

AGENDA
CITY COUNCIL MEETING
May 3, 2016

Amended: (5/2/16)

1. [Approval of Minutes – April 19, 2016](#)

2. [Approval of Claims](#)

The City Council will be hearing public comments on the following agenda items: **3, 8, 10, 14, 15, 16, and 18**

Anyone desiring to view the Open Meetings Act may do so. The document is available for public inspection and is located on the south wall of the City Council Chambers.

The City Council may go into closed session to discuss certain agenda items to protect the public interest or to prevent the needless injury to the reputation of an individual and if such individual has not requested a public hearing.

3. **Discussion of Dog Creek Dam Proposal by Landowners - 20 minute time limit**

4. [Approval of Updated Engagement Letter with D.A. Davidson & Co. for Project Financing in compliance with SEC Regulations](#)

Background: We're going to need financing for the North Main Street water main replacement project and several others. I like the option of financing some of these internally and paying our cash reserve fund 3% interest instead of .5%. However, it would be more prudent to do some of each and at least check the market options for some of these projects. To do that, we need to retain bond counsel for the projects below.

5. [Ordinance 2016-6: Authorizing the Issuance of Combined Utility Revenue Bond Anticipation Notes in a not-to-exceed amount](#)

Background: Some of the projects Nancy recommends bonding out are Grainland Road, North Main Street, and Nebraska Street water main replacement for the CIS grant match. Phil Lorenzen will be here to discuss these.

6. [Resolution 2016-32: Authorizing reimbursement relating to Revenue Financed Utility Capital Projects](#)

7. [Resolution 2016-33: Authorizing reimbursement relating to Streets and other Local Improvement District Capital Projects](#)

8. Public Hearing: Annexation of Real Estate (Kardell East 14th Street Addition)

Background: The Kardell's are subdividing and rezoning this site. A drawing of the annexed area and the lots is provided in the attachment for your review.

9. [Ordinance 2016-7: Annexing Real Estate to the City of Wayne and extending the Corporate Limits in the Northeast Quadrant of the City of Wayne to include said Real Estate](#)

Recommendation: The recommendation of Joel Hansen, City Planner, and the Planning Commission, is to approve the annexation.

10. **Public Hearing:** [Amending the One & Six Year Street Improvement Program](#)

Background: This amendment will extend the pavement of the south end of South Windom Street one-half block to provide paved access to a new housing project on the east side of the street.

11. [Resolution 2016-34: Amending the One & Six Year Street Improvement Program](#)

Recommendation: The recommendation of Joel Hansen, City Planner, is to approve the amendment.

12. [Resolution 2016-35: Accepting Bid and Awarding Contract on the City Hall Roof Replacement Project – Guarantee Roofing for \\$40,095](#)

Background: This project is budgeted for this year. Three bids were received, and this was the only bid that met the bid specifications.

Recommendation: The recommendation of Gene Hansen, Public Buildings Manager, is to accept the bid of Guarantee Roofing for \$40,095.

13. [Resolution 2016-36: Accepting Bid and Awarding Contract on the “Community Activity Center Parking Lot Project”](#)

Bids will be opened on Friday (April 29th) before the meeting, and a recommendation will be presented to the Council on Tuesday.

14. [Resolution 2016-27: Amending Sewer Rates \(outside city limit rate\)](#)

Background: The City of Wayne, Wayne County and Wayne Industries have been extending sections of water and sewer utilities outside the city limits east of Wayne and north of Highway 35 over the years in a partnership to develop new businesses and jobs. The results have been great for a community this size. The cost of the water and sewer have been approved by the Wayne elected officials and paid for by the City of Wayne. As businesses have connected to the sewer, their hook-up fee has been the equivalent of what the assessment would have been if we had created a sewer district. The payoff has been hundreds of jobs. Nancy, Wes and I get to see that Wayne is recognized state-wide as a community that works together and takes risks to grow. We charge double sewer rates in this area.

The City had prepared a long-term draft plan to extend a sewer line into the industrial/commercial area south of Highway 35, but had no plans to construct the same until it was annexed. When the 2013 tornado destroyed all of the buildings there, some were prohibited by new State code requirements from connecting a new building to an old septic system, but most other property owners would not approve a sewer extension district to assess the costs to. The Council made a unanimous decision to activate the draft sewer plan for the area to accommodate the new construction and to build it at the City’s cost and risk to help the local recovery and maintain the jobs. The cost of that project was \$602,000, with the agreement with the property owners that when they connect their buildings to the new sewer out there, their hook-up fee would be the equivalent of what the assessment would have been if we would have created a sewer extension district. To date, four business have connected to the new sewer for a total of \$106,000 in hook-up fees.

Financing and building this project in a short time required a huge amount of executive oversight and willingness to make decisions and take risk by some responsible entity. The businesses out there were in recovery mode and didn't have time, the expertise or a majority support to organize their own Sanitary Improvement District.

The Mayor and Council, at that time, willingly took that on for the best interest of the community, even though the area was all outside the corporate limits. The City of Wayne is now at long-term risk for recovering their remaining project costs through future sewer hook-up fees.

There is no compensation through ordinary sewer rates for the oversight and risk for these kinds of projects outside the city limits. It is difficult to determine the real value of some entity taking on this much responsibility and financial risk for someone outside the city limits.

Following is information from the Nebraska Rural Water Association and from the League of Nebraska Municipalities that Betty sent to the Council in regard to their questions about how to cover risk and how to value utility rates outside the corporate limits:

“There are several costs that are quantifiable to which justify a basis for rate differentials between inside and outside city limit customers and are recognized by the American Water Works Association (AWWA). There are a variety of additional direct costs associated with serving outside-of-city customers.

- Greater distance and/or higher elevation from central facilities (i.e., water supply or treatment facilities).**
- Increased demands on limited water resources resulting in increased risk associated with water shortages.**
- Increased travel time and related expenses for operations and maintenance, meter reading, service calls, etc.**
- Lower development densities resulting in higher costs per connection.**
- Risk associated with utility ownership and long-term debt obligations ultimately residing with residents of the City.**
- A rate of return on investment due to resident “owners” of the water system relative to outside users of the system.**
- Larger horsepower pumps, additional storage, and larger water transmission lines are required to provide adequate water and water pressure to commercial and residential services in the outlying areas of the City.**
- Additional expenses associated with working in County and State right-of –ways.**

These costs are quantifiable and provide for the basis for rate differentials. It is clear that a different rate structure for outside-of-city customers is justified based on quantifiable cost of service differences.

Municipal water utilities have several other user classifications to consider beyond inside vs. outside residential user. Commercial, wholesale, industrial, and public facilities are all different types of user classification that must be evaluated to determine quantifiable cost of delivery of services. Each user class will have its own rate structure based on its own particular quantifiable facts as stated above.

The different classification user rates are based on the cost of delivery to the customers. If water rates were not evaluated by user classifications, we would be creating an unfair rate structure. For example: it costs more to deliver water outside city limits. This has been proven by quantifying the associated cost against the rate of return. If everyone is charged the same amount, then one or more user classifications are paying higher fees to support the other classifications.”

15. [Resolution 2016-28: Amending Water Rates \(outside City limit rate\)](#)

Background: Current water rates outside the city limits are 2x the rate for Wayne residents. This discussion was tabled at the last meeting, and we are being asked what executive oversight and risk by the City of Wayne are, and how they are quantified.

Here is a recent example:

Muhs’ Acres is outside the city limits, but has been served since the start by a private service line connected to the city water utility system at Well #6. In 2008, the Muhs’ Acres water service line was having some repair issues and some believed it had become undersized because of the housing growth over the years. There was no formal Muhs’ Acres utility entity, so a resident would volunteer to contact a repair contractor and repair costs were sent to an individual and then split equally to all residents. Some residents asked the City if we would extend a new water system to Muhs’ Acres and hook it up to their homes. Cities aren’t required to provide service outside the corporate limits, but Wayne has a history of doing that, so the Mayor and Council agreed to retain an engineering firm to prepare a cost estimate.

On behalf of the Muhs’ Acres residents, the city retained Olsson Associates and allocated city staff time and paid OA for the design and cost estimate. Taking charge of starting up a project, setting boundaries, selecting an engineering firm and developing a scope of work is an example of uncompensated executive oversight on behalf of Muhs’ Acres that is paid for the City. The hiring of OA with city funds with no system for reimbursement if the project isn’t built is an example of the risk.

The total cost of the new water system to serve Muhs’ Acres ended up at \$188,000. We, as city staff, have a fiduciary requirement to minimize the risk of building this system for Muhs’ Acres and not getting reimbursed for it. We had some difficulty finding a State Statute that would allow a city to borrow \$188,000 to finance a water system outside of town. We spent a fair amount of staff time and bond counsel time to find a legal solution to create a rural utility district that could assess the costs to the property owners served by the new water system. This was staff time paid by the City that was not reimbursed by the project.

The City Council created the Muhs’ Acres District at the city’s cost and waited the required 30 days for property owners in the District to object out to the district in writing. There were a few people not in favor because of the estimated cost, and several had their own wells, so if the district failed, the city had no system to be reimbursed for the engineering and legal cost of creating the district. That is part of the risk of working outside the city limits.

The district was approved, the project was designed, and Muhs’ Acres residents thought the cost was too high. 1) The Council agreed to reduce the Muhs’ Acres

assessments by crediting back \$10,000, which we received from Muhs' Acres in previous years of double rates; 2) The Council agreed to use \$50,000 of City funds to reduce Muhs' Acre assessments by paying for a quarter mile of water transmission main costs between the City's Well #6 and the beginning of the Muhs' Acres district. We could legally do that by considering it "pioneering costs" for future residential or commercial development; 3) Our Finance Director located and spent numerous hours applying for and completing federal compliance documentation to get \$29,000 in Federal ARRA grant funds for the project, which we applied 100% against the Muhs' Acres assessments and none to reduce the city's pioneering costs; and 4) The bonds the City used to finance the Muhs' Acres.

Because of this knowledge and experience and because of the City Council's willingness to allocate the staff time and cover over \$90,000 of the total \$188,000 in project costs, the cost to Muhs' Acres residents and neighboring properties was reduced to about 98,000 to be paid through assessments on their properties. The City of Wayne is at risk of losing our \$50,000 if no future development ever occurs out there, and the City is at risk to pay off \$98,000 in debt in the event some of the property owners default on their assessments.

This was a complicated project that required a lot of city staff and City Council oversight to determine how to legally do this and still protect the City of Wayne residents as much as possible. The Mayor and Council knew and accepted the project risks at the time, because it met their goal of area growth for school enrollment increases and their goal of employee and housing development for business growth.

16. [Resolution 2016-37: Amending Electric Rates](#)

Background: Wayne utilities operate at a breakeven cost. Every year when NPPD sets their new wholesale power costs, we send the rate increase to an electric rate consultant to determine how to fairly allocate the increased costs to our different residential, industrial and commercial rate customer groups, so that one group of customers isn't subsidizing another. In the last 13 years, NPPD has raised their wholesale rate to us by over 70%. The consultant prepares a five-year budget projection for Wayne that estimates our local capital project costs for lines and transformers, our operating costs, etc., and projects our revenue needs to operate at a breakeven level and then makes new rate recommendations for each of our customer rate classes.

This year NPPD did not raise their wholesale power rate, but they have charged Wayne and other towns a 3.9% penalty for not signing a new 20-year power contract. Our rate consultant did, however, recommend a 6.5% rate increase annually for five years to help cover our future transmission line and transformer upgrades, and anticipated future energy costs. We passed on doing that last year, but need to make the increase this year to break even.

Recommendation: The recommendation of our rate consultant and of Lowell Johnson, City Administrator, is to approve a 6.5% rate increase in all rate classes for 2016 beginning with the June monthly billing.

17. [Resolution 2016-38: Approving the Agreement between the City of Wayne and C. H. Guernsey & Company for professional consulting services for a Generation Resource Feasibility Analysis](#)

Background: The Council has retained Guernsey and Associates on an hourly basis to assist us in determining if there is a better capacity lease option in the market for our power plant for the years 2018-2027. We have been meeting weekly with Guernsey by conference call, and they have helped us narrow down our search to these options:

1. Stay with the \$1.50/kWh per month with Big Rivers Electric Coop in Kentucky, which is \$342,000 per year. This contract has the safety of seldom, if ever, being required to run our power plant except for emergencies.
2. Consider a potential, but not definite offer of \$3/kWh per month from AEP which amounts to \$684,000 per year. This potential offer still being negotiated has no limit on the amount of time Wayne may be called upon to operate our power plant, which is in good shape, but getting some age on it. Our guys don't feel our power plant would thrive under repeated hard use. We also can't run our generators more than 950 hours per generator per year because of EPA limitations on air pollutants from our plant
3. Prepare a Request for Bids and send it into the existing market for power plant demand contracts to see what our power plant might command for capacity leasing payments in the open market. We could then know if we're getting a good deal on either of the two options we have. We might find something better or find nothing better.
4. Consider offers currently in the market to pay us full price to replace this power plant with one natural gas burning engine about the same size as our plant that can be remotely started and up to speed on line in ten minutes and follow the wind turbine load as needed.

We didn't see this one coming, but that's how fast the energy market is changing with all the new heavily subsidized wind power and solar power coming into our market. This also resolves some of our training issues for having 5-6 city employees trained to operate our current plant with 8 smaller engines. It also resolves some of our concerns about getting future parts for engines ranging from 1950 to 1993 in age. Another concern is the disappearance of the older mechanics for major service to our engines.

If Wayne plans to always have a power plant, this might be the time to take a look with Guernsey at what our current power plant will be like in 50 years and what options are actually out there to replace this with one modern engine at someone else's cost. This proposal from Guernsey will do that.

Recommendation: The recommendation of Lowell Johnson, City Administrator, is to do the study to rule the option in or rule the option out, but the decision is the prerogative of the elected officials.

18. [Ordinance 2016-8: Amending the Wayne Municipal Code, Chapter 14 Animals, Article II Dogs, Section 14-52 Barking and Offensive](#)

Background: We're having some difficulty responding to neighborhood complaints and documenting ten minutes of barking in the middle of the night by dogs owned by resistant and non-cooperative owners. The ten minutes is required by city code.

Recommendation: My suggestion is to shorten the time the officer has to document the barking, so the courts will enforce the citation.

19. [Action on Pay Application No. 9 for the “2015 Wastewater Treatment Facility Improvement Project” in the amount of \\$130,662.00 to Eriksen Construction Co., Inc.](#)

Background: This is for work done in compliance with our contract and approved for payment by the project engineer.

20. [Action on Contractor’s Application for Payment No. 10 for the “2016 Wayne Aquatic Center Project” in the amount of \\$200,553.15 to Christiansen Construction Co., LLC](#)

Background: This is for work done in compliance with our contract and approved for payment by the project engineer.

21. [Action to Approve Chapter V - Public Works of the new Municipal Code Update](#)

Background: This is the second of a series of revisions we will bring to you. This section has been reviewed by our legal counsel and has some substantive changes marked in it that we recommend. We’ll point these out individually to you for your acceptance or rejection at the Council meeting.

22. [Adjourn](#)

APPROVED AS TO FORM AND CONTENT:

Mayor

City Administrator

**MINUTES
CITY COUNCIL MEETING
April 19, 2016**

The Wayne City Council met in regular session at City Hall on Tuesday, April 19, 2016, at 5:30 o'clock P.M. Council President Jill Brodersen called the meeting to order with the following in attendance: Councilmembers Rod Greve, Jon Haase, Jennifer Sievers, Nick Muir, and Jason Karsky; City Attorney Amy Miller; City Administrator Lowell Johnson; and City Clerk Betty McGuire. Absent: Mayor Ken Chamberlain; Councilmembers Cale Giese, Nick Muir and Matt Eischeid.

Notice of the convening meeting was given in advance by advertising in the Wayne Herald on April 7, 2016, and a copy of the meeting notice and agenda were simultaneously given to the Mayor and all members of the City Council. All proceedings hereafter shown were taken while the Council convened in open session.

Councilmember Sievers made a motion, which was seconded by Councilmember Haase, whereas, the Clerk has prepared copies of the Minutes of the meeting of April 5, 2016, and that each Councilmember has had an opportunity to read and study the same, and that the reading of the Minutes be waived and declared approved. Council President Brodersen stated the motion, and the result of roll call being all Yeas, with the exception of Councilmembers Giese, Muir and Eischeid who were absent, the Council President declared the motion carried and the Minutes approved.

The following claims were presented to Council for their approval:

CORRECTIONS TO CLAIMS LIST OF 3/1/16 & 4/2/16: DELETE CITY OF WAYNE KIWANIS, AUDITORIUM DEPOSIT REFUND - \$150.00; DITCH WITCH – BULLET BLADE/DUST CAP - \$345.61; PUSH PEDAL PULL – RUBBER FLOOR MAT - \$301.57; AND WAYNE COUNTY CLERK – BRIDGE TORNADO DAMAGE - \$26154.20

VARIOUS FUNDS: ALL-AMERICAN PUBLISHING, SU, 947.00; AMERITAS, SE, 2463.40
APPEARA, SE, 162.55; BAKER & TAYLOR BOOKS, SU, 654.06; BEST BOOKS, SU, 21.49;
BOMGAARS, SU, 1559.67; BROWN SUPPLY, SU, 802.25; CARHART LUMBER, SU,
3132.07; CERTIFIED TESTING SERVICES, SE, 1530.00; CHARLENE RASMUSSEN, SE,
350.00; CHARTWELLS, SE, 5002.80; CHRISTIANSEN CONSTRUCTION, SE, 227498.58;
CITY OF WAYNE, RE, 250.00; CITY OF WAYNE, RE, 450.00; CITY OF WAYNE, PY,
66334.67; CITY OF WAYNE BASKETBALL REFS 1,750.00; CITY OF WAYNE, RE,

125.00; COMMUNITY HEALTH, RE, 4.00; COPY WRITE, SU, 240.91; DAVE'S DRY CLEANING, SE, 84.00; DEARBORN NATIONAL LIFE, SE, 2098.04; CITY EMPLOYEE, RE, 151.98; ECHO GROUP, SU, 681.65; ELLIS HOME SERVICES, SE, 253.49; ERIKSEN CONSTRUCTION, SE, 250703.47; FLOOR MAINTENANCE, SU, 91.57; FRANK SHEDA JR., SE, 247.50; FREDRICKSON OIL, SU, 827.60; GERHOLD CONCRETE, SU, 2106.85; GRAINGER, INC., SU, 13.72; GROSSENBURG IMPLEMENT, SU, 834.73; HANNA:KEELAN ASSOCIATES, SE, 10500.00; CITY EMPLOYEE, RE, 24.00; ICMA, SE, 7013.74; IRS, TX, 24537.83; JOHN'S WELDING AND TOOL, SU, 121.93; JORGENSEN CONCRETE & CONST., SE, 1100.00; KRIZ-DAVIS, SU, 379.96; LIBERAL GASKET MFG, SU, 551.21; LINDA ANDERSON, SE, 350.00; LUTT OIL, SU, 3814.81; MAXIMUM SOLUTIONS, SU, 725.00; MAXNET SECURITY, SE, 1575.00; MIDTOWN HOLIDAY INN, SE, 179.90; MIDWEST LABORATORIES, SE, 102.50; MIDWEST SERVICE & SALES, SU, 609.80; MILO MEYER CONSTRUCTION, SE, 425.00; MSC INDUSTRIAL, SU, 230.14; CITY EMPLOYEE, RE, 1343.74; NE DEPT OF REVENUE, TX, 3501.60; NE SAFETY COUNCIL, SE, 9.27; NPPD, SE, 270384.07; NEW HORIZONS, SE, 7490.00; NMPP ENERGY, FE, 2111.50; NNPPD, SE, 5924.00; NORTHEAST TIRE SERVICE, SE, 86.95; ONE CALL CONCEPTS, SE, 89.76; OTTE CONSTRUCTION CO, SE, 37689.00; OVERDRIVE, INC., SU, 219.92; PAC N SAVE, SU, 20.97; CITY EMPLOYEE, RE, 2737.22; PROGRESSIVE BUSINESS PUBLICATIONS, SU, 299.00; QUALITY 1 GRAPHICS, SU, 925.00; SALT CREEK SOFTWARE, SU, 2140.00; SBW, INC, SU, 63.58; SKARSHAUG TESTING LAB, SE, 372.14; SPARKLING KLEAN, SE, 3105.57; SPECIALTY RETAIL SHOPS HOLDING CORP, SU, 87.69; STADIUM SPORTING GOODS, SU, 1808.75; SUPERCIRCUITS, SU, 398.70; TAPED EDITIONS, SU, 450.50; THE PENDER TIMES, SU, 39.50; TOM'S BODY & PAINT, SE, 725.00; TRI-STATE COMMUNICATIONS, SU, 45.83; TYLER TECHNOLOGIES, SE, 913.75; US BANK, SU, 6509.22; UTILITIES SECTION, FE, 2835.00; VAKOC CONSTRUCTION, SE, 1098.06; VAN DIEST SUPPLY, SU, 416.00; VIAREO, SE, 132.53; WAYNE AUTO PARTS, SU, 477.35; WAYNE COUNTY CLERK, SE, 10.00; WAYNE COUNTY CLERK, RE, 25594.20; WAYNE COUNTY COURT, RE, 1851.50; WAYNE HERALD, SE, 3560.78; WAYNE VETERINARY CLINIC, SE, 70.00; WESCO, SU, 2828.71; WIGMAN CO, SU, 379.76; WISNER WEST, SU, 62.00; ZEE MEDICAL SERVICE, SU, 136.23; AMAZON.COM, SU, 427.89; AMERICAN TEST CENTER, SE, 1351.00; CITY OF WAYNE, RE, 13.99; CREDIT BUREAU SERVICES, RE, 55.87; DITCH WITCH OF OMAHA, SU, 220.69; FLOOR MAINTENANCE, SU, 16.42; GALE GROUP, SU, 99.41; GERHOLD CONCRETE, SU, 819.35; HD SUPPLY WATERWORKS, SU, 1087.18; JEBRO INC,M SU, 35.00; CITY EMPLOYEE, RE, 336.20; KRIZ-DAVIS, SU, 82.00; KTCH, SE, 1481.00; LIQUID ENGINEERING CORP, SE, 3925.00; MAIN STREET AUTO CARE, SE, 100.00; NE DEPT OF ROADS, SE, 3790.41; NE PUBLIC HEALTH, SE, 64.00; NNPPD, SE, 12134.60; RECREATION SUPPLY, SU, 5173.72; STAPLES, SU, 59.16; TYLER TECHNOLOGIES, SE, 900.00; VERIZON, SE, 99.76; WAYNE HERALD, SE, 600.00; WESCO, SU, 785.38

Councilmember Sievers made a motion, which was seconded by Councilmember Haase, to approve the claims. Council President Brodersen stated the motion, and the result of roll call being all Yeas, with the exception of Councilmembers Giese, Muir and Eischeid who were absent, Council President declared the motion carried.

Council President Brodersen advised the public that a copy of the Open Meetings Act was located on the south wall of the Council Chambers and was available for public inspection.

In addition, she advised the public that the Council may go into closed session to discuss certain agenda items to protect the public interest or to prevent the needless injury to the reputation of an individual and if such individual has not requested a public hearing.

Councilmember Eischeid arrived at 5:32 p.m.

Robbie Gamble, President of the Wayne Volunteer Fire Department, introduced Jacob Stenka and requested Council consideration to approving his membership application to the Wayne Volunteer Fire Department. He was formerly a cadet on the Fire Department.

Councilmember Sievers made a motion, which was seconded by Councilmember Greve, approving the membership application of Jacob Stenka to the Wayne Volunteer Fire Department. Council President Brodersen stated the motion, and the result of roll call being all Yeas, with the exception of Councilmembers Giese and Muir who were absent, the Council President declared the motion carried.

Councilmember Giese arrived at 5:34 p.m.

Dave Ley and Jerry Conradt, Secretary and Chair respectively of the Wayne Airport Authority, gave a report and update on the operations of the airport.

Council President Brodersen stated the time was at hand for the public hearing to consider the Planning Commission's recommendation in regard to the "Kardell East 14th Street Addition Final Plat." The applicant, Virgil Kardell, is seeking the request.

The Planning Commission reviewed the matter at their public hearing on April 4, 2016, and forwarded a recommendation to approve the same subject to the following "Finding of Fact:" Consistency with the Comprehensive Plan and the current and future land use maps.

Virgil Kardell was present to answer questions. In addition, he requested Council consideration to waiving the three readings on the zoning ordinance.

City Clerk McGuire had not received any comments, either verbal or in writing, for or against this public hearing.

There being no further comments, Council President Brodersen closed the public hearing.

Councilmember Sievers introduced Resolution 2016-24, and moved for its approval; Councilmember Haase seconded.

RESOLUTION NO. 2016-24

A RESOLUTION APPROVING THE FINAL PLAT FOR THE "KARDELL EAST 14TH STREET ADDITION."

Council President Brodersen stated the motion, and the result of roll call being all Yeas, with the exception of Councilmember Muir who was absent, the Council President declared the motion carried.

Councilmember Sievers introduced Ordinance No. 2016-4, and moved for approval of the second reading thereof; Councilmember Greve seconded.

ORDINANCE NO. 2016-4

AN ORDINANCE AMENDING THE ZONING MAP AND CHANGING THE ZONING OF PROPERTY LOCATED IN THE NORTHEAST QUARTER OF SECTION 7, TOWNSHIP 26 NORTH, RANGE 4, EAST OF THE 6TH P.M., WAYNE COUNTY, NEBRASKA, FROM R-1 RESIDENTIAL DISTRICT TO B-3 NEIGHBORHOOD COMMERCIAL DISTRICT.

Council President Brodersen stated the motion, and the result of roll call being all Yeas, with the exception of Councilmember Muir who was absent, the Council President declared the motion carried.

Councilmember Sievers made a motion, which was seconded by Councilmember Giese, to suspend the statutory rules requiring ordinances to be read by title on three different days. Council President Brodersen stated the motion, and the result of roll call being all Yeas, with the exception of Councilmember Muir who was absent, the Council President declared the motion carried.

Councilmember Sievers made a motion, which was seconded by Councilmember Giese, to move for final approval of Ordinance No. 2016-4. Council President Brodersen stated the motion, and the result of roll call being all Yeas, with the exception of Councilmember Muir who was absent, the Council President declared the motion carried.

The following Resolution would accept a plan to extend city services and set a public hearing for May 3, 2016, at or about 5:30 p.m. on the proposed annexation area of Kardell East 14th Street Addition to the City of the Wayne. Virgil Kardell has requested the annexation of this property.

Councilmember Sievers introduced Resolution 2016-25, and moved for its approval; Councilmember Haase seconded.

RESOLUTION NO. 2016-25

A RESOLUTION ACCEPTING A PLAN TO EXTEND CITY SERVICES AND SETTING A PUBLIC HEARING ON THE PROPOSED ANNEXATION AREA TO THE CITY OF WAYNE.

Council President Brodersen stated the motion, and the result of roll call being all Yeas, with the exception of Councilmember Muir who was absent, the Council President declared the motion carried.

Irene Fletcher, representing Wayne Area Economic Development, Inc., and on behalf of the Chicken Show Committee, was requesting the following streets be closed during the Chicken Show activities:

- ❖ On Friday, July 8th, the Committee is requesting the closure of the following streets from 2:30 p.m. until 2:00 a.m. for the Annual Henoween Celebration: Main Street from 1st Street to the alley between 3rd and 4th Streets; 2nd and 3rd Streets from the alley west of Main Street to the alley east of Main Street.

Councilmember Sievers made a motion, which was seconded by Councilmember Haase, approving the request of the Chicken Show Committee to close the following streets on Friday, July 8th from 2:30 p.m. until 2:00 a.m. for the Annual Henoween Celebration: Main Street from 1st Street to the alley between 3rd and 4th Streets; 2nd and 3rd Streets from the alley west of Main Street to the alley east of Main Street. Council President Brodersen stated the motion, and the result of roll call being all Yeas, with the exception of Councilmember Muir who was absent, the Council President declared the motion carried.

Irene Fletcher, representing Wayne Area Economic Development, Inc., and on behalf of the Chicken Show Committee, was requesting the following streets be closed during the Chicken Show activities:

- ❖ On Saturday, July 9th, the Committee is requesting the closure of the following streets from 6:00 a.m. until 5:00 p.m., for the Annual Chicken Show Celebration in Bressler Park: 10th Street from Lincoln Street to Douglas Street; Lincoln and Douglas Streets from 10th Street to 8th Street. The intersections at 10th and Douglas and 10th and Lincoln Streets and 9th and Lincoln Streets are also requested to be closed.

Councilmember Sievers made a motion, which was seconded by Councilmember Greve, approving the request of the Chicken Show Committee to close the following streets on Saturday, July 9th from 6:00 a.m. until 5:00 p.m. for the annual Chicken Show celebration in Bressler Park: 10th Street from Lincoln Street to Douglas Street; Lincoln and Douglas Streets from 10th Street to 8th Street; and the intersections at 10th and Douglas and 10th and Lincoln Streets, and 9th and Lincoln Streets. Council President Brodersen stated the motion, and the result of roll call being all Yeas, with the exception of Councilmember Muir who was absent, the Council President declared the motion carried.

Irene Fletcher, representing Wayne Area Economic Development, Inc., and on behalf of the Chicken Show Committee, was requesting the following streets be closed during the Chicken Show activities:

- ❖ On Saturday, July 9th for the Annual Chicken Show Parade from 9:00 a.m. until 11:30 a.m. (or until the end of the parade): Main Street from 1st to 10th Street (including intersections) and 10th Street from Main Street to Lincoln Street. Lincoln Street from 10th Street to 7th Street will also be used for the parade.

