and the court upholds the decision of the municipality, the court may award the municipality litigation expenses to include attorney's fees, expert witness fees, consultant fees, and such other related expenses as the court finds to be properly related to the judicial review. Any action for judicial review shall be initiated in the district court. If appropriate resolutions are adopted by municipalities representing 70 percent or more of the customers in the rate area initiating a proceeding for review and possible adjustment of natural gas rates, the applicant representing the largest number of customers shall be given a loan for such purposes upon the terms of section 82-326.

(c) Any municipality or combination of municipalities within a rate area which determines from the filings made by a utility pursuant to R.R.S. 1943, § 19-4618.02 that evidence exists that the utility is engaging in subsidization may conduct a review of the utility's rates for natural gas service to customers pursuant to this section for the purpose of determining whether it is necessary to adjust prospectively any portion of the rates.

(Code 1974, § 10-817)

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Sec. 82-328. Civil procedure

To the extent not inconsistent with the provisions of this article, the rules of civil procedure and discovery shall apply. Review of the decisions of the district court under this article shall be by appeal to the supreme court.

(Code 1974, § 10-818)

State law references: Similar provisions, R.R.S. 1943, § 19-4619.

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Sec. 82-329. Records; accurate

(a) Every utility shall be required to keep and render its books, accounts, papers and records accurately and truthfully in accordance with the systems of accounts prescribed by the Federal Energy Regulatory Commission or its successor.

(b) All accounting information provided by utilities to municipalities shall be presented in accordance with the system of accounts prescribed by the Federal Energy Regulatory Commission.

(c) Expenses and revenue of a utility or associated company related to appliance merchandising, appliance jobbing, or appliance service contract work activities shall be allocated, charged, and credited to appropriate Federal Energy Regulatory Commission accounts. The utility shall not include in the rate charged to customers for natural gas service any of the expenses or revenue listed in applicable Federal Energy Regulatory Commission accounts for appliance merchandising, appliance jobbing, or appliance service contract work activities.

(Code 1974, § 10-819)

State law references: Similar provisions, R.R.S. 1943, § 19-4621.

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Sec. 82-330. Customers; right to appear at hearing

Customers of the utility in a rate area shall have the right to appear, participate and present testimony at the hearing provided for in section 82-325 and shall have such evidence considered by the municipalities in the rate determination. When the interests of any customers are substantially similar, the hearing officer may provide that such class of customers join in presentation of the evidence at the hearing so as to expedite the proceedings. Customers who desire to present testimony and participate at the hearing shall follow the requirements for municipal staff or agents as provided in subsection (a) of section 82-325. All customers shall be provided with notice of these rights, which notice shall be provided by the utility in the notice

required by section 82-324.

(Code 1974, § 10-820)

State law references: Similar provisions, R.R.S. 1943, § 19-4622.

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Sec. 82-331. Retroactive application prohibited

The provisions of this article shall not be enforced retroactively from the effective date of the ordinance from which this article derives. Any rate filing made prior to such date shall be governed by the law existing on the date the rate filing was made.

(Code 1974, § 10-821)

State law references: Similar provisions, R.R.S. 1943, § 19-4623.

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Sec. 82-332. Rate schedule, monthly charge; heat value, basis of; adjustment; penalty for delinquency; adjustment for cost of purchased gas and taxes

(a) Established. The grantee, its successors or assigns, shall file and make effective initially a schedule of rates for gas service and shall furnish gas at the schedule of rates set forth or at such other reasonable rates as may be established under the Municipal Natural Gas Regulation Act, R.R.S. 1943, § 19-4601 et seq.

(b) Firm gas service rates.

1. Firm gas service rates are available only to domestic and commercial customers whose maximum requirements for natural gas are less than 100,000 cubic feet per day. The grantee shall not be required to serve any customer at the following rates whose requirements amount to 100,000 cubic feet or more per day. The grantee may negotiate price and other contract terms with customers whose natural gas requirements exceed 50,000 cubic feet per day.

1. Table Inset:

Residential Customers	Amount
Monthly customer charge	\$4.0000
Rate per 100 cubic feet	0.3892
Commercial Customers	Amount
Monthly customer charge	\$6.0000
Rate per 100 cubic feet	0.3967

2. The rates given in subsection (b)(1) of this section apply only when bills are paid on or before 15 days after the monthly billing date. When not so paid, a ten percent late fee will apply.
3. These rates shall be understood to be based upon natural gas of the British thermal unit (Btu) heating value of 1,000 Btu's per cubic foot of gas. If in any monthly period the average heating value of gas sold and delivered to the customers shall vary from 1,000 Btu's, the volumes of gas billed to the customers during that month shall be multiplied by the factor of average heating value in Btu's divided by 1,000 to adjust for the variance.

(c) Adjustment for cost of purchased gas.

1. If the rates authorized to be charged the grantee for any natural gas purchased by it on a firm supply basis for resale in the city are increased or decreased, either temporarily or permanently, the rates prescribed in the schedule established in subsection (b) of this section may be increased or shall be decreased correspondingly to reflect the change in the cost of firm gas for the city, such increase or decrease by the company to be effective not earlier than the next billing period following the effective date of the increase or decrease in rates charged the grantee.
2. Any refund, including interest, if any, received by the company from its supplier in respect of increased rates paid by the grantee subject to refund and applicable to natural gas purchased on a firm supply basis for resale in the city shall be refunded to its gas customers

in the form of credits on such customers' bills, or in cash, to the extent that such increased rates paid by the company were passed on to such firm gas customers.

(d) Adjustment for taxes. If after the effective date of the ordinance from which this section derives the business of the grantee in the city shall be subjected to any taxes measured by its gross revenues from the operation of such business or the volume of such business or constituting a fee for carrying on such business, or if the rate of any such tax or the amount of any such fee shall be increased after the effective date of this section, the gas distribution company shall be entitled to increase its charges under subsection (b) of this section so as to offset such impositions of such increase.

(e) General rate adjustment. The cost of purchased gas and tax adjustments are apart from and shall not in any manner limit or abridge either the grantee's right to request or the council's authority to grant general rate adjustments.

(f) Interruptible gas service rate.

1. Availability. The interruptible gas service rate is available only on a contract basis to commercial or industrial customers whose use of natural gas is subject to interruption and periods of curtailment for reasons, including but not limited to protecting the service of the grantee's firm gas users.
2. Rate. The rate of interruptible gas service shall be such rate as may be mutually agreed upon between the customer and the gas service company.

(Code 1974, § 10-822)

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