

CHAPTER 3

ARTICLE 1. WATER SYSTEM

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

The City owns and operates the City Water System through the Department of Utilities. The City Council, for the purpose of defraying the cost of the care, management, and maintenance of the Municipal Water System may each year levy a tax not exceeding the maximum limit prescribed by State law, on the actual valuation of all real estate and personal property within the corporate limits that is subject to taxation. The revenue from the said tax shall be known as the Water Fund and shall remain in the custody of the Director of Finance. The City Administrator shall have the direct management and control of the City Water System and shall faithfully carry out the duties of its office. The Utility and Infrastructure Board, through the City Administrator, shall make recommendations to the City Council, and the City Council shall have the authority to adopt rules and regulations for the sanitary and efficient management of the Water System. The City Council shall set the rates to be charged for services rendered by ordinance and shall file a copy of the rates in the office of the City Clerk for public inspection at any reasonable time.

§3-102 MUNICIPAL WATER SYSTEM; DEFINITIONS.

The following definitions shall be applied throughout this Chapter. Where no definition is specified, the normal dictionary usage of the word shall apply.

MAIN. The term "main" is hereby defined to be any pipe other than a supply or service pipe used for the purpose of carrying water to or distributing it in the City or environs.

METER RATE. The term "meter rate" is hereby defined to be the rate or price to be charged for water, based upon the quantity of water consumed on any premises as measured by a water meter, or estimated where the meter has been taken out for repair or not in working order, or for any other reason requiring an estimate to be made. This estimate shall be made on the basis of the water consumed for one (1) year prior to the estimated bill.

SERVICE. The term "service" is hereby defined to be collectively a supply pipe and a service pipe and all associated fittings and appurtenances.

SERVICE PIPE. The term "service pipe" is hereby defined to be any pipe, fittings and appurtenances which extend beyond the curb cock or valve which terminates the supply pipe.

STUB-IN. The term "stub-in" is hereby defined to be a supply pipe which is installed to or for a property, but which has no service pipe connected to it. Stub-ins are generally installed immediately prior to the paving of the street in which the main is located and before the property involved needs a water service.

SUPPLY PIPE. The term "supply pipe" is hereby defined to be any pipe tapped into a main and extending thence to the curb line of the street and including the curb cock or valve; and when used in reference to a fire system shall mean the pipe extending from the main to the wall of the building.

§3-103 MUNICIPAL WATER SYSTEM; APPLICATION FOR SERVICE; METER AND SERVICE REQUIREMENTS GENERALLY; PRORATING MONTHLY WATER BILL.

Every person desiring a supply of water from the City shall make application to the Department of Utilities for the same. Each applicant shall have the water service installed by a licensed plumber, the cost of which shall be borne by the applicant.

Not more than one (1) residence shall be supplied through one (1) meter, and each water service shall be provided with an outside accessible standard curb cock with box of a design approved by the Department of Utilities. All fractions of a month shall be charged and considered as provided in Section 3-118. No water will be furnished except through a meter furnished by the Department of Utilities.

§3-104 MUNICIPAL WATER SYSTEM; WATER CONTRACT.

The rules, regulations, and water rates hereinafter named in this Article, shall be considered a part of every application hereafter made for water service and shall be considered a part of the contract between every consumer now or hereafter served. Without further formality, the making of application on the part of any applicant or the use or consumption of water service by present consumers thereof and the furnishing of water service to said consumer shall constitute a contract between the consumer and the City, to which said contract both parties are bound. If the consumer shall violate any of the provisions of said contract or any reasonable rules and regulations that may hereafter be adopted, the City Council or its agent, may cut off or disconnect the water service from the building or premise or place of such violation. No further connection for water service to said building, premise, or place shall again be made save or except by order of said City Council or its agent.

§3-105 MUNICIPAL WATER SYSTEM; 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. In the event that any street or alley must be closed for the excavations to be made, the Police and Fire Departments shall be notified prior to closing. 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 and supply pipes are laid, the streets, alleys, and sidewalks shall be restored to good condition. If the excavation in any street, alley, or sidewalk is left open or unfinished for a period of twenty-four (24) hours or more, the City Administrator shall have the duty to finish or correct the work, and all expenses so incurred shall be charged to the consumer. All installations or repairs of pipes require an inspection by the Department

of Utilities. The inspection shall be made when connections or repairs are completed and before the pipes are covered. It is the customer's responsibility to notify the Department 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 recommended by the Utility and Infrastructure Board; Provided that the said rules, regulations, and specifications have been reviewed and approved by the City Administrator and City Council.

§3-106 MUNICIPAL WATER SYSTEM; SERVICE PIPE AND CONNECTIONS, GENERALLY.

Either copper or galvanized iron service pipe may be used at the option of the applicant for City water. All copper or iron pipe shall have sufficient strength to sustain a pressure of not less than two hundred (200) pounds to the square inch, and at the point of connection between the corporation cock and supply pipe there shall be a copper gooseneck bend, not less than eighteen (18") inches in length, to protect the corporation cock from any strain from expansion or otherwise. All taps and connections from the water main shall be made by the Department of Utilities or under its supervision, and all expense thereof shall be paid by the applicant.

The City Council may grant a variance to the above to permit 200 p.s.i. plastic pipe to be substituted for the copper or iron pipe if 1) the service length exceeds five hundred (500') feet; 2) copper or iron pipe is used from the public main to the meter pit which shall be near the public right-of-way on private property; 3) copper or iron pipe is used from the building being served toward the main for at least twenty (20') feet; and, 4) the meter pit shall conform to the standard recommended by the Utility and Infrastructure Board and City Administrator, and established by the City Council.

§3-107 MUNICIPAL WATER SYSTEM; MANNER OF LAYING SUPPLY AND SERVICE PIPE.

All supply pipe shall be laid as much under the surface of the ground as the main in the street, in compliance with the rules and regulations of the City Council, and in all cases be so protected as to prevent rupture by freezing. Where, in the opinion of the Department of Utilities, the character of the soil is such as to be corrosive to iron supply pipe, steps shall be taken to minimize corrosion of the pipe.

Every service pipe shall be snaked in the ditch to allow not less than one (1') to one and a half (1 ½') feet extra length, and in such manner as to prevent rupture by settling.

§3-108 MUNICIPAL WATER SYSTEM; STOPCOCKS.

Every service pipe shall be provided with a stop and waste cock for each consumer, easily accessible and so situated that the water can be conveniently shut off and drained from the pipes. Stopcocks shall be of such pattern as shall be recommended by the Utility and Infrastructure Board and City Administrator and approved by the City Council, and shall be kept in workable condition.

§3-109 MUNICIPAL WATER SYSTEM; LOCATION AND PROTECTION OF CURB COCKS.

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

§3-110 MUNICIPAL WATER SYSTEM; EXCAVATIONS IN PAVED STREETS AND ALLEYS.

Before any excavation for the laying or repairing of water pipes is made in the paved streets or alleys of the City, the plumber doing such work shall obtain from the City Clerk a fixed charge per square foot of open trench, as set by the City Engineer, of the cost of refilling such excavation, and the replacing of pavement to its original condition, and shall deposit such amount with the City Clerk who shall deliver to him a permit for making such excavation. The replacing of pavement and filling of trenches shall be done by the Street Department of the City at the charge set by the City Engineer for such work. No tunneling under the pavement will be permitted, but boring for water service will be allowed. The plumber obtaining a permit shall be held responsible on his bond for all damages of any description that may be caused by the neglect or default on the part of such plumber.

§3-111 MUNICIPAL WATER SYSTEM; EXCAVATIONS, GROUND FROZEN.

No person shall make any excavation in any street or highway within six (6') feet of any laid water pipe while the ground is frozen or dig or uncover so as to expose to the frost any water pipe of the City except under the direction of the City Administrator or designee.

§3-112 MUNICIPAL WATER SYSTEM; INTERCONNECTIONS.

All interconnections with the water system of the City shall be made in a manner which shall conform with the requirements of the State of Nebraska or the United States Public Health Service.

§3-113 MUNICIPAL WATER SYSTEM; PIPING AND FITTINGS REQUIREMENTS.

There shall be a ninety (90°) degree ell placed in one (1) side of the piping to the water meter, to permit the meter to be removed without placing strain on the piping. All piping, fittings, valve and fixtures shall be designed for a standard working pressure of one hundred and twenty-five (125) pounds per square inch.

§3-114 MUNICIPAL WATER SYSTEM; FURNISHING OF METERS BY DEPARTMENT OF UTILITIES; ACCESSIBILITY.

The Department of Utilities shall furnish a meter of proper size and a remote readout on such meter for each new water service; Provided, that the applicant for such water

service has met all requirements of the Department of Utilities. When requested, water meters may be rented by negotiation with the Department of Utilities. Each water meter shall, at all times, be located where it is readily assessable to personnel of the Department of Utilities. Whenever a meter is not readily accessible, the owner of the property involved shall be responsible for complying with this regulation at the owner's expense.

§3-115 MUNICIPAL WATER SYSTEM; WATER METERS CONNECTIONS AND DISCONNECTION'S GENERALLY.

Before any water meter is set or installed, approval thereof shall be obtained from the Department of Utilities. Each water meter shall be installed with proper meter unions. All water used for construction purposes shall be metered.

When for any reason a water service or a stub-in to or for a particular property is abandoned, the owner of the property shall promptly have such service shut off at the corporation cock at the main and have any branch sealed and capped under the direction of the Department of Utilities. If, in the opinion of officials of the Department of Utilities, the owner does not comply with this regulation within a reasonable time, such service shall be shut off by the Department of Utilities and all expense connected therewith shall be chargeable against the property and shall be paid by the owner.

§3-116 MUNICIPAL WATER SYSTEM; RIGHT OF ENTRY.

Every person taking water supplied through the water system of this City shall permit the Department of Utilities or its duly authorized agent, at all reasonable hours of the day, to enter his premises or buildings to read meters or to remove meters for repairs or inspection, or to examine the pipes and fixtures and the manner in which water is used, and shall at all times, frankly and without concealment, answer all questions relative to the consumption of water.

§3-117 MUNICIPAL WATER SYSTEM; RESPONSIBILITY OF PROPERTY OWNER FOR SERVICE LEAKS AND REPAIR OF SERVICES.

The owner of property taking City water shall keep his own service, curb cocks, stop boxes, meter pits, and all other associated apparatus in good repair and safe working order; and shall be responsible for damage to meters caused by fire, hot water, frost, overload, or any other damage except ordinary wear. All hot water tanks and other apparatus shall be designed to withstand the maximum fire pressure supplied by the Department of Utilities.

Whenever there is a water leak from a service pipe or a supply pipe or associated fittings or appurtenances to or for a particular property, the owner shall promptly have such service repaired or shut off at the corporation cock at the main. If, in the opinion of officials of the Department of Utilities, the owner does not comply with this regulation within a reasonable time, such service shall be shut off by the Department of Utilities and all expense connected therewith shall be chargeable against the property and shall be paid by the owner.

§3-118 MUNICIPAL WATER SYSTEM; RATES AND CHARGES, BILLING.

All expense from water service or from water mains shall be borne by the applicant for water service. The City Council shall by ordinance fix rate charges for water consumed by customers, minimum bills, the amount of deposit as a guarantee for the payment of bills and all other fees or charges for service rendered by the Water System.

All water shall be measured by meter; bills shall be paid monthly; and the customer will, in all cases, be held responsible and be required to pay for water used at such premises. The amount of water used will determine the price payable each month.

All fractions of a month shall be charged and considered as a full month. Monthly usage is determined to the nearest hundred cubic feet. In cases of multiple connections to separate buildings on one (1) master meter, the minimum monthly charge shall not be less than the sum of the applicable minimums listed for each connection off the one (1) master meter.

All officers of the water system are prohibited from allowing credit. The Department of Utilities shall shut off water from any premises in compliance with the disconnection procedures described in Section 3-901.

§3-119 MUNICIPAL WATER SYSTEM; TURNING ON WATER.

Water will not be turned on into any house or private service pipe except upon the recommendation of Department of Utilities and order of the City Administrator or Assistant City Administrator - DU or its duly authorized agent, or until an occupancy permit has been issued. When the water has been turned off from any consumer of City water, he shall not turn it on or permit it to be turned on without the consent of the Department of Utilities. The Utility and Infrastructure Board and the City Administrator shall recommend and the City Council shall determine the fee for such services.

§3-120 MUNICIPAL WATER SYSTEM; LIABILITY FOR CHARGES FOR WATER USED BY SEVERAL PARTIES FROM ONE (1) SERVICE PIPE.

Where service pipe is intended to supply two (2) or more distinct tenants, and where only one (1) stop is used, the person controlling the same shall pay the water charge of all parties who are thus supplied, as separate bills will not be made.

§3-121 MUNICIPAL WATER SYSTEM; MINIMUM RATES.

All water consumers shall be liable for the minimum rate provided by ordinance unless and until the consumer shall, by written order, direct the Department of Utilities to shut off the water at the stop box, in which case he shall not be liable thereafter for water charges until the water is turned on again.

§3-122 MUNICIPAL WATER SYSTEM; 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 charges in arrears,

shall be considered a delinquent water charge which is hereby declared to be a lien upon the real estate for which the same 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 sixty (60) days or more delinquent in the payment of water charges.

§3-123 MUNICIPAL WATER SYSTEM; RESTRICTED USE.

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

§3-124 MUNICIPAL WATER SYSTEM; FIRE HYDRANTS.

All hydrants for the purpose of extinguishing fires, except private hydrants located on private property, are hereby declared to be public hydrants, and it shall be unlawful for any person other than members of the Municipal Fire Department under the orders of the Fire Chief, or their designated representative; or authorized employees of the Department of Utilities in any manner to interfere with the hydrants.

§3-125 MUNICIPAL WATER SYSTEM; PRIVATE CONNECTIONS FOR FIRE PURPOSES.

Any consumers of water, wishing to lay large pipes with hydrants and hose couplings to be used only in case of fire, will be permitted to connect with the mains at their expense, but only under the direction of, and after approval by the City Administrator of the layout and materials used. All materials used shall be compatible with those normally used by the Department of Utilities.

It shall be the responsibility of the owner of the property served to maintain such private fire connections, including all associated apparatus, in good repair and safe working order. Upon request, the Department of Utilities will inspect and/or repair such private hydrants, charging fees as recommended by the Utility and Infrastructure Board and established by the City Council.