Councilmember Sievers made a motion, which was seconded by Council President Brodersen, approving the request of the Chicken Show Committee to close the following streets on Saturday, July 9th for the Annual Chicken Show Parade from 9:00 a.m. until 11:30 a.m. (or until the end of the parade): Main Street from 1st to 10th Street (including intersections) and 10th Street from Main Street to Lincoln Street. Council President Brodersen stated the motion, and the

result of roll call being all Yeas, with the exception of Councilmember Muir who was absent, the Council President declared the motion carried.

Councilmember Giese introduced Resolution No. 2016-26 and moved for its approval; Councilmember Eischeid seconded.

RESOLUTION NO. 2016-26

A RESOLUTION ACKNOWLEDGING NEBRASKA DEPARTMENT OF ROADS' REQUIREMENTS FOR THE TEMPORARY USE OF THE STATE HIGHWAY SYSTEM FOR SPECIAL EVENTS.

Council President Brodersen stated the motion, and the result of roll call being all Yeas, with the exception of Councilmember Muir who was absent, the Council President declared the motion carried.

Administrator Johnson stated the City received two bids on the "Community Activity Center Carpet Replacement Project" that met the bid specifications. His recommendation is to award the project to the low bidder – PCF, LLC for \$27,499.

Councilmember Giese introduced Resolution No. 2016-16 and moved for its approval; Councilmember Eischeid seconded.

RESOLUTION NO. 2016-16

A RESOLUTION ACCEPTING BID AND AWARDING CONTRACT ON THE "COMMUNITY ACTIVITY CENTER CARPET REPLACEMENT PROJECT."

Council President Brodersen stated the motion, and the result of roll call being all Yeas, with the exception of Councilmember Muir who was absent, the Council President declared the motion carried.

Discussion took place in regard to amending the water and sewer rates to those customers living outside the City limits.

Administrator Johnson stated this discussion came out of the Council Retreat last winter. Staff was asked to prepare proposals for Council discussion for a rate increase for customers outside city limits. The sewer rates were just increased by approximately 24%.

BJ Woehler spoke against the proposed rate increases.

After discussion, Councilmember Giese made a motion, which was seconded by Councilmember Haase, to table action on Resolution No. 2016-27 until the next Council meeting. Council President Brodersen stated the motion, and the result of roll call being all Yeas, with the exception of Councilmember Muir who was absent and Councilmember Eischeid who voted Nay, the Council President declared the motion carried.

Councilmember Giese made a motion, which was seconded by Councilmember Haase, to table action on Resolution No. 2016-28 until the next Council meeting. Council President Brodersen stated the motion, and the result of roll call being all Yeas, with the exception of Councilmember Muir who was absent and Councilmember Eischeid who voted Nay, the Council President declared the motion carried.

The following Resolution would amend the Wage and Salary Resolution, previously approved, as follows:

- Add Assistant Pool Manager position;
- Re-establish the position of Power Plant Foreman; and
- Change Water Supervisor from an exempt position to a non-exempt or hourly position.

Councilmember Sievers introduced Resolution No. 2016-29 and moved for its approval; Councilmember Haase seconded.

RESOLUTION NO. 2016-29

A RESOLUTION AMENDING THE WAGE AND SALARY SCHEDULE.

Council President Brodersen stated the motion, and the result of roll call being all Yeas, with the exception of Councilmember Muir who was absent, the Council President declared the motion carried.

Administrator Johnson stated the following Resolution would formally accept the work on the Southview Addition Sanitary Sewer Extension District No. 2015-01 and the Southview Addition Water Extension District No. 2015-01 Projects.

Councilmember Sievers introduced Resolution No. 2016-30 and moved for its approval; Councilmember Giese seconded.

RESOLUTION NO. 2016-30

A RESOLUTION ACCEPTING WORK ON THE SOUTHVIEW ADDITION SANITARY SEWER EXTENSION DISTRICT NO. 2015-01 AND SOUTHVIEW ADDITION WATER EXTENSION DISTRICT NO. 2015-01 PROJECTS.

Council President Brodersen stated the motion, and the result of roll call being all Yeas, with the exception of Councilmember Muir who was absent, the Council President declared the motion carried.

Administrator Johnson stated the following Resolution would set the Board of Equalization Hearing on the Southview Addition Sanitary Sewer Extension District No. 2015-01 and the Southview Addition Water Extension District No. 2015-01 Projects for May 17, 2016, at 5:30 p.m.

Councilmember Giese introduced Resolution No. 2016-31 and moved for its approval; Councilmember Greve seconded.

RESOLUTION NO. 2016-31

A RESOLUTION ORDERING PUBLICATION AND SETTING BOARD OF EQUALIZATION HEARING ON THE SOUTHVIEW ADDITION SANITARY SEWER EXTENSION DISTRICT NO. 2015-01 AND ON THE SOUTHVIEW ADDITION WATER EXTENSION DISTRICT NO. 2015-01 PROJECTS.

Council President Brodersen stated the motion, and the result of roll call being all Yeas, with the exception of Councilmember Muir who was absent, the Council President declared the motion carried.

Advanced Consulting Engineering Services presented Contractor's Application for Payment No. 1 for the "Logan Valley Drive Water & Sewer Extension Project" for \$95,154.57

to Penro Construction Co., Inc. They have found the work to date completed in accordance with the plans and specifications and recommend approval of the same.

Councilmember Giese made a motion, which was seconded by Councilmember Haase, approving Contractor's Application for Payment No. 1 for \$95,154.57 to Penro Construction Co., Inc., for the "Logan Valley Drive Water & Sewer Extension Project." Council President Brodersen stated the motion, and the result of roll call being all Yeas, with the exception of Councilmember Muir who was absent, the Council President declared the motion carried.

The following ordinance is being amended to remove the prohibition of city employees/officials or their family members from participating in Keno inside city limits.

Councilmember Giese introduced Ordinance 2016-5, and moved for its approval; Councilmember Greve seconded

ORDINANCE NO. 2016-5

AN ORDINANCE AMENDING CHAPTER 10 AMUSEMENTS AND ENTERTAINMENTS, ARTICLE II CITY LOTTERY, SECTION 10-33 LOTTERY; PARTICIPATION; RESTRICTIONS; TO PROVIDE FOR THE REPEAL OF CONFLICTING ORDINANCES OR SECTIONS; AND TO PROVIDE FOR AN EFFECTIVE DATE.

Council President Brodersen stated the motion, and the result of roll call being all Yeas, with the exception of Councilmember Muir who was absent, the Council President declared the motion carried.

Councilmember Sievers made a motion, which was seconded by Councilmember Brodersen, to suspend the statutory rules requiring ordinances to be read by title on three different days. Council President Brodersen stated the motion, and the result of roll call being all Yeas, with the exception of Councilmember Muir who was absent, the Council President declared the motion carried.

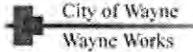
Councilmember Sievers made a motion, which was seconded by Councilmember Greve, to move for final approval of Ordinance No. 2016-5. Council President Brodersen stated the

motion, and the result of roll call being all Yeas, with the exception of Councilmember Muir who was absent, the Council President declared the motion carried.

Councilmember Giese made a motion, which was seconded by Councilmember Greve, approving the revisions regarding the Municipal Code Update made to Chapter 1 – General and Chapter III – Administration. Council President Brodersen stated the motion, and the result of roll call being all Yeas, with the exception of Councilmember Muir who was absent, the Council President declared the motion carried.

Councilmember Giese made a motion, which was seconded by Councilmember Sievers, to adjourn the meeting. Council President Brodersen stated the motion, and the result of roll call being all Yeas, with the exception of Councilmember Muir who was absent, the Council President declared the motion carried and the meeting adjourned at 6:31 p.m.

CLAIMS LISTING MAY 5, 2016



Vendor Name		
AMERICAN RED CROSS	PAYROLL DEDUCTIONS	20.00
AMERITAS LIFE INSURANCE	POLICE RETIREMENT	2,452.32
APPEARA	LINEN & MAT SERVICE	228.63
AS CENTRAL SERVICES	TELECOMMUNICATION SERVICES	448.00
BLACK HILLS	GAS BILLS	576.81
BLUE CROSS BLUE SHIELD	HEALTH INSURANCE PREMIUM	34,676.53
BOMGAARS	FD SUPPLIES-OIL	18.76
CITY EMPLOYEE	VISION REIMBURSEMENT	286.90
BROOKDALE WAYNE	CABINETS-HANK OVERIN	300.00
CARROLL DISTRIBUTING	SAW CART	684.75
CHEMQUEST, INC.	QUARTERLY MONITORING	595.00
CITY OF PONCA	MFO FUNDS	29,715.14
CITY OF WAYNE	BUILDING PERMIT DEPOSIT REFUND	100.00
CITY OF WAYNE	DRIVEWAY DEPOSIT REFUND	500.00
CITY OF WAYNE	PAYROLL	66,511.79
CITY OF WAYNE	UTILITY REFUND	225.00
CITY OF WEST POINT	MFO FUNDS	43,132.94
CITY OF WISNER	MFO FUNDS	4,491.04
COLONIAL RESEARCH	LIME CLEANER	108.28
COMMUNITY HEALTH	PAYROLL DEDUCTIONS	4.00
DE LAGE LANDEN FINANCIAL	COPIER LEASE	77.00
DEARBORN NATIONAL LIFE	VFD INSURANCE	137.60
ECHO GROUP INC JESCO	LED LIGHTS/BALLAST	2,841.43
ED. M FELD EQUIPMENT CO INC	SWITCH ASSEMBLY	81.00
ELECTRONIC SYSTEMS INC.	REPLACE BATTERY IN SERVICE PANEL	106.00
ELLIS HOME SERVICES	DRAIN HEATER/CLEAN VALVE	130.00
FASTENAL CO	HOIST FOR BUCKET TRUCK	268.18
FLOOR MAINTENANCE	JANITORIAL SUPPLIES	575.47
FREDRICKSON OIL CO	OIL	1,309.00
GERHOLD CONCRETE CO INC.	POOL VINYL PATCH/CONCRETE INTERSECTION	1,504.31
GROSSENBURG IMPLEMENT INC	FILTERS/ELEMENTS/PLUGS	545.51
HD SUPPLY WATERWORKS, LTD	WATER METERS	1,156.36
HYDRAULIC EQUIPMENT	COUPLERS	101.66
ICMA RETIREMENT	RETIREMENT	7,013.74
IRS	PAYROLL TAXES	24,748.88
JEO CONSULTING GROUP	AQUATIC CENTER/BIOSOLID HANDLING	17,936.25
JOHNSON HARDWARE	DOOR LOCKS	5,697.60
CITY EMPLOYEE	HEALTH/VISION REIMBURSEMENT	139.56
KNIFE RIVER MIDWEST LLC	COLD MIX ASPHALT	847.80
KRIZ-DAVIS COMPANY	11 PAD MOUNTS/FUSES/BOX PAD	23,495.06
MCLAURY ENGINEERING INC.	4TH ST PAVING-ENGINEERING FEES	65,159.75
MCLAURY ENGINEERING INC.	FAIRGROUNDS AVE-ENGINEERING FEES	2,653.50
MERCHANT JOB TRAINING	BOOKS	550.00
MIDWEST MUSIC CENTER	SOUND SYSTEM - HANK OVERIN	5,899.75
N.E. NEB ECONOMIC DEV DIST	CIS/WRLF SERVICES	2,893.75
NE DEPT OF REVENUE	PAYROLL TAXES	3,522.59
NEBRASKA COMMUNITY FOUNDATION	MAY-JUNE FEES	600.00
NWOD	MEMBERSHIP DUES	15.00

OLSSON ASSOCIATES	RICE RECERTIFICATION	1,400.00
CITY EMPLOYEE	HEALTH REIMBURSEMENT	359.48
PENRO CONSTRUCTION CO, INC.	LOGAN VALLEY WATER/SEWER EXTENSION	95,154.57
POLLARD PUMPING	PORT A POTTIES-ELECTRIC CAR RALLY	360.00
PONCA RURAL FIRE BOARD	MFO FUNDS	7,110.82
RESCO	4 POINT JUNCTION	833.59
SCHMADER ELECTRIC CONST. CO., INC	SIREN FUSES DAMAGED IN SNOW STORM	425.00
SIOUXLAND TURF PRODUCTS	FERTILIZER	2,293.00
STADIUM SPORTING GOODS	EMBROIDERY ON FIRE SAFETY SHIRTS	350.00
STAPLES CONTRACT & COMMERCIAL, INC.	OFFICE SUPPLIES	40.79
STATE NEBRASKA BANK & TRUST	PUBLIC SAFETY BOND	53,750.00
STATE NEBRASKA BANK	LIBRARY PETTY CASH	113.02
SUPERCIRCUITS	KEY FOBS	747.45
TOM'S BODY & PAINT SHOP	DOOR HING/BUSHING REPAIRS	187.65
UNITED RENTALS	SENSOR	206.25
UNITED WAY	PAYROLL DEDUCTIONS	5.00
VIAERO	CELL PHONES	246.89
VILLAGE OF WINSIDE	MFO FUNDS	9,505.44
WAYNE HERALD	SUBSCRIPTION RENEWAL	48.00
WAYNE STATE COLLEGE	LIFEGUARD FEES-RECERTIFICATION	65.00
WESCO DISTRIBUTION INC	FAULT INDICATORS/FIRE SAFETY CLOTHING	12,941.44
WEST-E-CON	VFD CABINET/ELECTRIC PANEL	23,346.00
WIGMAN COMPANY	BUBBLER	423.04
WISNER WEST	FD GASOLINE	110.45



D|A|DAVIDSON
FIXED INCOME CAPITAL MARKETS

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Fax (402) 392-7908
www.davidsoncompanies.com/ficm
D.A. Davidson & Co. member SIPC

May 3, 2016

Mayor and City Council
City of Wayne
306 Pearl Street
Wayne, NE 68787

Re: **Underwriting Engagement Letter—Update of Letter of February 20, 2015**

D.A. Davidson & Co. (“we” or “Davidson”), acknowledges and appreciates the opportunity to serve as Underwriter for the City of Wayne, Nebraska (“City”, “you” or the “Issuer”) on the proposed offering and issuance of General Obligation Bonds and Notes, and/or Revenue Bonds and Notes, Series 2016 or 2017, to provide funding for Streets, Water and Sewer and other Infrastructure capital improvements, (the “Securities”). This letter will confirm the terms of our engagement; however, it is anticipated that this letter will be replaced and superseded by a bond purchase agreement(s) to be entered into by Davidson and the City (the “Purchase Agreement(s)”) if and when the Securities are priced following successful completion of the offering process.

1. Services to be Provided by Davidson. The Issuer hereby engages Davidson to serve as Underwriter of the proposed offering and issuance of the Securities, and in such capacity Davidson agrees to provide certain services in compliance with and under the rules, guidelines and allowable exceptions, effective July 1, 2014, as set out by the Securities and Exchange Commission (“SEC”) and you hereby request Davidson to provide certain information and repayment information relative to debt issuance and to assist in providing the following services:

- Review and evaluate the proposed terms of the offering and the Securities
- Develop a marketing plan for the offering, including identification of potential investors
- Assist in the preparation of the official statement and/or other offering documents
- Contact potential investors; provide them with offering-related information
- Consult with Bond Counsel and other service providers about the offering and the terms of the Securities
- Negotiate the pricing, including the interest rate, and other terms of the Securities
- Obtain CUSIP number(s) for the Securities and arrange for their DTC book-entry eligibility
- Plan and arrange for the closing and settlement of the issuance and the delivery of the Securities
- Such other usual and customary underwriting services as may be requested by the Issuer

As underwriter, Davidson will purchase the Securities pursuant and subject to the terms of the Purchase Agreement, which will not be signed until successful completion of the pre-sale offering period.

2. No Advisory or Fiduciary Role. The Issuer acknowledges and agrees that: (i) the primary role of Davidson, as an underwriter, is to purchase securities, for resale to investors, in an arm's-length commercial transaction between the Issuer and Davidson and that Davidson has financial and other interests that may differ from those of the issuer.; (ii) Davidson is not acting as a municipal advisor, financial advisor, or fiduciary to the Issuer and has not assumed any advisory or fiduciary responsibility to the Issuer with respect to the transaction contemplated hereby and the discussions, undertakings and procedures leading thereto (irrespective of whether Davidson has provided other services or is currently providing other services to the Issuer on other matters); (iii) the only obligations Davidson has to the Issuer with respect to the transaction contemplated hereby expressly are set forth in this agreement; and (iv) the Issuer, to the extent it deems appropriate will, or has consulted its own financial and/or municipal, legal, accounting, tax and other advisors, as applicable. If the Issuer would like a municipal advisor in this transaction(s) that has legal fiduciary duties to the Issuer, the Issuer is free to engage a municipal advisor to serve in that capacity.

3. Fees and Expenses. Davidson's proposed underwriting fee/spread shall be at a mutually agreeable rate which shall not exceed 1.50% of the principal amount of the Securities issued. The underwriting fee/spread will represent the difference between the price that Davidson pays for the Securities and the public offering price stated on the cover of the final official statement or offering circular. Davidson shall pay costs incident to the underwriting and sale of the Bonds including printing of preliminary and final official statements (or offering circulars, as applicable), CUSIP and DTC fees. The Issuer shall be responsible for paying or reimbursing Davidson for all other costs of issuance, including without limitation, bond counsel, paying agent fees (if Issuer determines to engage such agent), and all other expenses incident to the performance of the Issuer's obligations under the proposed offering.

4. Term and Termination. The term of this engagement shall extend from the date of this letter to the closing of the offering of the Securities. Notwithstanding the forgoing, either party may terminate Davidson's engagement at any time without liability of penalty upon at least 30 days' prior written notice to the other party.

5. Indemnification; Limitation of Liability. The Issuer agrees that neither Davidson nor its employees, officers, agents or affiliates shall have any liability to the Issuer for the services provided hereunder except to the extent it is judicially determined that Davidson engaged in gross negligence or willful misconduct. In addition, to the extent permitted by applicable law, the Issuer shall indemnify, defend and hold Davidson and its employees, officers, agents and affiliates harmless from and against any losses claims, damages and liabilities that arise from or otherwise relate to this Agreement, actions taken or omitted in connection herewith, or the transactions and other matters contemplated hereby, except to the extent such losses, claims, damages or liabilities are judicially determined to be the result of Davidson's gross negligence or willful misconduct.

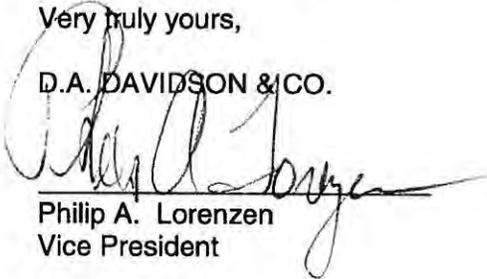
6. Miscellaneous. This letter shall be governed and construed in accordance with the laws of the State of Nebraska. This Agreement may not be amended or modified except by means of a written instrument executed by both parties hereto. This Agreement may not be assigned by either party without the prior written consent of the other party.

"Exhibit A" is attached in compliance with Davidson's Disclosure Pursuant to MSRB Rules G-17 and G-23 and requires acknowledgement of its receipt by an officer of the City.

Again, we thank you for the opportunity to assist you with your proposed financing and the confidence you have placed in us.

Very truly yours,

D.A. DAVIDSON & CO.



Philip A. Lorenzen
Vice President

Accepted this ____ day of _____, 2016

Attest:

City Clerk

Mayor

[SEAL]

ORDINANCE NO. 2016-6

AN ORDINANCE AUTHORIZING THE ISSUANCE OF COMBINED UTILITY REVENUE BOND ANTICIPATION NOTES, SERIES 2016, OF THE CITY OF WAYNE, NEBRASKA, IN THE PRINCIPAL AMOUNT OF NOT TO EXCEED ONE MILLION THREE HUNDRED THOUSAND DOLLARS (\$1,300,000), FOR THE PURPOSE OF PROVIDING INTERIM FINANCING FOR A PORTION OF THE COSTS OF CONSTRUCTING IMPROVEMENTS TO THE COMBINED UTILITY SYSTEM OWNED AND OPERATED BY THE CITY; PENDING THE ISSUANCE OF PERMANENT COMBINED UTILITY REVENUE BONDS; AGREEING TO ISSUE SUCH BONDS TO PAY THE NOTES AT MATURITY OR TO PAY THE NOTES FROM OTHER AVAILABLE FUNDS; PRESCRIBING THE FORM OF SAID NOTES; PLEDGING AND HYPOTHECATING THE REVENUE AND EARNINGS OF THE COMBINED UTILITY SYSTEM OF SAID CITY FOR THE PAYMENT OF SAID NOTES AND INTEREST THEREON; PROVIDING FOR THE COLLECTION, SEGREGATION AND APPLICATION OF THE REVENUE OF SAID COMBINED UTILITY SYSTEM; ENTERING INTO A CONTRACT ON BEHALF OF THE CITY WITH THE HOLDERS OF SAID NOTES; AND PROVIDING FOR PUBLICATION OF THE ORDINANCE IN PAMPHLET FORM.

BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF WAYNE, NEBRASKA:

Section 1. The Mayor and Council of the City of Wayne, Nebraska (the "City"), hereby find and determine as follows:

- (a) that the City owns and operates a waterworks plant, storage and distribution system collectively referred to as the water system (the "Water System"); and, a sanitary sewer collection system together with outfall sewer mains and lift station facilities, and a wastewater treatment facility, collectively referred to as the sewer system (the "Sewer System"); that said utility systems as combined represent a revenue producing undertaking of the City (said systems and any and all additions thereto or improvements thereof hereafter made are herein collectively referred to as the "Combined Utility System"); that it is necessary and advisable for the City to provide funds for the purpose of paying a portion of the cost of certain Combined Utility System improvements including specifically including constructing water mains, water lines, and related appurtenant improvements on Grainland Road, Windom Street, Main Street and on 4th Street to improve, upgrade increase the size of certain mains and lines and to expand the service area of the Water System and to construct distribution lines, control systems and all related incidental project costs, including engineering and all related incidental costs thereto, interceptor main including engineering and all related incidental costs thereto;
- (b) that there is outstanding bonded indebtedness for which the revenues of the Combined Utility System have been pledged; consisting of the following outstanding obligations: (i) an outstanding \$633,008.22 principal balance of a Nebraska Department of Environmental Quality State Revolving Fund loan in the form of a Promissory Note of an original principal amount of \$762,414.00, Project Number

D311519, series 2011, with semiannual principal payments each June 15 and December 15, with a final payment on June 15, 2031 bearing an annual interest rate of 2.00% plus an annual 1.00% fee on which total annual principal payments, interest payments and fee payments equal approximately \$53,000; and (ii) an outstanding \$4,121,473.81 principal balance of a Nebraska Department of Environmental Quality State Revolving Fund loan in the form of a Promissory Note of an original principal amount of \$4,949,020.00, Project Number C317369, series 2012, with semiannual principal payments each June 15 and December 15, with a final payment on December 15, 2031 bearing an annual interest rate of 2.00% plus an annual 1.00% fee on which total annual principal payments, interest payments and fee payments equal approximately \$346,000; collectively (the "Outstanding NDEQ Loans") the annual combined total debt service of the Outstanding NDEQ Loans is approximately \$400,000;

- (c) That the terms and covenants of the Outstanding NDEQ Loans allow the City to issue additional bonds or notes of equal parity, provided that the issuance of any bonds enable the City to comply with a debt service coverage of not less than 110%, and for the issuance of combined revenue bond anticipation notes, the City covenants that it will set rates and charges at a level that will enable the City to provide funds to retire such combined revenue bond anticipation notes or to enable the City to issue Bonds to retire such combined revenue bond anticipation notes;
- (d) that improvements, enlargements and expansions of the City's Combined Utility System are found and determined to be necessary; that to provide for the costs of the herein described improvements to the Combined Utility System of the City, pending the issuance of the City's combined utility revenue bonds, it is necessary to issue combined utility bond anticipation notes of the City of Wayne, Nebraska, pursuant to Section 10-137 and Sections 18-1803 to 18-1805, Reissue Revised Statutes of Nebraska, 2012, in the aggregate principal amount of \$1,300,000, all as described hereinabove; and,
- (e) that all conditions, acts and things required to exist or to be done precedent to the issuance of Combined Utility Revenue Bond Anticipation Notes, Series 2016, in the principal amount of \$1,300,000 (the "Notes") do exist and have been done as required by law and there shall be and there are hereby ordered issued Combined Utility Revenue Bond Anticipation Notes, Series 2016, of the City of Wayne Nebraska, as provided herein.

Section 2. For the purpose of providing interim financing for a portion of the costs set out in Section 1 hereof pending the issuance of permanent Combined Utility Revenue Bonds by the City of Wayne, there shall be and there are hereby ordered issued bond anticipation notes of the City of Wayne, Nebraska, to be known as "Combined Utility Revenue Bond Anticipation Notes, Series 2016" of the aggregate principal amount of Not to Exceed One Million Three Hundred Thousand Dollars (\$1,300,000) (herein referred to as the "Notes"), consisting of fully registered notes numbered from 1 upwards in the order of issuance, in the denomination of \$5,000 each, or integral multiples thereof; said

Notes shall be dated as of their date of original issue and each of said Notes shall bear interest at the rate of ____% per annum payable beginning December 1, 2016 and semiannually thereafter on June 1 and December 1 until maturity or earlier call for redemption to the holder or holders of record on the fifteenth day immediately preceding the date on which such payment is due, as follows:

<u>Principal</u> <u>Amount</u>	<u>Interest</u> <u>Rate</u>	<u>Maturity</u>
\$1,300,000	%	June 1, 2019

provided, however, the Notes may be issued in a lesser principal amount and may bear interest at any lower rate of interest as shall be provided for in written designation of final interest rate (the “Designation”) as may be agreed to between City and the original purchaser specified in Section 6 of this ordinance. And further provided, however, the City reserves the right to redeem any or all of said Notes prior to maturity anytime on or after December 1, 2017, upon not less than thirty days written notice, at par and accrued interest to the date fixed for redemption. Such notice of call for redemption shall be sufficient if it has been sent to a registered holder of said Note or Notes by first class mail addressed to the registered address of said registered holder. If less than all of the Notes are called and redeemed, such Notes shall be called in increments of \$5,000 or integral multiples thereof. If less than all of the principal amount of any outstanding Note is called for redemption, in such case upon the surrender of such Note called for payment, there shall be issued to the registered owner of said Note, without charge therefor, a registered Note or Notes for the unpaid principal balance in any of the authorized denominations authorized by this Ordinance.

The principal of said Notes and any interest due on said Notes upon maturity or earlier call for redemption shall be payable at the office of the Paying Agent and Registrar designated in Section 3 hereof, upon presentation and surrender of the Note or Notes when due or when called for payment prior to maturity.

Section 3. BOKF National Association, Lincoln, Nebraska is hereby designated as the

Paying Agent and Registrar for the Bonds (the "Paying Agent and Registrar"). The Paying Agent and Registrar shall serve in such capacities under the terms of an agreement entitled "Paying Agent and Registrar Agreement" between the City and the Paying Agent and Registrar, the form of which is hereby approved. The Mayor and City Clerk are hereby authorized to execute said agreement in substantially the form presented but with such changes as they shall deem appropriate or necessary. The names and registered addresses of the registered owner or owners of the Bonds shall at all times be recorded in such books. Any Bond may be transferred pursuant to its provisions at the office of said Paying Agent and Registrar by surrender of such Bond for cancellation, accompanied by a written instrument of transfer, in form satisfactory to said Paying Agent and Registrar, duly executed by the registered owner in person or by such owner's duly authorized agent, and thereupon the Paying Agent and Registrar, on behalf of the City, will deliver at its office (or send by registered mail to the transferee owner or owners thereof at such transferee owner's or owners' risk and expense), registered in the name of the transferee owner or owners, a new Bond or Bonds of the same series, interest rate, aggregate principal amount and maturity. To the extent of the denominations authorized for the Bonds by this ordinance, one Bond may be transferred for several such Bonds of the same series, interest rate and maturity, and for a like aggregate principal amount, and several such Bonds may be transferred for one or several such Bonds, respectively, of the same series, interest rate and maturity and for a like aggregate principal amount. In every case of transfer of a Bond, the surrendered Bond shall be canceled and destroyed. All Bonds issued upon transfer of the bonds so surrendered shall be valid obligations of the City evidencing the same obligation as the Bonds surrendered and shall be entitled to all the benefits and protection of this ordinance to the same extent as the Bonds upon transfer of which they were delivered. The City and said Paying Agent and Registrar shall not be required to transfer any Bond during any period from any Record Date until its immediately following Interest Payment Date or to transfer any Bond called for redemption for a period of 30 days next preceding the date fixed for redemption.

Section 4. Said Notes shall be executed on behalf of the City with the manual or facsimile signatures of the Mayor and Clerk and shall have the City's seal imprinted or impressed on each Note. Said Notes shall not be valid and binding on the City until authenticated by the Paying Agent and Registrar. The City and the Paying Agent and Registrar shall not be required to transfer any Note called for redemption for a period of 30 days next preceding the date fixed for redemption. If the date for payment of the principal of or interest on the Notes shall be a Saturday, Sunday, legal holiday or a day on which the banking institutions in the city where the principal corporate office of the paying agent and registrar is located, are authorized by law or executive order to close, then the date for such payment shall be the next succeeding day which is not a Saturday, Sunday, legal holiday or a day on which such banking institutions are authorized to close, and payment on such date shall have the same force and effect as if made on the nominal date of payment.