The use of water from such private lines and hydrants will be metered and subject to rates and fees recommended by the Utility and Infrastructure Board and established by the City Council. Any other use of water from such fire lines or hydrants without being properly metered shall not be allowed.

§3-126 MUNICIPAL WATER SYSTEM; POLLUTION.

It shall be unlawful for any person to pollute or attempt to pollute any stream or source of water for the supply of the Municipal Water System, or to inject the same into the distribution system.

§3-127 MUNICIPAL WATER SYSTEM; MANDATORY HOOK-UP.

All persons within three hundred (300) feet of a water main shall be required, upon notice by the City Council, to hook-up with the Municipal Water System.

§3-128 MUNICIPAL WATER SYSTEM; WATER SERVICE CHANGES.

Any person wishing to change from one location to another shall make a new application. If any consumer shall move from the premise where service is furnished, or if the said premise is destroyed by fire or other casualty, he shall at once inform the Department of Utilities who shall cause the water service to be shut off at the said premise. If the consumer should fail to give such notice, he shall be charged for all water used on the said premise until the Department of Utilities is otherwise advised of such circumstances.

§3-129 MUNICIPAL WATER SYSTEM; DESTRUCTION OF PROPERTY.

It shall be unlawful for any person to willfully or carelessly break, injure, or deface any building, machinery, apparatus, fixture, attachment, or appurtenance of the Municipal Water System. No person may deposit anything in a stop box or commit any act tending to obstruct or impair the intended use of any of the above mentioned property without the permission of the Department of Utilities.

§3-130 MUNICIPAL WATER SYSTEM; TIME.

All taps or plumbing work done on or to the Municipal Water System shall be done at reasonable hours, except in the case of emergencies or in cases where special arrangements have been made.

§3-131 MUNICIPAL WATER SYSTEM; SERVICE OUTSIDE OF CITY.

The Department of Utilities is hereby authorized to sell water service to persons outside the corporate limits of the City and shall charge such persons the rates, charges, fees, deposits, connection fees and minimum bills as are required by resolution of the City Council and further, such persons shall pay any cost or expense incurred by the Department of Utilities beyond the City's corporate limits in providing the means for such water service.

No water service will be provided to residents outside the corporate limits of the City who are eligible for annexation, without the recommendation of the Utility and Infrastructure Board and the approval of the Mayor and City Council.

Residents outside the corporate limits of the City who are not eligible for annexation may request water service and, at their discretion, the Mayor and City Council may grant such service.

At the time any request for service is made by residents living outside the City limits, each shall sign an agreement with the City to annex when eligible. Refusal to annex when eligible would be grounds for the City to discontinue such service.

§3-132 COMPLIANCE WITH ARTICLE; INSPECTIONS GENERALLY.

The Department of Utilities and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling, and testing the System in accordance with the provisions of this Article

§3-133 COMPLIANCE WITH ARTICLE; INSPECTIONS; INJURY LIABILITY.

While performing the necessary work on private properties referred to in Section 3-132 above, the Department of Utilities 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 inspections, except as such may be caused by negligence or failure of the company to maintain safe conditions as required.

§3-134 COMPLIANCE WITH ARTICLE; INSPECTIONS; EASEMENTS.

The Department of Utilities 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 Water System lying within said easement. No permanent buildings, trees, retaining walls, nor loose rock walls shall be placed in the said easement ways, but the same may be used for gardens, shrubs, landscaping, and other purposes that do not then or later interfere with the aforesaid uses or rights. The City may remove part or all of the above if necessary to perform its duties at the owner's expense. Variances to this section may be made by resolution of the City Council.

§3-135 MUNICIPAL WATER SYSTEM; WELLS AND SUMP PUMPS, DISCHARGES REGULATED.

No well or sump pump or series of wells or sump pumps installed for the purpose of dewatering groundwater or groundwater seepage from a basement shall be installed and discharged into a surface drainage system or storm sewer in the City of Fremont if said well(s) or sump pump(s) exceeds the pumping capacity of twenty- five (25) gallons per minute in aggregate for any one (1) property.

The City Council may, upon application of the property owner, approve a dewatering well(s) or sump pump(s) for a specific property in excess of twenty-five (25) gallons per minute if it is determined that said approval will not jeopardize the capacity of the storm sewer system for handling stormwater runoff.

This regulation shall not apply to dewatering wells for public improvement projects or for emergency repairs to private sanitary sewer or water service.

It shall be unlawful to allow any dewatering well or sump pump to discharge into a City Street when the ambient temperature is below thirty-five (35°) degrees F unless City Council approval is received.

§3-136 MUNICIPAL WATER SYSTEM; UNSAFE PHYSICAL CONNECTION TO WATER DISTRIBUTION SYSTEM; PROHIBITED; POTENTIAL BACKFLOW HAZARD; CUSTOMER ASSESSMENT.

- (1) No customer or other person shall cause, allow, or create any physical connection between the Municipal Water Distribution System and any pipes, pumps, hydrants, tanks, steam condensate returns, engine jackets, heat exchangers, wells or other water supplies or any other connection whereby potentially unsafe or contaminating materials may be discharged or drawn into the Municipal Water Distribution System.
- (2) The customer shall be responsible to cause all backflow, backpressure or back-siphonage protection devices equipped with test ports to be tested as often as required by the Utilities, but at least upon initial installation, when repaired, and once each year. All tests shall be done by a Backflow Preventer Test and Repair Technician, Grade VI Water Supply Operator, certified by the State of Nebraska Department of Health. Test results shall be forwarded to the Department of Utilities Water & Sewer Systems Superintendent on standard reporting forms. The test report shall be signed by the certified tester, attesting to proper backflow preventer operation. Devices equipped with test ports and installed on lawn sprinkling systems which are supplied with water from a service line equipped with a backflow, backpressure or back-siphonage detection device shall be tested upon initial installation, replacement of integral parts, and every fifth year thereafter.
- (3) At least one (1) time every five (5) years, customers of the Municipal Water Distribution and Supply System shall be required to assess and report potential backflow and back-siphonage hazards to the City on a form supplied by the City to the customer.
- (4) Enforcement of these provisions shall be carried out in accordance with the "Cross Connection - Backflow Prevention" rules and regulations promulgated by the Department of Utilities, recommended by the Utility and Infrastructure Board and adopted by the City Council, and hereby adopted by reference.

ARTICLE 2 SEWERAGE SYSTEM

§3-201 MUNICIPAL SEWERAGE SYSTEM; OPERATION AND FUNDING.

The City owns and operates the Municipal Sewerage System through its Department of Utilities. The City Council, for purpose of defraying the cost of the operation, maintenance and replacement (OM&R) of the Municipal Sewerage System may establish a user charge system based on actual use and revise the charges, if necessary, to accomplish the following:

1. Maintain the proportional distribution of operation, maintenance and replacement (OM&R) costs among users and user classes;
2. Generate adequate revenues to pay the costs of OM&R; and
3. Generate revenues to pay the costs for capital expenditures and debt service.

The revenue from the said user charge system based on actual use shall be known as the Sewerage System Fund. The City Administrator shall have the direct management and control of the Sewerage System and shall faithfully carry out the duties of its office. The Utility and Infrastructure Board shall have the authority to recommend rules and regulations for the sanitary and efficient management of the Sewerage System subject to the supervision, review and approval of the City Council.

§3-202 MUNICIPAL SEWERAGE SYSTEM; DEFINITION OF TERMS.

Unless the context specifically indicates otherwise, the meaning of terms used in this Article shall be as follows:

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

BUILDING OR HOUSE DRAIN. The term "Building Drain" and "House Drain" shall mean and include that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, or other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five (5) feet (1.5 meters) outside the inner face of the building wall.

BUILDING SEWER. The term "Building Sewer" shall mean the extension from the building drain to the public sewer or other place of disposal, also called house connection.

CITY. The term "City" shall mean the City of Fremont, Nebraska.

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

EASEMENT. The term "Easement" shall mean an acquired legal right for the specific use of land owned by others.

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

GARBAGE. The term "Garbage" shall mean the animal and vegetable waste resulting from the handling, preparation, cooking, sale and serving of foods.

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

MAY. The term "May" is permissive; the term "Shall" is mandatory.

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

PERSON. The term "Person" shall mean any individual, firm, company, association, society, corporation, or group.

pH. The term "pH" shall mean the logarithm of the reciprocal of the hydrogen-ion concentration. The concentration is the weight of hydrogen ions, in grams, per liter of solution. Neutral water, for example, has a pH value of 7 and a hydrogen-ion concentration of 10^{-7} .

PROPERLY SHREDDED GARBAGE. The term "Properly Shredded Garbage" shall mean the wastes from the handling, preparation, cooking, sale 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 1 inch (1.27 centimeters) in any dimension.

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

SANITARY SEWER. The term "Sanitary Sewer" shall mean a sewer that carries liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions together with minor quantities of ground, storm, and surface waters that are not admitted intentionally.

SEWAGE. The term "Sewage" is the spent water of a community. The preferred term is "Wastewater."

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

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

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

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

SLUG. The term "Slug" shall mean any discharge of water, sewage, or industrial waste which in concentration of any given constituent or in quantity of flow exceeds

for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration or flows during normal operation and shall adversely affect the collection system and/or performance of the wastewater treatment works.

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

SUSPENDED SOLIDS. The term "Suspended Solids" shall mean total suspended matter that either floats on the surface of, or is in suspension in, water, wastewater, or other liquids, and that is removable by laboratory filtering as prescribed in "Standard Methods for the Examination of Water and Wastewater" and referred to as nonfilterable residue.

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

USER. The term "user" shall mean for the purpose of this Article all persons whose premises are served by the City sanitary sewerage system including all owners and tenants of real estate and buildings which are connected with such sanitary sewerage system, or are served thereby or in any way, either directly or indirectly, discharge sewage, industrial waste, water or other liquids therein. Users shall be classified as residential users who are within or outside the City or commercial users who are within or outside the City and further sub-classified on basis of user's size of water meter or service and the extent and amount of use by user. A residential user is defined to mean the owner or tenant of a dwelling used exclusively for residential purposes for one (1) family and which is connected to the City sanitary sewerage system and having a separate water meter water connection. All other users are defined to be commercial users.

UTILITY AND INFRASTRUCTURE BOARD. The term "Utility and Infrastructure Board" shall mean the authorized Utility and Infrastructure Board of the City of Fremont, or its authorized deputy, agent or representative.

WASTEWATER. The term "wastewater" shall mean the spent water of a community. From the stand- point of source, it may be a combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions. "Normal wastewater" shall mean sewage which when analyzed shows by weight a daily average of not more than 275 parts per million (2293 pounds) of suspended solids, not more than 250 parts per million (2085 pounds) of BOD [or where biochemical oxygen demand cannot accurately be determined, a chemical oxygen demand greater than 400 parts per million (3336 pounds)] and not

more than 120 parts per million (1000 pounds) of either insoluble matter (grease and oil), each per million gallons of daily flow.

WASTEWATER FACILITIES. The term "Wastewater Facilities" shall mean the structures, equipment, and processes required to collect, carry away, and treat domestic and industrial wastes and dispose of the effluent.

WASTEWATER TREATMENT PLANT. The term "Wastewater Treatment Plant" shall mean an arrangement of devices and structure for treating wastewater, industrial wastes, and sludge. Some- times used as synonymous with "Waste Treatment Plant" or "Wastewater Treatment Works" or "Water Pollution Control Plant."

WATERCOURSE. The term "Watercourse" shall mean a natural or artificial channel for the passage of water either continuously or intermittently.

§3-203 MUNICIPAL SEWERAGE SYSTEM; SEWER SERVICE.

The City through the Municipal Sewerage System shall furnish sewer services to persons within its corporate limits whose premises abut a street or alley in which a commercial main is now or may hereafter be laid. The 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 City Council may see fit to do so. The rules, regulations, and sewer rates hereinafter named in this Article, shall be considered a part of every application hereafter made for sewer service. Without further formality, the making of the application on the part of any applicant or the use of sewer service by present customers thereof shall constitute a contract between the customer and the City to which said contract both parties are bound. If the customer shall violate any of the provisions of said contract or any reasonable rules and regulations that may hereafter be adopted, the Department of Utilities, or its agent, may cut off or disconnect the sewer service from the building or premise of such violation. No further connection for sewer service to said building or premise shall again be made save or except by order of the Department of Utilities or its agent.

§3-204 MUNICIPAL SEWERAGE SYSTEM; SERVICE CHANGES.

Any person wishing to change from one location to another shall make a new application. If any customer shall move from the premise where service is furnished, or if the said premise is destroyed by fire or other casualty, he shall at once inform the Department of Utilities who shall cause the sewer service to be shut off from the said premise. If the customer should fail to give notice, he shall be charged for that period of time until the Department of Utilities is otherwise advised of such circumstances

§3-205 MUNICIPAL SEWERAGE SYSTEM; RATES, GENERALLY.

For the use of the City sanitary sewerage system each user shall pay a monthly charge which shall be computed and based upon his contribution of sewage to such system.

The monthly contribution of sewage from a residential user shall be considered equal to one-third (1/3) of the water consumed by the user as shown by the water billing rendered during the months of January, February, and March last preceding the date of billing for sewercharges.

The contribution of sewage from a commercial user shall be considered equal to the amount of water consumed as shown by the current water billing plus any water used from other than the Municipal water system as estimated or determined as provided by this Article, except multiple dwelling residences used solely for residential purposes shall be charged on a commercial rate, but the contribution of sewage will be determined on the same basis as a residential user.

The sewage contribution of a new residential user, either within or without the corporate limits of the City, with no established winter months' water record shall be based on estimated usage until such time as the base contribution of sewage is determined.

All fractions of a month shall be charged and considered as a full month. Monthly usage is determined to the nearest hundred cubic feet.

§3-206 MUNICIPAL SEWERAGE SYSTEM; RATES, SETTING.

Rates, fees, minimum charges and surcharges for the use of the Municipal Sewerage System shall be set by ordinance by the City Council. Such rate and fee schedules shall be on file in the office of the City Clerk and available for public inspection during regular office hours.