Section 5. Said Notes shall be substantially in the following form:

UNITED STATES OF AMERICA
STATE OF NEBRASKA
COUNTY OF WAYNE

CITY OF WAYNE, NEBRASKA
COMBINED UTILITY REVENUE BOND ANTICIPATION NOTE
SERIES 2016

No. R-1

<u>Interest Rate</u>	<u>Maturity Date</u>	<u>Date of Original Issue</u>	<u>CUSIP</u>
%	May 1, 2019	_____, 2016	

Registered Owner: Cede & Co.
13-2555119

Principal Amount: ONE MILLION THREE HUNDRED THOUSAND DOLLARS (\$1,300,000)

KNOW ALL PERSONS BY THESE PRESENTS: That the City of Wayne, in the County of Wayne, in the State of Nebraska, hereby acknowledges itself to owe and for value received promises to pay (but only from the limited sources specified in the authorizing ordinance) to the registered owner shown above and as shown on the registration books of the City on the maturity date shown above, the principal amount shown above in lawful money of the United States of America with interest thereon at the rate per annum shown above from the date of original issue shown above payable beginning December 1, 2016, and semiannually thereafter on June 1 and December 1, until maturity or earlier call for redemption to the holder or holders of record on the fifteenth day immediately preceding the date on which such payment is due. Said interest shall be computed on the basis of a 360-day year consisting of twelve 30-day months. The principal of this note and any interest due upon maturity or earlier call for redemption are payable at the office of BOKF National Association, as Paying Agent and Registrar, in Lincoln, Nebraska, upon presentation and surrender of the note when due or when called for payment prior to maturity. The payment of interest hereon, falling due prior to maturity or call for redemption, shall be made by the Paying Agent and Registrar to the registered owner by mailing payment to the address of such registered owner hereof as such address shall appear on the note register maintained by said Paying Agent and Registrar.

This note is redeemable at the option of the City prior to maturity anytime on or after December 1, 2017 at par and accrued interest to date fixed for redemption. Notice of call of any note for redemption prior to maturity shall be sufficient if given in writing and mailed by first class mail, postage prepaid, to the registered owner at the address shown on the note register not less than thirty days prior to the date fixed for redemption.

This note is one of an issue of notes numbered from 1 upwards in order of issuance, of the total principal amount of One Million Three Hundred Thousand Dollars (\$1,300,000) in the denomination of \$5,000 or integral multiples thereof, of even date and like tenor herewith, issued by the City of Wayne for the purpose of paying a portion of the cost of certain Combined Utility System improvements including constructing water mains, water lines, and related appurtenant improvements on Grainland Road, Windom Street, Main Street and on 4th Street to improve, upgrade increase the size of certain mains and lines and to expand the service area of the Water System and to construct distribution lines, control systems and all related incidental project costs, including engineering and all related incidental costs thereto, including costs of issuance and underwriting of the notes,

The issuance of this note and the other notes of this issue has been lawfully authorized by ordinance duly passed, signed and published by the Mayor and City Council of said City in strict compliance with Section 10-137 and Sections 18-1803 through 18-1805, R.R.S. Neb. 2012, and all other applicable laws.

The City agrees that the principal and interest of this note shall be payable from the proceeds of the issuance and sale of its Combined Utility Revenue Bonds, from the revenues of the Combined Utility System of the City, from the issuance and sale of Combined Utility revenue bond anticipation notes of the City or from any other monies of the City lawfully available for such purposes. **The notes of this issue shall not be a debt of the municipality within the meaning of any constitutional or statutory limitation upon the creation of general obligation indebtedness of the municipality and the municipality shall not be liable for the payment thereof out of any money of the municipality other than from the proceeds of the issuance of the City's Combined Utility Revenue bonds or notes, or from revenues of the City's Combined Utility System.**

The City reserves the right to issue additional Combined Utility system revenue bond anticipation notes for the purpose of paying a portion of the costs of the projects financed in part by this issue of notes or of other combined utility system improvement projects of the City or for the purpose of refunding the notes of this issue at or prior to maturity. Any such notes may be authorized with a lien and pledge upon the revenues of the Combined Utility System equal to that provided for the notes of this issue. The ordinance under which these notes are issued constitutes an irrevocable contract between the City and the holders of all of said notes and said contract cannot be changed or altered without the written consent of the holders of seventy-five percent (75%) in principal amount of the notes of this series then outstanding.

AS PROVIDED IN THE ORDINANCE REFERRED TO HEREIN, UNTIL THE TERMINATION OF THE SYSTEM OF BOOK-ENTRY-ONLY TRANSFERS THROUGH THE DEPOSITORY TRUST COMPANY, NEW YORK, NEW YORK (TOGETHER WITH ANY SUCCESSOR SECURITIES DEPOSITORY APPOINTED PURSUANT TO THE ORDINANCE, "DTC"), AND NOTWITHSTANDING ANY OTHER PROVISIONS OF THE ORDINANCE TO THE CONTRARY, A PORTION OF THE PRINCIPAL AMOUNT OF THIS NOTE MAY BE PAID OR REDEEMED WITHOUT SURRENDER HEREOF TO THE REGISTRAR, DTC OR A NOMINEE, TRANSFEREE OR ASSIGNEE OF DTC OF THIS NOTE MAY NOT RELY UPON THE PRINCIPAL AMOUNT INDICATED HEREON AS THE PRINCIPAL AMOUNT HEREOF OUTSTANDING AND UNPAID. THE PRINCIPAL AMOUNT HEREOF OUTSTANDING AND UNPAID SHALL FOR ALL PURPOSES BE THE AMOUNT DETERMINED IN THE MANNER PROVIDED IN THE ORDINANCE.

UNLESS THIS NOTE IS PRESENTED BY AN AUTHORIZED OFFICER OF DTC (A) TO THE REGISTRAR FOR REGISTRATION OF TRANSFER OR EXCHANGE OR (B) TO THE REGISTRAR FOR PAYMENT OF PRINCIPAL, AND ANY NOTE ISSUED IN REPLACEMENT HEREOF OR SUBSTITUTION HEREFOR IS REGISTERED IN THE NAME OF DTC AND ANY PAYMENT IS MADE TO DTC OR ITS NOMINEE, ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL BECAUSE ONLY THE REGISTERED OWNER HEREOF, DTC OR ITS NOMINEE, HAS AN INTEREST HEREIN.

IT IS HEREBY CERTIFIED AND WARRANTED that all conditions, acts and things required by law to exist or to be done precedent to and in the issuance of this note did exist, did happen and were done and performed in regular and due form and time as provided by law.

IN WITNESS WHEREOF the Mayor and Council of the City of Wayne, Nebraska, have caused this note to be executed on behalf of the City with the manual or facsimile signatures of the Mayor and the City Clerk and by causing the official seal of the City to be impressed or imprinted hereon, all as of the date of original issue specified above.

CITY OF WAYNE, NEBRASKA

Mayor

ATTEST:

City Clerk

(SEAL)

CERTIFICATE OF AUTHENTICATION

This note is one of the notes of the issue designated therein and issued under the provisions of the ordinance authorizing said issue.

BOKF, National Association
LINCOLN, NEBRASKA
as Paying Agent and Registrar

By _____
Authorized Officer

(Form of Assignment)

For value received _____ hereby
sells, assigns and transfers unto _____ the within mentioned
note and hereby irrevocably constitutes and appoints _____
_____, attorney, to transfer the same
on the books of registration in the office of the within-in mentioned Paying Agent and Registrar with full
power of substitution in the premises.

Dated: _____

Registered Owner(s)

Witness: _____

Note: The signature of this assignment must correspond with the name as written on the face of the
within-mentioned note in every particular, without alteration, enlargement or any change whatsoever.

Section 6. Each of the Series 2016 Notes shall be executed on behalf of the City with the manual or facsimile signatures of the Mayor and City Clerk of the City. The Series 2016 Notes shall be issued initially as “book-entry-only” Notes using the services of The Depository Trust Company (the “Depository”), with one typewritten note per maturity being issued to the Depository. In such connection said officers are authorized to execute and deliver a letter of representations (the “Letter of Representations”) in the form required by the Depository, for and on behalf of the City, which shall thereafter govern matters with respect to registration, transfer, payment and redemption of the Notes. Upon the issuance of the Notes as “book-entry-only” Notes, the following provisions shall apply:

(a) The City and the Paying Agent and Registrar shall have no responsibility or obligation to any broker-dealer, bank or other financial institution for which the Depository holds 2016 Notes as securities depository (each, a “Note Participant”) or to any person who is an actual purchaser of a 2016 Note from a Note Participant while the Series 2016 Notes are in book-entry form (each, a “Beneficial Owner”) with respect to the following:

(i) the accuracy of the records of the Depository, any nominees of the Depository or any Note Participant with respect to any ownership interest in the Series 2016 Notes,

(ii) the delivery to any Note Participant, any Beneficial Owner or any other person, other than the Depository, of any notice with respect to the Series 2016 Notes, including any notice of redemption, or

(iii) the payment to any Note Participant, any Beneficial Owner or any other person, other than the Depository, of any amount with respect to the Series 2016 Notes. The Paying Agent and Registrar shall make payments with respect to the Series 2016 Notes only to or upon the order of the Depository or its nominee, and all such payments shall be valid and effective fully to satisfy and discharge the obligations with respect to such Series 2016 Notes to the extent of the sum or sums so paid. No person other than the Depository shall receive an authenticated 2016 Note, except as provided in (e) below.

(b) Upon receipt by the Paying Agent and Registrar of written notice from the Depository to the effect that the Depository is unable or unwilling to discharge its responsibilities, the Paying Agent and Registrar shall issue, transfer and exchange 2016 Notes requested by the Depository in appropriate amounts. Whenever the Depository requests the Paying Agent and Registrar to do so, the Paying Agent and Registrar will cooperate with the Depository in taking appropriate action after reasonable notice (i) to arrange, with the prior written consent of the City, for a substitute depository willing and able upon reasonable and customary terms to maintain custody of the Series 2016 Notes

or (ii) to make available 2016 Notes registered in whatever name or names the Beneficial Owners transferring or exchanging such Series 2016 Notes shall designate.

(c) If the City determines that it is desirable that certificates representing the Series 2016 Notes be delivered to the Note Participants and/or Beneficial Owners of the Series 2016 Notes and so notifies the Paying Agent and Registrar in writing, the Paying Agent and Registrar shall so notify the Depository, whereupon the Depository will notify the Note Participants of the availability through the Depository of Note certificates representing the Series 2016 Notes. In such event, the Paying Agent and Registrar shall issue, transfer and exchange Note certificates representing the Series 2016 Notes as requested by the Depository in appropriate amounts and in authorized denominations.

(d) Notwithstanding any other provision of this Ordinance to the contrary, so long as any Series 2016 Note is registered in the name of the Depository or any nominee thereof, all payments with respect to such Series 2016 Note and all notices with respect to such Series 2016 Note shall be made and given, respectively, to the Depository as provided in the Letter of Representations.

(e) Registered ownership of the Series 2016 Notes may be transferred on the books of registration maintained by the Paying Agent and Registrar, and the Series 2008 Notes may be delivered in physical form to the following:

(i) any successor securities depository or its nominee;

(ii) any person, upon (A) the resignation of the Depository from its functions as depository or (B) termination of the use of the Depository pursuant to this Section.

(f) In the event of any partial redemption of a 2016 Note unless and until such partially redeemed Note has been replaced in accordance with the provisions of this Ordinance, the books and records of the Paying Agent and Registrar shall govern and establish the principal amount of such Series 2016 Note as is then outstanding and all of the Series 2016 Notes issued to the Depository or its nominee shall contain a legend to such effect.

If for any reason the Depository resigns and is not replaced or upon termination by the City of book-entry-only form, the City shall immediately provide a supply of Note certificates for issuance upon subsequent transfers or in the event of partial redemption. In the event that such supply of certificates shall be insufficient to meet the requirements of the Paying Agent and Registrar for issuance of replacement Note certificates upon transfer or partial redemption, the City agrees to order printed an additional supply of Note certificates and to direct their execution by manual or facsimile signature of its then duly qualified and acting officers. In case any officer whose signature or facsimile thereof shall

appear on any Note shall cease to be such officer before the delivery of such Note (including any Note certificates delivered to the Paying Agent and Registrar for issuance upon transfer or partial redemption) such signature or such facsimile signature shall nevertheless be valid and sufficient for all purposes the same as if such officer or officers had remained in office until the delivery of such Note. The Notes shall not be valid and binding on the City until authenticated by the Paying Agent and Registrar. The Notes shall be delivered to the Paying Agent and Registrar for registration and authentication. Upon execution, registration and authentication of the Notes, they shall be delivered to the City Treasurer, who is authorized to deliver them to D.A. Davidson & Co., as initial purchaser thereof, upon receipt of 99.00% of the principal amount of the Notes plus accrued interest thereon to date of payment for the Notes. Such initial purchaser shall have the right to direct the registration of the Notes and the denominations thereof within each maturity, subject to the restrictions of this Ordinance. The Underwriter and its agents, representatives and counsel (including its bond counsel) are hereby authorized to take such actions on behalf of the City as are necessary to effectuate the closing of the issuance and sale of the Notes, including, without limitation, authorizing the release of the Notes by the Depository at closing. The Mayor, Clerk/Treasurer and City Administrator are each individually designated as an "Authorized Officer." The Note Purchase Agreement (the "Purchase Agreement") to be entered into between the City and the Underwriter with respect to the purchase of the Notes from the City, in the form or substantially the form presented to the meeting, but with such changes, modifications, amendments, revisions, and alterations therein, thereof, or thereto, and bearing such date, as the Authorized Officer executing the Purchase Agreement shall in the exercise of his or her own independent judgment and absolute discretion determine to be necessary, proper, appropriate, advisable, or desirable in order to effectuate the issuance, sale, and delivery of the Notes, be and the same is hereby in all respects authorized, adopted, specified, accepted, ratified, approved and confirmed. The Authorized Officers, or any one or more of them are hereby further authorized to take any and all actions and enter into any and all agreements and execute any documents deemed necessary or appropriate in connection with the

issuance and sale of the Notes, and any such actions previously taken are hereby ratified and confirmed.

Section 7. The City covenants and agrees that it will take all steps required to complete the improvements described in Section 1 hereof in a manner to allow it to issue and sell its revenue bonds payable from the revenues of the Combined Utility System or other bonds. The City further covenants and agrees to issue and sell the revenue bonds payable from the revenues of its Combined Utility System or other bonds in a sufficient amount and at such times as will enable it to take up and pay off the Notes herein ordered issued, both principal and interest, at or prior to maturity, to the extent not paid from other sources. The City hereby agrees that it will impose rates and charges for the service from and use of its Combined Utility System sufficient to enable the City to issue and sell permanent Combined Utility System revenue bonds to pay the Notes herein authorized at or prior to maturity. The City hereby pledges the revenues of the Combined Utility System for the payment of the Notes, both principal and interest as the same fall due and the holders of the Notes herein authorized shall have a lien upon the revenues of the City's Combined Utility System.

Section 8. The City hereby reserves the right to issue additional notes for the purpose of paying the balance of the cost of the projects of the City set out in Section 1 hereof, for the purpose of refunding the Notes herein ordered issued at or prior to maturity and for the purpose of paying for additional improvements for the City's Combined Utility System and the City shall have the right to pledge the revenues of the Combined Utility System on an equal and ratable basis with the pledge and lien provided for in this Ordinance for the Notes.

Section 9. The City Clerk shall make and certify a complete transcript of the proceedings had and done by said City precedent to the issuance of said Notes which shall be delivered to the purchaser of the Notes. After being executed by the Mayor and Clerk, said Notes shall be delivered to the City Treasurer who shall be responsible therefor under her official bond. The City Treasurer is authorized and

directed to deliver said Notes to the purchaser upon receipt of payment of the purchase price in accordance with the contract of the City with said purchaser.

Section 10. (a) The City hereby covenants with the purchasers and holders of the Notes herein authorized that it will make no use of the proceeds of said issue, including monies held in any sinking fund for the payment of principal and interest on said Notes, which would cause said Notes to be arbitrage bonds within the meaning of Sections 103 and 148 and other related sections of the Internal Revenue Code of 1986, as amended (the "Code"), and further covenants to comply with said Sections 103 and 148 and related sections and all applicable regulations thereunder throughout the term of said issue. The City hereby covenants with the registered owners from time to time of the Notes hereby authorized that it shall comply with all applicable provisions of the Code and any regulations, published rulings and court decisions pursuant thereto, which relate to the exclusion from gross income of interest on the Notes for federal income tax purposes, to the extent necessary to comply with such Code, laws, regulations, published rulings and court decisions or otherwise to preserve such exclusion, including specifically, but without limitation, all arbitrage rebate and information reporting requirements required by the Code.

(b) The City hereby represents and warrants that (i) it reasonably anticipates issuing not more than \$10,000,000 of tax-exempt obligations not including "private activity bonds" as defined in Section 141 of the Code (other than "qualified 501(c)(3) bonds" as defined in Section 145 of the Code) during the 2016 calendar year, (ii) it has not designated more than \$10,000,000 of obligations (including the Notes herein authorized) during the 2016 calendar year to the date of this ordinance as qualified tax-exempt obligations, (iii) the Notes herein authorized are not "private activity bonds" as such term is defined in Section 141(a) of the Code, and (iv) it hereby designates the Notes as "qualified tax-exempt obligations" pursuant to Section 265(b)(3)(B)(i) of the Code. The City agrees to take all further actions, if any, necessary to qualify the Notes herein authorized as such "qualified tax-exempt obligations," as and to the extent permitted by law.

Section 11. If any section, paragraph, clause or provision of this Ordinance shall be held invalid, the invalidity of such section, paragraph, clause or provision shall not affect any of the other provisions of this ordinance.

Section 12. All ordinances, resolutions or orders, or parts thereof, in conflict with the provisions of this Ordinance are to the extent of said conflict hereby repealed.

Section 13. The Mayor and City Council hereby approve the Preliminary Official Statement with respect to the Notes and the information therein contained, and the Mayor and City Clerk (or either of them) are authorized to approve and deliver a final Official Statement for and on behalf of the City. The officers of the City or any one or more of them are hereby authorized to take any and all actions deemed by them necessary in connection with the issuance of the Notes.

Section 14. The City reserves the right to issue refunding notes and provide for the investment of the proceeds thereof for purposes of providing for the payment of principal and interest on the notes in such manner as may be prescribed by law from time to time but specifically including the provisions of Section 10-142, R.R.S. Neb. 2012, or any amendment thereto.

Section 15. The City's obligations under this ordinance shall be fully discharged and satisfied as to the Notes authorized and issued hereunder, and said Notes shall no longer be deemed outstanding hereunder when payment of the principal thereof plus interest thereon to the date of maturity or redemption thereof (a) shall have been made or caused to have been made in accordance with the terms thereof and hereof, or (b) shall have been provided for by depositing in escrow with a national or state bank having trust powers in trust solely for such payment, (i) sufficient monies to make such payment or (ii) direct general obligations of, or obligations the principal and interest of which are unconditionally guaranteed by, the United States of America (herein referred to as "Government Obligations"), in such amount and with such maturities as to principal and interest as will insure the availability of sufficient monies to make such payment, and thereupon such Notes shall cease to draw interest from the date of their redemption or maturity and, except for the purposes of such payments, shall no longer be entitled to

the benefits of this ordinance; provided that, with respect to any Notes called or to be called for redemption prior to the stated maturity thereof, notice of redemption shall have been duly given or provided for. If monies shall have been deposited in accordance with the terms hereof with the escrow agent in trust for that purpose sufficient to pay the principal of such Notes and all interest due thereon to the due date thereof or to the date fixed for the redemption thereof, all liability of the City for such payment (except from such deposit) shall forthwith cease, determine and be completely discharged, and all such Notes shall no longer be considered outstanding.

Section 16. Without in any way limiting the power, authority or discretion elsewhere herein granted or delegated, the Mayor and Council hereby authorize and direct all of the officers, employees and agents of the City to carry out, or cause to be carried out, and to perform such obligations of the City and such other actions as they, or any one of them, shall consider necessary, advisable, desirable, or appropriate in connection with this ordinance, and the issuance, sale and delivery of the Notes, including, without limitation and whenever appropriate, the execution and delivery thereof and of all other related documents, instruments, certifications and opinions; and delegates, authorizes and directs the Mayor the right, power and authority to exercise his own independent judgment and absolute discretion in determining and finalizing the terms, provisions, form and contents of each of the foregoing. The execution and delivery by the Mayor or by any such other officer, officers, agent or agents of the City of any such documents, instruments, certifications and opinions, or the doing by him of any act in connection with any of the matters which are the subject of this ordinance, shall constitute conclusive evidence of both the City's and his approval of all changes, modifications, amendments, revisions and alterations made therein, and shall conclusively establish his or her absolute, unconditional and irrevocable authority with respect thereto from the City and the authorization, approval and ratification by the City of the documents, instruments, certifications and opinions so executed and the action so taken.

Section 17. In accordance with the requirements of Rule 15c2-12 (the “Rule”) promulgated by the Securities and Exchange Commission, the City, being the only “obligated person” with respect to the Notes, agrees that it will provide the following continuing disclosure information to the Municipal Securities Rulemaking Board (the “MSRB”) in an electronic format as prescribed by the MSRB:

(a) not later than 9 months after the end of each fiscal year of the City (the “Delivery Date”), financial information or operating data for the City of the type accompanying the audited financial statements of the City entitled “Management’s Discussion and Analysis” (“Annual Financial Information”);

(b) when and if available, audited financial statements for the City; audited financial information shall be prepared on the basis of generally accepted accounting principles; and

(c) in a timely manner not in excess of ten business days after the occurrence of the event, notice of the occurrence of any of the following events with respect to the Notes:

- (1) principal and interest payment delinquencies;
- (2) non-payment related defaults, if material;
- (3) unscheduled draws on debt service reserves reflecting financial difficulties (no debt service reserve has been established with respect to the Bonds);
- (4) unscheduled draws on credit enhancements reflecting financial difficulties (no credit enhancement has been established with respect to the Bonds);
- (5) substitution of credit or liquidity providers, or their failure to perform (there is no credit or liquidity provider for the Bonds);
- (6) adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the Bonds, or other material events affecting the tax status of the Bonds;
- (7) modifications to rights of the holders of the Bonds, if material;
- (8) bond calls, if material, and tender offers;
- (9) defeasances;
- (10) release, substitution, or sale of property securing repayment of the Bonds, if material;
- (11) rating changes;
- (12) bankruptcy, insolvency, receivership or similar events of the City (this event is considered to occur when any of the following occur: the appointment of a receiver, fiscal agent or similar officer for the City in a proceeding under the U.S. Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the City, or if such jurisdiction has been assumed by leaving the existing governing body and officials or officers in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement or liquidation by a court or governmental authority having supervision or jurisdiction

- over substantially all of the assets or business of the City);
- (13) the consummation of a merger, consolidation, or acquisition involving the City or the sale of all or substantially all of the assets of the City, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material;
 - (14) appointment of a successor or additional trustee or the change of name of a trustee, if material.

The City has not undertaken to provide notice of the occurrence of any other event, except the events listed above.

(d) in a timely manner, notice of any failure on the part of the City to provide Annual Financial Information not later than the Delivery Date.

The City agrees that all documents provided to the MSRB under the terms of this continuing disclosure undertaking shall be provided for filing in such format and accompanied by such identifying information as shall be prescribed by the MSRB. The City reserves the right to modify from time to time the specific types of information provided or the format of the presentation of such information or the accounting methods in accordance with which such information is presented, to the extent necessary or appropriate in the judgment of the City, consistent with the Rule. The City agrees that such covenants are for the benefit of the registered owners of the Notes (including Beneficial Owners) and that such covenants may be enforced by any registered owner or Beneficial Owner, provided that any such right to enforcement shall be limited to specific enforcement of such undertaking and any failure shall not constitute an event of default under the Resolution. The continuing disclosure obligations of the City, as described above, shall cease when none of the Notes remain outstanding.

Section 18. In order to promote compliance with certain federal tax and securities laws relating to the Notes herein authorized (as well as other outstanding bonds) the policy and procedures attached hereto as Exhibit "A" (the "Post-Issuance Compliance Policy and Procedures") are hereby adopted and approved in all respects. To the extent that there is any inconsistency between the attached Post-Issuance Compliance Policy and Procedures and any similar policy or procedures previously adopted and approved, the Post-Issuance Compliance Policy and Procedures shall control.

Section 19. This Ordinance shall be published in pamphlet form as provided by law and shall take effect upon its publication in pamphlet form as provided by law.

PASSED AND APPROVED this ____ day of _____ 2016.

City Clerk

Mayor

[SEAL]

Motion for adjournment was duly made, seconded and on roll call vote was declared adopted by the Mayor.

I, the undersigned City Clerk for the City of Wayne, Nebraska, hereby certify that the foregoing is a true and correct copy of the proceedings had and done by the Mayor and Council on _____, 2016; that all of the subjects included in the foregoing proceedings were contained in the agenda for the meeting, kept continually current and readily available for public inspection at the office of the City Clerk; that such subjects were contained in said agenda for at least twenty-four hours prior to said meeting; that a current copy of the Nebraska Open Meetings Act was available and accessible to members of the public, posted during such meeting in the room in which such meeting was held; that at least one copy of all reproducible material discussed at the meeting was available at the meeting for examination and copying by members of the public; that the said minutes from which the foregoing proceedings have been extracted were in written form and available for public inspection within ten working days and prior to the next convened meeting of said body; that all news media requesting notification concerning meetings of said body were provided advance notification of the time and place of said meeting and the subjects to be discussed at said meeting.

City Clerk

[SEAL]

EXHIBIT "A"

POLICY AND PROCEDURES

[SEE ATTACHED]

**Policy and Procedures
Federal Tax Law and Disclosure Requirements for
Tax-exempt Bonds and/or Build America Bonds**

ISSUER NAME: City of Wayne, Nebraska

COMPLIANCE OFFICER (BY TITLE): City Treasurer

POLICY

It is the policy of the Issuer identified above (the "Issuer") to comply with all Federal tax requirements and securities law continuing disclosure obligations for its obligations issued as tax-exempt bonds or as direct pay build America bonds to ensure, as applicable (a) that interest on its tax-exempt bonds remains exempt from Federal income tax, (b) that the direct payments associated with its bonds issued as "build America bonds" are received by the Issuer in a timely manner and (c) compliance with any continuing disclosure obligations of the Issuer with respect to its outstanding bonds.

PROCEDURES

Compliance Officer. Review of compliance with Federal tax requirements and securities law continuing disclosure obligations as generally outlined below shall be conducted by the Compliance Officer identified above (the "Compliance Officer"). To the extent more than one person has been delegated specific responsibilities, the Compliance Officer shall be responsible for ensuring coordination of all compliance review efforts.

Training. The Compliance Officer shall evaluate and review educational resources regarding post-issuance compliance with Federal tax and securities laws, including periodic review of resources published for issuers of tax-exempt obligations by the Internal Revenue Service (either on its website at <http://www.irs.gov/taxexemptbond>, or elsewhere) and the Municipal Securities Rulemaking Board (either on its Electronic Municipal Market Access website ["EMMA"] at <http://www.emma.msrb.org>, or elsewhere).

Compliance Review. A compliance review shall be conducted at least annually by or at the direction of the Compliance Officer. The review shall occur at the time the Issuer's annual audit takes place, unless the Compliance Officer otherwise specifically determines a different time period or frequency of review would be more appropriate.

Scope of Review.

Document Review. At the compliance review, the following documents (the "Bond Documents") shall be reviewed for general compliance with covenants and agreements and applicable regulations with respect to each outstanding bond issue:

- (a) the ordinance(s) and/or ordinance(s), as applicable, adopted by the governing body of the Issuer authorizing the issuance of its outstanding bonds, together with any documents setting the final rates and terms of such bonds (the "Authorizing Proceedings"),

- (b) the tax documentation associated with each bond issue, which may include some or all of the following (the "Tax Documents"):
- (i) covenants, certifications and expectations regarding Federal tax requirements which are described in the Authorizing Proceedings;
 - (ii) Form 8038 series filed with the Internal Revenue Service;
 - (iii) tax certificates, tax compliance agreements, tax regulatory agreement or similar documents;
 - (iv) covenants, agreements, instructions or memoranda with respect to rebate or private use;
 - (v) any reports from rebate analysts received as a result of prior compliance review or evaluation efforts; and
 - (vi) any and all other agreements, certificates and documents contained in the transcript associated with the Authorizing Proceedings relating to federal tax matters.
- (c) the Issuer's continuing disclosure obligations, if any, contained in the Authorizing Proceedings or in a separate agreement (the "Continuing Disclosure Obligations"), and
- (d) any communications or other materials received by the Issuer or its counsel, from bond counsel, the underwriter or placement agent or its counsel, the IRS, or any other material correspondence relating to the tax-exempt status of the Issuer's bonds or relating to the Issuer's Continuing Disclosure Obligations.

Use and Timely Expenditure of Bond Proceeds. Expenditure of bond proceeds shall be reviewed by the Compliance Officer to ensure (a) such proceeds are spent for the purpose stated in the Authorizing Proceedings and as described in the Tax Documents and (b) that the proceeds, together with investment earnings on such proceeds, are spent within the timeframes described in the Tax Documents, and (c) that any mandatory redemptions from excess bond proceeds are timely made if required under the Authorizing Proceedings and Tax Documents.

Arbitrage Yield Restrictions and Rebate Matters. The Tax Documents shall be reviewed by the Compliance Officer to ensure compliance with any applicable yield restriction requirements under Section 148(a) of the Internal Revenue Code (the "Code") and timely calculation and payment of any rebate and the filing of any associated returns pursuant to Section 148(f) of the Code. A qualified rebate analyst shall be engaged as appropriate or as may be required under the Tax Documents.

Use of Bond Financed Property. Expectations and covenants contained in the Bond Documents regarding private use shall be reviewed by the Compliance Officer to ensure compliance. Bond-financed properties shall be clearly identified (by mapping or other reasonable means). Prior to execution, the Compliance Officer (and bond counsel, if deemed appropriate by the Compliance Officer) shall review (a) all proposed leases, contracts related to operation or management of bond-financed property, sponsored research agreements, take-or-pay contracts or other agreements or arrangements or proposed uses which have the potential to give any entity any special legal entitlement to the bond-financed property, (b) all proposed agreements which would result in disposal of any bond-financed property, and (c) all proposed uses of bond-financed property which were not anticipated at the time the bonds were issued. Such actions could be prohibited by the Authorizing Proceedings, the Tax

Documents or Federal tax law.

Continuing Disclosure. Compliance with the Continuing Disclosure Obligations with respect to each bond issue shall be evaluated (a) to ensure timely compliance with any annual disclosure requirement, and (b) to ensure that any material events have been properly disclosed as required by the Continuing Disclosure Obligation.

Record Keeping. If not otherwise specified in the Bond Documents, all records related to each bond issue shall be kept for the life of the indebtedness associated with such bond issue (including all tax-exempt refundings) plus six (6) years.

Incorporation of Tax Documents. The requirements, agreements and procedures set forth in the Tax Documents, now or hereafter in existence, are hereby incorporated into these procedures by this reference and are adopted as procedures of the Issuer with respect to the series of bonds to which such Tax Documents relate.

Consultation Regarding Questions or Concerns. Any questions or concerns which arise as a result of any review by the Compliance Officer shall be raised by the Compliance Officer with the Issuer's counsel or with bond counsel to determine whether non-compliance exists and what measures should be taken with respect to any non-compliance.

VCAP and Remedial Actions. The Issuer is aware of (a) the Voluntary Closing Agreement Program (known as "VCAP") operated by the Internal Revenue Service which allows issuers under certain circumstances to voluntarily enter into a closing agreement in the event of certain non-compliance with Federal tax requirements and (b) the remedial actions available to issuers of certain bonds under Section 1.141-12 of the Income Tax Regulations for private use of bond financed property which was not expected at the time the bonds were issued.

RESOLUTION NO. 2016-32

BE IT RESOLVED by the Mayor and Council of the City of Wayne, Nebraska, as follows:

Section 1. The Mayor and Council hereby find and determine that it is necessary and appropriate to declare an official intent to issue tax-exempt bond anticipation notes or bonds by the City and, in addition, the City's reasonable expectations to reimburse certain expenditures with the proceeds of such bond anticipation notes or bonds as proposed to be issued by the City in connection with the construction of certain water utility system improvements and other related appurtenant improvements now being or to be constructed in the City of Wayne, Nebraska, specifically including improvements in the South View Subdivision project area, including engineering, legal, financing and other related project costs.

Section 2. This resolution shall stand as a statement of the official intent of the City under Regulation Section 1.150-2 and for such purpose the following information is hereby given:

1. A general functional description of the project for which expenditures may be made and reimbursement from bond anticipation notes or bond proceeds for the construction of certain water utility system improvements and other related appurtenant improvements now being or to be constructed in the City of Wayne, Nebraska, specifically including, but not limited to, improvements in the South View Subdivision project area, Grainland Road, Windom Street, Main Street and 4th Street, including engineering, legal, financing and other related project costs of the City of Wayne, Nebraska.
2. The principal amount of notes or bonds expected to be issued by the City for that portion of improvements pertaining to this reimbursement resolution is estimated to be and amount not to exceed \$ _____.

PASSED AND APPROVED this 3rd day of May, 2016.

THE CITY OF WAYNE, NEBRASKA,

By _____
Mayor

ATTEST:

City Clerk

[SEAL]

RESOLUTION NO. 2016-33

BE IT RESOLVED by the Mayor and Council of the City of Wayne, Nebraska, as follows:

Section 1. The Mayor and Council hereby find and determine that it is necessary and appropriate to declare an official intent to issue tax-exempt bond anticipation notes or bonds by the City and, in addition, the City's reasonable expectations to reimburse certain expenditures with the proceeds of such bond anticipation notes or bonds as proposed to be issued by the City in connection with the construction of certain street, storm drainage, sidewalk and incidental related water and sanitary sewer improvements and other related appurtenant improvements now being or to be constructed in the City of Wayne, Nebraska, created as local improvement districts created by ordinance or resolution of the City or to be funded by highway allocation bonds under Section 66-4,101, R.R.S. Neb. 2009, including engineering, legal, financing and other related project costs.

Section 2. This resolution shall stand as a statement of the official intent of the City under Regulation Section 1.150-2 and for such purpose the following information is hereby given:

1. A general functional description of the project for which expenditures may be made and reimbursement from bond anticipation notes or bond proceeds for the construction of certain street, storm drainage, sidewalk and incidental related water and sanitary sewer improvements and other related appurtenant improvements now being or to be constructed in the City of Wayne, Nebraska, created as local improvement districts created by ordinance or resolution of the City or to be funded by highway allocation bonds under Section 66-4,101, R.R.S. Neb. 2009, including engineering, legal, financing and other related project costs of the City of Wayne, Nebraska.
2. The principal amount of notes or bonds expected to be issued by the City for that portion of improvements pertaining to this reimbursement resolution is estimated to be and amount not to exceed \$_____.

PASSED AND APPROVED this 3rd day of May, 2016.

THE CITY OF WAYNE, NEBRASKA,

By _____
Mayor

ATTEST:

City Clerk

[SEAL]

ORDINANCE NO. 2016-7

AN ORDINANCE ANNEXING CERTAIN REAL ESTATE TO THE CITY OF WAYNE AND EXTENDING THE CORPORATE LIMITS IN THE NORTHEAST QUADRANT OF THE CITY OF WAYNE TO INCLUDE SAID REAL ESTATE.

BE IT ORDAINED by the Mayor and Council of the City of Wayne, Nebraska:

Section 1. The City of Wayne does hereby find and declare that the following described real estate:

A tract of land located in the South 1/2 of the Southeast 1/4 of the Northeast 1/4 of Section 7, T26N, R4E and the West 1/2 of the Southwest 1/4 of the Northwest 1/4 of Section 8, T26N, R4E, all of the 6th P.M., Wayne County, Nebraska, more particularly described as follows:

Commencing at the Southeast corner of the Northeast 1/4 of Section 7, T26N, R4E of the 6th P.M., Wayne County, Nebraska; thence N 02°25'38" W on an assumed bearing on the East line of said Northeast 1/4, 33.00 feet to the Point of Beginning; thence N 87°45'15" E and parallel to the South line of the Southwest 1/4 of the Northwest 1/4 of Section 8, T26N, R4E of the 6th P.M., Wayne County, Nebraska, 33.00 feet to a point on the East Right-of-Way line of Centennial Road, thence N 02°25'38" W on said East Right-of-Way line, 280.10 feet; thence S 87°34'37" W, 1068.02 feet to the Northeast corner of a tract of land surveyed by Terry L. Schulz, R.L.S. #550, dated November 9, 2001; thence S 02°13'10" E on the East line of said surveyed tract, 280.00 feet to the Southeast corner of said surveyed tract, said point being on the North Right-of-Way line of East 14 Street; thence N 87°34'37" E on said North Right-of-Way line, 1036.04 feet to the Point of Beginning, containing 6.87 acres, more or less,

is immediately adjoining and contiguous to the corporate limits of the City of Wayne, Nebraska.

Section 2. The above described real estate is annexed to the City of Wayne, Nebraska, and is declared to be within the corporate limits of the City of Wayne, Nebraska, pursuant to Section 19-916 (R.R.S. 1943).

Section 3. The corporate limits of the City of Wayne, Nebraska, are hereby extended to include said real estate.

Section 4. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

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

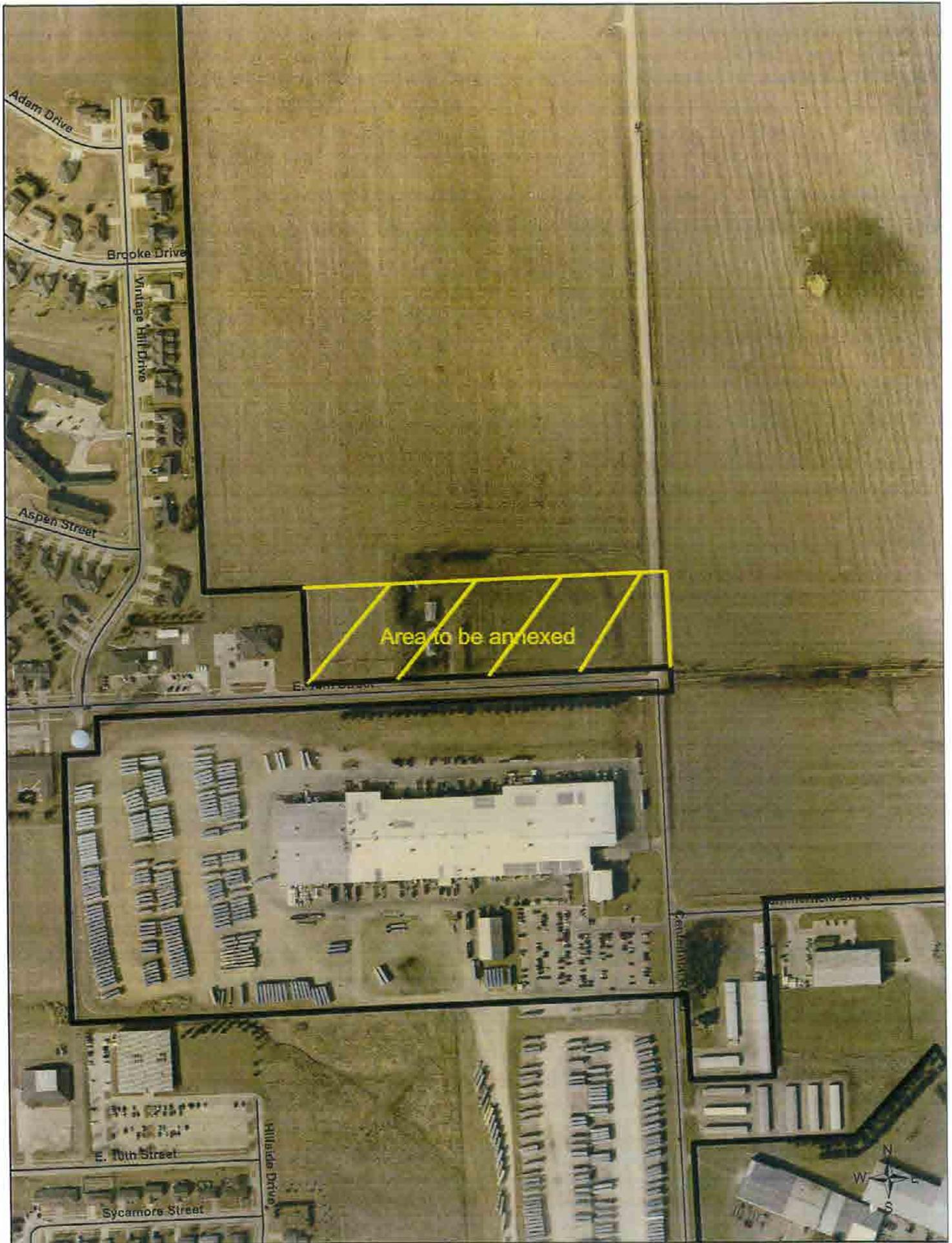
PASSED AND APPROVED this _____ day of _____, 2016.

THE CITY OF WAYNE, NEBRASKA

By _____
Mayor

ATTEST:

City Clerk



Area to be annexed

Adam Drive

Broke Drive

Vintage Hill Drive

Aspen Street

E. 10th Street

E. 10th Street

Sycamore Street

Hillside Drive



RESOLUTION NO. 2016-34

A RESOLUTION APPROVING THE ONE AND SIX YEAR STREET IMPROVEMENT PROGRAM AS AMENDED TO ADD PROJECT NO. M-617(119) SOUTH WINDOM STREET.

BE IT RESOLVED, by the Mayor and Council of the City of Wayne, Nebraska, that the One and Six Year Street Improvement Program, as prepared by the Certified Street Superintendent and City Administrator of the City of Wayne, Nebraska, and attached hereto be approved and adopted as amended to add Project No. M-617(119) South Windom Street.

PASSED AND APPROVED this 3rd day of May, 2016.

CITY OF WAYNE, NEBRASKA

By _____
Mayor

ATTEST:

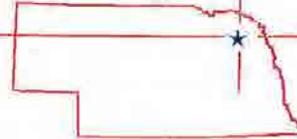
City Clerk

City of Wayne

306 Pearl • P.O. Box 8
Wayne, Nebraska 68787

(402) 375-1733
Fax (402) 375-1619

Incorporated - February 2, 1884



PROPOSED AMENDED ONE AND SIX YEAR STREET IMPROVEMENT PROGRAM FOR THE
CITY OF WAYNE, NEBRASKA

<u>Project Number</u>	<u>Project Year</u>	<u>Improvement</u>	<u>Estimated Cost</u>

M-617(92)	2016	Windom Street from 645' N of Fairground Ave to E. 7 th - 1,750'	\$965,000
		Reconstruct Concrete Paving, Curb & Gutter, Storm Drainage, Sidewalks	
M-617(105)	2016	Tomar Drive & E. 4 th St. to the Summer Sports Complex - 1,800'	\$400,000
		Construct Concrete Paving	
M-617(116)	2016	W. 7 th Street from Haas Avenue to Pheasant Run - 1,650'	\$110,000
		Storm Drainage & Sidewalk	
M-617(118)	2016	E. 4 th Street from Thorman St. to Centennial Rd. - 785'	\$40,000
		Construct Gravel Paving & Storm Drainage	
M-617(119)	2016	South Windom Street from 232' S of Folk St. to 333' S of Folk St.	\$25,000
		Construct Concrete paving, Curb and Gutter - 101'	

M-617(91)	2017	Trail & Pedestrian Underpass on W. 7 th Street	\$566,000
		Located between CAC and Oak Drive	
M-617(107)	2017	Clark Street & S. Pearl Street - 745'	\$180,000
		Construct Concrete Paving, Curb & Gutter, Storm Drainage	

M-617(98)	2018	Sherman Street from W. 5 th St. to W. 6 th St. - 300'	\$ 90,000
		Construct Concrete Paving, Curb & Gutter, Storm Drainage	
M-617(113)	2018	Sherman Street from W. 3 rd St. to W. 4 th St. - 300'	\$ 80,000
		Construct Concrete Paving, Curb & Gutter	

M-617(104)	2019	S. Lincoln Street from W. 1 st St. to 300' S. of W. 1 st St. - 300'	\$ 90,000
		Construct Concrete Paving, Curb & Gutter	
M-617(114)	2019	W. 2 nd Street from Blaine St. to 360' E of Blaine St. - 380'	\$105,000
		Construct Concrete Paving, Curb & Gutter, Storm Drainage	

M-617(115)	2020	W. 3 rd Street from Oak Dr. to 250' E. of Oak Dr. - 250'	\$ 70,000
		Construct Concrete Paving, Curb & Gutter	
M-617(117)	2020	Nebraska Street & E. 2 nd Street from E. 7 th to Logan - 2,275'	\$900,000
		Construct Concrete Paving, Curb & Gutter, Storm Drainage, Sidewalks	

Continued on Page 2

No person of the City of Wayne shall, on the ground of race, color or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity.



Home of Wayne State College



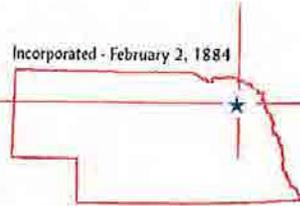
Equal Housing Opportunity

City of Wayne

306 Pearl • P.O. Box 8
Wayne, Nebraska 68787

(402) 375-1733
Fax (402) 375-1619

Incorporated - February 2, 1884



M - 617(112)	2021	Lagoon Streets - 2,500' Construct Concrete Paving	\$700,000
M - 617(89)	2021	Lage Subdivision - South of Fairgrounds Avenue - 900' Construct Concrete Paving, Curb & Gutter, Storm Drainage	\$ 175,000

No person of the City of Wayne shall, on the ground of race, color or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity.



Home of Wayne State College



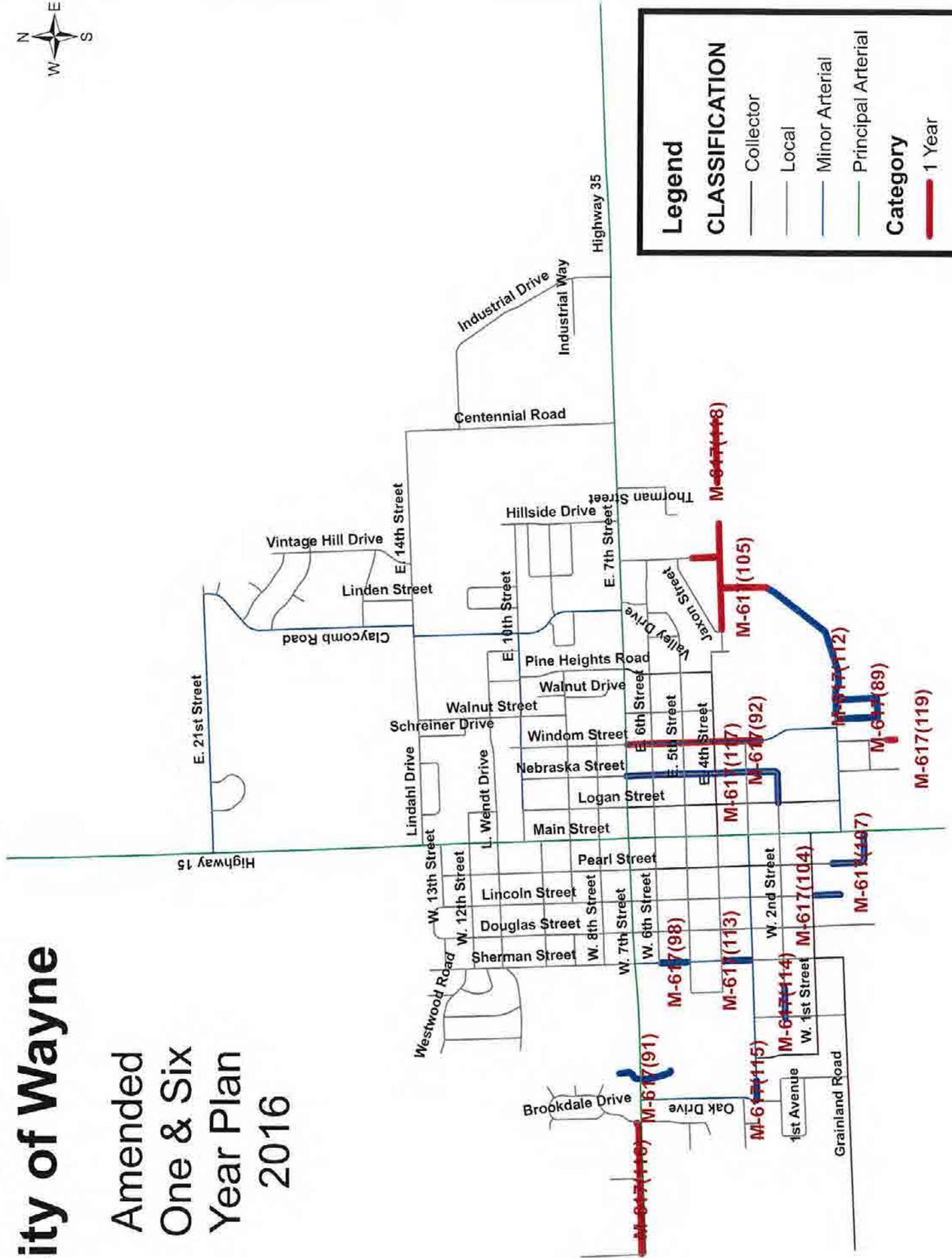
Equal Housing Opportunity

City of Wayne

Amended One & Six Year Plan 2016



Legend	
CLASSIFICATION	
—	Collector
—	Local
—	Minor Arterial
—	Principal Arterial
Category	
—	1 Year
—	6 Year



City of Wayne

Amended One & Six Year Plan 2016



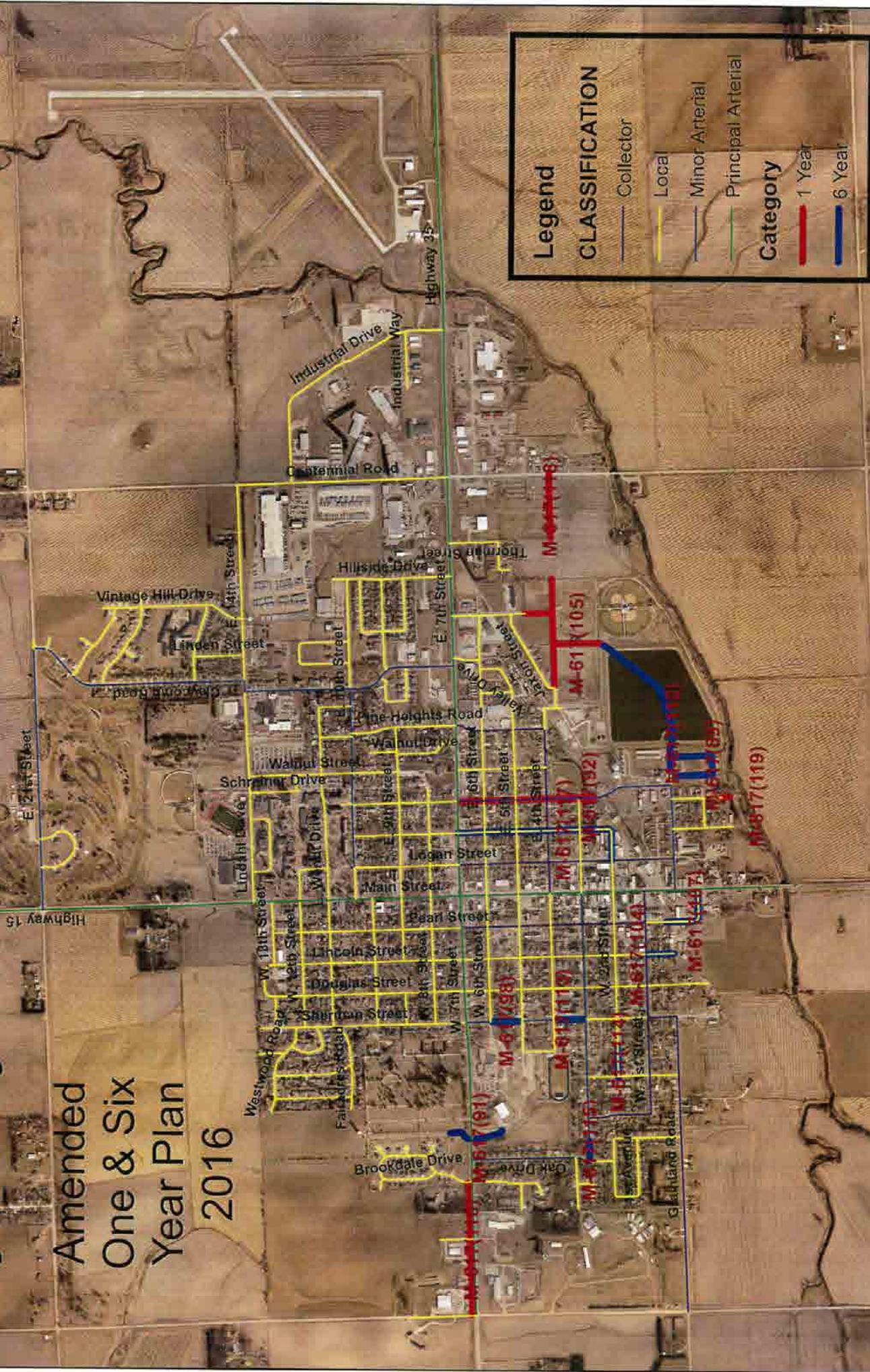
Legend

CLASSIFICATION

- Collector
- Local
- Minor Arterial
- Principal Arterial

Category

- 1 Year
- 6 Year



RESOLUTION NO. 2016-35

**A RESOLUTION ACCEPTING BID AND AWARDING CONTRACT ON THE
"CITY HALL ROOF REPLACEMENT PROJECT."**

WHEREAS, three bids were received on October 23, 2015, on the "City Hall Roof Replacement Project;" and

WHEREAS, the bids have been reviewed by the City Staff; and

WHEREAS, staff is recommending that the contract be awarded to Guarantee Roofing & Sheet Metal, Inc., for \$40,095.00.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the City of Wayne, Nebraska, that they find and declare that the bid for the "City Hall Roof Replacement Project," as submitted by the following contractor, is reasonable and responsive, and the same is hereby accepted:

<u>Bidder</u>	<u>Amount</u>
Guarantee Roofing & Sheet Metal, Inc. 2405 S. 13 th Street Norfolk, NE 68701	\$40,095.00

BE IT FURTHER RESOLVED, that the bid, as set forth and filed with the City Clerk in accordance with the general terms calling for the proposals for the furnishing of labor, tools, materials, and equipment required for said project in the City of Wayne, Nebraska, be and the same is hereby accepted.

BE IT FURTHER RESOLVED, that the Mayor be, and he is hereby instructed and authorized to enter into a contract on behalf of the City of Wayne, Nebraska, with the contractor for the above project, and the City Administrator is authorized to approve and execute change orders in amounts not to exceed five percent of the contract amount.

PASSED AND APPROVED this 3rd day of May, 2016.

THE CITY OF WAYNE, NEBRASKA,

By _____
Mayor

ATTEST:

City Clerk



PHONE: (402) 379-2107
FAX: (402) 379-2108

10-21-2015

City of Wayne
City Hall Building
Wayne, NE 68787
Roof Bid

Per your Request Guarantee Roofing And Sheet Metal NE has provided you with a bid to reroof the above city hall building.

Roof Bid

1. Tear off roof to the deck.
2. Remove all old rubber, metal, iso board and hot roof.
3. 2 layers of 2" polyiso board will be installed per FM 1-60 attachment.
4. New ½" plywood will be installed on all the walls.
5. New 2x6 nailers will be installed on top of all cap stones.
6. A .060 LSR EPDM will be fully adhered to the iso board.
7. New 24ga prefinished caps will be shop fabricated at our shop.
8. A conductor head and down spout will be installed to the ground as required.
9. A 15 year leak free warranty will be issued upon inspection by Firestone.

Base Bid-(\$40,095) Forty Thousand Ninety Five Dollars And Zero Cents. No Tax.
City will be responsible for all HVAC, electrical and plumbing disconnects and reconnects.

If you have any question please call.

Sincerely,

Matt Fisher



PROPOSAL

Paulson Construction Co. LLC

106 N. Pearl Street
Wayne, NE 68787
Cell: 402-680-8770



Proposal Submitted To:	City of Wayne	Job Name:	City Hall	Job #	
Address:	306 Pearl St	Job Location:	306 Pearl St		
Phone #:	Wayne NE 68787	Date:	10-21-15	Date of Plans	
Fax #:	402-375-1733	Architect			

We hereby submit specifications and estimates for: roof @ City Hall Building @ 306 Pearl St

Removal of EPDM Roofing system and substraight insulation

Installation of Duro-Last Roofing system over 1 1/2 inch substraight insulation with New 1 1/2 inch substraight insulation board with 60 mil membrane mechanically attached

Includes a 15 year 100% labor and material warranty

Color = white

\$ 31,012.⁵⁰/₁₀₀

We propose hereby to furnish material and labor - complete in accordance with the above specifications for the sum of:

thirty one thousand twelve dollars & ⁵⁰/₁₀₀ Dollars

with payments to be made as follows: upon completion

Any alteration or deviation from above specifications involving extra costs will be executed only upon written order, and will become an extra charge over and above the estimate. All agreements contingent upon strikes, accidents, or delays beyond our control.

Respectfully submitted Paul Paulson

Note - this proposal may be withdrawn by us if not accepted within 30 days.

Acceptance of Proposal

The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payments will be made as outlined above.

Signature _____

Date of Acceptance _____

Signature _____



Crafts Complete Construction Inc.
84640 North Hwy 81
Norfolk, NE 68701
402-379-0360

October 19, 2015

Dear Betty McGuire,

Please find enclosed two separate proposals, our Contractors Registration Certificate, and our insurance information for the roofing project at 306 North Pearl Street in Wayne, Ne.

The two proposals are as listed:

One is for the product TPO, which is a robotically seamed rubber roof system.

The other is for EPDM, which is a glue down system.

Also enclosed are samples of both products. If you have any questions about these two different systems please feel free to call.

Sincerely,

Tim Drumheller,
Production Manager



84640 N Hwy 81 Norfolk, NE 68701 *www.crafts.build* Phone (402)379-0360 *Fax (402)371-7675

October 19, 2015

306 N Pearl Street

Wayne, Nebraska 68787

Dear Betty McGuire, City of Wayne

Crafts Inc. is pleased to present you with this proposal for the following work on the building located at the address above:

- Remove existing rubber roof and the second layer down to the decking.
- Install 4" of new ISO insulation, and new 60 mil. TPO roof system.
- Includes all new boots, curbs, screws, tapes, primers, sealants, and termination bar around the perimeter.
- Includes a 20 year full system warranty.
- Includes a cricket by the roof hatch to divert the water to the drain.
- Includes all debris removal and disposal.
- Quote does not include any taxes, bid bonds, or performance bonds at this time.

Base Bid: (\$24,431.50 ½ down and ½ upon completion.)

*This bid, which is valid for thirty days, includes all labor, material, freight, equipment and taxes.

If you have any questions regarding this proposal, please feel free to call Tim at the number listed above. Crafts is looking forward to working with you on your roofing project.

Sincerely,

Tim Drumheller
Production Manager

I have read and understand the above proposal and authorize Crafts Inc. to begin work on this construction project.

Authorized Signature: _____ Date: _____



84640 N Hwy 81 Norfolk, NE 68701 *www.crafts.build * Phone (402)379-0360 *Fax (402)371-7675

October 19, 2015

306 N Pearl Street

Wayne, Nebraska 68787

Dear Betty McGuire, City of Wayne

Crafts Inc. is pleased to present you with this proposal for the following work on the building located at the address above:

- Remove existing rubber roof and the second layer down to the decking.
- Install 4" of new ISO insulation, and new 60 mil. EPDM roof system.
- Includes all new boots, curbs, screws, tapes, primers, sealants, and termination bar around the perimeter.
- Includes a 20 year full system warranty.
- Includes a cricket by the roof hatch to divert the water to the drain.
- Includes all debris removal and disposal.
- Quote does not include any taxes, bid bonds, or performance bonds at this time.