In cases of multiple connections to separate buildings on one (1) master meter, the minimum monthly charge shall not be less than the sum of the applicable minimums listed for each connection off the one (1) master meter. In the event an individual service has no meter, the service size shall determine the minimum charge.

§3-207 MUNICIPAL SEWERAGE SYSTEM; SURCHARGE; WHEN APPLICABLE; METHOD OF ESTABLISHING.

In addition to the basic monthly charge required, when any user discharges into the Sanitary Sewerage System significant (as recommended by the Utility and Infrastructure Board and determined by the City Council) concentrations or quantities of wastewater, which as determined by the City Council, has a strength greater than normal wastewater (as defined) or discharges other substances or objects that impact sewerage operations, such user shall be subject to a sewer use surcharge, to be determined as set forth by this Section, the purpose of such surcharge being to help defray the extra cost to the City of treating such wastewater.

For use in determining the sewer use surcharge to be made against a given user for a given period of time, the Department of Utilities shall sample and analyze the wastewater discharge in order to determine the strength and/or composition of the wastewater over such period. Usually samples shall be taken from such wastewater discharge on at least three (3) composites during operations on such property. The City

Council, at such times as general sewer rates are changed, shall determine the unit cost (\$/lb.) to the City of removing suspended solids, of removing biochemical oxygen demand or chemical oxygen demand and of other additional treatment required for such wastewaters, flowing into the City's wastewater treatment facilities. Such determination by the City Council shall be cost based. All such sampling and analyzing of the wastewater discharge shall be in accordance with the provisions of the latest addition of "Standard Methods for the Examination of Water and Wastewater"; however, the City Council may at its discretion accept such sampling and analyzing results as may be submitted by the user on such property if the Utility and Infrastructure Board recommends and the City Council reasonably determines that such results properly reflect the overall nature of such discharge.

At the approximate end of each month, quarter, or semiannually, as recommended by the Utility and Infrastructure Board and determined by the City Council, the City Council shall make a computation of the sewer use surcharge for each property discharging industrial wastes or other high strength wastewater using the following formula:

$$SC = [R_p (P_i - P_n) + R_s (S_i - S_n) + R_x (X_i - X_n)] \times 8.34 \times V$$

Where SC = Surcharge, \$

R_p = Unit BOD cost (or COD cost when used in lieu of BOD) of treating normal wastewater, \$/lb.

P_i = BOD or COD in the industrial waste, p.p.m. P_n = BOD or COD in normal wastewater, p.p.m.

R_s = Unit suspended solids cost of treating normal wastewater, \$/lb, S_i = Suspended solids in the industrial waste, p.p.m.

S_n = Suspended solids in normal wastewater, p.p.m.

R_x = Unit cost of treating any additional substance in the industrial waste, \$/lb. (such as grease)

X_i = Substance requiring additional treatment in the industrial waste, p.p.m.

X_n = Substance requiring additional treatment in normal wastewater, p.p.m.

8.34 = lb./million gallons - mg /l

V = Wastewater volume, million gallons

R_p = \$_____, set by ordinance R_s = \$_____, set by ordinance R_x = \$_____, set by ordinance

§3-208 MUNICIPAL SEWERAGE SYSTEM; USER CHARGE REVIEW.

The City Council shall periodically review the user charge system and revise the charges, if necessary, to accomplish the following:

1. Maintain the proportional distribution of operation, maintenance and replacement (OM&R) costs among users and user classes;
2. Generate adequate revenues to pay the costs of OM&R; and
3. Generate revenues to pay the costs for capital expenditures and debt service.

§3-209 MUNICIPAL SEWERAGE SYSTEM; SEWERAGE AINTENANCE FUND.

All revenues collected from the user charge system shall be placed in a separate fund known as the Sewerage System Fund and the moneys in such fund shall be used to pay operation, maintenance and replacement (OM&R) costs and the capital cost system expansion projects.

§3-210 MUNICIPAL SEWERAGE SYSTEM; CLASSIFICATION.

The City Council may classify for the purpose of user rates and fees the customers of the Municipal Sewerage System; Provided, that such classifications, are reasonable and do not discriminate unlawfully against any consumer or group of consumers.

§3-211 MUNICIPAL SEWERAGE SYSTEM; COLLECTION OF SEWER CHARGES AND FEES.

Sewer use bills shall be due and payable at the same time and in the same manner as water bills are due and payable. All penalties and procedures concerning delinquent accounts with the Municipal Water System shall also be applicable to delinquent accounts with the Municipal Sewerage System.

§3-212 MUNICIPAL SEWERAGE SYSTEM; SEPARABILITY OF CHARGES, METERS.

The monthly charge imposed pursuant to this Article shall be applied separately to each individual user having a separate water meter which measures water contributed to or discharged into the City sanitary sewerage system. In the case of unmetered water supply, the quantity of water used and discharged into the sanitary sewerage system shall be recommended by the Utility and Infrastructure Board and determined to the satisfaction of the City Council and at the expense of the owner of the unmetered water supply.

If the quantity of unmetered water discharged into the sanitary sewerage system is estimated by the City Council to be ordinarily in excess of the amount permitted to be used per month under the minimum charge as applied to such user, the Utility and Infrastructure Board may recommend that the City Council require that such water supply be metered at the expense of the owner or user.

Before installation of such metering, the particular meter(s) shall be approved by the Department of Utilities. Such meter(s) shall be tested periodically by the Department of Utilities at its discretion, such testing costs to be paid by the owner or user. It shall be the responsibility of the owner or user to maintain such meter(s) in good repair and safe working order.

§3-213 MUNICIPAL SEWERAGE SYSTEM; CHARGE WHEN METER OUT OF REPAIR, METER REPAIRS.

Should a water meter get out of order or repair and fail to register properly, the user will be charged based on an estimated consumption of water. Any water meter out of order shall be repaired and put into operation as soon as practical.

§3-214 MUNICIPAL WATER SYSTEM; ESTABLISHMENT OF EXCEPTIONS TORATES.

If any user can show to the satisfaction of the Department of Utilities that any substantial portion of the water consumed by such user as determined by this Article is used for such purpose that it does not contribute to the sanitary sewage, then that water shall be disregarded for the purpose of determining the sanitary sewer charges to such user.

Generally such water use shall be metered by the user. Before installation of such metering, the particular meter(s) shall be approved by the Department of Utilities. Such meter(s) shall be tested periodically by the Department of Utilities at its discretion, such testing costs to be paid by the owner or user. It shall be the responsibility of the owner or user to maintain such meter(s) in good repair and safe working order.

§3-215 PUBLIC SEWERS REQUIRED; UNLAWFUL DEPOSIT OF WASTES.

It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the City or within two (2) miles of the corporate limits thereof, or in any area under the jurisdiction of said City, any human or animal excrement, garbage, or other objectionable waste.

§3-216 PUBLIC SEWERS REQUIRED; UNLAWFUL DISCHARGE OF UNTREATED SEWAGE.

It shall be unlawful to discharge to any natural outlet within the City, or within two (2) miles of the corporate limits thereof, or in any area under the jurisdiction of said City, any sewage or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this Article.

§3-217 PUBLIC SEWERS REQUIRED; CESSPOOLS, PRIVIES AND SEPTIC TANKS PROHIBITED.

Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage.

§3-218 PUBLIC SEWERS; REQUIRED; MANDATORY HOOK-UP.

The owner of all houses, buildings, or properties used for human employment, recreation, or other purposes situated within the City and abutting on any street, alley, or right-of-way in which there is now located or may in the future be located a public sanitary sewer of the City, is hereby required at his expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this Article within ninety (90) days after date of official notice to do so.

§3-219 PRIVATE SEWAGE DISPOSAL; WHEN APPLICABLE.

Where a public sanitary sewer is not available under the provisions of Section 3-217, the building sewer shall be connected to a private sewage disposal system complying with the provisions of this Article.

At such time as a public sewer becomes available to a property served by a private wastewater disposal system, as provided in Section 3-217, a direct connection shall be made to the public sewer within sixty (60) days in compliance with this Article, and any septic tanks, cesspools, and similar private wastewater disposal facilities shall be cleaned of sludge and filled with suitable material.

§3-220 PRIVATE SEWAGE DISPOSAL SYSTEM; PERMIT REQUIRED, FEE.

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

§3-221 PRIVATE SEWAGE DISPOSAL SYSTEM; PERMIT, WHEN EFFECTIVE; INSPECTIONS.

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

§3-222 PRIVATE SEWAGE DISPOSAL SYSTEM; SPECIFICATIONS.

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

§3-223 PRIVATE SEWAGE DISPOSAL SYSTEM; MAINTENANCE.

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

§3-224 PRIVATE SEWAGE DISPOSAL SYSTEM; ADDITIONAL REQUIREMENTS.

No statement contained in Sections 3-220 thru 3-224 shall be construed to interfere with any additional requirements that may be imposed by the State of Nebraska.

§3-225 BUILDING SEWER INSTALLATION; PERMIT REQUIRED.

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

§3-226 BUILDING SEWER INSTALLATION; CLASSIFICATION; PERMIT APPLICATION, FEE.

There shall be two (2) classes of building sewer permits: (a) for residential and commercial service, and (b) for service to establishments producing industrial wastes. In either case, the owner or his agent shall make application on a special form furnished by the City. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the Department of Utilities. A permit and an inspection fee in amounts recommended by the Utility and Infrastructure Board and set by the City Council for each class shall be paid to the Department of Utilities at the time the application is filed. Permits are required before any work is started except in the case of an emergency.

§3-227 BUILDING SEWER INSTALLATION; EXPENSE.

All costs and expense incident 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.

§3-228 BUILDING SEWER INSTALLATION; CONNECTIONS, GENERALLY.

Each applicant for sewer service shall have all sewer pipes and associated apparatus installed by a licensed plumber.

Connections with the sewers of the City system shall be of first class quality, minimum size of four (4") inch vitrified clay, cast iron, or plastic pipe, all with their suitable connections and of proper composition and weights to conform with the latest standards of the Uniform Plumbing Code and United States Commercial Standards, without reducers, laid to a uniform grade, with gasket joints in correct and good workmanlike manner. No traps shall be allowed throughout the entire line, and the soil pipe shall be continuous for ventilation purposes to a point not less than twelve (12")

inches above the roof of the building, such soil pipes to be coated with an approved tar or asphaltic preparation. All connections with such pipes shall be properly trapped with a water seal of not less than one half (1/2") inch in depth, such seal to be protected against siphonage by connection with such pipes above the outer upper end of the trap. All joints shall be welded (glued joint) or be made by an approved method to permit no gas to escape. Connections with other than the City sewers shall be done according to the directions of the Department of Utilities.

It shall be the responsibility of the owner of the property served to maintain all sewer pipes and associated apparatus in good repair and safe working order.

When for any reason a sanitary sewer service is abandoned, the owner of the property shall promptly have such service shut off at a point between the property line and the City sewer line by capping such service under the direction of and in a manner approved by the Department of Utilities. If, in the opinion of officials of the Department of Utilities, the owner does not comply with this regulation within a reasonable time, such service shall be capped by the Department of Utilities and all expense connected therewith shall be chargeable against the property and shall be paid by the owner.

§3-229 MUNICIPAL STORM SEWER SYSTEM; STORM SEWER CONNECTIONS, GENERALLY.

All taps and connections with the City storm sewer system shall be made a licensed plumber or contractor under the supervision of the Department of Utilities. No such taps or connections shall be made except by a licensed plumber or contractor, and the cost of such connections shall be borne by the person requesting the same.

It shall be the responsibility of the City of Fremont to maintain such taps and connections from public lines, including all associated apparatus, in good repair and safe working order.

When for any reason a tap or connection with the City storm sewer system is abandoned, the owner shall promptly have such tap or connection shut off at a point between the property line and the City storm sewer line by capping such line under the direction of and in a manner recommended by the City Administrator and approved by the City Council. If, in the opinion of the City Administrator or his authorized agent, the City of Fremont does not comply with this regulation within a reasonable time, such service line shall be capped by the Department of Utilities and all expense connected therewith shall be chargeable against the property and shall be paid by the City of Fremont.

No discharge of water used for the heating or cooling of a building shall be permitted to be discharged to the storm sewer system of the City of Fremont, except as previously authorized.

§3-230 MUNICIPAL SEWERAGE SYSTEM; CHARGE FOR CONNECTIONS OUTSIDE CITY.

The City shall charge and collect fees for sanitary sewer connections to the public sewer for properties outside the corporate limits of the City:

1. If, abutting the property, there is an existing public sewer laid according to the specifications of the City of Fremont for which the property owner has paid the assessable cost, there will be a connection charge for each connection; if the property owner has not paid the assessable cost, there will be an additional charge for each connection; if the public sewer has been installed by the City at its own expense without assessment of the property, the connection charge shall be the estimated assessable cost plus an additional fee for each connection.
2. If there is no public sewer abutting the property the connection charge shall be the estimated assessable cost for installing a public sewer in front of the property plus an additional charge for any connection. Should a public sewer abutting the property be subsequently installed and costs assessed to the property, the property owner may request and receive credit against the assessable cost for that portion of the connection charge for each connection.

Assessable costs shall be determined by the Mayor and City Council upon the recommendation of the City Engineer and the City Administrator.

§3-231 BUILDING SEWER INSTALLATION; SINGLE PREMISE.

A separate and independent building sewer shall be provided for every building except: (1) 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, but the City does not and will not assume any obligation or responsibility for damage caused by or resulting from any such single connection aforementioned; or, (2) where attached single family dwelling units are approved by the City Council per the requirements of City of Fremont Municipal Code, Chapter 11, one building sewer may serve two attached dwelling units provided the sewer is split to provide separate sewer services to each dwelling unit before the sewer enters the building.

§3-232 BUILDING SEWER INSTALLATION; USE OF EXISTING SEWERS.

Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the Department of Utilities, to meet all requirements of this Article.

§3-233 BUILDING SEWER INSTALLATION; CONSTRUCTION CODES.

The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing and backfilling the trench, shall all conform to the requirements of the building and plumbing code or other applicable rules and regulations of the City. Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public

sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.

The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the City. All such connections shall be made gastight and watertight, and verified by proper testing. Any deviation from the prescribed procedures and materials must be approved by the Department of Utilities before installation. Any defective or other non-compliant work shall, upon written notice, be promptly remedied.

§3-234 BUILDING SEWER INSTALLATION; PLUMBERS TO HAVE SPIRIT LEVEL, FALL PER FOOT REQUIRED.

Plumbers shall be required to keep on hand a spirit level in proper order where work is being done in connection with public sewers, and their returns shall show the actual depths below the surface and fall per foot to which their pipes have been laid.

§3-235 BUILDING SEWER INSTALLATION; STABLE WASTE.

Sewer connections for stable waste shall be syphon form approved by the sewer inspector.

§3-236 BUILDING SEWER INSTALLATION; STEAM EXHAUSTS.

Steam exhausts shall be discharged into catch basins and not directly into sewer pipes.

§3-237 BUILDING SEWER INSTALLATION; JUNCTION PIPES.

No junction pipe shall be cut or taken up for connection without a special permit, and then only in the presence of an inspector.

§3-238 BUILDING SEWER INSTALLATION; CONNECTIONS.

Sewer pipe connections both inside and outside of buildings shall be by "Y's" and not by "T's."

Changes of directions of sewer pipes shall be made by properly curved pipe, and not by edging or cutting.

§3-239 BUILDING SEWER INSTALLATION; UNCOVERING SEWER LINES.

Accidents to sewers by caving or cleaning of private connections shall be promptly reported to the Department of Utilities. No "Y's" shall be uncovered for sewer connection without the presence of an inspector.

§3-240 BUILDING SEWER INSTALLATION; ENTERING MANHOLES.

Entrance into manholes or the opening of the same, except by the Department of Utilities personnel, is strictly prohibited.

§3-241 BUILDING SEWER INSTALLATION; UNLAWFUL CONNECTION.

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

§3-242 BUILDING SEWER INSTALLATION; INSPECTIONS.

The applicant for the building sewer permit shall notify the Department of Utilities 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 Department of Utilities or its representative.

§3-243 BUILDING SEWER INSTALLATION; EXCAVATIONS.

GENERALLY: Trenches in public streets or alleys excavated for sewer purposes shall be excavated so as to impede travel as little as possible. In the event that any street or alley must be closed for the excavations to be made, the Police and Fire Departments shall be notified prior to closing. The crossing of gutters and all other ways shall be left in shape so as to permit the ready escape of water during storms. Planks or other means shall always be provided where sidewalks or crossings are opened so as to provide easy crossing over such trenches.

BARRICADES AND LIGHTS. Flashing yellow lights shall be kept around all such unfinished work at night and sufficient barricades against accidents shall be placed around such excavations at all times.

WORK NOT TO BE DELAYED, ETC. Work in the public streets shall not be unnecessarily delayed, and, when directed by the City Administrator, the number of workmen shall be increased to hasten the work to the extent the Department of Utilities may deem necessary for public interests.

BRACING CERTAIN TRENCHES. Trenches in depth of four (4') feet or over, and all trenches made in otherwise treacherous soil, or near large masonry buildings, shall be properly braced, and the party excavating, and his bondsmen, shall be liable for all damages arising by reason of any neglect in this respect.

REFILLING TRENCHES. The refilling of all trenches, if in unpaved streets or alleys, shall be well and thoroughly done in uniform layers of not exceeding four (4") inches and tamped with a tamper of not less than forty (40) pounds weight or with puddled earth, as may be directed by the Inspector, or other agents of the City entrusted with the supervision of such work, so as to replace all excavation material, and leave the surface in as good a condition as it was found before the commencement of the work. (Ref. 16-66, Code 1972)

§3-244 PROHIBITED DISCHARGES; STORM-WATER, SURFACE WATER, GROUNDWATER, COOLING WATER AND PROCESS WATER.

No person shall discharge or cause to be discharged any stormwater, surface water, groundwater, roof run-off, subsurface drainage, including interior and exterior foundation drains, uncontaminated cooling water, or unpolluted industrial waters to any sanitary sewer, except stormwater runoff from limited areas, which stormwater may be polluted at times, may be discharged to the sanitary sewer by recommendation by the Utility and Infrastructure Board and with permission of the City Council and in compliance with applicable Federal and State laws.

Stormwater, other than that which is exempted herein, and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers, or to a natural outlet recommended by the Utility and Infrastructure Board and approved by the City Council and other regulating agencies. Industrial cooling water or unpolluted process water may be discharged, on recommendation of the Utility and Infrastructure Board and approval of the City Council, to a storm sewer or natural outlet. The contributor of any identifiable discharge of polluted water to the sanitary sewer system shall be held responsible for reimbursing the City for such costs. The costs shall be recommended by the Utility and Infrastructure Board with the approval of the, City Council.

§3-245 HAZARDOUS AND PROHIBITED DISCHARGES; FLAMMABLE, TOXIC, CORROSIVE AND OBSTRUCTIVE SUBSTANCES; PRELIMINARY TREATMENT.

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

1. Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas.
2. Any waters or wastes containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any waste treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the wastewater treatment plant.
3. Any waters or wastes having a pH lower than 5.5, or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage works.
4. Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage facilities such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.
5. Any waters or wastes having:
 - a) a daily average BOD greater than 250 parts per million by weight or,

- b) containing more than 275 parts per million by weight of suspended solids, or
- c) a chlorine requirement greater than demanded by normal sewage as evaluated by the City's qualified personnel shall be subject to the review of the City Council.

Where necessary in the opinion of the City Council, the owner shall provide, at his expense, such preliminary treatment as may be necessary to:

- a) reduce the biochemical oxygen demand to 50 parts per million by weight, and/or
- b) reduce the suspended solids to 275 parts per million by weight, and/or
- c) control the quantities and rates of discharge of such waters or wastes, and/or
- d) reduce the chlorine requirement to conform with normal sewage.

Plans, specifications, and other pertinent information relating to proposed preliminary treatment facilities shall be submitted for the recommendation of the Utility and Infrastructure Board and the approval of the City Council and no construction of such facilities shall be commenced until said approvals are obtained in writing.

§3-246 HAZARDOUS AND PROHIBITED DISCHARGES; SPECIFIC PROHIBITIONS AS RECOMMENDED BY UTILITY AND INFRASTRUCTURE BOARD AND APPROVED BY THE CITY COUNCIL.

No person shall discharge or cause to be discharged the following described substances, materials, waters, or wastes if appears likely in the opinion of the City Council that such wastes can harm either the sewers, sewage treatment process, or equipment, have an adverse effect on the receiving stream, or can otherwise endanger life, limb, public property, or constitute a nuisance. The Utility and Infrastructure Board may recommend to the City Council, and the City Council may set limitations lower than the limitations established below if in its opinion such more severe limitations are necessary to meet the above objectives. In forming its opinion as to the acceptability of these wastes, the Utility and Infrastructure Board and the City Council will each give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, and other pertinent factors. The limitations or restrictions on materials or characteristics of waste or wastewater discharged to the sanitary sewer which shall not be violated without the approval of the City Council are:

1. Any liquid or vapor having a temperature higher than one hundred fifty (150⁰) degrees Fahrenheit (65⁰ degrees C).
2. Any water or waste containing fats, wax, grease, or oils, whether emulsified or not, in excess of one hundred (100) mg/1 or containing substances which may solidify or become viscous at temperatures between thirty-two (32) degrees and one hundred fifty (150⁰) degrees F (0 and 65⁰ C) .
3. Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor three-fourths (3/4) horsepower (0.76 hp metric) or greater shall be subject to the recommendation of the Utility and Infrastructure Board and the review and approval of the City Council.

4. Any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solutions whether neutralized or not.

5. Any water or wastes containing iron, chromium, copper, zinc, and similar objectionable or toxic substances; or wastes exerting an excessive chlorine requirement, to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits recommended by the Utility and Infrastructure Board and established by the City Council for such materials.

6. Any waters or wastes containing phenols or other taste- or odor-producing substances, in such concentrations exceeding limits which may be recommended by the Utility and Infrastructure Board and established by the City Council as necessary, after treatment of the composite sewage, to meet the requirements of State, Federal, or other public agencies of jurisdiction for such discharge to the receiving waters.

7. Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits recommended by the Utility and Infrastructure Board and established by the City Council in compliance with applicable State or Federal regulations.

8. Any waters or wastes having a pH in excess of [9.5].

9. Materials which exert or cause:

a. Unusual concentrations of inert suspended solids (such as, but not limited to, Fuller's earth, lime slurries, and lime residues) or of dissolved solids, (such as but not limited to, sodium chloride or sodium sulfate).

b. Excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions)

c. Unusual BOD, chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.

d. Unusual volume of flow or concentration of wastes constituting "slugs" as defined herein.

10. Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

11. Any water or wastes which, by interaction with other water or wastes in the public sewer system, release obnoxious gases, form suspended solids which interfere with the collection system or create a condition deleterious to structures and treatment processes.

§3-247 DISCHARGE OF HAZARDOUS AND PROHIBITED SUBSTANCES; REJECTION, PRETREATMENT, CONTROL OF DISCHARGE RATE OR USE FEE SURCHARGE.

If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in Section 3-246, and which in the judgment of the City Council, may have a deleterious effect upon the sewage works, processes, equipment, or receiving waters, or which otherwise create a hazard to life to constitute a public nuisance, the City Council may:

1. Reject the wastes,

2. Require pretreatment to an acceptable condition for discharge to the public sewers,
3. Require control over the quantities and rates of discharge, and/or
4. Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of Section 3-252.

If the City Council permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and recommendation of the Utility and Infrastructure Board and the review and approval of the City Council, and subject to the requirements of all applicable codes, ordinances and laws.

§3-248 GREASE, OIL AND SAND INTERCEPTORS; WHEN REQUIRED.

Grease, oil, and sand interceptors shall be provided when, in the opinion of the City Administrator, 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 recommended by the Utility and Infrastructure Board and approved by the City Council and shall be located as to be readily and easily accessible for cleaning and inspection. In the maintaining of these interceptors the owner(s) shall be responsible for the proper removal and disposal by appropriate means of the captured material and shall maintain records of the dates, and means of disposal which are subject to review by the City Council.

§3-249 PRELIMINARY TREATMENT OR FLOW EQUALIZING FACILITIES; MAINTENANCE BY OWNER.

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

§3-250 CONTROL MANHOLES/ SAMPLING STATIONS; WHEN REQUIRED; INSTALLATION AND MAINTENANCE.

When required by the City Council, 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 recommended by the Utility and Infrastructure Board and approved by the City Council. The manhole shall be installed by the owner at his expense, and shall be maintained by him so as to be safe and accessible at all times.

§3-251 CONTROL MANHOLES/ SAMPLING STATIONS; METHOD.

All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this Article, shall be determined in accordance with the

latest edition of "Standard Methods for the Examination of Water and Wastewater," published by the American Public Health Association, and shall be determined at the control manhole provided, or upon suitable samples taken at said control manhole. In the event no special manhole has been required, the control manhole shall be considered to be the nearest down- stream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb, and property. (The particular analyses involved will determine whether a twenty-four (24) hour composite of all outfalls of a premise is appropriate or whether a grab sample or samples should be taken. Normally, but not always, BOD and suspended solids analyses are obtained from twenty-four (24) hour composites of all outfalls whereas pH's are determined from periodic grab samples.)

§3-252 HAZARDOUS AND PROHIBITED SUBSTANCES; SPECIAL EXCEPTIONSPERMITTED; USE FEE SURCHARGE.

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

§3-253 COMPLIANCE WITH ARTICLE; INSPECTIONS GENERALLY.

The Department of Utilities 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 system in accordance with the provisions of this Article. The Utility and Infrastructure Board , City Council or its 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.

§3-254 COMPLIANCE WITH ARTICLE; INSPECTIONS; INJURY LIABILITY.

While performing the necessary work on private properties referred to in Section 3-253 above, the Department of Utilities or duly authorized employees of the City shall observe all safety rules applicable to the premises established by the company and the company shall be held harmless for injury or death to the City employees and the City shall indemnify the company against loss or damage to its property by City employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions as required in Section 3-250.

§3-255 COMPLIANCE WITH ARTICLE; INSPECTIONS; EASEMENTS.

The Department of Utilities and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all private properties

through which the City holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the sewage works lying within said easement. No permanent buildings, trees, retaining walls, nor loose rock walls shall be placed in the said easement ways, but the same may be used for gardens, shrubs, landscaping, and other purposes that do not then or later interfere with the aforesaid uses or rights. The City may remove part or all of the above if necessary to perform its duties at the owner's expense. Variances to this section may be made by resolution of the City Council.

§3-256 VIOLATION; NOTICE AND LIABILITY.

Any person found to be violating any provision of this Article except Section 3-213 shall be served by the City with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

Any person violating any of the provisions of this Article shall become liable to the City for any expense, loss, or damage occasioned the City by reason of such violation.

§3-257 MUNICIPAL SEWERAGE SYSTEM; MUNICIPAL POWERS.

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

§3-258 MUNICIPAL SEWERAGE SYSTEM; LIEN.

In addition to all other remedies, if a customer shall for any reason remain indebted to the City for sewerage services furnished, such amount due, together with any charges in arrears, shall be considered a delinquent sewerage charge which is hereby declared to be a lien upon the real estate for which the same 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 sixty (60) days or more delinquent in the payment of sewerage charges.

§3-259 MUNICIPAL SEWERAGE SYSTEM; UTILITY AND INFRASTRUCTURE BOARD, RULES AND REGULATIONS.

For the purpose of carrying out the provisions of this Article, the Utility and Infrastructure Board may recommend and the City Council and City Administrator may promulgate such rules and regulations not inconsistent with the provisions of this Article as it deems necessary.

ARTICLE 3. ELECTRIC SYSTEM

Editor's Note: Regulations on poles, wires, cables and conduits are located in Chapter 8.

§3-301 MUNICIPAL ELECTRIC SYSTEM; OWNERSHIP.

The City owns and operates the Municipal Electric System through its Department of Utilities. The City Council, for the purpose of defraying the cost of the care, management, and maintenance of the Municipal Electric System may each year levy a tax not exceeding the maximum limit prescribed by State law, on the actual valuation of all real estate and personal property within the corporate limits that is subject to taxation. The revenue from the said tax shall be known as the Electric Fund and shall remain in the custody of the Director of Finance. The Utility and Infrastructure Board and City Administrator shall recommend to the City Council, and the City Council shall have the authority to adopt, review and supervise rules and regulations for the safe and efficient management of the Electric System. The City Council shall by ordinance set the rates to be charged for services rendered and shall file the same in the office of the City Clerk for public inspection at any reasonable time. (Ref. Neb. Rev. Stat. §16-675, Neb. Rev. Stat. §16-681)

§3-302 MUNICIPAL ELECTRIC SYSTEM; CONTRACTS AND TERMS.