Base Bid: (\$25,946.50 ½ down and ½ upon completion.)

*This bid, which is valid for thirty days, includes all labor, material, freight, equipment and taxes.

If you have any questions regarding this proposal, please feel free to call Tim at the number listed above. Crafts is looking forward to working with you on your roofing project.

Sincerely,

Tim Drumheller
Production Manager

I have read and understand the above proposal and authorize Crafts Inc. to begin work on this construction project.

Authorized Signature: _____ Date: _____

RESOLUTION NO. 2016-36

**A RESOLUTION ACCEPTING BID AND AWARDING CONTRACT ON THE
"COMMUNITY ACTIVITY CENTER PARKING LOT PROJECT."**

WHEREAS, _____ bids were received on April 29, 2016, on the "Community Activity Center Parking Lot Project" and

WHEREAS, the bids have been reviewed by the City Staff; and

WHEREAS, staff is recommending that the contract be awarded to
_____ for \$ _____.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the City of Wayne, Nebraska, that they find and declare that the bid for the "Community Activity Center Parking Lot Project," as submitted by the following contractor, is reasonable and responsive, and the same is hereby accepted:

Bidder

Amount

BE IT FURTHER RESOLVED, that the bid, as set forth and filed with the City Clerk in accordance with the general terms calling for the proposals for the furnishing of labor, tools, materials, and equipment required for said project in the City of Wayne, Nebraska, be and the same is hereby accepted.

BE IT FURTHER RESOLVED, that the Mayor be, and he is hereby instructed and authorized to enter into a contract on behalf of the City of Wayne, Nebraska, with the contractor for the above project, and the City Administrator is authorized to approve and execute change orders in amounts not to exceed five percent of the contract amount.

PASSED AND APPROVED this 3rd day of May, 2016.

THE CITY OF WAYNE, NEBRASKA,

By _____
Mayor

ATTEST:

City Clerk

Proposed Outside

Rates

	2.1	2.2	2.3	2.4	2.5	2.6	2.7	2.8	2.9	3
\$	16.80	17.60	18.40	19.20	20.00	20.80	21.60	22.40	23.20	24.00
\$	24.68	25.85	27.03	28.20	29.38	30.55	31.73	32.90	34.08	35.25
\$	34.65	36.30	37.95	39.60	41.25	42.90	44.55	46.20	47.85	49.50
\$	46.73	48.95	51.18	53.40	55.63	57.85	60.08	62.30	64.53	66.75
\$	77.70	81.40	85.10	88.80	92.50	96.20	99.90	103.60	107.30	111.00
\$	168.00	176.00	184.00	192.00	200.00	208.00	216.00	224.00	232.00	240.00
\$	289.80	303.60	317.40	331.20	345.00	358.80	372.60	386.40	400.20	414.00
\$	644.70	675.40	706.10	736.80	767.50	798.20	828.90	859.60	890.30	921.00
\$	13.34	13.97	14.61	15.24	15.88	16.51	17.15	17.78	18.42	19.05
\$	51,519.30	53,972.60	56,425.90	58,879.20	61,332.50	63,785.80	66,239.10	68,692.40	71,145.70	73,599.00
\$	2,453.30	4,906.60	7,359.90	9,813.20	12,266.50	14,719.80	17,173.10	19,626.40	22,079.70	24,533.00

Proposed Outside

Rates

	2.1	2.2	2.3	2.4	2.5	2.6	2.7	2.8	2.9	3
\$	33.60	35.20	36.80	38.40	40.00	41.60	43.20	44.80	46.40	48.00
\$	47.78	50.05	52.33	54.60	56.88	59.15	61.43	63.70	65.98	68.25
\$	53.55	56.10	58.65	61.20	63.75	66.30	68.85	71.40	73.95	76.50
\$	77.18	80.85	84.53	88.20	91.88	95.55	99.23	102.90	106.58	110.25
\$	137.55	144.10	150.65	157.20	163.75	170.30	176.85	183.40	189.95	196.50
\$	309.23	323.95	338.68	353.40	368.13	382.85	397.58	412.30	427.03	441.75
\$	486.15	509.30	532.45	555.60	578.75	601.90	625.05	648.20	671.35	694.50
\$	1,234.80	1,293.60	1,352.40	1,411.20	1,470.00	1,528.80	1,587.60	1,646.40	1,705.20	1,764.00
\$	3.36	3.52	3.68	3.84	4.00	4.16	4.32	4.48	4.64	4.80
\$	66,393.60	69,555.20	72,716.80	75,878.40	79,040.00	82,201.60	85,363.20	88,524.80	91,686.40	94,848.00
\$	3,161.60	6,323.20	9,484.80	12,646.40	15,808.00	18,969.60	22,131.20	25,292.80	28,454.40	31,616.00

Some of the major water and sewer projects in the last 9 years

	Water	assessed	Paid to date		Sewer	Assessed	Paid to date
2015 4th st Water	\$ 233,532.50	\$ -		2015			
2015-16 Paint Stand Pipe	\$ 267,101.00			2015-16			
2015-16 Logan Valley water line	\$ 46,549.95			2015-16	Logan Valley sewer line - to date	\$ 55,649.65	29238.47
2015-16 Grainland Road	\$ 111,627.65			2015-16	Grainland Road - to date	\$ 95,312.65	4768.21
2015-16 Windom Street	\$ 91,868.24	\$ -					
2014 Vertical Turbine Pump Motor	\$ 20,747.29	\$ -		2015-16	Sludge System - to date	\$ 1,640,471.54	
2014 Chief's Way Water lines	\$ 65,194.78	\$ 29,135.00	\$ 5,006.64	2014	13th street sewer	\$ 24,171.00	
2012 Pheasant Run	\$ 44,497.18	\$ 33,010.38	\$ 4,368.11	2014	Chief's Way Sewer lines & Kardell	\$ 372,585.64	
2010 Wester Ridge	\$ 131,753.65	\$ -		2012	Pheasant Run	\$ 56,042.80	
2009 Looping Water Mains	\$ 20,600.00	\$ -		2009	2009 Treatment Plant	\$ 6,442,433.61	
2009 Industrial Park Water line	\$ 15,234.90	\$ -					
2009 Well 11	\$ 27,211.36	\$ -					
2007 Paint & Repair West Standpipe	\$ 86,753.54	\$ -					
MUHS Acres	\$ 188,016.05	\$ 108,438.76	\$ 49,726.83				
ARRA grant funds		\$ 250,000.00				\$ 250,000.00	
	\$ 1,350,688.09	\$ 420,584.14	\$ 59,101.58		ARRA grant funds	\$ 8,860,302.16	\$ 34,006.68

RESOLUTION NO. 2016-27

A RESOLUTION AMENDING SEWER SERVICE AND USE RATES.

BE IT RESOLVED that the customer service charge shall be a minimum monthly amount based upon the customer's water meter size and the commodity use rate shall be based upon the amount of water metered each month in thousands of gallons or parts thereof; and

BE IT FURTHER RESOLVED by the Mayor and Council of the City of Wayne, Nebraska, that the following Sewer Service and Use Rates are established for all customers pursuant to the Wayne Municipal Code Section 82-156 (residential and commercial rates) and Section 82-160 (special use water rate):

1. Net Monthly Customer Service Charge

<u>Meter Size</u>	<u>Inside City</u>	<u>Current Outside (Rural)</u>
3/4" or less	\$ 8.00	\$16.00
1	11.75	23.50
1 1/4	16.50	33.00
1 1/2	22.25	44.50
2	37.00	74.00
3	80.00	160.00
4	138.00	276.00
6	307.00	614.00

2. Net Monthly Commodity, Use Rate per Thousand Gallons

- (a) Inside City - \$ 6.35
- (b) Outside City - \$12.70

BE IT FURTHER RESOLVED that all residential rates shall be based on an average of the water usage during the months of December, January, and February; and

BE IT FURTHER RESOLVED that the sewage contribution of a residential user, who has not established an average for the months of December, January and February, shall be charged, based on proven averages, in the following manner:

- Single occupancy - 2,000 gal. per month
- Double or more occupancy - 5,000 gal. per month

BE IT FURTHER RESOLVED that this Resolution shall take effect and be in force from and after its passage, approval, and posting as required by law, and the rates provided herein shall be applicable to all services used after meters are read for billing purposes in April, 2016.

PASSED AND APPROVED this 3rd day of May, 2016.

THE CITY OF WAYNE, NEBRASKA,

By: _____
Mayor

ATTEST:

City Clerk

RESOLUTION NO. 2016-28

A RESOLUTION TO ESTABLISH RESIDENTIAL, COMMERCIAL AND SPECIAL USE WATER SERVICES AND USE RATES.

BE IT RESOLVED that the customer service charge shall be a minimum monthly amount based upon the customer's water meter size and the commodity, use rate shall be based upon the amount of water metered each month in thousands of gallons or parts thereof; and

BE IT FURTHER RESOLVED that rural customers shall be charged a customer service charge and commodity rate double the amount of customers in the City; and

BE IT FURTHER RESOLVED by the Mayor and Council of the City of Wayne, Nebraska, that the following Water Service and Use Rates are established for all customers pursuant to the Wayne Municipal Code Section 82-156 (residential and commercial rates) and Section 82-160 (special use water rate):

1. Net Monthly Customer Service Charge

<u>Meter Size</u>	<u>Inside City</u>	<u>Current Outside (Rural)</u>
3/4" or less	\$ 16.00	\$ 32.00
1	22.75	45.50
1 1/4	25.50	51.00
1 1/2	36.75	73.50
2	65.50	131.00
3	147.25	294.50
4	231.50	463.00
6	588.00	1,176.00

2. Net Monthly Commodity, Use Rate per Thousand Gallons

(a) Inside City	\$ 1.60
(b) Outside (Rural)	\$ 3.20

3. Withdrawal of Special Use Water from Hydrants

There shall be a combined charge of the minimum monthly customer service charge based upon the size of the water meter for connection and disconnection of the meter to allow withdrawal of special use water from a hydrant additional to the water metered and consumed.

BE IT FURTHER RESOLVED that this Resolution shall take effect and be in force from and after its passage, approval, and posting as required by law, and the rates provided herein shall be applicable with the billing statement received on or about May 1, 2016 (usage from mid- March through mid-April).

PASSED AND APPROVED this 3rd day of May, 2016.

THE CITY OF WAYNE, NEBRASKA,

By: _____
Mayor

ATTEST:

City Clerk

RESOLUTION NO. 2016-37

A RESOLUTION ESTABLISHING A SCHEDULE OF ELECTRICAL RATES TO BE CHARGED CUSTOMERS FOR ENERGY AND POWER FROM THE ELECTRIC DISTRIBUTION SYSTEM OF THE CITY; TO REPEAL CONFLICTING RATES AND SCHEDULES; AND TO PROVIDE FOR AN EFFECTIVE DATE.

BE IT RESOLVED by the Mayor and City Council of the City of Wayne, Nebraska, that pursuant to Section 82-83 (bb) Rates of the Wayne Municipal Code, the following schedule of rates to be charged customers for energy and power from the electric distribution system is hereby approved:

RATES:

Summer Rates:

The summer rates shall apply to the customer's use from the day meters are read for billing purposes in mid-May through the day meters are read for billing purposes in mid-September.

Winter Rates:

The winter rates shall apply to the customer's use from the day meters are read for billing purposes in mid-September through the day meters are read for billing purposes in mid-May.

Terms and Conditions:

1. Service will be furnished under the City's General Terms and Conditions.
2. The rates set forth herein may be increased by the amount of any new or increased governmental tax imposed and levied on transmission, distribution, production, or sale of electrical power.

SECTION I: RESIDENTIAL (ER)

A. Monthly rate for Summer Period:

	<u>NET</u>	
Customer Service Charge, per month.....	\$12.57	\$13.39
Plus Energy Charge of:		
First 700 kWh, per kWh.....	\$.1154	\$.1229
Over 700 kWh, per kWh.....	\$.1195	\$.1273

B.	Monthly rate for Winter Period:		
		<u>NET</u>	
	Customer Service Charge, per month	\$12.57	\$13.39
	Plus Energy Charge of:		
	First 700 kWh, per kWh.....	\$.0988	\$.1052
	Over 700 kWh, per kWh.....	\$.0471	\$.0502

C. Minimum Monthly Bill:
The Customer Service Charge

SECTION II: GENERAL SERVICE (EC)

A.	Monthly rate for Summer Period:		
		<u>NET</u>	
	Customer Service Charge, per month	\$27.15	\$28.91
	Plus Energy Charge of:		
	First 1,300 kWh, per kWh.....	\$.1173	\$.1249
	Over 1,300 kWh, per kWh.....	\$.1224	\$.1304

B.	Monthly Rate for Winter Period:		
	Customer Service Charge, per month	\$27.15	\$28.91
	Plus Energy Charge of:		
	First 1,300 kWh, per kWh.....	\$.1019	\$.1085
	Over 1,300 kWh, per kWh.....	\$.0489	\$.0521

C. Minimum Monthly Bill:
The Customer Service Charge, and for special installations, \$1.00 per kVA of requested transformer capacity.

In case of equipment having abnormally low utilization factors or unusual operating characteristics, special minimum charges may be prescribed by the City.

SECTION III: GENERAL SERVICE DEMAND (GSD)

A.	Monthly rate for Summer Period:		
		<u>NET</u>	
	Customer Service Charge, per month		
	· Single phase.....	\$35.78	\$38.11
	· Three phase.....	\$44.04	\$46.90
	Demand Charge:		
	Per kW per month of billing demand.....	\$17.41	\$18.54

Plus Energy Charge of:
 For all usage, per kWh.....~~\$.06~~ **\$.0639**

B. Monthly rate for Winter Period:

Customer Service Charge, per month
 Single phase.....~~\$35.78~~ **\$38.11**
 Three phase.....~~\$44.04~~ **\$46.90**

Demand Charge:
 Per kW per month of billing demand.....~~\$ 7.45~~ **\$7.93**

Plus Energy Charge of:
 For all usage, per kWh.....~~\$.06~~ **\$.0639**

C. Minimum Monthly Bill:

Customer Service Charge, plus billing demand

D. Applicable: To any existing or new customers that have a peak demand of 50 kW for three consecutive months, but not exceeding 1,000 kW. For monitoring purposes, a demand meter may be installed by the City when the customer's demand is believed to exceed 25 kW. The customer will remain on this rate for a minimum of 12 months, once established.

E. Power Factor Adjustment: For loads of 100 kW or more, or at the option of the City for loads of less than 100 kW, power factor adjustments will be made in the billing demand, when the power factor, as determined by test, at the time of the customer's maximum use is less than 90%. If the power factor, as measured by the electric department, is lower than 90%, the monthly demand charge will be multiplied by the ratio 90% bears to the measured power factor, or at the City's option, the power factor may be corrected at the customer's expense. The adjusted measured demand then becomes a billing demand.

F. Billing Demand: The billing demand for any month shall be the adjusted measured demand, but not less than 60% of the highest summer month of the past 11 months.

G. Primary Voltage Metering: Where service is taken under this rate schedule at a primary voltage, the following discounts shall apply.

- 4% of the total charge where metering is at primary voltage and transformers are owned by the customer.
- 2% of the total charge where metering is at secondary voltage and transformers are owned by the customer.
- 1% of the total charge where metering is at primary voltage and

transformers are owned by the City.

- H. Applicable: All GSD customers will be reviewed annually in October to determine their status in this rate class. (Not applicable to resale, stored, or auxiliary service).

SECTION IV: SUPPLEMENTAL SERVICE (SS)

- A. Monthly rate for Summer Period:

	<u>NET</u>	
Customer Service Charge, per month	\$68.16	\$72.59
Demand Charge:		
Per kW of billing demand	\$16.40	\$17.47
Plus Energy Charge, per kWh:		
For all usage, per kWh	\$.0653	\$.0695

- B. Monthly rate for Winter Period:

Customer Service Charge, per month	\$68.16	\$72.59
Demand Charge:		
Per kW of billing demand	\$8.68	\$9.24
Plus Energy Charge, per kWh:		
For all usage, per kWh	\$.0653	\$.0695

- C. Minimum Monthly Bill:

The Customer Service Charge, plus billing demand charges.

- D. Power Factor Adjustment: For loads of 500 kW or more, or at the option of the City, power factor adjustments will be made in the billing demand, when the average power factor is less than 90%. If the average power factor, as determined by the electric department, is lower than 90%, the monthly demand charge will be multiplied by the ratio 90% bears to the average power factor, or at the City's option, the power factor may be corrected at the customer's expense. The adjusted measured demand then becomes the billing demand.
- E. Billing Demand: The billing demand for any month shall be the adjusted measured demand, but not less than 60% of the highest summer month of the past 11 months.
- F. Primary Voltage Metering: Where service is taken under this rate schedule at a primary voltage, the following discounts shall apply.

- 4% of the total charge where metering is at primary voltage and transformers are owned by the customer.
- 2% of the total charge where metering is at secondary voltage and transformers are owned by the customer.
- 1% of the total charge where metering is at primary voltage and transformers are owned by the City.

SECTION V: LARGE POWER (LP)

A. Monthly rate for Summer Period:

	<u>NET</u>	
Customer Service Charge, per month	\$61.18	\$65.16
Demand Charge:		
Per kW of billing demand	\$20.39	\$21.72
Plus Energy Charge, per kWh:		
For all usage, per kWh	\$.0506	\$.0539

B. Monthly rate for Winter Period:

Customer Service Charge, per month	\$61.18	\$65.16
Demand Charge:		
Per kW of billing demand	\$10.76	\$11.46
Plus Energy Charge, per kWh:		
For all usage, per kWh	\$.0506	\$.0539

C. Minimum Bill:

The Customer Service Charge, plus billing demand charges.

D. Power Factor Adjustment: For loads of 1,000 kW or more, or at the option of the City, power factor adjustments will be made in the billing demand, when the power factor, as determined by test, at the time of the customer's maximum use is less than 90%. If the power factor, as measured by the electric department, is lower than 90%, the monthly demand charge will be multiplied by the ratio 90% bears to the measured power factor, or at the City's option, the power factor may be corrected at the customer's expense. The adjusted measured demand then becomes a billing demand.

E. Billing Demand: The billing demand for any month shall be the adjusted measured demand, but not less than 60% of the highest summer month of the past 11 months.

- F. Primary Voltage Metering: Where service is taken under this rate schedule at a primary voltage, the following discounts shall apply.
- 4% of the total charge where metering is at primary voltage and transformers are owned by the customer.
 - 2% of the total charge where metering is at secondary voltage and transformers are owned by the customer.
 - 1% of the total charge where metering is at primary voltage and transformers are owned by the City.
- G. Applicable: All LP customers will be reviewed annually in October to determine their status in this rate class. (Not applicable to resale, stand-by, or auxiliary service).

SECTION VI: MUNICIPAL SERVICE (CC)

- A. Monthly Rate:

All kWh, per kWh.....~~\$1.009~~ **\$1.075**

- B. Available:

To any customer meeting City criteria for service under this schedule, and to any electrical load in which the City has the sole investment and interest. This rate shall be applicable to street lighting.

SECTION VII: DUSK-TO-DAWN LIGHTING

- A. Monthly Rate:

1. For installation on an existing pole and connected to existing secondary conductors on each pole:

<u>Mercury Vapor Luminaire</u>	<u>High Pressure Sodium</u>	<u>Net</u>	
175 watt	100 watt	\$8.50 per unit	\$ 9.05
250 watt	150 watt	\$11.01 per unit	\$11.73
400 watt	200 or 250 watt	\$14.33 per unit	\$15.26
400 watt		\$19.30 per unit	\$20.55

2. Where an extension of existing overhead facilities is required, and where such extension is acceptable to the City, the monthly rate shall be increased as follows:

each additional pole installed and	\$1.81	\$1.93
each additional span of secondary conductors installed	\$1.25	\$1.33

3. For installation on decorative metal poles, including secondary wiring:

<u>Mercury Vapor Luminaire</u>	<u>High Pressure Sodium</u>	<u>Net</u>	
175 watt	100 or 150 watt	\$14.03 per unit	\$14.94
		9' to 11' poles	
175 watt	100 watt	\$19.45 per unit	\$20.71
		18' to 22' poles	
250 watt	150 or 200 watt	\$21.50 per unit	\$22.90
		18' to 22' poles	
400 watt	200 or 250 watt	\$24.00 per unit	\$25.56
	24' to 30' poles		
	400 watt	\$31.97 per unit	\$34.05
		30' to 40' poles	

SECTION VIII:
POWER PROCUREMENT COST ADJUSTMENT (PCA)

- A. Power Procurement Cost Adjustment: All electrical usage in the Service Area may be subject to application of a Production Cost Adjustment (PCA). The rates, as defined above, include a Production Cost Base of \$.06700 (summer) and \$.05925 (winter).

Whenever the total monthly Production Cost exceeds, or is less than, the Production Cost Base, a Production Cost Adjustment may be included in the billing charges. The adjustment shall be calculated in accordance with the following formula and shall include a loss adjustment based upon the previous year's sales and purchases data.

$$PCA = \text{Actual Average Monthly Cost} \times (1 + \text{Loss Factor}) - \text{Base Cost}$$

Production costs shall include all costs of purchased power and energy. The Loss Factor shall be equal to the difference, expressed as a fraction, between net system energy purchased for the previous year and annual retail sales for the same period.

BE IT FURTHER RESOLVED that the electrical rates established by Resolutions No. 83-17, 89-6, 92-48, 95-16, 95-22, 99-41, 2001-51, 2003-9, 2004-3, 2005-97, 2007-5, 2009-23, 2009-104, 2010-98, 2012-5 and 2013-79 are hereby revoked, canceled, and annulled on the effective date of this Resolution, and the schedule of rates herein established and fixed shall continue until changed, revoked, or modified by resolution.

BE IT FURTHER RESOLVED that the amendments made herein shall be applicable with the billing statement received on or about June 1, 2016 (usage from mid-April through mid-May).

PASSED AND APPROVED this _____ day of May, 2016.

THE CITY OF WAYNE, NEBRASKA,

By _____
Mayor

ATTEST:

City Clerk

RESOLUTION NO. 2016-38

A RESOLUTION ACCEPTING PROPOSAL AND APPROVING CONSULTING SERVICES AGREEMENT WITH C. H. GUERNSEY & COMPANY FOR A GENERATION RESOURCE FEASIBILITY ANALYSIS.

WHEREAS, the Wayne City Council is desirous of entering into an agreement with C. H. Guernsey & Company for consulting services regarding a Generation Resource Feasibility Analysis, as directed by the City; and

WHEREAS, a proposal has been requested and received from C. H. Guernsey & Company for said consulting services; and

WHEREAS, the fees for said services are outlined on "Fee Schedule – 2016" attached to the agreement (not to exceed cost of \$28,500, without prior written approval by the City); and

WHEREAS, staff recommendation is to accept the proposal of C. H. Guernsey & Company.

NOW, THEREFORE BE IT RESOLVED, by the Mayor and City Council of the City of Wayne, Nebraska, that the Agreement between the City of Wayne and C. H. Guernsey & Company, for a Generation Resource Feasibility Analysis, which is attached hereto and incorporated herein by reference, be accepted as recommended, and the City Administrator and/or Mayor is authorized and directed to execute the Agreement for said professional services on behalf of the City.

PASSED AND APPROVED this 3rd day of May, 2016.

THE CITY OF WAYNE, NEBRASKA,

By _____
Mayor

ATTEST:

City Clerk

Scope of Consulting Services
City of Wayne, Nebraska
Generation Resource Feasibility Analysis
Professional Consulting Services

Background

The City of Wayne, Nebraska has an existing diesel fired generation plants with approximately 22 MW of nameplate capacity. As a matter of due diligence and long-range planning, the city is interested in looking at the cost of and benefits of replacing the existing plant with a new one thus providing more reliable generation resources and access to the SPP market.

Scope of Services

In accordance with the terms of the Service Agreement dated May 30, 2014 between Guernsey and the City, Guernsey will provide the following services associated with the development of a feasibility analysis for replacing the existing generation resources with new resources.

1. Guernsey will conduct an analysis to determine if new generation resources are economically feasible for the City. The analysis will include but not necessarily be limited to:
 - a. Review of potential sites for the new generation plant taking into consideration access to high pressure (90 psi) natural gas as well as access to the 115 kV transmission system.
 - b. Review of existing resource costs, remaining useful life, contractual considerations, etc.
 - c. Analysis of varying sizes and types of generation resources
 - d. Analysis of potential joint ownership of new generation resources with NeNPPD versus sole ownership by the City.
 - e. Coordination of dispatch analysis and other feasibility analysis with Big Rivers Electric Corporation.
 - f. Estimation of the potential revenue to the City of placing the City's 69 kV network into the SPP as well as adding the new units as SPP network resources.
 - g. Provide a report summarizing the findings for a forecast period showing the costs, benefits and feasibility of the potential project.

Costs

The not to exceed cost, without prior written approval by the City of Wayne, for the feasibility analysis is \$28,500. The required labor necessary to complete this project shall be billed based on the attached Fee Schedule.

C. H. GUERNSEY & COMPANY

FEE SCHEDULE – 2016

<u>Labor Category</u>	<u>Hourly Rate</u>
Consulting Economist	\$275
Principal	\$275
Managing Consultant	\$220
Senior Generation Engineer / Consultant	\$235
Senior Consultant / Engineer / Architect	\$205
Economist	\$205
Consultant / Engineer / Architect	\$173
Associate	\$138
Senior Analyst / Engineering Tech	\$112
Analyst / Tech	\$87
Support Staff	\$62
<i>Non-Labor Expenses</i>	@ Cost

Rates Effective on January 1, 2016

ORDINANCE NO. 2016-8

AN ORDINANCE AMENDING CHAPTER 14 ANIMALS, ARTICLE II DOGS, SECTION 14-52 BARKING AND OFFENSIVE; TO PROVIDE FOR THE REPEAL OF CONFLICTING ORDINANCES OR SECTIONS; AND TO PROVIDE FOR AN EFFECTIVE DATE.

BE IT ORDAINED by the Mayor and Council of the City of Wayne, Nebraska:

Section 1. That Chapter 14, Article II, Section 14-52 of the Wayne Municipal Code is hereby amended to read as follows:

14-52 BARKING AND OFFENSIVE.

- (a) It shall be unlawful for any person to own, keep or harbor any dog, which by loud, continued or frequent barking, howling or yelping, shall annoy or disturb any neighborhood or person, or which habitually barks at or chases pedestrians, drivers or owners of horses or vehicles while they are on any public sidewalks, streets or alleys in the city. The provisions of this section shall not be construed to apply to the designated animal shelter.
- (b) The phrase "annoy or disturb the neighborhood" shall include, but not be limited to, the creation of any noise constituting a nuisance by any animal which can be heard by any person, including a law enforcement officer, from a location outside of the building or premises where the animal is being kept and which animal noise occurs repeatedly over at least a ~~ten~~ three-minute period of time with one minute or less lapse or time between each animal noise during the ~~ten~~ three-minute period.

Section 2. All ordinances or parts of ordinances in conflict herewith are hereby amended and repealed.

Section 3. This ordinance shall take effect and be in full force from and after its passage, approval, and publication or posting as required by law.

PASSED AND APPROVED this ____ day of _____, 2016.

THE CITY OF WAYNE, NEBRASKA

By _____
Mayor

ATTEST:

City Clerk



ENGINEERING ■ ARCHITECTURE ■ SURVEYING ■ PLANNING

April 25, 2016

Lowell Johnson, City Administrator
City of Wayne
PO Box 8
Wayne, NE 68787

RE: Wayne, Nebraska
2015 Wastewater Treatment Facility Improvements
JEO Project No. 140876

Dear Lowell:

Enclosed for your consideration are four (4) copies of Application for Payment No. 9 for the above referenced project. The contractor continues to make progress and we believe all equipment is onsite other than the sludge press. As you recall, the contractor had the manufacturer store the press due to limited storage onsite.

This month the digester diffusers were installed and tested. Also, concrete paving at the press building is progressing. Also the electrical and mechanical contractors are working on their items. We recommend approval of Pay Application No. 9 in the amount of \$130,662.00 to Eriksen Construction. We are conducting payroll reviews and they are current.

Upon the City's approval, please forward one copy of the documents to the Contractor with payment, one to JEO, one to NDEQ and keep the other for your file. If you have any questions, please feel free to contact me.

Sincerely,

A handwritten signature in blue ink, reading 'Roger S. Protzman'. The signature is written in a cursive, flowing style.

Roger S. Protzman
Senior Project Engineer

RSP:skw
Enclosures

Pc: Eriksen Construction Co., Inc.

140876LTR042516-Pay App 9.docx

Progress Estimate - Lump Sum Work

Contractor's Application

For (Contract):		2015 Wastewater Treatment Facility Improvements - Phases 3, 4, & 5		Application Number: 9				
Application Period:		Ending May 1, 2016		Application Date: 4/25/16				
Specification Section No.	A Description	B Scheduled Value (\$)	C Work Completed		E Materials Presently Stored (not in C or D)	F Total Completed and Stored to Date (C + D + E)	% (F / B)	G Balance to Finish (B - F)
			From Previous Application (C-D)	D This Period				
1	General Requirements / Mobilization 771	\$81,000.00	\$81,000.00			\$81,000.00	100.0%	
2	Bond	\$24,300.00	\$24,300.00			\$24,300.00	100.0%	
3	Concrete Reinforcement	\$55,000.00	\$54,550.00			\$54,550.00	99.2%	\$450.00
4	Concrete Footings	\$15,000.00	\$15,000.00			\$15,000.00	100.0%	
5	Concrete Floor Slabs	\$11,000.00	\$10,500.00			\$10,500.00	95.5%	\$500.00
6	Digester Base Slab	\$40,000.00	\$40,000.00			\$40,000.00	100.0%	
7	Digester Walls	\$98,000.00	\$98,000.00			\$98,000.00	100.0%	
8	Drying Bed Footings & Walls	\$25,000.00	\$25,000.00			\$25,000.00	100.0%	
9	Masonry	\$33,000.00	\$31,800.00	\$1,000.00		\$32,800.00	99.4%	\$200.00
10	Miscellaneous Metals	\$6,500.00	\$6,500.00			\$6,500.00	100.0%	
11	Rough Cuppenry	\$1,000.00	\$1,000.00			\$1,000.00	100.0%	
12	FRP Panels	\$1,000.00	\$1,000.00			\$1,000.00	100.0%	
13	Insulation	\$3,000.00	\$3,000.00			\$3,000.00	100.0%	
14	Shingles	\$1,500.00	\$1,500.00			\$1,500.00	100.0%	
15	Flashing & Gutters	\$1,500.00	\$1,500.00			\$1,500.00	100.0%	
16	Joint Sealants	\$5,000.00	\$5,000.00			\$5,000.00	100.0%	
17	H.M. Doors/Hvd Jams, etc	\$69,000.00	\$69,000.00			\$69,000.00	100.0%	
18	Sectional Doors	\$750.00	\$750.00			\$750.00	100.0%	
19	Painting and Coatings	\$8,000.00	\$8,000.00			\$8,000.00	100.0%	
20	Specialties	\$5,000.00	\$5,000.00			\$5,000.00	100.0%	
21	Pipe Support Systems	\$4,000.00	\$4,000.00			\$4,000.00	100.0%	
22	Plumbing Basical sewer rough-in	\$39,000.00	\$39,000.00			\$39,000.00	100.0%	
23	HVAC	\$130,000.00	\$130,000.00			\$130,000.00	100.0%	
24	Electrical	\$8,000.00	\$8,000.00			\$8,000.00	100.0%	
25	VFD's	\$72,000.00	\$72,000.00			\$72,000.00	100.0%	
26	Earthwork Excess-digester -browshds	\$41,000.00	\$41,000.00			\$41,000.00	100.0%	
27	Backfill	\$2,500.00	\$2,500.00			\$2,500.00	100.0%	
28	Erosion Control	\$35,000.00	\$35,000.00			\$35,000.00	100.0%	
29	Paving & Sidewalks	\$3,500.00	\$3,500.00			\$3,500.00	100.0%	
30	Aggregate Surfacing	\$1,500.00	\$1,500.00			\$1,500.00	100.0%	
31	Seeding	\$49,050.00	\$49,050.00			\$49,050.00	100.0%	
32	Controls	\$32,000.00	\$32,000.00			\$32,000.00	100.0%	
33	Valves	\$80,000.00	\$77,800.00	\$2,000.00		\$79,800.00	99.7%	\$2,000.00
34	Site Piping	\$10,500.00	\$10,500.00			\$10,500.00	100.0%	
35	Air PIPIDIE	\$79,000.00	\$79,000.00			\$79,000.00	100.0%	
36	Flanged Piping	\$5,000.00	\$5,000.00			\$5,000.00	100.0%	
37	Flow Meter	\$135,000.00	\$135,000.00			\$135,000.00	100.0%	
38	Rotary Lobe Blower	\$21,500.00	\$21,500.00			\$21,500.00	100.0%	
39	Rotary Lobe Pump							

Progress Estimate - Lump Sum Work

Contractor's Application

For (Contract)		2015 Wastewater Treatment Facility Improvements - Phases 3, 4, & 5		Application Number: 9					
Application Period		Ending May 1, 2016		Application Date: 4/25/16					
A		C		E		F		G	
Specification Section No.	Description	B Scheduled Value (\$)	D Work Completed		Materials Presently Stored (not in C or D)	Total Completed and Stored to Date (C + D + E)	% (F / B)	Balance to Finish (B - F)	
			From Previous Application (C+D)	This Period					
40	Clarifier Launder Covers	\$55,000.00	\$55,000.00			\$55,000.00	100.0%		
41	Coarse Bubble Diffusers	\$87,000.00	\$83,000.00	\$4,000.00		\$87,000.00	100.0%		
42	Belt Filter Press	\$185,700.00			\$174,888.00	\$174,888.00	94.2%	\$10,812.00	
43	Change Order #1 Letters-Blower-Old load out M1 DIP fittings	\$6,197.00		\$6,197.00		\$6,197.00	100.0%		
44									
45									
Totals		\$1,623,197.00	\$1,180,800.00	\$130,862.00	\$175,163.00	\$1,486,825.00		\$142,372.00	

Stored Material Summary

Contractor's Application

A		B	C		D		E	F		G	
Bid Item No.	Supplier Invoice No.	Submittal No. (with Specification Section No.)	Storage Location	Description of Materials or Equipment Stored	Date Placed into Storage (Month/Year)	Amount (\$)	Amount Stored this Month (\$)	Subtotal Amount Completed and Stored to Date (D + E)	Incorporated in Work Date (Month/Year)	Materials Remaining in Storage (\$) (D + E - F)	
22	39195		JOB	Plumbing Water line Biosolids	10/2015	\$872.36		\$872.36	3/2016	\$75.00	
34	38753		JOB	DIP Site Piping	10/2015	\$5,662.15		\$5,662.15	2/2016	\$700.00	
11	181		JOB	Misc. Metals HME	11/2015	\$8,427.00		\$8,427.00	4/2016	\$8,427.00	
42	12180		Aero-Mod	Belt Press - Aero-Mod	1/2016	\$174,888.00		\$174,888.00		\$174,888.00	
								Totals			\$175,163.00

For (Contract): 2015 Wastewater Treatment Facility Improvements - Phases 3, 4, & 5
 Application Period: Ending May 1, 2016
 Application Number: 9
 Application Date: 4/25/16

Contractor's Application for Payment No. 10	
Application Period: 3/28/16 to 4/26/16 Application Date: 4/26/2016	JEO Consulting Group, Inc. 11717 Burr St., Ste. 210 Omaha, NE 68154
To: City of Wayne 300 Pearl St., PO Box 8 Wayne, NE 68787-0008 (Owner):	Via (Engineer): PO Christensen Construction Co. LLC, Box 339, Pender, NE 68047
Project: 2016 Wayne Aquatic Center Wayne, Nebraska	Engineer's Project No.: 141213
Owner's Contract No.:	Contractor's Project No.: 15037

**Application For Payment
Change Order Summary**

Approved Change Orders	Number	Additions	Deductions
	2	\$359.00	
	3	\$1,169.00	
TOTALS		\$1,528.00	
NET CHANGE BY CHANGE ORDERS		\$1,528.00	

1. ORIGINAL CONTRACT PRICE..... \$ **\$2,659,000.00**
2. Net change by Change Orders..... \$ **\$1,528.00**
3. Current Contract Price (Line 1 ± 2)..... \$ **\$2,660,528.00**
4. TOTAL COMPLETED AND STORED TO DATE
(Column F total on Progress Estimates)..... \$ **\$2,035,345.83**
5. RETAINAGE:
 - a. 10% X \$1,893,708.52 Work Completed..... \$ **\$189,370.85**
 - b. 10% X \$141,637.31 Stored Material..... \$ **\$14,163.73**
 - c. Total Retainage (Line 5.a + Line 5.b)..... \$ **\$203,534.58**
6. AMOUNT ELIGIBLE TO DATE (Line 4 - Line 5.c)..... \$ **\$1,831,811.25**
7. LESS PREVIOUS PAYMENTS (Line 6 from prior Application)..... \$ **\$1,631,258.10**
8. AMOUNT DUE THIS APPLICATION..... \$ **\$200,553.15**
9. BALANCE TO FINISH, PLUS RETAINAGE
(Column H total on Progress Estimates + Line 5.c above)..... \$ **\$828,716.75**

<p>Contractor's Certification</p> <p>The undersigned Contractor certifies, to the best of its knowledge, the following:</p> <p>(1) All previous progress payments received from Owner on account of Work done under the Contract have been applied on account to discharge Contractor's legitimate obligations incurred in connection with the Work covered by prior Applications for Payment;</p> <p>(2) Title to all Work, materials and equipment incorporated in said Work, or otherwise listed in or covered by this Application for Payment, will pass to Owner at time of payment free and clear of all Liens, security interests, and encumbrances (except such as are covered by a bond acceptable to Owner indemnifying Owner against any such Liens, security interest, or encumbrances); and</p> <p>(3) All the Work covered by this Application for Payment is in accordance with the Contract Documents and is not defective.</p>	<p>Payment of: \$ <u>200,553.15</u></p> <p>is recommended by: <u>Dale E Bohac</u> (Date) <u>4-27-2016</u></p> <p style="text-align: center;">JEO Consulting Group, Inc. (Engineer)</p> <p>Payment of: \$ _____ (Date) _____</p> <p>is approved by: _____ (Date) _____</p> <p style="text-align: center;">City of Wayne, NE (Owner)</p> <p>Approved by: _____ (Date) _____</p> <p style="text-align: center;">Funding or Financing Entity (if applicable) _____ (Date) _____</p>
<p>Contractor Signature</p> <p>By: </p>	<p>Date: 4/26/2016</p>

CONTINUATION PAGE

PROJECT: 15037
 2016 Wayne Aquatic Center
 APPLICATION #: 10
 DATE OF APPLICATION: 04/26/2016
 PERIOD THRU: 04/26/2016
 PROJECT #s:

Payment Application containing Contractor's signature is attached.

A ITEM #	B WORK DESCRIPTION	C SCHEDULED AMOUNT	D COMPLETED WORK		E AMOUNT THIS PERIOD	F STORED MATERIALS (NOT IN D OR E)	G TOTAL COMPLETED AND STORED (D + E + F)	H BALANCE TO COMPLETION (C-G)	I RETAINAGE (If Variable)
			AMOUNT PREVIOUS PERIODS	% COMP. (G / C)					
1	Bond & Insurance	\$40,298.00	\$40,298.00	\$0.00	\$0.00	\$0.00	\$40,298.00	\$0.00	
2	General Conditions	\$120,884.00	\$110,884.00	\$3,000.00	\$0.00	\$0.00	\$113,884.00	\$7,000.00	
3	Demobilization	\$8,560.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$8,560.00	
4	Submittal Exchange	\$3,395.00	\$3,395.00	\$0.00	\$0.00	\$0.00	\$3,395.00	\$0.00	
5	Site Demo, Stripping, Hauling	\$48,705.00	\$48,705.00	\$0.00	\$0.00	\$0.00	\$48,705.00	\$0.00	
6	Excavation	\$86,780.00	\$86,780.00	\$0.00	\$0.00	\$0.00	\$86,780.00	\$0.00	
7	Grading	\$31,282.00	\$16,282.00	\$0.00	\$0.00	\$0.00	\$16,282.00	\$15,000.00	
8	SWPPP (Erosion Control)	\$17,175.00	\$15,175.00	\$500.00	\$0.00	\$0.00	\$15,675.00	\$1,500.00	
9	Geotextile Filter Fabric	\$4,522.00	\$4,522.00	\$0.00	\$0.00	\$0.00	\$4,522.00	\$0.00	
10	Sub Base	\$20,627.00	\$20,627.00	\$0.00	\$0.00	\$0.00	\$20,627.00	\$0.00	
11	Aggregate Backfill	\$70,216.00	\$40,216.00	\$20,000.00	\$0.00	\$0.00	\$60,216.00	\$10,000.00	
12	Gran. Fill under Decks/Sidewalks	\$7,266.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$7,266.00	
13	Underdrains	\$5,070.00	\$5,070.00	\$0.00	\$0.00	\$0.00	\$5,070.00	\$0.00	
14	Site Utilities	\$175,589.00	\$158,589.00	\$0.00	\$0.00	\$0.00	\$158,589.00	\$17,000.00	
15	Fences, Gates, Rope Barrier	\$32,461.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$32,461.00	
16	Seeding	\$5,748.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$5,748.00	
17	Concrete Forming Pool	\$115,725.00	\$115,725.00	\$0.00	\$0.00	\$0.00	\$115,725.00	\$0.00	
18	Concrete Placing Pool	\$182,300.00	\$174,300.00	\$4,000.00	\$0.00	\$0.00	\$178,300.00	\$4,000.00	
19	Concrete Forming Surge & Pump	\$36,110.00	\$36,110.00	\$0.00	\$0.00	\$0.00	\$36,110.00	\$0.00	
20	Concrete Placing Surge & Pump	\$28,236.00	\$28,236.00	\$0.00	\$0.00	\$0.00	\$28,236.00	\$0.00	
21	Misc. Concrete Form & Pour	\$38,571.00	\$18,571.00	\$10,000.00	\$0.00	\$1,345.00	\$28,571.00	\$10,000.00	
22	Pool Deck Form & Pour	\$65,413.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$65,413.00	
23	Pool Sidewalk Form & Pour	\$31,196.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$31,196.00	
24	FB Foundations	\$14,045.00	\$14,045.00	\$0.00	\$0.00	\$0.00	\$14,045.00	\$0.00	
25	Reinforcing Steel	\$71,545.00	\$71,045.00	\$0.00	\$0.00	\$0.00	\$71,045.00	\$500.00	
26	Exp. Joints, Waterstop	\$2,185.00	\$2,185.00	\$0.00	\$0.00	\$0.00	\$2,185.00	\$0.00	
27	Grouting Pool Walls	\$6,269.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$6,269.00	
28	Masonry	\$48,494.00	\$12,036.92	\$0.00	\$0.00	\$0.00	\$12,036.92	\$36,457.08	
29	Struct. Steel, Misc. Metals	\$22,030.00	\$15,950.00	\$0.00	\$0.00	\$0.00	\$15,950.00	\$6,080.00	
	SUB-TOTALS	\$1,340,697.00	\$1,038,746.92	\$37,500.00	\$1,345.00	\$1,077,591.92	\$263,105.08		

CONTINUATION PAGE

PROJECT: 15037 2016 Wayne Aquatic Center APPLICATION #: 10 DATE OF APPLICATION: 04/26/2016
 Payment Application containing Contractor's signature is attached. PERIOD THRU: 04/26/2016
 PROJECT #s:

A ITEM #	B WORK DESCRIPTION	C SCHEDULED AMOUNT	D COMPLETED WORK		E AMOUNT THIS PERIOD	F STORED MATERIALS (NOT IN D OR E)	G TOTAL COMPLETED AND STORED (D + E + F)	H BALANCE TO COMPLETION (C-G)	I RETAINAGE (If Variable)
			AMOUNT PREVIOUS PERIODS	% COMP. (G / C)					
30	Rough Carpentry	\$19,701.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$19,701.00	0%
31	Cabinets	\$2,406.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$2,406.00	0%
32	Concrete Countertop	\$1,728.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$1,728.00	0%
33	Metal Roofing	\$40,434.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$40,434.00	0%
34	Joint Sealants	\$10,588.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$10,588.00	0%
35	Doors, Frames, Hardware	\$2,631.00	\$1,569.00	\$0.00	\$0.00	\$0.00	\$1,569.00	\$1,062.00	60%
36	Coiling Overhead Door	\$3,780.00	\$3,600.00	\$0.00	\$0.00	\$0.00	\$3,600.00	\$180.00	95%
37	Paints & Coatings	\$38,434.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$38,434.00	0%
38	Specialties	\$734.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$734.00	0%
39	Signage, Plaque	\$1,948.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$1,948.00	0%
40	Aluminum Canopy	\$20,465.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$20,465.00	0%
41	Stainless Steel Gutters	\$94,111.00	\$91,111.00	\$3,000.00	\$0.00	\$0.00	\$94,111.00	\$0.00	100%
42	Main Drains, Hydro. Relief Valves	\$6,656.00	\$6,656.00	\$0.00	\$0.00	\$0.00	\$6,656.00	\$0.00	100%
43	Pumps, Strainers, VFDs, Gauges	\$83,776.00	\$78,776.00	\$5,000.00	\$0.00	\$0.00	\$83,776.00	\$0.00	100%
44	Ladders, Stanchions, Rails etc.	\$20,357.00	\$17,357.00	\$0.00	\$0.00	\$0.00	\$17,357.00	\$3,000.00	85%
45	ADA Lift	\$4,813.00	\$3,813.00	\$0.00	\$0.00	\$0.00	\$3,813.00	\$1,000.00	79%
46	Diving Towers & Boards	\$59,100.00	\$49,100.00	\$0.00	\$0.00	\$0.00	\$49,100.00	\$10,000.00	83%
47	Pool Vacuum	\$1,781.00	\$1,581.00	\$0.00	\$0.00	\$0.00	\$1,581.00	\$200.00	89%
48	Filtration Equipment	\$42,550.00	\$37,550.00	\$0.00	\$0.00	\$0.00	\$37,550.00	\$5,000.00	88%
49	Chem. Feed/Disinfect. Equip.	\$7,008.00	\$625.42	\$0.00	\$0.00	\$0.00	\$625.42	\$6,382.58	9%
50	FRP Chem Storage Bldgs.	\$29,482.00	\$27,382.00	\$0.00	\$0.00	\$0.00	\$27,382.00	\$2,100.00	93%
51	Deck Trench Drains	\$10,300.00	\$8,277.23	\$0.00	\$0.00	\$0.00	\$8,277.23	\$2,022.77	80%
52	Shade Structures	\$28,192.00	\$24,457.00	\$0.00	\$0.00	\$0.00	\$24,457.00	\$3,735.00	87%
53	Pool Heaters	\$18,919.00	\$0.00	\$0.00	\$0.00	\$17,393.31	\$17,393.31	\$1,525.69	92%
54	Water Slide	\$84,361.00	\$13,388.00	\$5,000.00	\$0.00	\$57,109.00	\$75,497.00	\$8,864.00	89%
55	Zero Depth Play Features	\$93,903.00	\$13,286.00	\$2,000.00	\$0.00	\$65,790.00	\$81,076.00	\$12,827.00	86%
56	Process Piping, Valves, Supports	\$389,595.00	\$256,555.00	\$10,000.00	\$0.00	\$0.00	\$266,555.00	\$123,040.00	68%
57	Plumbing (Drinking Fount.)	\$4,200.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$4,200.00	0%
58	Electrical	\$196,350.00	\$138,678.43	\$17,671.52	\$0.00	\$0.00	\$156,349.95	\$40,000.05	80%
	SUB-TOTALS	\$2,659,000.00	\$1,812,509.00	\$80,171.52	\$141,637.31	\$2,034,317.83	\$624,682.17		77%

CONTINUATION PAGE

PROJECT: 15037 2016 Wayne Aquatic Center
 APPLICATION #: 10
 DATE OF APPLICATION: 04/26/2016
 PERIOD THRU: 04/26/2016
 PROJECT #s:

Payment Application containing Contractor's signature is attached.

A ITEM #	B WORK DESCRIPTION	C SCHEDULED AMOUNT	D COMPLETED WORK		E AMOUNT THIS PERIOD	F STORED MATERIALS (NOT IN D OR E)	G TOTAL COMPLETED AND STORED (D + E + F)	H BALANCE TO COMPLETION (C-G)	I RETAINAGE (If Variable)
			AMOUNT PREVIOUS PERIODS	AMOUNT THIS PERIOD					
59	Change Order No. 2	\$359.00	\$0.00	\$359.00	\$359.00	\$0.00	\$359.00	\$0.00	
60	Change Order No. 3	\$1,169.00	\$0.00	\$669.00	\$669.00	\$0.00	\$669.00	\$500.00	
TOTALS		\$2,660,528.00	\$1,812,509.00	\$81,199.52	\$141,637.31	\$2,035,345.83	77%	\$625,182.17	



DRAKE-WILLIAMS STEEL
BUILDING VALUE

Invoice

****Reprint****

Page: 1

Drake-Williams Steel, Inc.
2301 Hickory Street
Omaha, NE. 68108
Phone: (402) 342-1043
Fax: (402) 342-4164

Invoice No: 4435-4
Invoice Date: 4/13/2016
Customer: Christ Pend
Job: 4435
Salesperson:
Contact: Forest Kramer
Phone: (402) 385-3027

Sold To **Ship To**

Christiansen Construction (Pender)
PO Box 339
EMAIL INVOICES TO:
iane@cccopender.biz
Pender, NE 68047 USA

Wavne Aquatic Center
700 West 5th Street
Wavne, NE 68787 USA

Customer P.O. **F.O.B.** **Terms**

15037

JOBSITE 1

NET DUE 30 DAYS

Original Job Value	42,690.00
Chg Ord: CO#1 Desc: Added Slide Foundation	1,590.00
Chg Ord: CO#2 Desc: Added Smooth Dowels	<u>1,345.00</u>
Revised Job Value	45,625.00

This billing covers the following Bills of Lading

- BL56211-SH 3/21/2016
- BL56212-SH 3/21/2016

Job Completed to date	45,625.00
Previously Billed	44,280.00
Billed this Invoice	1,345.00
Total Amount Billable	<u>1,345.00</u>

Tax authority: Tax Exempt

Item # 22

**Remit Payments to: Drake-Williams Steel
P.o. Box 4664
Des Moines, IA. 50305**

Sales tax must be paid unless proper sales tax exemption forms are provided with payment

NO WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR OTHER WARRANTY (WHETHER EXPRESSED, IMPLIED OR STATUTORY) IS MADE BY SELLER, except Seller warrants only that the goods are in material compliance with specifications applicable to them accepted or used by Seller.
SELLER'S LIABILITY TO BUYER FOR ANY ACTION IN CONTRACT OR TORT SHALL NOT EXCEED THE PRICE PAID TO SELLER OR, AT SELLER'S OPTION, REPLACEMENT OF GOODS.

Interest on past due amounts will be charged at the maximum allowable by law.

United States ThermoAmp Inc
1223 Heat Siphon Lane
Latrobe PA 15650 USA
Ph: 724-537-3500 Fax: 724-537-2216

Invoice

Order #: **4432**
Sales Rep.: **House Account**
Sale Type: **CUST**
Customer #: **CHRISTIANSEN CONSTRUCTIO**

Order Date: **12 May 2015**
Pack Date: **12 May 2015**
Terms: **Net30 - Net Due 30 Days**

Bill To: **Christiansen Construction Co LLC**
PO Box 339
Pender, NE 68047

Ship-To #:
Ship To: **Christiansen Construction Co LLC**
Wayne Aquatic Center
Wayne, NE

Phone: **402-385-3027** Fax: **402-385-3020**

Customer PO #: **Waye Pool**
F.O.B.: **Latrobe, PA**

Ship Via: **R&L Carrier-R&L Carrier**

Line #	Item	Description	Qty Ordered, UOM	Price, UOM	Extended Price
1	1H5E3604F	Heat Siphon (Analog-E) HEATING ONLY - C575HP4 3ph-440v-60Hz C Options:	6.00 EACH	2,824.2896 EACH	16,945.74

Additional Description:
Customer P/N:

Note, this quotation is priced in: **US Dollars**

Sub-Total: **16,945.74**
Misc. Charges: **0.00**
Freight: **447.57**
Tax: **0.00**
Total: **17,393.31**

Order Comments:

Shipping Comments:

Item # 53

CONTINUATION SHEET

ALL DOCUMENT # 1703

PAGE 2 OF 3 PAGES

AIA Document G702, APPLICATION AND CERTIFICATION FOR PAYMENT.

APPLICATION NO.

Contractor's signed certification is attached.

APPLICANT DATE:

In tabular below, amounts are stated to the nearest dollar.

PERIOD TO

Wayne, NE WS & APL

Use Column 1 on Contracts where variable retainerage for line items may apply.

A ITEM NO.	B Description	C SCHEDULED VALUE	D WORK COMPLETED		E THIS PERIOD	F MATERIALS PRESENTLY STORED (NOT IN STOCK)	G TOTAL COMPLETED AND STORED (D+E+F)	H % (G/C)	I BALANCE TO FINISH (C-G)	J RETAINERAGE OF VARIABLE RATE
			FROM PREVIOUS APPLICATION (D)	(E)						
Waterslides										
1.0	Engineering	\$11,993.00	\$11,993.00	\$0.00	\$0.00	\$0.00	\$11,993.00	100%	\$0.00	\$1,199.30
2.0	Anchor Bolts	\$1,395.00	\$1,395.00	\$0.00	\$0.00	\$0.00	\$1,395.00	100%	\$0.00	\$139.50
3.0	Fiberglass - Slide A - 42" Open Flume Body Slide	\$13,843.00	\$0.00	\$13,843.00	\$13,843.00	\$0.00	\$13,843.00	100%	\$0.00	\$1,384.30
5.0	Hardware and Gaskets	\$1,495.00	\$0.00	\$1,495.00	\$1,495.00	\$0.00	\$1,495.00	100%	\$0.00	\$149.50
6.0	Canopy	\$1,201.00	\$0.00	\$1,201.00	\$1,201.00	\$0.00	\$1,201.00	100%	\$0.00	\$120.10
7.0	Fiberglass Treads and Landings	\$6,562.00	\$0.00	\$6,562.00	\$6,562.00	\$0.00	\$6,562.00	100%	\$0.00	\$656.20
8.0	Shipping and Packaging	\$3,302.00	\$0.00	\$3,302.00	\$3,302.00	\$0.00	\$3,302.00	100%	\$0.00	\$330.20
9.0	Installation	\$9,454.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	0%	\$9,454.00	\$0.00
10.0	Signage	\$100.00	\$0.00	\$100.00	\$100.00	\$0.00	\$100.00	100%	\$0.00	\$10.00
11.0	Steel Tower & Support System	\$30,606.00	\$0.00	\$30,606.00	\$30,606.00	\$0.00	\$30,606.00	100%	\$0.00	\$3,060.60
	Total Waterslide	\$79,951.00	\$13,388.00	\$57,109.00	\$57,109.00	\$0.00	\$70,497.00	89%	\$9,454.00	\$7,049.70
150sq Aquatic Play Unit										
12.0	Engineering	\$13,286.00	\$13,286.00	\$0.00	\$0.00	\$0.00	\$13,286.00	100%	\$0.00	\$1,328.60
13.0	ST - Fiberglass Aquatic Play Unit with Interactive Play Features	\$44,497.00	\$0.00	\$44,497.00	\$44,497.00	\$0.00	\$44,497.00	100%	\$0.00	\$4,449.70
14.0	Fiberglass Decks, Treads, misc	\$8,184.00	\$0.00	\$8,184.00	\$8,184.00	\$0.00	\$8,184.00	100%	\$0.00	\$818.40
15.0	Fiberglass APU Waterslides	\$4,369.00	\$0.00	\$4,369.00	\$4,369.00	\$0.00	\$4,369.00	100%	\$0.00	\$436.90
16.0	Ground Features	\$4,085.00	\$1,340.00	\$2,745.00	\$2,745.00	\$0.00	\$4,085.00	100%	\$0.00	\$408.50
17.0	Hardware	\$2,855.00	\$0.00	\$2,855.00	\$2,855.00	\$0.00	\$2,855.00	100%	\$0.00	\$285.50
18.0	Shipping and Packaging	\$3,200.00	\$0.00	\$3,200.00	\$3,200.00	\$0.00	\$3,200.00	100%	\$0.00	\$320.00
19.0	Installation	\$8,000.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	0%	\$8,000.00	\$0.00
20.0	Signage	\$100.00	\$0.00	\$100.00	\$100.00	\$0.00	\$100.00	100%	\$0.00	\$10.00
	Total Aquatic Play Unit	\$88,576.00	\$14,786.00	\$68,799.00	\$68,799.00	\$0.00	\$80,576.00	91%	\$8,000.00	\$8,057.60
GRAND TOTALS		\$168,527.00	\$28,174.00	\$122,899.00	\$122,899.00	\$0.00	\$151,073.00	90%	\$17,454.00	\$15,107.30

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Stored # 501
57,109.00

Stored # 505
65,790.00

[Back to Top](#)

TITLE V: PUBLIC WORKS

Chapter

50. SOLID WASTE MANAGEMENT

51. UTILITIES GENERALLY

52. ELECTRICAL SYSTEM

53. GAS SYSTEM

54. WATER SYSTEM

55. SEWER SYSTEM

CHAPTER 50: SOLID WASTE MANAGEMENT

Section

- 50.01 Definitions – **Move to the front of the book**
- 50.02 Trash and waste
- 50.03 Containers
- 50.04 Additional containers
- 50.05 Disposal
- 50.06 Solid waste transfer; hours of operation
- 50.07 Waste disposal fees
- 50.08 Rejected deposits
- 50.09 Dead animals
- 50.10 Grass, leaves and burnable wood disposal
- 50.11 Garbage and refuse collection authority
- 50.12 Notice; removal
- 50.13 Nuisance
- 50.14 Lien

- 50.99 Penalty

Cross-reference:

Solid Waste Collectors, see Ch. 112

§ 50.01 DEFINITIONS. (MOVE TO THE FRONT OF THE BOOK)

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

GARBAGE. Kitchen refuse, decayed waste, dead animals or anything that may decompose and become offensive to the public health.

RUBBISH or ***TRASH.*** Discarded machinery, chips, pieces of wood, sticks, dead trees, branches, bottles, broken glass, crockery, tin cans, boxes, papers, rags or any other litter or debris that is not an immediate hazard to the health of the residents of the city.

SOLID WASTE. Garbage, rubbish, trash and waste, as defined by the ordinances of the city. (2002 Code, § 66-1)

§ 50.02 TRASH AND WASTE.