The City through its Department of Utilities, shall furnish electric current for light, heat 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 Electric System may be required to do so. The rules, regulations, and rates for electric service, hereinafter named in this Article, shall be considered a part of every application hereafter made for electric service and shall be considered a part of the contract between the City and every consumer now served by the Electric System. Without further formality, the making of application on the part of any applicant or the use or consumption of electric energy by present customers and the furnishing of electric service to said applicant or customer shall constitute a contract between applicant or customer and the City, to which both parties are bound. If a customer should violate any of the provisions of said contract or any reasonable rules and regulations the Department of Utilities may hereafter adopt, the Utility and Infrastructure Board may recommend that the City Council, or its 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 safe or except by order of the City Council or its agent.

§3-303 MUNICIPAL ELECTRIC SYSTEM; APPLICATION.

Every person desiring to obtain electricity from the City system shall make application therefor in writing upon forms furnished by the Department of Utilities, stating therein the location of the house or building, by street and number, desired to be connected, stating the type of service desired and any other appropriate information recommended by the Utility and Infrastructure Board and deemed necessary by the City Council.

§3-304 MUNICIPAL ELECTRIC SYSTEM; ELECTRIC SERVICE CHANGES.

Any person wishing to change from one location to another shall make a new application. If any consumer shall sell, dispose, or remove from the premise where service is furnished in his name, or if the said premise is destroyed by fire or other casualty, he shall at once inform the Department of Utilities who shall cause the

electric service to be shut off from the said premise. If the consumer should fail to give such notice, he shall be charged for all electricity used on the said premise until the Department of Utilities is otherwise advised of such circumstances.

§3-305 GENERAL UTILITIES DEPOSIT.

The City Council is hereby authorized and empowered to require a new or existing purchaser of City utility services to be subject to the deposit policy recommended by the Utility and Infrastructure Board and adopted by the City Council.

§3-306 MUNICIPAL ELECTRIC SYSTEM; WIRING AND CONNECTIONS.

The wiring of all houses or buildings shall be done under the supervision of the City Electrical Inspector and by a licensed electrician. All expenses of wiring, up to and including outlets, shall be borne by the applicant for City electric service. The Department of Utilities will furnish the meter and connecting service wires to the outlets of buildings. No person shall make any connections to the electric service except an employee of the Department of Utilities.

The wiring of all houses or buildings within the City for electric service shall be done under and according to the rules and regulations adopted by the National Fire Underwriters Association of the United States, as set forth in the National Electrical Code, latest edition, which rules and regulations are on file with the City Clerk and are adopted by the City, and such other regulations that may be required by the City.

§3-307 MUNICIPAL ELECTRIC SYSTEM; UNDERGROUND CONNECTIONS.

Underground connection may be made to the City Electric System. Such connections shall be subject to any special charges and/or regulations recommended by the Utility and Infrastructure Board and set by the City Council.

§3-308 MUNICIPAL ELECTRIC SYSTEM; NONCONFORMING WIRING.

Any wiring for electric service in any house or building in this City found by the Electrical Inspector to be done or existing in violation of the rules and regulations as set forth in this Article shall be ordered by him to be changed to conform to such rules and regulations, and on the failure of the person owning such house or building to change such wiring, the Electrical Inspector will then order the Department of Utilities to discontinue service.

§3-309 MUNICIPAL, ELECTRIC SYSTEM; REPAIRS AND MAINTENANCE.

Customers shall be required to keep their wiring, fixtures and appliances, connected to the service wires of the Department of Utilities, in good repair and shall be responsible for all charges for service and maintenance.

Customers shall be responsible for all damages or loss of the property belonging to the Department of Utilities located on such customers' premises unless occasioned by causes beyond their control or the negligence of the Department of Utilities.

§3-310 MUNICIPAL ELECTRIC SYSTEM; LIABILITY; RESTRICTED USE.

Neither the City nor any of its authorized agents shall be responsible for any interruption or failure to provide electricity unless such failure or interruption results from the gross negligence of the City or its authorized agents. The City Council or its authorized agents shall have the power and authority to disconnect or discontinue such service for any good and sufficient reason without liability.

§3-311 MUNICIPAL ELECTRIC SYSTEM; RIGHT OF ENTRY.

Customers of City utility services shall give authorized employees of the Department of Utilities permission to enter their premises for the purpose of reading and inspecting meters and keeping in repair or removing all or any part of its apparatus used in connection with the supplying of utility services.

§3-312 MUNICIPAL ELECTRIC SYSTEM; REFUSAL OF SERVICE.

In order to insure good service to all customers, the Department of Utilities shall have the right to refuse electric service connections or maintenance service when it develops that such service cannot be rendered without detriment to the service of other customers.

§3-313 MUNICIPAL ELECTRIC SYSTEM; METERS, LOCATION.

The Department of Utilities shall install and maintain one (1) meter for each class of service supplied. Each service connection shall be billed independently of all others, except as provided for large power service rate in Section 3-318. Extra meters, for the consumer's convenience, will be supplied by negotiation with the Department of Utilities.

All electric meters shall be placed in or on an accessible part of the building, in such position that meter readers may be able to read same without the use of ladders, etc. The location of and placing of meters shall be approved by the Department of Utilities.

The index of the electric meter of customers shall be taken at the time service is established and at stated periods thereafter, approximately thirty (30) days apart. The Department of Utilities shall not permit the use of current from a single service for two (2) or more buildings unless the buildings are under a common ownership (or leasehold), and are intercommunicating within the buildings and are classed as one fire risk and operated as a single property, or are under a common ownership or leasehold, and are on contiguous property.

§3-314 MUNICIPAL ELECTRIC SYSTEM; INTERFERING WITH METERS.

No person other than an authorized employee of the Department of Utilities shall interfere with, molest or disconnect any electric meter or meter accessory, or break or remove the seal on any meter or meter accessory, or in any way prevent or hinder the action of the same.

§3-315 MUNICIPAL ELECTRIC SYSTEM; METER INDISREPAIR.

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

§3-316 MUNICIPAL ELECTRIC SYSTEM; OUTLETS.

All electrical outlets to buildings shall be placed in or on an accessible part of the building nearest to the distribution system and must be approved by the Department of Utilities.

§3-317 MUNICIPAL ELECTRIC SYSTEM; RATES AND CLASSIFICATIONS.

The City Council, upon the recommendation of the Utility and Infrastructure Board, shall by ordinance fix rates for the various types of electric service which are furnished by the City in connection with the operation of the Municipal electric system.

The City Clerk shall maintain at all times at its office open for public inspection a complete list of the classifications and rates for the various types of electric service furnished by the City, together with any change in rates which shall be made by the City Council.

§3-318 MUNICIPAL ELECTRIC SYSTEM; CLASSIFICATION FOR ELECTRIC RATES.

The classifications of electric services set forth in this section are hereby established and shall be the basis upon which the electric rates and charges shall be based and fixed:

1. Residence Service. Residence Service shall be applicable to single-family residences within the corporate limits of the City for household purposes only, such service to be limited to single phase electric service only. Separate family units in new multi-family dwellings shall be separately metered.
2. Suburban Service. Suburban Service shall be applicable to single-family residences outside the corporate limits of the City for household and farming purposes, only, such service to be limited to single phase electric service only, with no motors larger than ten (10) horsepower. Separate family units in new multi-family dwellings shall be separately metered.
3. Commercial Service. Commercial Service shall be applicable to other than Residence and Suburban Service, such service to be limited to single phase electric service only, with no motors larger than ten (10) horsepower and no electric appliances larger than twelve (12) kilo volt amperes.

4. Commercial Heat Service. Commercial Heat Service shall be applicable to other than Residence and Suburban Service for space heating only, shall be on a separate meter, and shall be based on a minimum of six (6) months consecutive service during the winter season.
5. General Power Service. General Power Service shall be applicable to single phase electric service supplied for motors larger than ten (10) horsepower and electric appliances larger than twelve (12) kilo volt amperes, and to three (3) phase electric service.
6. Large Power Service. Large Power Service may be applicable to service supplied for loads with a monthly demand greater than one hundred (100) kilowatts. Consolidation of service metering can be provided if customer loads exceed normally available capacity and are subject to special conditions of service as recommended by the Utility and Infrastructure Board and established by the City Council. Customer charge for consolidation of metering shall be a one-time fee as determined by the Mayor and Council upon the recommendation of the City Administrator, in addition to normal customer charge. When all such arrangements are provided, there shall be added to such consumer's bill an amount equal to ½% per month, of the difference between the cost of the facilities which the Utilities installs and maintains to provide service at more than one point of delivery and the cost of the facilities which the Department of Utilities would install and maintain to provide service at one point of delivery.
7. Seasonal Power Service. Seasonal Power Service shall be applicable to service supplied for seasonal requirements and shall be based on a minimum of six (6) months service per calendar year.
8. Dusk to Dawn Lighting Service. Dusk to Dawn Lighting Service is a rental lighting service for all- night outdoor lighting. Minimum length of rental agreement for such service is one (1) year.
9. Wholesale Power Service. Wholesale Power Service shall be applicable to service supplied to other electric utilities for resale. Such service shall be by special contract negotiated and recommended through the Utility and Infrastructure Board and approved by the City Council.
10. Temporary Service. Any electric service that is not of a permanent nature shall be classed as a temporary service and the cost of such installation and removal of such service shall be paid in advance by the applicant.
11. Standby Service. Standby Service shall be applicable to service supplied as an emergency service to a customer with some other principal source of electrical service or to a customer for a standby fire protection system. Such service shall be by special contract with rates and minimum charges to be based on the equipment and investment which is required to furnish such service.
12. Intersystem Service. Intersystem Service shall be applicable to service supplied to the Water System and the Sewerage Systems of the City.
13. Fuel Cost Adjustment. Fuel Cost Adjustment schedules shall be set by resolution of the City Council.

Connection charges for any or all classifications of service shall be set by resolution of the City Council.

When a line extension or revision or a transformer installation or change is made for a new service, part or all of the associated costs may be charged to the applicant as a direct charge and/or with special monthly or annual minimum charges.

§3-319 MUNICIPAL ELECTRIC SYSTEM; RATE CHANGES.

The City expressly reserves the right in all contracts with customers for furnishing electric service to so adjust, raise and change the rates therefor that the City will not be required to furnish such service below the cost thereof to the City. This reservation shall be a part of every customer's contract, whether expressly recited therein or not.

The rates to be charged by the City for electric service shall be at an equal rate for all consumers falling within the same classification as set forth in Section 3-318; provided, however, the City Council may create electrical rate schedules to enhance the utilization of the electric system which shall be uniform by customer classification.

§3-320 MUNICIPAL ELECTRIC SYSTEM; UTILITY BILLS.

Utility bills shall be due and payable monthly. It shall be the duty of each customer of the Department of Utilities to pay their bills by any of the payment methods recommended by the Utility and Infrastructure Board and approved by the City Council. Bills shall be due upon receipt. Bills not paid by the date due shall be deemed delinquent and assessed a delinquency charge. Upon being deemed delinquent, as herein defined, the Department of Utilities shall follow the procedures in Section 3-901 regarding the disconnection of utilities.

§3-322 MUNICIPAL ELECTRIC SYSTEM; DESTRUCTION OF PROPERTY.

It shall be unlawful for any person to remove, injure or destroy any wire, pole, machinery or any appliance in or about the City Electric System, or connected therewith, or to break any electric lamp.

§3-323 MUNICIPAL ELECTRIC SYSTEM; FLUORESCENT AND NEON LIGHTS.

It shall be unlawful for any person to connect any fluorescent lighting, neon signs or other lighting or display facilities having similar load characteristics to the Electric System of the City or to permit a connection already made to continue, unless such fluorescent lighting, neon signs or other lighting or display facilities having similar load characteristics are connected with capacitors or other auxiliaries of sufficient size to maintain a power factor of ninety percent (95%) or more lagging, whenever the above mentioned lighting, sign or display equipment is in operation.

§3-324 COMPLIANCE WITH ARTICLE; INSPECTIONS; EASEMENTS.

The Department of Utilities 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 an easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the electric system lying within said easement. No permanent buildings, trees, retaining walls, nor loose rock walls shall be placed in the said easement ways, but the same may be used for gardens, shrubs, landscaping, and other purposes that do not then or later interfere with the aforesaid uses or rights. The City may remove part or all of the above if necessary to perform its duties at the owner's expense. Variances to this section may be made by resolution of the City Council.

§3-325 and §3-326 are hereby repealed, and the Board of Public Works is dissolved.

Article 4. Fire Department

§3-401 MUNICIPAL FIRE DEPARTMENT; OPERATION AND FUNDING. (REPEALED ORD 5329 - SEE CHAPTER SEVEN)

§3-402 MUNICIPAL FIRE DEPARTMENT; FIRE CHIEF. (REPEALED ORD 5329 - SEE CHAPTER SEVEN)

§3-403 MUNICIPAL FIRE DEPARTMENT; AUTHORITY AT FIRES. (REPEALED ORD 5329 - SEE CHAPTER SEVEN)

§3-404 MUNICIPAL FIRE DEPARTMENT; FIRES. (REPEALED ORD 5329 - SEE CHAPTER SEVEN)

§3-405 MUNICIPAL FIRE DEPARTMENT; DISTANT FIRES. (REPEALED ORD 5329 - SEE CHAPTER SEVEN)

§3-406 MUNICIPAL FIRE DEPARTMENT; FIGHTING DISTANT FIRES. (REPEALED ORD 5329 - SEE CHAPTER SEVEN)

§3-407 MUNICIPAL FIRE DEPARTMENT; PRESERVATION OF PROPERTY. (REPEALED ORD 5329 - SEE CHAPTER SEVEN)

§3-408 MUNICIPAL FIRE DEPARTMENT; IMPERSONATING FIREMEN. (REPEALED ORD 5329 - SEE CHAPTER SEVEN)

§3-409 MUNICIPAL FIRE DEPARTMENT; MANDATORY ASSISTANCE. (REPEALED ORD 5329 - SEE CHAPTER SEVEN)

§3-410 MUNICIPAL FIRE DEPARTMENT; HINDERING FIREMAN. (REPEALED ORD 5329 - SEE CHAPTER SEVEN)

§3-411 MUNICIPAL FIRE DEPARTMENT; POWER OF ARREST. (REPEALED ORD 5329 - SEE CHAPTER SEVEN)

§3-412 MUNICIPAL FIRE DEPARTMENT; FIRE INVESTIGATION. (REPEALED ORD 5329 - SEE CHAPTER SEVEN)

§3-413 MUNICIPAL FIRE DEPARTMENT; REGULATIONS, GENERALLY. (REPEALED ORD 5329 - SEE CHAPTER SEVEN)

§3-414 MUNICIPAL FIRE DEPARTMENT; RIDING FIRE APPARATUS. (REPEALED ORD 5329 - SEE CHAPTER SEVEN)

§3-415 MUNICIPAL FIRE DEPARTMENT; GAMBLING, LIQUOR. (REPEALED ORD 5329 - SEE CHAPTER SEVEN)

§3-416 MUNICIPAL FIRE DEPARTMENT; RESPONSE OF OFF DUTY FIREMEN TO GENERAL ALARMS. (REPEALED ORD 5329 - SEE CHAPTER SEVEN)

§3-417 MUNICIPAL FIRE DEPARTMENT; CARE OF FIRE TRUCKS.(REPEALED ORD 5329 - SEE CHAPTER SEVEN)

§3-418 MUNICIPAL FIRE DEPARTMENT; SPECIAL FIRE POLICE. (REPEALED ORD 5329 - SEE CHAPTER SEVEN)

§3-419 MUNICIPAL FIRE DEPARTMENT; VIOLATIONS OF CERTAIN CODES; ENFORCEMENT. (REPEALED ORD 5329 - SEE CHAPTER SEVEN)

Article 5. Police Department

§3-501 POLICE DEPARTMENT; DUTIES.

The Police Department shall consist of the Chief of Police and such further number of regular policemen as may be duly ordered by resolution of the Council; provided, that the Chief of Police shall have further power to appoint, when necessary, such additional police temporarily as any exigency which may arise may require. The Chief of Police shall, subject to the direction of the Mayor, have control and management of all matters relating to the Police Department, its officers and members, and shall have the custody and control of all property and books belonging to the department. He shall devote his whole time to the municipal affairs, interests of the City, and to the preservation of peace, order, safety, and cleanliness thereof. The Department shall execute and enforce all laws and also the orders of the Mayor. It shall be the duty of the Department to protect the rights of persons and property. There shall be a proper police force at all fires. The Department shall take notice of all nuisances, impediments, obstructions, and defects in the streets, avenues, alleys, business places, and residences of the City. The Department shall execute, or cause to be executed, the processes

issued and shall cause all persons arrested to be brought before the proper court for trial as speedily as possible. The Chief of Police and all regular and special policemen shall become thoroughly conversant with the laws of the City, and shall see that the same are strictly enforced and shall make sworn complaints against any person or persons for violation of the same.

§3-502 POLICE DEPARTMENT; PRIVATE POLICE.

Any person desiring the services of a Special Policeman in or about his business or property, upon agreeing to defray all expenses of the maintenance of such policeman, and upon application to the Mayor, may have any suitable person named for such Special Policeman duly appointed as such. Such Special Policeman shall take the usual oath of office and shall have the power of regular police in the discharge of his duties.

Special Policemen appointed pursuant to this section shall be exclusively employed in the protection of the business and property of such person at whose instance they were respectively appointed and they shall be subject only to the control of such person who shall be responsible for the pay of such officer, and the City shall in no case incur any liability of any character whatever by reason of the appointment of such officer.

§3-503 POLICE DEPARTMENT; UNIFORMS, BADGES.

Except as otherwise provided by this Article, each policeman of the City shall be provided with a suitable badge or insignia of office, which he shall wear in a conspicuous place upon his person at all times when on duty. Further, unless otherwise provided by this Article, all police officers shall provide themselves with and wear a uniform while on duty, if so required by the Council.

§3-504 POLICE DEPARTMENT; ABUSING PRISONERS.

No policeman shall unnecessarily beat or abuse any prisoner in his custody or in the custody of any officer, and every policeman so doing shall be deemed guilty of a misdemeanor.

§3-505 POLICE DEPARTMENT; RESERVE, UNIT, DEFINITIONS.

For the purposes of this Article, the following words and phrases shall have the meanings respectively ascribed to them by this Section:

Active Service. These words shall mean when a member of the Police Reserve Unit of the City is detailed to perform regular police duty for which he is paid.

Chief. This word shall mean the Chief of Police.

Member. This word shall mean any member of the Police Reserve Unit of the City.

Reserve. This word shall mean the Police Reserve Unit established pursuant to this Article.

Training Service. These words shall mean when a member of the Police Reserve Unit of the City is attending a training session for which he is not paid. (*Ref. 22-13 Code 1972*)

§3-506 POLICE DEPARTMENT; RESERVE UNIT; POWERS, DUTIES, REGULATION.

There has been created the City Police Reserve. The Reserve shall consist of such number of members as shall from time to time be determined by the Mayor and City Council, and they shall be under the direction of the Mayor or the Chief of Police. One (1) of such group, in addition to his other duties, shall be secretary-treasurer of the Reserve and shall keep all books, records and accounts. The secretary-treasurer of the Police Reserve Unit shall present all books of accounts of the Police Reserve Unit for audit when requested to do so by the Mayor or City Council. The Mayor, by rule, shall prescribe the qualifications and standards by which applicants for membership in the Reserve shall be governed, and persons possessing such qualifications and conforming to such standards may be appointed to the Reserve by the Mayor. The Police Reserve Unit may adopt its own rules and regulations to govern its operations in matters not involving police training and during periods of active duty. Such members shall be appointed by the Mayor and confirmed by the Council.

Every member shall, before membership, take an appropriate oath to support the various existing governments

of the City. The reserve is assigned the duty of preparing against the perils to life and property that may be expected to result from an attack by any foreign power during any war, or from any disaster that may threaten lives and property, and any duties assigned the members shall be deemed as training in preparation against such perils.

In the enforcement of the penal laws of the State, the penal provisions of this Code or other ordinances of the City and penal ordinances of the County, and in the performance of such other duties as may be designated by the Mayor, Acting Mayor, or the Chief of Police, every duly authorized member of the Police Reserve Unit, while on active service, shall be deemed to have all the powers of a regular peace officer. During such tour of active service, such members so appointed shall possess all the powers and privileges and shall perform the duties of the regular members of the police force of the City assigned to them by the Mayor or the Chief of Police. It shall be unlawful for any such member to attempt to carry out any order, rule or regulation promulgated by proper authority when not wearing a regular uniform as prescribed, or while not on active service as defined by Section 3-505. Any violation of this Section by any member shall cause his immediate dismissal from the Reserve. Members of the Police Reserve Unit shall perform such other public service as may be ordered by the Mayor, Acting Mayor or the Chief of Police and it shall be unlawful for any person to willfully resist, delay or obstruct any such member in the discharge of his duty, or in his attempt to discharge any duties of his office.

§3-507 POLICE DEPARTMENT; RESERVE UNIT.

A member shall be an employee of the City for the time during which the Mayor, Acting Mayor or Chief of Police has placed the member on active service.

To be eligible for membership in the Reserve, each applicant must indicate his willingness to serve an average minimum of eight (8) hours per month in the public training service for the first two (2) months of his service and four (4) hours per month of training service minimum thereafter, and where any member has failed to give such minimum hours of training service for a period of two (2) months, the Chief shall inquire into the reasons therefor and unless good reason is shown for such failure to render the minimum hours herein required, the Chief may dismiss the member from the Reserve. Training service may include performance of regular police duty in nonpay status; Provided, that it is scheduled as training.

Members suffering injury arising out of and in the course of duties assigned them by the Mayor or Chief of Police are entitled to such medical care, hospitalization, compensation and other benefits as the City may provide for other members of the City government.

§3-508 POLICE DEPARTMENT; RESERVE UNIT, UNIFORMS AND EQUIPMENT.

The uniform, badges and equipment to be worn and carried by the members of the Reserve shall be prescribed by the Mayor. Except while on duty pursuant to call, members of the Reserve shall at no time carry loaded firearms. Unloaded firearms as an adjunct to their uniforms may be worn during parades or other public demonstrations in which the Reserve may participate. Violation of these rules concerning arms by any member shall be cause for his immediate discharge from the reserve.

Uniforms, badges and other equipment used by the Police Reserve Unit shall be purchased by the City and shall be the property of the City. Upon separation from the Reserve, all members shall return such equipment to the Chief of the Reserve or the Chief of Police.

§3-509 POLICE DEPARTMENT; RESERVE UNIT. IMPERSONATIONS.

It shall be unlawful for any person to falsely impersonate or represent himself to be a member, or to wear, use or possess any of the uniforms, badges or equipment used by the Reserve, unless he is authorized to do so.

§3-510 POLICE, DEPARTMENT; RESERVE UNIT, ATHLETIC PROGRAM.

The Police Reserve as a unit may sponsor and conduct a continuing athletic program to include but not limited to that athletic activity related to individual self defense and physical fitness.

All persons appointed by the Mayor pursuant to the provisions of this Article shall be deemed to be public officers. The Reserve shall be deemed to be a part of the police services of the City Police Department and shall be governed by this Article. Should any provision of any police ordinance of the City conflict with this Article, this Article shall prevail.

The Mayor is authorized, directed and empowered to prepare and promulgate such rules and regulations and provisions, and amendments thereto, as may, in his or her discretion, be necessary to carry out the express intent of this Article, which provisions shall include a table of organization not in conflict herewith.

The Mayor may dismiss any member from the Reserve without any hearing whatsoever, and each member shall have the right to resign from the Reserve Unit at any time.

- (1) Every Municipal law enforcement officer shall have the power and authority to enforce the laws of this state and the Municipality or otherwise perform the functions of that office anywhere within his or her primary jurisdiction. Primary jurisdiction shall mean the geographic area within territorial limits of the Municipality.
- (2) Any Municipal law enforcement officer who is within this state but beyond the territorial limits of his or her primary jurisdiction, shall have the power and authority to enforce the laws of this state or any legal ordinance of any city or incorporated village or otherwise perform the functions of his or her office, including the authority to arrest and detain suspects, as if enforcing the laws or performing the functions within the territorial limits of his or her primary jurisdiction in the following cases:
 - (a) Any Municipal law enforcement officer, if in a fresh attempt to apprehend a person suspected of committing a felony, may follow such person into any other jurisdiction in this state and there arrest and detain such person and return such person to the officer's primary jurisdiction;
 - (b) Any Municipal law enforcement officer, if in a fresh attempt to apprehend a person suspected of committing a misdemeanor or a traffic infraction, may follow such person anywhere in an area within twenty-five (25) miles of the boundaries of the officer's primary jurisdiction and there arrest and detain such person and return such person to the officer's primary jurisdiction;
 - (c) Any Municipal law enforcement officer shall have such enforcement and arrest and detention authority when responding to a call in which a local, state, or federal law enforcement officer is in need of assistance. A law enforcement officer in need of assistance shall mean (i) a law enforcement officer whose life is in danger or (ii) a law enforcement officer who needs assistance in making an arrest and the suspect (A) will not be apprehended unless immediately arrested, (B) may cause injury to himself or herself or others or damage to property unless immediately arrested, or (C) may destroy or conceal evidence of the commission of a crime; and
 - (d) If the Municipality, under the provisions of the Interlocal Cooperation Act, enters into a contract with any other municipality or county for law enforcement services or joint law enforcement services, law enforcement personnel may have such enforcement authority within the jurisdiction of each of the participating political subdivisions if provided for in the agreement. Unless otherwise provided in the agreement, the Municipality shall provide liability insurance coverage for its own law enforcement personnel as provided in section 13-1802 RS Neb.
- (3) If Municipal law enforcement personnel are rendering aid in their law enforcement capacity outside the limits of the Municipality in the event of disaster, emergency, or civil defense emergency or in connection with any program of practice or training for such disaster, emergency or civil defense emergency when such program is conducted or participated in by the Nebraska Emergency Management Agency or with any other related training program, the law enforcement personnel shall have the power and authority to enforce the laws of this state or any legal ordinances or

resolutions of the local government where they are rendering aid or otherwise perform the functions of their office, including the authority to arrest and detain suspects, as if enforcing the laws or performing the functions within the territorial limits of their primary jurisdiction. The Municipality shall self-insure or contract for insurance against any liability for personal injuries or property damage that may be incurred by it or by its personnel as the result of any movement of its personnel outside the limits of the Municipality pursuant to this subsection.

§3-513 **CIVIL SERVICE COMMISSION.**

The Civil Service Commission for the City of Fremont shall consist of three members appointed by the Mayor with the approval of the City Council. Members of the Civil Service Commission shall have been residents of the City of Fremont, Nebraska for at least three (3) years preceding appointment and registered voters of Dodge County, Nebraska. The Members of the Civil Service Commission shall serve without compensation. The Civil Service Commission shall function pursuant to the rules, provisions, and procedures of the applicable state law.

§3-514 **CIVIL SERVICE; ADOPTED IN PAMPHLET FORM.**

Ordinance Number 3357, Civil Service Act of 1985, in pamphlet form, shall be included in the Municipal Code.

§3-515 **CIVIL SERVICE; REQUIREMENTS FOR CIVIL SERVICE POSITION APPLICANTS.**

(1) An applicant for a position of any kind under Civil Service shall be able to read and write the English language, meet the minimum job qualification of the position as established by the Mayor, and be of good moral character. An applicant shall be required to disclose his or her past employment history and his or her criminal record, if any, and submit a full set of his or her fingerprints and a written statement of permission authorizing the Mayor to forward the fingerprints for identification. Prior to certifying to the Mayor the names of the persons eligible for the position or positions, the Commission shall validate the qualifications of such persons.

(2) The Mayor shall require an applicant, as part of the application process, to submit a full set of his or her fingerprints along with written permission authorizing the Mayor to forward the fingerprints to the Federal Bureau of Investigation through the Nebraska State Patrol, for identification. The fingerprint identification shall be solely for the purpose of confirming information provided by the applicant.