It shall be unlawful for any person to keep in, on or about any dwelling, building or premises, or any other place in the city, decayed vegetable or animal substance, garbage or refuse matter of any kind that may be injurious to the public health or offensive to the residents of the city unless it is kept in containers not exceeding a 35-gallon capacity, unless they are a dumpster that can be mechanically lifted and dumped by a truck for single-family dwellings and as nearly air-tight as may be practical. Owners of duplexes, apartments and mobile home courts may provide roll-off dumpsters with lids for use by multiple families in lieu of individual trash cans. It shall be unlawful to throw or sweep into the streets, alleys, parks or other public grounds any paper, nails, pieces of glass, refuse, waste or rubbish of any kind. No person may permit garbage, rubbish, waste or refuse to collect; and all persons shall remove such materials from their property within 24 hours after being notified to do so by the Police Chief or his or her ~~designate~~ **designee**, who shall represent the Board of Health. Any person having garbage, rubbish, waste or refuse that is subject to decay or fermentation within a short period of time shall be required to place it in a standard garbage can with a tight cover, or a durable plastic container that is securely tied at its opening. All persons shall have the contents of their garbage cans removed at least once per week; provided, garbage shall be removed more often at such times as the Council or the Board of Health shall determine.

(2002 Code, § 66-2) (Ord. 2005-20, passed 8-9-2005) Penalty, see § 50.99

§ 50.03 CONTAINERS.

Every householder or occupant of any dwelling, house or other building used for the housing of persons, and the owner, keeper or manager of every hotel, restaurant, store, wholesale business and retail business, or other place where garbage accumulates in the city, shall provide one or more suitable plastic or metal garbage containers, including roll-off dumpsters, which shall have a close-fitting lid and which shall be placed on the premises owned or occupied by that person at a place that can be easily reached by the garbage collector; provided, the garbage container shall be kept in locations most accessible to the collector and never upon the street or sidewalk; and all such containers, where not easily accessible, shall be delivered promptly to the collector when called for. Only roll-off dumpsters may be used for the reception of garbage by more than one family, household, apartment, mobile home park, hotel, restaurant, store, wholesale or retail business. All garbage created by or upon the premises occupied by such persons shall be deposited in garbage containers which shall be kept tightly covered at all times. Garbage shall be removed under such rules and regulations as provided in this code.

(2002 Code, § 66-3) (Ord. 2005-20, passed 8-9-2005) Penalty, see § 50.99

§ 50.04 ADDITIONAL CONTAINERS.

The Board of Health **or its designee** shall have authority to require the owners, managers or renters of restaurants, hotels, meat markets, stores, retail business and other places where garbage accumulates in quantities to furnish a sufficient number of garbage containers to take care of such accumulations. The Board **or its designee** may also require that such receptacles be removed in any of the ways contemplated by this code and as often as necessary.

(2002 Code, § 66-4) (Ord. 2005-20, passed 8-9-2005) Penalty, see § 50.99

§ 50.05 DISPOSAL.

(A) Solid waste may be disposed of by removing it to the solid waste transfer station. Any other method of disposal other than set forth in the ordinances of the city is prohibited. No person shall dispose of any such material by burning within the corporate limits of the city, except in an approved incinerator within the person's residence or business building; however, if such provision as to burning works a hardship on any person or business, the Council may grant a special permit for such burning and control such burning by the terms of such permit.

(B) Nothing in this section shall prevent the use of outdoor cookstoves when used for the purpose of cooking.

(2002 Code, § 66-5) Penalty, see § 50.99

~~**§ 50.06 SOLID WASTE TRANSFER; HOURS OF OPERATION.**~~~~(A) All solid waste generated within the corporate limits of the city shall be deposited at the solid waste transfer station, or as otherwise designated by the Council; provided that, lawn, yard and garden waste, including, but not limited to, grass, leaves, weeds, plants and tree branches, shall be prohibited from delivery at the solid waste transfer station.~~~~(B) The hours of operation of the solid waste transfer station shall be determined by the City Administrator, and a current schedule shall be posted conspicuously at the transfer station.~~~~(C) If any solid waste is deposited at the solid waste transfer station at times other than those designated by the City Administrator, including Sundays and city holidays, the fees charged for receiving such solid waste shall be one and one half times the fees prescribed in § 50.07 of this chapter; except that, no additional fees shall be charged Class A collectors for solid waste delivered to the solid waste transfer station during normal city business hours.~~~~(2002 Code, § 66-6)~~~~**§ 50.07 WASTE DISPOSAL FEES.**~~~~Fees to be charged for the receiving of solid waste at the solid waste transfer station shall be established by a resolution of the Council.~~~~(2002 Code, § 66-7)~~~~**§ 50.08 REJECTED DEPOSITS.**~~~~(A) Tree trimmings, brush and logs in excess of six feet in length shall not be received at the solid waste transfer station. Such solid waste may be deposited for disposal at an approved site designated by the city.~~~~(B) Notwithstanding any other provision in this chapter, the city through its authorized representatives, may reject any solid waste for deposit at the solid waste transfer station which is~~

~~incapable of or not conducive to compaction, or presents a potential danger to the public health, safety and welfare, including, but not limited to, dead animals, animal waste material, wire and hot or burning loads. Construction and demolition debris rejected for deposit at the solid waste transfer station shall be disposed of with cost at an approved site designated by the city. (2002 Code, § 66-8) (Ord. 98-18, passed 11-24-1998)~~

§ 50.09 DEAD ANIMALS.

All dead animals shall be immediately removed and ~~buried~~ **disposed of** by the owner of such animals; and, if the owner of such animal cannot be found ~~within two hours~~ after discovering the animal, such animal shall be removed by **the City and** at the expense of the **city owner**. ~~Dead animals shall not be buried within nor within one mile of the corporate limits of the city, nor in or above the course of ground water that is used for drinking purposes by the city or its inhabitants.~~
(2002 Code, § 66-10) Penalty, see § 50.99

§ 50.10 GRASS, LEAVES AND BURNABLE WOOD DISPOSAL.

The grass, leaves and burnable wood, collected by licensed Class A collectors, may be disposed of by the Class A collectors at other locations other than the solid waste transfer station; however, if the grass, leaves and burnable wood are disposed of within the zoning jurisdiction of the city, such disposal site shall be designated and approved by the Council.
(2002 Code, § 66-11)

§ 50.11 GARBAGE AND REFUSE COLLECTION AUTHORITY.

(A) The Council may provide for the collection and removal of garbage or refuse found upon any lot or land within its corporate streets, roads, alleys or rights-of-way abutting such lot or land which constitutes a public nuisance.

(B) The city may require the owner, duly authorized agent or tenant of such lot or land to remove the garbage or refuse from such lot or land and streets, roads, alleys or rights-of-way.
(2002 Code, § 66-12)

~~§ 50.12 NOTICE; REMOVAL.~~

~~Notice that removal of garbage or refuse is necessary and mandatory shall be given to each owner or his or her duly authorized agent and to the tenant, if any. Such notice shall be provided by personal service or by certified mail. After providing such notice, the city, through its proper offices shall, in addition to other proper remedies, remove the garbage or refuse, or cause it to be removed, from such lot or land and streets, roads, alleys or rights-of-way. (2002 Code, § 66-13)~~

~~§ 50.13 NUISANCE.~~

~~— If the Mayor or Council declares that the accumulation of such garbage or refuse upon any lot or land constitutes an immediate nuisance and hazard to public health and safety, the city shall remove the garbage or refuse, or cause it to be removed, from such lot or land within 48 hours after notice by personal service or following receipt of a certified letter in accordance with § 50.12 of this chapter if such garbage or refuse has not been removed.
(2002 Code, § 66-14)~~

~~§ 50.14 LIEN.~~

~~— Whenever the city removes any garbage or refuse, or causes it to be removed, from any lot or land pursuant to this chapter, it shall, after a hearing conducted by the Council, assess the cost of the removal against such lot or land.
(2002 Code, § 66-15)~~

§ 50.99 PENALTY.

(A) The City Administrator shall be responsible for the administration of §§ 50.01 through 50.08 of this chapter and shall designate such officials and employees as he or she deems necessary to assist in carrying out the provisions in §§ 50.01 through 50.08 of this chapter. Any person violating the provisions of §§ 50.01 through 50.08 of this chapter or who shall obstruct, hinder or otherwise prevent any authorized city official or employee in the performance of his or her duties under §§ 50.01 through 50.08 of this chapter shall be guilty of a misdemeanor and, upon conviction, shall be punished as provided in § 10.99 of this code.
(2002 Code, § 66-9)

(B) Failure to obey any order or regulation ~~of the Board of Health~~ in connection with the administration or enforcement of the provisions of this chapter, as per § 50.04 of this chapter, shall be construed as a violation of this chapter and shall subject the owner, manager or renter to a fine of ~~\$50~~ **100** for a first offense, ~~\$75~~ **250** for a second offense and ~~\$100~~ **500** for a third and subsequent offense.
(2002 Code, § 66-4)

CHAPTER 51: UTILITIES GENERALLY

Section

General Provisions

51.01 Meters generally

Disconnection

- 51.15 Notice procedure
- 51.16 Request for conference
- 51.17 Appeal
- 51.18 Third-party notice
- 51.19 Applicability
- 51.20 Diversion of services

51.99 Penalty

Statutory reference:

Delinquent water charges, see Neb. RS 16-682

Denial or discontinuance of utility service, see Neb. RS 70-1601 et seq.

GENERAL PROVISIONS

§ 51.01 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.

(2002 Code, § 82-1)

DISCONNECTION

§ 51.15 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 **after notice is sent or given, excluding holidays and weekends.** ~~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 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 division (B)(7) for each incidence of non-payment 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.

(2002 Code, § 82-31)

Statutory reference:

Related provisions, see Neb. RS 70-1606

§ 51.16 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 subchapter, the employee shall recess and continue the conference at such time as the subscriber has been afforded his or her 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.

(2002 Code, § 82-32)

Statutory reference:

Related provisions, see Neb. RS 70-1610, 70-1611

§ 51.17 APPEAL.

(A) 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.

(B) The procedure shall be in writing and a copy of such procedure shall be furnished upon the request of any domestic subscriber.

(C) Such appeal shall be filed with the Council within the time specified in the procedures established.

(D) Nothing in this subchapter shall prohibit the Council from providing such additional stages of appeal as it may deem appropriate.

(2002 Code, § 82-33)

Statutory reference:

Related provisions, see Neb. RS 70-1612

§ 51.18 THIRD-PARTY NOTICE.

For disconnect of service, the city shall provide a third-party notice **by first class mail or personal contact**. ~~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.~~

(2002 Code, § 82-34)

Statutory reference:

Related provisions, see Neb. RS 70-1607

§ 51.19 APPLICABILITY.

The subchapter 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.

(2002 Code, § 82-35)

Statutory reference:

Related provisions, see Neb. RS 70-1615

§ 51.20 DIVERSION OF SERVICES.

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

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

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

UTILITY SUPPLY SYSTEM. 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) *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:

(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

(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 metering was proven to exist.

(C) *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.
(2002 Code, § 82-36) Penalty, see § 51.99

Statutory reference:

Related provisions, see Neb. RS ~~86-331.04~~

§ 51.99 PENALTY.

(A) Any person violating any provision of this chapter or Chapters 52, 53, 54 or 55 for which no specific penalty is prescribed shall be subject to § 10.99.

(B) (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, per § 51.20 of this chapter, when such act results in damages to the utility. The city may bring a civil action for damages pursuant to this division (B) 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 division (B), 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.

(3) In addition to any damage or loss under division (B)(2) above, 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 Neb. RS 25-1801.

(2002 Code, § 82-36)

CHAPTER 52: ELECTRICAL SYSTEM

Section

- 52.01 Ownership
- 52.02 Contracts and terms
- 52.03 Consumer’s application
- 52.04 Electrical service contracts
- 52.05 Installation expense
- 52.06 Meters
- 52.07 Fees and collections
- 52.08 Minimum rates
- 52.09 Service Deposit Fund
- 52.10 Restricted use
- 52.11 Building moving
- 52.12 Posting signs
- 52.13 Common regulations

Statutory reference:

Authority to own, operate utility services, see Neb. RS 16-681

§ 52.01 OWNERSHIP.

(A) 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 or her office. He or she 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.

(B) 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.
(2002 Code, § 82-71)

§ 52.02 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 chapter 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 or her agent shall cut off or disconnect the electric service from the building or place of such violation; and no further connection of electric service for such building or place shall again be made save or except by order of the Commissioner or his or her agent.

(2002 Code, § 82-72)

§ 52.03 CONSUMER'S APPLICATION.

Every person desiring electrical service must make application to the Light Commissioner or his or her 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 non-residents.

(2002 Code, § 82-73)

§ 52.04 ELECTRICAL SERVICE CONTRACTS.

(A) Contracts for electrical service are not transferable. Any person wishing to change from one location to another ~~shall~~ **may be required** to make a new application and sign a new contract. If any consumer shall sell, dispose or remove from the premises where service is furnished in his or her name, or if the premises are destroyed by fire or other casualty, he or she shall at once inform the Light Commissioner, who shall cause the electrical service to be shut off from the premises.

(B) If the consumer should fail to give such notice, he or she shall be charged for all electricity used on the premises until the Light Commissioner is otherwise advised of such circumstances.

(2002 Code, § 82-74)

§ 52.05 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.

(2002 Code, § 82-75)

§ 52.06 METERS.

(A) All electrical meters shall be read at least one time each month during which electrical service is used between the fifteenth day and the twenty-eighth 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~~ **Light Commissioner** or his or her 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 2% 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~~ **Light Commissioner**. 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.

(2002 Code, § 82-76)

§ 52.07 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 or her authorized agent shall bill the consumers and collect all money received by the city on the account of the city electrical system. He or she shall faithfully account for and pay over the money to the City Treasurer all revenue collected by him or her, taking his or her receipt in duplicate, filing one with the City Clerk and keeping the other on file in his or her official records.

(2002 Code, § 82-77)

§ 52.08 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 or she shall not be liable thereafter for electrical service until the electricity is turned on again. (2002 Code, § 82-78)

§ 52.09 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 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. (2002 Code, § 82-79)

§ 52.10 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. (2002 Code, § 82-80)

§ 52.11 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. (2002 Code, § 82-81)

§ 52.12 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.

(2002 Code, § 82-82) Penalty, see § 10.99

§ 52.13 COMMON REGULATIONS.

(A) *Definitions.* For the purpose of Chapter 51 of this code and this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CITY. The electric distribution system of the city.

CUSTOMER. Any person taking electrical service from the city.

DEMAND or **MEASURED DEMAND.** 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.

LIGHT COMMISSIONER. As referred to in this section shall include his or her agents.

PRIMARY VOLTAGES. Any voltage higher than 600 volts in normal use in the city.

RESIDENCE. Premises where the customer lives, such as a dwelling, trailer, apartment or unit of a multi-family dwelling, equipped with cooking facilities.

SECONDARY VOLTAGES. 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.

(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, non-payment by the customer of amounts payable under this chapter, 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 two and one-half 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 non-residential 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~~ **2 years or 24 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 the bill shall become delinquent; and the city reserves the right to discontinue service. Discontinuance of service is governed in §§ 51.15 through 51.20 of this title. 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 or her 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.

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(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 non-residential 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 chapter 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.

(2002 Code, § 82-83) (Ord. 97-22, passed 10-28-1997; Ord. 99-8, passed 8-17-1999; Ord. 2009-23, passed 11-17-2009)

52.14 – Ref. Penalty (for all penalties please refer to 51.99)

~~CHAPTER 53: GAS SYSTEM~~~~Section~~

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- ~~53.03 Rates; reasonable~~
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- ~~53.18 Records; accurate~~
- ~~53.19 Customers; right to appear at hearing~~
- ~~53.20 Retroactive application prohibited~~

~~Statutory reference:~~

~~Municipal Natural Gas Regulation Act, see Neb. RS 19-4601 et seq.~~

~~§ 53.01 DEFINITIONS.~~

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

~~**AREA RATE.** 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.** 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.* Those calendar days not subject to suspension as provided for in the Municipal Natural Gas Regulation Act.~~

~~— *CUSTOMER.* Any non-interruptible purchaser of natural gas within a municipality with requirements of less than 100,000 cubic feet of natural gas per day.~~

~~— *DATE OF FILING.* 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.* 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 one hundred eightieth day, counted as provided in § 53.06 of this chapter, whichever comes first.~~

~~— *DISTRICT COURT.* The District Court of the county.~~

~~— *JUDICIAL REVIEW.* Is not limited to injunctive relief and other equitable relief.~~

~~— *INTERIM RATES.* The newly filed rates charged by a utility for natural gas after the ninetieth countable day following the date of filing, but prior to final action by the city on the rate filing.~~

~~— *MUNICIPALITY.* 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.* Either unmixed natural gas or any mixture of natural gas with one or more artificial gases and other hydrocarbons.~~

~~— *RATE.* 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 any rules affecting any such compensation, charge, fare, toll, tariff, rental, late payment charge or classification.~~

~~— *RATE AREA.* The municipalities within a geographic area within the state which is properly established under § 53.05 of this chapter 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.* The format application by a utility for a change in rates, together with the information required by § 53.09(B) of this chapter.~~

~~— *TEST YEAR.* 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. Any investor owned utility maintaining and operating a natural gas distribution system within a municipality in the state.~~

~~(2002 Code, § 82-311)~~

~~Statutory reference:~~

~~Related provisions, see Neb. RS 19-4602~~

~~§ 53.02 MUNICIPAL AUTHORITY AND POWER.~~

~~A utility shall be subject to:~~

~~(A) 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;~~

~~(B) All provisions of this chapter; and~~

~~(C) When not inconsistent with divisions (A) or (B) above, the provisions of any validly executed franchise agreement.~~

~~(2002 Code, § 82-312)~~

~~Statutory reference:~~

~~Related provisions, see Neb. RS 19-4603~~

~~§ 53.03 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 division (C) below 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 § 53.10 of this chapter.~~

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

~~(2002 Code, § 82-313)~~

~~Statutory reference:~~

~~Related provisions, see Neb. RS 19-4604~~

~~§ 53.04 RATE SCHEDULES.~~

~~(A) 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.~~

~~(2002 Code, § 82-314)~~

~~(B) (1) *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, Neb. RS 19-4601 et seq.~~

~~(2) *Firm gas service rates.*~~

~~(a) 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.~~

	<i>Amount</i>
Commercial Customers	
Monthly customer charge	\$6
Rate per 100 cubic feet	\$0.3967
Residential Customers	
Monthly customer charge	\$54
Rate per 100 cubic feet	\$0.3892

~~(b) The rates given in division (B)(2)(a) above apply only when bills are paid on or before 15 days after the monthly billing date. When not so paid, a 10% late fee will apply.~~

~~(c) These rates shall be understood to be based upon natural gas of the British thermal unit (Btu) heating value of 1,000 Btus 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 Btus, the volumes of gas billed to the customers during that month shall be multiplied by the factor of average heating value in Btus divided by 1,000 to adjust for the variance.~~

~~(3) *Adjustment for cost of purchased gas.*~~

~~(a) 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 division (B)(2) above 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.~~

~~————— (b) 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.~~

~~————— (4) 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 division (B)(2) above so as to offset such impositions of such increase.~~

~~————— (5) 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.~~

~~————— (6) Interruptible gas service rate.~~

~~————— (a) 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.~~

~~————— (b) 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.~~

~~(2002 Code, § 82-332)~~

~~Statutory reference:~~

~~———— Related provisions, see Neb. RS 19-4605~~

~~§ 53.05 RATE AREA; NOTICE~~

~~———— (A) Except as provided in division (E) below, each utility providing service to customers within a municipality in the 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) (1) 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.~~

~~———— (2) 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.~~

~~———— (3) Rejection of the boundaries may be appealed by the utility to the District Court.~~

~~———— (4) 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 chapter 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 1-1-1992, or in the first rate case filed after such date by the utility under § 53.09(A) of this chapter.~~

~~———— (E) (1) Any utility proposing to increase rates on any area-wide basis within 90 days of the effective date of the ordinance from which this chapter 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 chapter 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 division (A) above be made later than the date of filing of the rate filing.~~

~~———— (2) Nothing in this division (E) shall suspend the time periods provided for in § 53.06 of this chapter from the date of the rate filing. Rate filings under this division (E) shall not be subject to § 53.07 of this chapter; except that, a utility shall provide as much prior notice of a proposed rate filing as it reasonably can.~~

~~(2002 Code, § 82-315)~~

~~Statutory reference:~~

~~———— Related provisions, see Neb. RS 19-4606~~

~~§ 53.06 INTERIM RATES.~~

~~———— (A) (1) 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.~~

~~— (2) 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 § 53.05 of this chapter, 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 division (D) below.~~

~~— (D) Any amounts refunded pursuant to this section shall bear interest fixed at a rate equal to one and one-half percentage points above the rate, calculated pursuant to Neb. RS 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.~~

~~(2002 Code, § 82-316)~~

~~Statutory reference:~~

~~— Related provisions, see Neb. RS 19-4607~~

~~§ 53.07 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 chapter 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.~~

~~(2002 Code, § 82-317)~~

~~Statutory reference:~~

~~— Related provisions, see Neb. RS 19-4608~~

~~§ 53.08 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 § 53.06 of this chapter. 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 § 53.06(E) of this chapter 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 Neb. RS 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 division (B) above. The municipality may initiate an action to change the purchased natural gas supply cost adjustment rate schedules under § 53.16 of this chapter. (2002 Code, § 82-318)~~

~~Statutory reference:~~

~~— Related provisions, see Neb. RS 19-4609~~

~~§ 53.09 RATE FILING; FEE, APPEAL, INFORMATION REQUIRED.~~

~~— (A) (1) 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 division (B) below.~~

~~— (2) 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.~~

~~— (3) Within 45 days after the date of filing, a municipality may reject a rate filing only on~~

~~the grounds that the information required by division (B) below 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 § 53.06 of this chapter 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.~~

~~———— (4) The utility may appeal from the decision of the municipality rejecting a rate filing. The appeal shall be to the District Court.~~

~~———— (5) 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 § 53.06 of this chapter, 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 § 53.06 of this chapter shall run from the date of filing.~~

~~———— (B) 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;~~

~~———— (a) Using natural gas rates currently in effect; and~~

~~———— (b) Using proposed natural gas rates.~~

~~———— (3) Except as provided in § 53.11 of this chapter, rate base schedules showing beginning and ending balances for the base year and test year of:~~

~~———— (a) Utility plant and accumulated depreciation and amortization showing the balances by functional account totals;~~

~~———— (b) Working capital, showing the manner in which it is calculated;~~

~~———— (c) Other rate base components; and~~

~~———— (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:~~

~~———— (a) Long term debt, preferred stock and common equity amounts, ratios and percentage cost rates for the base year and test year; and~~

~~———— (b) Long term debt, preferred stock and common equity amounts at the beginning and end of the base year and test year.~~

~~———— (6) Operating revenue schedules showing:~~

~~———— (a) Number and classification of customers, volume of sales and operating revenue by customer classes for the base year on an unadjusted basis; and~~

~~———— (b) Number and classification of customers, volume of sales and operating revenue by customer classes for the test year on a normalized basis:~~

~~———— 1. Using current rates; and~~

~~———— 2. Using proposed rates.~~

~~(2002 Code, § 82-320)~~

~~Statutory reference:~~

~~———— Related provisions, see Neb. RS 19-4610, 19-4611~~

~~§ 53.10 COST OF SERVICE; DETERMINATION.~~

~~———— (A) The municipality, in the exercise of its power under this chapter 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, long term 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.~~

~~(2002 Code, § 82-321)~~

~~Statutory reference:~~

~~—Related provisions, see Neb. RS 19-4612~~

~~§ 53.11 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 § 53.09(B)(3) of this chapter 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.~~

~~(2002 Code, § 82-322)~~

~~Statutory reference:~~

~~—Related provisions, see Neb. RS 19-4613~~

~~§ 53.12 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 division (C) below, failure to so respond shall suspend the running of the 180-day time period provided for in § 53.06 of this chapter 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 § 53.06 of this chapter 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.~~

~~(2002 Code, § 82-323)~~

~~Statutory reference:~~

~~— Related provisions, see Neb. RS 19-4614~~

~~§ 53.13 RATE INCREASE; NOTICE TO PUBLIC.~~

~~— (A) Notice of filings for any rate increase under this chapter 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 § 53.14 of this chapter, 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 or her right to attend the hearing and to appear, participate and present testimony.~~

~~(2002 Code, § 82-324)~~

~~Statutory reference:~~

~~— Related provisions, see Neb. RS 19-4615~~

~~§ 53.14 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 § 53.15 of this chapter 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 chapter 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 § 53.15 of this chapter. 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 one hundred twenty eighth 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) (1) 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.~~

~~(2) 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.~~

~~(3) 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 § 53.06 of this chapter.~~

~~(2002 Code, § 82-325)~~

~~Statutory reference:~~

~~Related provisions, see Neb. RS 19-4616~~

~~§ 53.15 LOAN FUND; APPLICANTS.~~

~~(A) (1) 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 State 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 division (A). The rules and regulations shall include:~~

~~(a) Loan application procedures and forms; and~~

~~(b) Fund use monitoring and quarterly accounting of Fund use.~~

~~(2) 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 area wide 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 chapter, expert witnesses and any other necessary costs related to the~~

~~conduct and administration of the hearing provided for in § 53.14(D) of this chapter. One loan may be made under this division (A)(2) to each rate area, and such loan shall be made to the applicant representing the largest number of customers. All loans made under this division (A)(2) 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 the 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 Neb. RS 72-1237 through 72-1269, if the Fund balance exceeds \$400,000, 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) (1) 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.~~

~~—(2) 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.~~

~~(2002 Code, § 82-326)~~

~~Statutory reference:~~

~~—Related provisions, see Neb. RS 19-4617~~

~~§ 53.16 REVIEW AND ADJUSTMENTS.~~

~~—(A) (1) 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 § 53.10 of this chapter 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 § 53.09(B) of this chapter 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 § 53.09(B) of this chapter, the municipality may make additional requests as provided in § 53.12 of this chapter. The utility shall be provided with a copy of any reports and analyses prepared for the municipality in its consideration of a rate adjustment.~~

~~—(2) To the fullest extent possible, the general procedures provided for in § 53.14(A) through (F) of this chapter 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 § 53.09(B) of this chapter and not from the date of filing. Nothing in this~~

~~division (A) 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.~~

~~==== (3) The provisions of § 53.06(E) of this chapter shall be applicable to this section.~~

~~==== (B) (1) Except as provided in this chapter, 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 § 53.15 of this chapter for such purposes. If the utility initiates 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.~~

~~==== (2) If appropriate resolutions are adopted by municipalities representing 70% 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 § 53.15 of this chapter.~~

~~==== (C) Any municipality or combination of municipalities within a rate area which determines from the filings made by a utility pursuant to Neb. RS 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.~~

~~(2002 Code, § 82-327)~~

~~§ 53.17 CIVIL PROCEDURE.~~

~~==== To the extent not inconsistent with the provisions of this chapter, the rules of civil procedure and discovery shall apply. Review of the decisions of the District Court under this chapter shall be by appeal to the Supreme Court.~~

~~(2002 Code, § 82-328)~~

~~Statutory reference:~~

~~==== Related provisions, see Neb. RS 19-4619~~

~~§ 53.18 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.~~

~~(2002 Code, § 82-329)~~

~~Statutory reference:~~

~~— Related provisions, see Neb. RS 19-4621~~

~~§ 53.19 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 § 53.14 of this chapter 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 § 53.14(A) of this chapter. All customers shall be provided with notice of these rights, which notice shall be provided by the utility in the notice required by § 53.13 of this chapter.~~

~~(2002 Code, § 82-330)~~

~~Statutory reference:~~

~~— Related provisions, see Neb. RS 19-4622~~

~~§ 53.20 RETROACTIVE APPLICATION PROHIBITED.~~

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

~~(2002 Code, § 82-331)~~

~~Statutory reference:~~

~~— Similar provisions, see Neb. RS 19-4623~~

CHAPTER 54: WATER SYSTEM

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§ 54.001 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~~ **his or her agent**. The duties and responsibilities of the ~~Superintendent~~ **Agent** 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~~ **City Administrator, as Water Commissioner**, shall have the direct management and control of the City Water Division and shall faithfully carry out the duties of his or her office. **He or she** ~~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.

(2002 Code, § 82-142) (Ord. 97-5, passed 3-25-1997)

Statutory reference:

Authority to set rates for water service, see Neb. RS 16-681

§ 54.002 DEFINITIONS.

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

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

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

SERVICE PIPE. Any pipe extending from the 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. 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.

(2002 Code, § 82-143)

WATER COMMISSIONER shall mean the City Administrator or his or her agent.

§ 54.003 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 or she 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.
(2002 Code, § 82-144)

§ 54.004 WATER CONTRACTS; WATER SERVICE.

(A) 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 chapter 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 or her 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 or her agent.
(2002 Code, § 82-145)

(B) Contracts for water service are not transferable. Any person wishing to change from one location to another ~~shall~~ **may be required to** 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 or she 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 or she shall be charged for all water used on the premises until the Water Commissioner is otherwise advised of such circumstances.
(2002 Code, § 82-170)

Statutory reference:

Authority to set water rates, see Neb. RS 16-681

§ 54.005 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. **All excavations are subject to Sec. 91.079.**

(2002 Code, § 82-146)

Statutory reference:

Authority to require connections, ~~see Neb. RS 16-667~~

§ 54.006 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~~ **Water Commissioner** or his or her 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.

(2002 Code, § 82-147)

§ 54.007 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 or her authorized agent to do so forthwith, water service may be cut off at the curbstop **or at the main.**

(2002 Code, § 82-148)

§ 54.008 CITY EQUIPMENT.

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

CITY. The water distribution system of the city.

CUSTOMER. Any person taking water service from the city.

RESIDENCE. The premises where the customer lives, such as a dwelling, trailer, apartment or unit of a multi-family 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, non-payment 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 two and one half 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~~ **two years or 24 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 ~~§§ 51.15 through 51.20~~ **Chapter 51** of this code. 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 or her 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 non-residential (single family residence) uses, including combined residential and commercial uses. (2002 Code, § 82-155) (Ord. 97-22, passed 10-28-1997)~~

§ 54.009 RESIDENTIAL AND COMMERCIAL RATES.

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

(2002 Code, § 82-156)

§ 54.010 SPECIAL WATER USE.

(A) The term *SPECIAL WATER USE* shall mean any non-polluting (i.e., not in violation of governmental laws or regulations) non-domestic use of water by a customer.

(B) 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; and/or
- (5) General outdoor cleanup.

(2002 Code, § 82-157)

§ 54.011 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 §§ 54.003 and 54.004(A) of this chapter.

(2002 Code, § 82-158)

§ 54.012 SPECIAL USE WATER RATE.

Upon compliance with §§ 54.010, 54.011 and 54.041(A) of this chapter, the special use water rate, established by resolution, shall be applicable.

(2002 Code, § 82-160)

§ 54.013 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 or she shall not be liable thereafter for water rental until the water is turned on again.

(2002 Code, § 82-161)

§ 54.014 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.

(2002 Code, § 82-163)

Statutory reference:

Related provisions, see Neb. RS 16-682

§ 54.015 SINGLE PREMISES.

No consumer shall supply water to other families, or allow them to take water from his or her premises; nor after water is supplied into a building shall any person make or employ a plumber or other person to make a tap or connection with the pipe upon the premises for alteration, extension or attachment without the written permission of the Water 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.

(2002 Code, § 82-164) Penalty, see § 54.999

§ 54.016 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.

(2002 Code, § 82-165)

§ 54.017 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~~ **persons authorized by the** Fire Chief, ~~the Assistant Fire Chief or members of the Water Division~~ **or Water Commissioner or their agent** 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.
(2002 Code, § 82-166) Penalty, see § 54.999

§ 54.018 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.
(2002 Code, § 82-167) Penalty, see § 54.999

§ 54.019 MANDATORY HOOKUP; FEE.

(A) All persons within 300 feet of a water main and located within the corporate limits of the city shall be required, upon notice by the Council, to hook up with the city water system.
(2002 Code, § 82-168)

(B) (1) 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.

(2) The hookup fee for non-residential 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.
(2002 Code, § 82-169)
(Ord. 2006-14, passed 6-27-2006)

§ 54.020 INSPECTION.

The Water Commissioner or his or her duly authorized agents shall have free access, at any reasonable time, to all parts of each premises and building to, or in which water is delivered for the purpose of examining the pipes, fixtures and other portions of the system to ascertain whether there is any disrepair or unnecessary waste of water.
(2002 Code, § 82-171)

§ 54.021 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.
(2002 Code, § 82-172)

§ 54.022 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.

(2002 Code, § 82-173) Penalty, see § 54.999

§ 54.023 LICENSED PLUMBER; PERMIT REQUIRED.

(A) 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.

(B) 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.

(2002 Code, § 82-174) Penalty, see § 54.999

~~**§ 54.024 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.~~~~(2002 Code, § 82-175)~~***METERS*****§ 54.035 INSTALLATION EXPENSE.**

(A) The city will furnish a $\frac{3}{4}$ inch by $\frac{3}{4}$ inch water meter and remote readout or the value of the meter and readout. **The cost of installation shall be paid by the consumer.**

(B) If the consumer requires a larger size water meter than $\frac{3}{4}$ inch by $\frac{3}{4}$ inch, the cost of installing the water meter and remote meter readout shall be paid by the consumer.

(2002 Code, § 82-149)

§ 54.036 REPLACEMENT AND REPAIR.

All replacements and repairs to water meters, that are ~~one 3/4 inch by one 3/4 inch in size or smaller, and other required meter apparatus,~~ shall be **the responsibility of the city and made at the city's expense by the city if there is an operable indoor valve to isolate the meter.** All replacements and repairs to water meters, that are larger than ~~one 3/4 inch by one 3/4 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.

(2002 Code, § 82-150)

§ 54.037 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~~ **Water Commissioner** or his or her 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~~ **Water Commissioner** or his or her authorized agent.

(2002 Code, § 82-151)

§ 54.038 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~~ **Water Commissioner** or his or her authorized agent.

(2002 Code, § 82-152)

§ 54.039 TESTING.

Any consumer of water from the city water system shall have the right to request the ~~City Clerk~~ **Water Commissioner**, 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~~ **duty** of the ~~City Clerk~~ **Water Commissioner** or his or her authorized agent, at the consumer's expense, to test the water meter as requested.

(2002 Code, § 82-153)

§ 54.040 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.

(2002 Code, § 82-154)

§ 54.041 BILLING.

(A) 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.

(2002 Code, § 82-159)

(B) (1) Meters shall be so set that the dial or face of the meter shall be easily accessible to the Water Commissioner or his or her agent when reading or testing the meter **or a remote reader shall be provided. Meters and** shall be located in meter pits or the basement, **and 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 **consumer's** 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 fifteenth day and the twenty-eighth 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.

(2) All meters shall be tested at the customer's request at the expense of the customer any reasonable number of times; provided that, if the test shows the water meter to be running 2% or more fast, the expense of such test shall be borne by the 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.

(2002 Code, § 82-162)

Statutory reference:

*Authority to assess and collect reasonable charges for use of the waterworks system, see
Neb. RS 16-682*

GROUND WATER MANAGEMENT**~~§ 54.055 PURPOSE.~~**

~~The city finds, recognizes and declares that the conservation of ground water 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 ground water in the city and the areas within the zoning jurisdiction of the city is essential to the development of the sound ground water policy. The ground water in the geographic area around the city is declining, and shortages of ground water may occur; and the public interest demands the implementation of management practices to conserve ground water supplies and to prevent its inefficient or improper use. The registration of all wells within the zoning jurisdiction of the city shall be required.~~

~~(2002 Code, § 82-186)~~

~~Statutory reference:~~

~~Related provisions, see Neb. RS 46-656~~

~~State Ground Water Management and Protection Act, see Neb. RS 46-656 et seq.~~

§ 54.056 DEFINITIONS.

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

CONSTRUCTION OF A WELL. Boring, drilling, jetting, digging or excavation, and installing casing, pumps and other devices for withdrawing or facilitating the withdrawal of ground water.

GROUND WATER. The water which occurs or moves, seeps, filters or percolates through ground water under the surface of the land.

ILLEGAL WELL.

(1) Any well operated or constructed without or in violation of a permit required by the provisions of this subchapter;

~~(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. A natural person, partnership, association, corporation, municipality, irrigation district and any agency or political subdivision of the state.

POLLUTION OF GROUND WATER. Contamination or other alteration of the natural quality of such water, however caused, including contamination by salines, minerals, industrial wastes or sewage.

WELL. Any artificial opening or excavation in the ground through which ground water flows under natural pressure or is artificially withdrawn.

(2002 Code, § 82-187)

Statutory reference:

Similar definitions, see Neb. RS 46-656.07

§ 54.057 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 GROUND WATER** shall mean all uses of ground water required for human needs as it relates to health, fire control and sanitation.

(2002 Code, § 82-188)

Statutory reference:

Related provisions, see Neb. RS 46-613

§ 54.058 WELLS PROHIBITED.

It shall be unlawful for any person, other than the city, to have a well, construct a well, **or** repair a well ~~or pollute the ground water~~ within the city limits. ~~; however, Any~~ existing non-conforming well shall be ~~allowed to continue until 1-1-1995 and, on 1-1-1995, such non-conforming well shall be~~ terminated and abandoned.

(2002 Code, § 82-189) Penalty, see § 54.999

§ 54.059 REGISTRATION.

(A) All persons having a well within the zoning jurisdiction of the city, as prescribed by Neb. RS 16-901, shall register such well with the City Clerk. ~~within 90 days after the effective date of the ordinance from which this subchapter derives.~~

(B) 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.

(2002 Code, § 82-190)

Statutory reference:

Related provisions, see Neb. RS 46-638

§ 54.060 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.

(2002 Code, § 82-191)

§ 54.061 PERMIT FEES.

The completed application for a well in which a pump of ~~less than 100~~ **50** gallons per minute ~~or less~~ 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 non-refundable 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's ~~designee~~ **Engineer**, shall be accompanied by the current non-refundable permit application fee. Each completed application in which a pump of ~~100~~ **over 50** gallons per minute capacity ~~or more~~ is to be installed, or the well is to be used for any non-domestic use, shall be accompanied by the current non-refundable permit application fee.

(2002 Code, § 82-192)

§ 54.062 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 **any** well in which a pump of ~~100~~ **over 50** gallons per minute capacity ~~or more~~ is to be installed, or the well is to be used for any non-domestic 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.

(2002 Code, § 82-193)

§ 54.063 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 § 54.065 of this chapter. 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.

(2002 Code, § 82-196) Penalty, see § 54.999

§ 54.064 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 or her authorized representative.

(2002 Code, § 82-197) Penalty, see § 54.999

§ 54.065 WATER USE RESTRICTIONS.

If the Mayor declared the existence of an emergency, he or she shall impose restrictions as provided in Phases 1 through IV as hereinafter set forth.

(A) *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.

(B) *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.

(C) *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.

(D) *Phase IV.* Termination of all 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.

(2002 Code, § 82-198)

§ 54.066 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~~ **does**

not comply with 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.~~ **Failure to comply with the water use restrictions is punishable by Section 10.99.**

(2002 Code, § 82-199)

§ 54.067 WELLHEAD PROTECTION AREA DESIGNATION.

(A) **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 to the ordinance codified herein.

(2002 Code, § 82-200) (Ord. 2001-17, passed 10-30-2001)

§ 54.068 DRILLING AND OPERATING WELLS AND 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.

(2002 Code, § 82-201) (Ord. 2001-17, passed 10-30-2001) Penalty, see § 54.999

§ 54.069 UTILIZING THE GEOTHERMAL PROPERTIES OF THE GROUND.

In the event a geothermal well is drilled, **a closed loop system – drilled well shall be** ~~the following are~~ required **with the following conditions:**

~~(A) Closed loop system – drilled well.~~

- (1) Joints must be made by heat fusion.
- (2) Antifreeze must be food grade substance.
- (3) Wells must be sealed from bottom to top with a cement slurry.
- (4) Piping will consist of polybutylene or polyethylene pipe.
- (5) Will be located no closer than 100 feet to the city's drinking water source.

~~(B) Cased well pump and injection well system.~~

~~(1) Both wells must be registered with State Health and Human Services Department and Natural Resources District.~~

~~(2) Both wells must comply with all state and NRD regulations.~~

~~(3) Property owner must sign permanent and recorded access agreement with city 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) Withdrawing well must be located at least 1000 feet from any city owned well.~~

~~(5) Injection well must be located at least 1000 feet from any city owned well.~~

~~(6) Property owner must sign permanent and recorded agreement with city to abandon the injection well in accordance with State HHS standards and at his or 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) 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) All of the above agreements by the owner must be recorded and transferable to all future property owners.~~

(2002 Code, § 82-202) (Ord. 2001-17, passed 10-30-2001; Ord. 2005-23, passed 8-30-2005)

§ 54.070 PROCEDURE TO OBTAIN PERMIT.

In order to obtain a permit to drill and/or operate any of the facilities listed in §§ 54.067 and 54.068 of this chapter, 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~~ **Water Commissioner**. After reviewing the application of any person desiring to drill or operate any of the above-described facilities, the ~~City Council~~ **Water Commissioner** must approve or deny said permit.

(2002 Code, § 82-203) (Ord. 2001-17, passed 10-30-2001)

§ 54.071 DRILLING OR INSTALLING OTHER FACILITIES WITHIN DESIGNATED DISTANCE FROM MUNICIPAL WATER SOURCES PROHIBITED.

(A) 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:

Wayne - Public Works

- (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; and
- (16) Sewage wet well: within 500 feet.

(B) These footages are taken from Neb. **Dept. of Health & Human Services**, Title 179, Ch. 2, and will change automatically if said ~~title footages~~ **provisions** are revised.
(2002 Code, § 82-204) (Ord. 2001-17, passed 10-30-2001)

BACKFLOW PREVENTION**§ 54.085 TITLE.**

This subchapter shall be known as the “Backflow Prevention Ordinance.”
(2002 Code, § 82-211)

§ 54.086 DEFINITIONS.

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

AIR GAP SEPARATION. The unobstructed vertical distance through the free atmosphere between the lowest opening 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.

ANTI-SIPHON VACUUM BREAKER. 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. A backflow prevention device or method has been accepted by the Water Commissioner as being suitable for the intended use.

AUXILIARY WATER SYSTEM. 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. 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. 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, anti-siphon vacuum breaker or reduced pressure principle devices can be used which have been approved by the Water Commissioner.

CONSUMER. 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. 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 and the like, is considered to be a **CONSUMER'S WATER SUPPLY SYSTEM**.

CONTAMINATION. 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. Any arrangement whereby contamination due to backflow or backsiphonage can occur.

DEGREE OF HAZARD. Derived from an evaluation of the potential risk to health and the adverse effects upon the potable water system.

DOUBLE CHECKVALVE ASSEMBLY. An assembly composed of two single, independently acting, checkvalves, including 100% closing shutoff ball valves located at each end of the assembly and suitable connections for testing the water-tightness of the consumer.

HEALTH HAZARD. 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. An arrangement or device that will allow alternate but not simultaneous uses or two sources of water.

LICENSED PLUMBER. A person which has obtained the appropriate permit or registration from the city to perform plumbing-related work within the city limits.

NON-POTABLE WATER. 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. The state, any political subdivision, public or private corporation, individual, partnership or other legal entity.

PLUMBING HAZARD. 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. 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. 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. 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. 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. 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% closing shutoff ball valves located at each end of the device, and each device shall be fitted with properly located test cocks.

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

SYSTEM HAZARD. 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. 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. The City Administrator or his or her authorized representative.
(2002 Code, § 82-212)

§ 54.087 RESPONSIBILITY.

The consumer, if requested by the ~~Water Commissioner~~ **City Administrator**, 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 subchapter. Any change in assigned responsibilities or designated individuals shall be promptly reported to the Water Commissioner.
(2002 Code, § 82-213)

§ 54.088 POLICY AND PURPOSE.

(A) The purpose of this subchapter is to protect the public water supply system of the city from the possibility of contamination by isolating real or potential sources of contamination or pollution which may backflow into the public water supply system. This subchapter 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 subchapter. 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 be considered in violation of this subchapter and will be subject to disconnection of the service as provided in § 54.999.

(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 subchapter, and as required by the laws and regulations of the State Department of Health and Human Services.

(D) For the purposes of this subchapter, 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 subchapter, any other applicable provisions of this code, and state and federal law.

(2002 Code, § 82-214) Penalty, see § 54.999

§ 54.089 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 or her 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 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 § 54.090 of this chapter.

(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 § 54.090 of this chapter.

(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 (D) 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.
(2002 Code, § 82-215)

§ 54.090 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 correctable, 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; and

(5) Premises having more than one customer service connection which could constitute a potential cross-connection.

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(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 storm water pumping stations;
- (4) Food or beverage processing plants;
- (5) Chemical plants;
- (6) Metal decreasing, 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) Packinghouse;
- (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) Multi-storied 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.
(2002 Code, § 82-216)

§ 54.091 TYPE OF PROTECTION REQUIRED.

(A) The type of protection required under § 54.090(A) and (B) of this chapter 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.

(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 anti-siphon 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.
(2002 Code, § 82-217)

§ 54.092 BACKFLOW PREVENTION DEVICES.

(A) Any approved backflow prevention device required by § 54.090 of this chapter shall be installed at a location and in a manner approved by the Water Commissioner. The consumer, at his or her 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 subchapter derives and which are properly maintained shall, except for inspection, testing and maintenance requirements, be excluded from the requirements of division (A) above, but only if the Water Commissioner determines that the devices will satisfactorily protect the public water supply system; and 100% 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.

(2002 Code, § 82-218)

§ 54.093 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.

(2002 Code, § 82-219) Penalty, see § 54.999

§ 54.094 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 ground water 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 anti-siphon vacuum breaker.

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

(2002 Code, § 82-220) Penalty, see § 54.999

§ 54.095 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 divisions (B) or (C) above, 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.

(2002 Code, § 82-221)

§ 54.096 APPROVAL STANDARDS.

(A) (1) Any backflow prevention device required in this subchapter 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:

(a) No. 1001 Pipe Applied Atmospheric Type Vacuum Breakers, ANSI Approved 1982, Revised 1988;

(b) No. 1011 Hose Connection Vacuum Breakers, ANSI Approved 1982;

(c) No. 1012 Backflow Preventer/Intermediate Atmospheric Vent, 1978;

(d) No. 1013 Reduced Pressure Principle Backflow Preventer, Revised 1988;

(e) No. 1015 Double Check Backflow Prevention Assembly, Revised 1988;

(f) No. 1019 Wall Hydrants, Freezeless, Automatic Draining, Anti-Backflow Types, ANSI Approved 1978;

(g) No. 1020 Vacuum Breakers, Anti-Siphon, Pressure Type, ANSI Approved 1982;

(h) No. 1024 Dual Check Valve Type Backflow Preventers, ANSI Approved 1984, Revised 1988;

(i) No. 1035 Laboratory Faucet Vacuum Breakers, ANSI Approved 1984; and

(j) No. 1948 Double Check Detector Assembly Backflow Preventer, 1989.

(2) 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.

(2002 Code, § 82-223)

§ 54.097 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 subchapter, or by reason of any act or omission of the Water Commissioner in the discharge of his or her duties under this subchapter. Any suit brought carrying out the provisions of this subchapter shall be defended by the city, or the city's insurance carrier, if any, through final determination of such proceeding.

(2002 Code, § 82-224)

§ 54.999 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99 of this code.

(B) (1) Any person who violates any of the provisions of §§ 54.055 through 54.066 of this chapter shall be deemed guilty of a misdemeanor and, upon conviction, shall be punished pursuant to § 10.99 of this code.

(2002 Code, § 82-194)

(2) If any well is planned or constructed in violation of §§ 54.055 through 54.066 of this chapter, the city, in addition to all civil remedies, may institute appropriate action to prevent such unlawful construction and to prevent the use of such well, including injunctive relief.

(2002 Code, § 82-195)

(C) Any person, corporation or other legal entity found violating any provision of §§ 54.067 through 54.071 of this chapter shall be subject to a fine, not to exceed \$100. The continuation of a

violation of §§ 54.067 through 54.071 of this chapter 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 or other authority having jurisdiction over such matters.

(2002 Code, § 82-205)

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

(a) Any backflow prevention device required by §§ 54.085 through 54.097 of this chapter is not installed or maintained in a manner acceptable to the Water Commissioner;

(b) It is found that the backflow prevention device has been removed or bypassed;

(c) An unprotected cross-connection exists on the premises;

(d) A low-pressure cutoff required by § 54.093 of this chapter is not installed and maintained in working order; or

(e) The Water Commissioner is denied entry to determine compliance with §§ 54.085 through 54.097 of this chapter.

(2) 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.

(3) Water service to such premises shall not be restored until the consumer has corrected or eliminated such conditions or defects in conformance with §§ 54.085 through 54.097 of this chapter and to the satisfaction of the Water Commissioner.

(2002 Code, § 82-222)

(Ord. 2001-17, passed 10-30-2001)

CHAPTER 55: SEWER SYSTEM

Section

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§ 55.01 OPERATING 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~~ **his or her agent**. The duties and responsibilities of the ~~Superintendent~~ **Agent** 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~~ **Sewer Commissioner or his or her agent** shall have the direct management and control of the Sewer Department and shall faithfully carry out the duties of his or her office. He or she 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.

(2002 Code, § 82-261) (Ord. 97-5, passed 3-25-1997)

§ 55.02 DEFINITIONS.

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

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

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

BUILDING SEWER. The extension from the building drain to the public sewer or other place of disposal.

COMBINED SEWER. A sewer receiving both surface runoff and sewage.

GARBAGE. Solid wastes from the domestic and commercial preparation, cooking and dispensing of food, and from the handling, storage and sale of produce.

INDUSTRIAL WASTES. The liquid wastes from industrial manufacturing processes, trade or business as distinct from sanitary sewage.

NATURAL OUTLET. Any outlet into a watercourse, pond, ditch, lake or other body of surface water or ground water.

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

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

PROPERLY SHREDED GARBAGE. 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. A sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.

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

SANITARY SEWER. A sewer which carries sewage and to which storm waters, surface waters and ground waters are not intentionally admitted.

SEWAGE. A combination of the water-carried wastes from residences, business buildings, institutions and industrial establishments, together with such ground waters, surface waters and storm waters as may be present.

SEWAGE TREATMENT PLANT. Any arrangement of devices and structures used for treating sewage.

SEWER. A pipe or conduit for carrying sewage.

SEWER COMMISSIONER. City Administrator or his or her designee.

SEWER SYSTEM. All facilities for collecting, pumping, treating and disposing of sewage.

SLUG. 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.** A sewer which carries storm waters and surface waters and drainage, but excludes sewage and industrial wastes, other than unpolluted cooling water.

SUPERINTENDENT. The Water/Wastewater Superintendent of the city or his or her authorized deputy, agent or representative.

SUSPENDED SOLIDS. 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. 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. The estimated period during which a treatment works shall be operated.

WATERCOURSE. A channel in which a flow of water occurs either continuously or intermittently.

(2002 Code, § 82-262) (Ord. 97-5, passed 3-25-1997)

§ 55.03 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 chapter 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~~ **Sewer Commissioner** or his or her agent may cut off or disconnect the sewer service from the building or premises of such violation. No further connection for sewer service to such building or premises shall again be made save or except by order of the ~~Superintendent~~ **Sewer Commissioner** or his or her agent.

(2002 Code, § 82-263)

§ 55.04 SERVICE CONTRACTS.

(A) Contracts for sewer service are not transferable.

(B) Any person wishing to change from one location to another ~~shall~~ **may be required to** make a new application and sign a new contract.

(C) If any customer shall move from the premises where service is furnished, or if the premises is destroyed by fire or other casualty, he or she shall at once inform the Sewer Commissioner, ~~who shall cause the sewer service to be shut off from the premises.~~ If the customer should fail to give notice,

he or she shall be charged for that period of time until the official in charge of sewers is otherwise advised of such circumstances.

(2002 Code, § 82-264)

§ 55.05 INSTALLATION EXPENSE.

The customer, upon approval of the application for sewer service, shall pay to the City Clerk any fees as required by § 54.019(B) of this code. 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.

(2002 Code, § 82-265)

§ 55.06 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.

(2002 Code, § 82-266)

§ 55.07 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.

(2002 Code, § 82-267)

Statutory reference:

Authority to make rules and regulations, see Neb. RS 18-503

§ 55.08 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 § 55.09 of this chapter.

(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~~ **Sewer Commissioner** and approved by the Council.

(E) The user charge system shall generate adequate revenues to pay the 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) The 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 non-elapsing 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, 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; and

(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. (2002 Code, § 82-268)

§ 55.09 RATES.

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

(A) *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.

(B) *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.

(C) *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.

(D) *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.

(E) *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.

(F) *Rates.* The sewer service and user rates shall be established by resolution.

(G) *Applicability.* The charge shall be levied to each property served by the sanitary sewer system, regardless of location. (2002 Code, § 82-269)

Statutory reference:

Authority to set rates for the use of the sewer system, see Neb. RS 18-503

§ 55.10 SERVICE DEPOSIT.

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(A) 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.

(B) 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.

(2002 Code, § 82-270)

§ 55.11 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) (1) 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.

(2) 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 §§ 51.15 through 51.20 of this code.

(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 § 55.09 of this chapter.

(2002 Code, § 82-271)

Statutory reference:

Discontinuance of utility service, see Neb. RS 70-1601 et seq.

§ 55.12 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.

(2002 Code, § 82-272) Penalty, see § 55.99

§ 55.13 SERVICE TO NON-RESIDENTS.

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 §§ 54.019(B) of this code and 55.05 of this chapter shall apply to the applicant.

(2002 Code, § 82-273)

§ 55.14 USE OF PUBLIC SEWERS; REQUIRED.

(A) (1) 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.

(2) 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 chapter.

(3) 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.

(4) 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 or her expense, to install suitable toilet facilities and to connect such facilities directly with the proper public sewer in accordance with the provisions of this chapter, within 60 days after date of official notice to do so; provided, the public sewer is within 300 feet of the property line.

(2002 Code, § 82-274)

(B) (1) No person shall discharge or cause to be discharged any storm water, surface water, ground water, roof runoff, subsurface drainage, including interior and exterior foundation drains, uncontaminated cooling water or unpolluted industrial waters to any sanitary sewer.

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(2) Storm water 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.

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

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

(b) Any waters 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;

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

(d) Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the 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 and the like, either whole or ground by garbage grinders.

(4) 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~~ **Sewer Commissioner** 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 or her opinion as to the acceptability of these wastes, the ~~Superintendent~~ **Sewer Commissioner** 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:

(a) Any liquid or vapor having a temperature higher than 150°F (65°C);

(b) 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° and 150°F (0° and 65°C);

(c) 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~~ **Sewer Commissioner**;

(d) Any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solutions whether neutralized or not;

(e) 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~~ **Sewer Commissioner** for such materials;

(f) Any waters or wastes containing phenols or other taste- or odor-producing substances in such concentrations exceeding limits which may be established by the ~~Superintendent~~ **Sewer Commissioner** as necessary, after treatment of the composite sewage, to meet the requirements of state, federal or other public agencies of jurisdiction for such discharge to the receiving waters;

(g) Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the ~~Superintendent~~ **Sewer Commissioner** in compliance with applicable state or federal regulations;

(h) Any waters or wastes having a pH in excess of 9.5;

(i) Materials which exert or cause:

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

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

4. Unusual volume of flow or concentration of wastes constituting slugs.

(j) Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters; and/or

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(k) 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 2% of the average sewage flow of the city shall be subject to the review of the ~~Superintendent~~ **Sewer Commissioner**.

(5) Where necessary in the opinion of the ~~Superintendent~~ **Sewer Commissioner**, the owner shall provide, at his or her 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~~ **Sewer Commissioner**; and no construction of such facilities shall be commenced until such approvals are obtained in writing.

(6) 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 division (B)(4) above, and which in the judgment of the ~~Superintendent~~ **Sewer Commissioner** 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~~ **Sewer Commissioner** may:

- (a) Reject the wastes;
- (b) Require pretreatment to an acceptable condition for discharge to the public sewers;
- (c) Require control over the quantities and rates of discharge; and/or

(d) Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of division (B)(8) below.

(7) If the ~~Superintendent~~ **Sewer Commissioner** 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~~ **Sewer Commissioner**, and subject to the requirements of all applicable codes, ordinances and laws.

(8) Grease, oil and sand interceptors shall be provided when, in the opinion of the ~~Superintendent~~ **Sewer Commissioner**, 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~~ **Sewer Commissioner** and shall be located as to be readily and easily accessible for cleaning and inspection.

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

(10) When required by the ~~Superintendent~~ **Sewer Commissioner**, 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~~ **Sewer Commissioner**. The manhole shall be installed by the owner at his or her expense and shall be maintained by him or her so as to be safe and accessible at all times.

(11) All measurements, tests and analyses of the characteristics of waters and wastes to which reference is made in this chapter shall be determined in accordance with the latest edition of *Standard Methods for the Examination of Water and Wastewater*, published by the American Public Health Association, 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.)

(12) No statement contained in this subchapter 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.

(2002 Code, § 82-277)

§ 55.15 PRIVATE SEWAGE DISPOSAL.

(A) Where a public sanitary or combined sewer is not available under the provisions of § 55.14(A)(4) of this chapter, the building sewer shall be connected to a private sewage disposal system complying with the provisions of this chapter.

(B) Before commencement of construction of a private sewage disposal system, the owner shall first obtain a written permit signed by the ~~Superintendent~~ **Sewer Commissioner**. 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~~ **Sewer Commissioner**. A permit and inspection fee of \$50 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~~ **Sewer Commissioner**. He or she shall be allowed to inspect the work at any stage of construction; and, in any event, the applicant for the permit shall notify the ~~Superintendent~~ **Sewer Commissioner** 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~~ **Sewer Commissioner**.

(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 (**DHHS**). 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 chapter; 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~~ **DHHS**.

(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.

(2002 Code, § 82-275)

§ 55.16 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~~ **approval** from the ~~Superintendent~~ **Sewer Commissioner**.

~~(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 or her 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~~ **Water Commissioner**, to meet all requirements of this chapter.

(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 ground water 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 gas-tight and water-tight. Any deviation from the prescribed procedures and materials must be approved by the ~~Superintendent~~ **Water Commissioner** before installation.

(J) The applicant for the building sewer permit shall notify the ~~Superintendent~~ **Water Commissioner** 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~~ **Water Commissioner** or his or her 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.
(2002 Code, § 82-276) Penalty, see § 55.99

§ 55.17 PROTECTION FROM DAMAGE.

(A) 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.

(B) Any person violating this section shall be subject to immediate arrest under charge of disorderly conduct.
(2002 Code, § 82-278) Penalty, see § 55.99

§ 55.18 POWERS AND AUTHORITY OF INSPECTORS.

(A) The ~~Superintendent~~ **Sewer Commissioner** 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 chapter. The ~~Superintendent~~ **Sewer Commissioner** or his or her 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~~ **Sewer Commissioner** 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 herein.

(C) The ~~Superintendent~~ **Sewer Commissioner** 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. (2002 Code, § 82-279)

§ 55.19 REPAIRS AND REPLACEMENT.

(A) The ~~Superintendent~~ **Sewer Commissioner** 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) (1) 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.

(2) 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~~ **Sewer Commissioner** may cause such work to be done and assess the cost upon the property served by such connection. (2002 Code, § 82-281)

§ 55.99 PENALTY.

(A) Any person found to be violating any provision of this chapter, except § 55.14(B) of this chapter, shall be served by the city with written notice stating the nature of the violation and providing a reasonable time limit for 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, on conviction thereof, shall be punished in accordance with § 10.99 of this code.

(C) Any person violating any of the provisions of this chapter shall become liable to the city for any expense, loss or damage occasioned the city by reason of such violation.
(2002 Code, § 82-280)