(3) Any fingerprints received by the Commission or Mayor pursuant to a request made under subsection (2) of this section and any information in the custody of the Commission or Mayor resulting from the inquiries or investigations made with regard to those fingerprints initiated by the Commission or Mayor shall not be a public record within the meaning of sections 84-712 to 84-712.09 RS Neb. and shall be withheld from the public by the lawful custodians of such fingerprints and information and shall only be released to those lawfully entitled to the possession of such fingerprints and information. Any member, officer, agent, or employee of the Commission, Mayor, or Municipality who comes into possession of fingerprints and information gathered pursuant to subsection (2) of this section shall be an official within the meaning of section 84-712.09 RS Neb.

Article 6. Parks and Recreation Department

§3-601 **PARKS AND RECREATION DEPARTMENT; OPERATION AND FUNDING.** (Repealed July 8, 2014, Ordinance 5310 See Chapter 12)

§3-602 **PARKS AND RECREATION DEPARTMENT; DAMAGE DEPOSITS AND RENTAL FEE FOR EVENTS.** (Repealed July 8, 2014, Ordinance 5310 See Chapter 12)

§3-603 **PARKS AND RECREATION DEPARTMENT; PARKING AND DRIVING, PENALTY.** (Repealed July 8, 2014, Ordinance 5310 See Chapter 12)

§3-604 **PARKS AND RECREATION DEPARTMENT; CURFEW: PENALTY.** (Repealed July 8, 2014, Ordinance 5310 See Chapter 12)

§3-601 **PARKS AND RECREATION DEPARTMENT; OPERATION AND FUNDING.** (Repealed

July 8, 2014, Ordinance 5310 See Chapter 12)

§3-602 PARKS AND RECREATION DEPARTMENT; DAMAGE DEPOSITS AND RENTAL FEE FOR EVENTS. (Repealed July 8, 2014, Ordinance 5310 See Chapter 12)

§3-603 PARKS AND RECREATION DEPARTMENT; PARKING AND DRIVING, PENALTY. (Repealed July 8, 2014, Ordinance 5310 See Chapter 12)

§3-604 PARKS AND RECREATION DEPARTMENT; CURFEW: PENALTY. (Repealed July 8, 2014, Ordinance 5310 See Chapter 12)

§3-605 BOARD OF PARKS AND RECREATION COMMISSIONERS. (Repealed July 8, 2014, Ordinance 5310 See Chapter 12)

§3-606 BOARD OF FORESTRY EXAMINERS. (Repealed July 8, 2014, Ordinance 5310 See Chapter 12)

Article 7. Library

§3-701 MUNICIPAL LIBRARY: OPERATION AND FUNDING.

The City owns and manages the City Library, Reading Room, Art Gallery, and Museum through the Library Board. The City Council, for the purpose of defraying the cost of the management, purchases, improvements, and maintenance of the Library may each year levy a tax not exceeding the maximum limit prescribed by State law, on the actual valuation of all real estate and personal property within the City that is subject to taxation. The revenue from the said tax shall be known as the Library Fund and shall include all gifts, grants, deeds of conveyance, bequests, or other valuable income-producing personal property and real estate from any source for the purpose of endowing the City Library. The Library Fund shall at all times be in the custody of the Director of Finance. The Board shall have the power and authority to appoint the librarian and to hire such other employees as they may deem necessary and may pass such other rules and regulations for the operation of the Library, Reading Room, Art Gallery, and Museum as may be proper for their efficient operation.

§3-702 MUNICIPAL LIBRARY: DAMAGED AND LOST BOOKS.

Any person who injures or fails to return any book taken from the Library shall forfeit and pay to the Library not less than the value of the book in addition to any replacement costs and penalty which the Library Board may assess.

§3-703 MUNICIPAL LIBRARY: BOOK REMOVAL.

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

§3-704 MUNICIPAL LIBRARY: COST OF USE.

The Municipal Library shall be free for the use of the inhabitants of the City. The Librarian may exclude from the use of the Library and reading rooms any person who shall willfully violate or refuse to comply with the rules and regulations established for the government thereof.

§3-705 LIBRARY BOARD.

(1) The Library Board shall consist of five (5) appointed members who shall be residents of the Municipality and who shall serve terms of four (4) years. The Mayor shall appoint the members of the Library Board with the consent of the City Council. Neither the Mayor nor any member of the Council shall be a member of the Library Board. The terms of members serving on the effective date of a change in the number of members shall not be shortened, and any successors to those members shall be appointed as the terms of

those members expire. In case of any vacancy by resignation, removal, or otherwise, the Mayor shall fill the vacancy for the unexpired term with the consent of the Council.

(2) No member shall receive any pay or compensation for any services rendered as a member of the Library Board.

(3) At the time of the Board's first (1st) meeting in June of each year, the Board shall organize by selecting from their number a Chairperson and Secretary. No member of the Library Board shall serve in the capacity of both the Chairperson and Secretary of the Board. It shall be the duty of the Secretary to keep minutes of all meetings, and to timely file the same with the City Clerk as public records.

(4) A majority of the Board members shall constitute a quorum for the transaction of business. The Board shall meet at such times as the City Council may designate. Special meetings may be held upon the call of the Chairperson, or a majority of the members of the Board.

(5) The Library Board shall advise the Mayor and City Council in regard to the operation, maintenance, and development and personnel of the Public Library, and shall recommend to the City Council by-laws, rules and regulations, or changes in by-laws, rules, and regulations for the protection and development of the public library.

(6) The Library Board shall be responsible for the intellectual content and development of the library.

(7) The Librarian shall be appointed by the Mayor with the advice of the Library Board and the consent of the City Council. The Librarian shall generally supervise the property and operations of the Public Library. The Librarian shall be accountable to the Board, but will work under the supervision of the City Administrator.

(8) All actions of the Commission shall be subject to the review and control of the City Council.

§3-706 **LIBRARY BOARD; ANNUAL REPORT.**

The Library Board shall, on or before the second Monday in February in each year, make a report to the City Council of the condition of its trust on the last day of the prior fiscal year. The report shall show all money received and credited or expended; the number of materials held, including books, video and audio materials, software programs, and materials in other formats; the number of periodical subscriptions on record, including newspapers; the number of materials added and the number withdrawn from the collection during the year; the number of materials circulated during the year; and other statistics, information, and suggestions as the Library Board may deem of general interest or as the City Council may require.

§3-707 **INTERNET ACCESS.**

It is the policy of the City of Fremont that all public internet access funded in whole or in part by the City will meet standards set by the Children's Internet Protection Act. The annual report of the Library Board shall certify compliance with the Children's Internet Protection Act.

Article 8. Cemetery

§3-801 **MUNICIPAL CEMETERY; OPERATION AND FUNDING.** (Repealed July 8, 2014, Ordinance 5310, See Chapter 12)

§3-802 **MUNICIPAL CEMETERY; SEXTON.** (Repealed July 8, 2014, Ordinance 5310, See Chapter 12)

§3-803 **MUNICIPAL CEMETERY; CONVEYANCE OF LOTS.** (Repealed July 8, 2014, Ordinance 5310, See Chapter 12)

§3-804 **MUNICIPAL CEMETERY; BURIAL REQUIREMENTS.** (Repealed July 8, 2014, Ordinance 5310, See Chapter 12)

§3-805 MUNICIPAL CEMETERY; SHRUBS, TREES, AND FLOWERS. (Repealed July 8, 2014, Ordinance 5310, See Chapter 12)

§3-806 MUNICIPAL CEMETERY; MONUMENTS. (Repealed July 8, 2014, Ordinance 5310, See Chapter 12)

§3-807 MUNICIPAL CEMETERY; GRAVE DEPTH. (Repealed July 8, 2014, Ordinance 5310, See Chapter 12)

§3-808 MUNICIPAL CEMETERY; DESTRUCTION OF PROPERTY. (Repealed July 8, 2014, Ordinance 5310, See Chapter 12)

§3-809 MUNICIPAL CEMETERY; PAYMENT FOR CEMETERY SERVICES. (Repealed July 8, 2014, Ordinance 5310 See Chapter 12)

Article 9. Utilities Generally

§3-901 MUNICIPAL UTILITIES; DISCONTINUANCE OF SERVICE, NOTICE PROCEDURE.

- (1) The Municipality shall have the right to discontinue utility services and remove its properties if the charges for such services are not paid within seven (7) days after the date that the charges become delinquent. Before any termination, the Municipality 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 (7) days, weekends and holidays excluded, after notice is sent or given. As to any subscriber who has previously been identified as a welfare recipient to the Municipality by the Department of Health and Human Services, such notice shall be by certified mail and notice of such proposed termination shall be given to the Department of Health and Human Services.
- (2) The notice shall contain the following information:
 - (a) The reason for the proposed disconnection;
 - (b) A statement of the intention to disconnect unless the domestic subscriber either pays the bill or reaches an agreement with the Municipality regarding payment of the bill;
 - (c) The date upon which service will be disconnected if the domestic subscriber does not take appropriate action;
 - (d) The name, address, and telephone number of the employee or department to whom the domestic subscriber may address an inquiry or complaint;
 - (e) The domestic subscriber's right, prior to the disconnection date, to request a conference regarding any dispute over such proposed disconnection;
 - (f) A statement that the Municipality may not disconnect service pending the conclusion of the conference;
 - (g) A statement to the effect that disconnection may be postponed or prevented upon presentation of a duly licensed physician's certificate which shall certify that the domestic subscriber or a 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 Municipality's service to that household. Such certificate shall be filed with the Municipality within five (5) days of receiving notice under this section and will prevent the disconnection of the Municipality's service for a period of thirty (30) days from such filing. Only one (1) postponement of disconnection shall be allowed under this subsection for each incidence of nonpayment of any past-due account;
 - (h) The cost that will be borne by the domestic subscriber for restoration of service;

- (i) A statement that the domestic subscriber may arrange with the Municipality for an installment payment plan;
 - (j) A statement to the effect that those domestic subscribers who are welfare recipients may qualify for assistance in payment of their utility bill and that they should contact their caseworker in that regard; and
 - (k) Any additional information not inconsistent with this section which has received prior approval from the Governing Body.
- (3) A domestic subscriber may dispute the proposed discontinuance of service by notifying the Municipality 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 Municipality may discontinue services.
- (4) The procedures adopted by the Governing Body for resolving utility bills, three (3) copies of which are on file in the office of the Municipal Clerk, are hereby incorporated by reference in addition to any amendments thereto and are made a part of this section as though set out in full.
- (5) This section shall not apply to any disconnections or interruptions of services made necessary by the Municipality for reasons of repair or maintenance or to protect the health or safety of the domestic subscriber or of the general public.

§3-902 UTILITIES GENERALLY; DENIAL OF UTILITY SERVICE; WHEN PROHIBITED.

No applicant for the services of a public or private utility company furnishing water, natural gas, or electricity at retail in this Municipality shall be denied service because of unpaid bills for similar service which are not collectible at law because of statutes of limitation or discharge in bankruptcy proceedings.

Article 10. Penal Provision

§3-1001 VIOLATION; PENALTY.

Any person who violates any of the prohibitions or provisions of any Article or Section of this Chapter shall be deemed guilty of a misdemeanor. Unless otherwise specified in the particular Article or Section for which the person stands convicted of violating, the penalty for such violation shall be in any amount not to exceed one thousand (\$1,000.00) dollars and/or three (3) months, in the discretion of the court.

Article 11. Cable Television

§3-1101 PURPOSE.

The purpose of this Article is to:

- (A) Establish a local policy concerning cable television;
- (B) Establish franchise procedures and standards which encourage the growth and development of cable systems which assure that cable systems are responsive to the needs and interests of the City;
- (C) Establish guidelines for the exercise of local authority with respect to the regulation of cable systems;
- (D) Establish an orderly process for franchise renewal which protects cable operators against unfair denials of renewal where an operator's past performance and proposal for future performance meet the standards set by the FCC and this Article;
- (E) Promote competition in cable communications and minimize unnecessary regulations that would impose undue burdens on cable systems;
- (F) Create a set of regulations, standards and procedures for cable operators;

- (G) Create a comprehensive customer service and consumer protection policy for cable operators;
- (H) Provide for access and inspection of a cable operator's books and records in order to monitor compliance with local, State and Federal laws, and any franchise agreement;
- (I) Provide a thorough construction and installation policy for a cable operator's system;
- (J) Provide for the health, safety and welfare of the citizens of the City in light of the cable operator's construction, operation and maintenance;
- (K) Provide for emergency override capability, so that citizens of the City may be warned of a potential, imminent, actual disaster or emergency situation that exists in the area;
- (L) Create a thorough procedure for collecting and monitoring franchise fees;
- (M) Create a thorough default and revocation procedure for franchised operators; and
- (N) Create a performance review procedure in order to assist the City in its periodic evaluation of a franchised operator's performance.

§3-1102 **DEFINITIONS.**

As used in this Article or in any franchise issued pursuant to this Article, the following terms shall have the following definitions:

AFFILIATE. Another person or entity who owns or controls, is owned or controlled by, or is under common ownership or control with, the person or entity.

APPLICANT. A person or entity submitting an application or proposal to the City for a franchise to operate a cable system under the terms and conditions of this Article and any state or federal regulations.

AUXILIARY EQUIPMENT. Equipment supplied by a cable operator which enhances or assists in the reception or provision of cable service.

BASIC CABLE SERVICE or BASIC SERVICE. Any service tier which includes the retransmission of local television broadcast signals and/or any PEG channels required to be carried pursuant to applicable law or a Franchise.

CABLE COMMUNICATIONS ACT or CABLE ACT. Cable Communications Policy Act of 1984, the Cable Television Consumer Protection and Competition Act of 1992, the Telecommunications Act of 1996, all later legislation directed at controlling or regulating cable television operators.

CABLE OPERATOR or OPERATOR. Any person or entity which:

- (A) Provides cable service over a cable system and directly or through one or more affiliates owns a significant interest in that cable system; or
- (B) Otherwise controls or is responsible for, through any arrangement, the management and operation of a cable system.

CABLE SERVICE.

- (A) The one-way transmission to subscribers of video programming, or other programming service, and
- (B) Subscriber interaction, if any, which is required for the selection or use of video programming service.
- (C) This shall include all forms of cable service whether provided by a cable operator or through a DBS, MDS, MMDS, or a SMATV system, if the service otherwise qualifies as a cable system. Provided, this definition shall not be construed to prohibit any other lawful service that may be provided by a cable operator.

CABLE SYSTEM or CABLE TELEVISION SYSTEM. A facility consisting of a set of closed transmission paths and associated signal generation, reception and control equipment that is designed to provide cable service which includes video, voice and data programming, and which is provided to multiple subscribers within the City. Provided, this shall not include:

- (A) A facility that serves only to retransmit the television signals of one (1) or more television broadcast stations;
- (B) A facility that does not use any public way or public right of way;
- (C) A facility of a common carrier which is subject, in whole or in part, to the provisions of the Cable Communications Act, except that the facility shall be considered a cable system to the extent the facility is used in the transmission of video programming directly to subscribers; or
- (D) Any facilities of any electric utility used solely for operating its electric utility systems.
- (E) Any facilities or equipment installed or utilized by a subscriber beyond the demarcation point.

CHANNEL or CABLE CHANNEL. A portion of the electromagnetic frequency spectrum which is used in a cable system and which is capable of delivering a television channel (as defined by the FCC).

CHARGE. A one-time or non-regularly occurring cost paid by the subscriber, and which is associated with the installation, maintenance, service or repair of the cable service.

CITY. The City of Fremont, Nebraska.

CITY ADMINISTRATOR. The City Administrator of the City of Fremont.

COMMUNITY. The geographic area within the municipal limits of Fremont, Inglewood, and Dodge County, Nebraska.

CONVERTER. Any device, separate and apart from the subscriber's receiver, that will permit a subscriber to view or otherwise use signals delivered at designated dial locations, or other reception and use allocations as may be applicable and required for the practical use of the signal.

COUNCIL. The City Council of the City of Fremont.

CUSTOMER. A subscriber or user of the services and/or facilities of the cable system provided by a cable operator.

DBS SYSTEM or DIRECT BROADCAST SATELLITE SYSTEM. The delivery and/or provision of cable services from a satellite to a subscriber through the use of a small earth or satellite station.

DEMARCATIION POINT. A point twelve (12) inches from the exterior wall of the structure to which cable service is being provided.

DISASTER EMERGENCY or DISASTER or EMERGENCY. An imminent, impending, or actual natural or humanly induced situation where the health, safety or welfare of all, or a representative portion, of the residents of the City is threatened. A DISASTER EMERGENCY (by illustration) may include a snowstorm, flood, tornado, severe thunderstorm, hazardous waste infiltration, petroleum, munitions or nuclear explosion, or aircraft crash.

DROP. A small branch of cable or other transmitting medium which connects the demarcation point to the feeder cable or future technical equivalent on the street, easement, rights-of-way, or public way.

EASEMENT. Includes any public easement or other compatible use created by dedication or by other means, to the City for public utility or other purposes including cable television. EASEMENT shall include a private easement used for the provision of cable service.

ENTITY. Partnership, joint venture, corporation or limited liability, company.

FCC. The Federal Communications Commission.

FIBER CABLE or FIBER OPTIC CABLE. Very thin and pliable cylinders, or strands of glass or plastic, or any future developed technical equivalent, used to carry wide bands of multiple frequencies.

FRANCHISE. The initial authorization, amendment or renewal granted by the City which authorizes the construction and operation of a cable system.

FRANCHISED OPERATOR. A person or entity that is awarded a franchise by the City to construct and operate a cable system, within all or a part of the City. FRANCHISED OPERATOR specifically includes the term cable operator.

FRANCHISE EXPIRATION. The date of expiration, or the end of the term of a franchise, as provided under a franchise agreement.

FRANCHISE FEE. A fee or charge that the City requires as payment for the privilege of using the streets, rights-of-way, public ways, and easements of the City in order to construct, maintain and operate a franchised cable system.

FRANCHISING AUTHORITY. The City.

GROSS REVENUE.

(A) All revenues received from the operation of the cable system attributable to the subscribers or customers within the City including but not limited to revenues received from subscriber rates, pay television, premium channels, service tiers, installations, and the sale or lease of auxiliary equipment (subscriber revenues); and

(B) Any and all compensation received (except as exempted by this definition), from all cable services, cable operations, and cable-related activities within the City including but not limited to revenues received from institutional networks, advertising, rebates or commissions received from services carried or provided on the system, or commercial access (non-subscriber revenues).

(C) However, GROSS REVENUE does not mean any taxes imposed and/or assessed by law on subscribers, including state and local sales taxes, which a cable operator is obligated to collect and pay in full to the applicable authorities.

LATE CHARGE. A charge which is added to a subscriber's account or bill for no-payment of a previously due and delinquent account.

MAYOR. The Mayor of the City of Fremont.

MDS SYSTEM or MULTI-POINT DISTRIBUTION SYSTEM. A system which transmits (via Super High Frequency) specialized programming or data or facsimile transmission to subscribers as authorized by the FCC.

OTHER PROGRAMMING SERVICE. Information that a cable operator makes available to all subscribers generally.

PAY-PER-VIEW or PREMIUM CHANNEL. The delivery over the cable system of audio and/or video signals in an unintelligible form to subscribers for a fee or charge, over and above the charge for standard or basic service, on a per program or per channel basis where the unintelligible or unusable form for viewing is made intelligible only to those subscribers paying a separate fee or charge for the viewing or use of the signals.

PEG CHANNEL. A public, educational or governmental channel which is carried on a cable system, but which is not a part of any institutional network. For purposes of this paragraph, INSTITUTIONAL NETWORK shall mean a communication network which is constructed or operated by a cable operator and which is generally available only to subscribers who are not residential subscribers.

PUBLIC WAY. Any public street, public place or right-of-way now or later dedicated to the public use within the area served by a cable operator.

RATE. The monthly, bi-monthly, quarterly, semi-annual, annual or other periodic price paid by a subscriber in order to receive cable service.

REPORTING QUARTER. A cable operator's fiscal quarter as reported to the City. If a cable operator does not report to or notify the City concerning the dates of its fiscal quarters, then the "reporting quarters" for a cable operator shall be considered to be the periods ending on the last day of March, June, September and December of each calendar year.

REVOCATION, TERMINATION, or NON-RENEWAL. An official act by the City which lawfully removes, repeals or rescinds a previously approved authorization for a franchised operator to provide cable service.

SERVICE TIER. A category of cable service or other services provided by a cable operator, and for which separate rate is charged by the cable operator.

SMATV SYSTEM or SATELLITE MASTER ANTENNA TELEVISION SYSTEM. A private cable system not crossing any public rights-of-way and which is located on private property and serving private dwellings.

STATE. The State of Nebraska.

SUBSCRIBER. A person lawfully receiving cable service delivered by a cable operator.

USER. A person or organization utilizing a cable system and/or its equipment for purposes of production and/or transmission.

VIDEO PROGRAMMING. Programming provided by, or generally considered comparable to programming provided by, a television broadcast station. (Ord. No. 3811, 6/24/97)

§3-1103 ADMINISTRATION; DELEGATION OF POWERS AND AUTHORITY.

Unless prohibited by Federal or State law, the Council may delegate its powers and authorities with respect to a cable operator to one or more duly authorized representatives of the City, including the Mayor, the City Administrator, a Cable Advisory Committee or an outside consultant. Provided, the Council may never delegate its franchising or revocation power to another person.

§3-1104 CABLE OPERATOR; APPLICABILITY.

Unless exempted entirely or in part from this Article or any of its provisions, or granted relief by the Council from any of its provision, then this Article shall be applicable to a cable operator. Unless otherwise specified, reference to cable operator shall mean a cable operator who is not exempt from the provisions of this Article. A cable operator shall be expected to comply with this Article no later than six months after it becomes effective unless a different compliance date is given to the cable operator.

§3-1105 CABLE OPERATOR; EXEMPTIONS.

(A) Recognizing the inherent technological differences between various types of cable operators, and taking into account a number of financial, operational and maintenance considerations, the following cable operators are exempted from complying with this Article:

- (1) A cable operator who provides cable service to fewer than fifty (50) subscribers; or
- (2) A cable operator who provides cable service to, or in conjunction with operating one hotel, motel, time-share facility, or recreational vehicle camp (but does not include service to a mobile home or manufactured home park), and which does not use any public way; or
- (3) A cable operator who does not cross a public way or the rights-of-way (as defined or interpreted by either the FCC or an applicable court) in providing cable service to subscribers; or
- (4) A cable operator who is exempted from this Article as a result of an applicable judicial ruling.

(B) An exempted cable operator remains exempted only as long as it meets one or more of the specifications of this section. In addition, the extent of the exemption for a qualified cable operator is only for this Article. An exempted cable operator is expected to abide by, and comply with, any other applicable City, County, State and Federal laws and regulations, including any applicable Federal, or

State consumer protection or consumer service laws and regulations.

§3-1106 CABLE OPERATOR; REQUEST FOR RELIEF BY NON-EXEMPT CABLE OPERATOR.

(A) Any cable operator may file a written petition, at any time, with the City requesting relief from one or more provisions of this Article. The relief requested may specifically include the delay in implementation (as to the petitioning cable operator only) of one or more provisions of this Article. In order to receive any relief from one or more of the provisions of this Article, a cable operator must satisfactorily demonstrate to the Council that at least one of the following facts exist:

(1) The provision and/or requirement is expressly prohibited by Federal law, the FCC or State law; or

(2) That the provision in question materially affects, and is in conflict with an expressed right that is specifically noted in an existing franchise agreement (but only for the term of the existing franchise); or

(3) That the imposition of the provisions and/or requirements will create an undue economic hardship on a cable operator so as to imperil or eliminate a cable operator's ability to provide cable service to a majority of current subscribers.

(4) As an alternative to requesting relief, a cable operator may petition for clarification as to the precise intent and effect that one or more provisions or sections of this Article has on the petitioning cable operator.

(B) The Council may charge the petitioning cable operator with the actual costs for processing the petition, including any costs incurred by outside consultants who are retained by the City to review a cable operator's petition. If the Council grants relief to a franchised operator, then the franchise agreement shall be amended to reflect the exact extent of the relief.

§3-1109 INCONSISTENCIES WITH FEDERAL OR STATE LAW.

If any provision or section of this Article is inconsistent with any provision or section of a Federal or State rule, regulation, or law, then the Federal or State rule, regulation, or law shall control.

§3-1110 RETAINED RIGHTS AND AUTHORITIES.

Subject to pre-emption by the FCC or any other Federal or State governmental entity or agency, the City retains the authority for:

(A) The regulation and control of any cable system within the geographical limits of the City, and within the limits prescribed by applicable law;

(B) The award and grant of a cable franchise subsequent to review of an application or proposal by the Council;

(C) Subject to the provisions section 3-1108 and any relief or exemption granted with respect to those provisions, the amendment or repeal of all or part of this Article; and

(D) The amendment of a franchise by mutual agreement of the Council and the holder of the franchise;

(E) The regulation of rates and charges associated with the providing of cable service classified as cable service by a cable operator; and

(F) The enforcement of all laws and regulations relating to cable customer service practices and consumer protection.

§3-1111 NOTICES.

The City and each cable operator (including exempt cable operators) shall provide the other party with the name and address of the contact person designated to receive notices, filings, reports, records, documents

and other correspondence. All notices shall be delivered to each party's contact person by certified mail, return receipt requested, personal service with signed receipt of delivery, or overnight with receipt verification. All other filings, reports, records, documents, and other correspondence may be delivered by any permissible means including, but not limited to: facsimile transmission (faxing); personal service; overnight mail or package delivery. The delivery of all notices, reports, records, and other correspondence shall be deemed to have occurred at the time of receipt (unless otherwise designated by State law). The designation of the contact person for notice purposes may be contained within any franchise agreement.

§3-1112 INDEMNITY.

To the extent permitted by law, each cable operator shall defend, indemnify, except from claims resulting from the City's negligence or wrongdoing, and hold harmless the City, its officials, authorized agents and employees from any and all penalty, damage, or loss arising out of claims, suits, demands, causes of action, or award of damages which might be claimed now or in the future, which arise out of, or are caused by, the construction, erection, location, products, performances, operation, maintenance, repair, installation, replacement, removal or restoration of the cable system within the City by a negligent act or omission of the cable operator, its authorized agents or employees, contractors, or authorized representatives. Reasonable attorney's fees, consultants fees, expert witness fees and other expenses of litigation are included as those costs which may be recovered by the City. In addition:

- (A) If a cable operator obtains counsel for the City, its officials, agents and employees, then any one of them shall have the right to approve counsel, which approval shall not be unreasonably withheld.
- (B) The City, its officials, agents and employees shall have the right to retain counsel of their own at their own expense.
- (C) With respect to a cable operator's own defense of any of the actions noted in this section, it is understood that the cable operator reserves the right to retain its own counsel at its own expense without the City's approval. (*Ord No. 3811, 6/24/97*)

§3-1113 LIABILITY INSURANCE.

A cable operator shall secure and maintain, for as long as it provides cable service to subscribers, public liability insurance, property damage insurance, and umbrella coverage as follows:

- (A) The coverage shall be in at least the following amounts:
 - (1) Public Liability: \$2,000,000 per person/per occurrence.
 - (2) Property Damage: \$2,000,000 per any one claim
 - (3) Umbrella Liability: \$2,000,000 with up to a \$50,000 deductible and/or base insurance.
- (B) A cable operator's public and personal liability and property damage insurance policy shall specifically include the City and its officials, agents, employees and representatives as additional insureds.
- (C) The public and personal liability and property damage insurance policy shall be issued by an insurance company licensed to do business in the State for the type of policy being issued.
- (D) The public and property damage insurance policy shall contain an endorsement obligating the insurance company to furnish the City with at least thirty (30) days written notice in advance of the cancellation of the insurance.
- (E) Renewal or replacement policies or certificates of insurance shall be delivered to the City prior to the expiration of the then existing insurance.
- (F) Before a cable operator provides cable service to subscribers, the cable operator shall deliver the policies or certificates of insurance to the City.
- (G) If the State permits a cable operator to self-insure, then the cable operator may exercise its right and self-insure as long as the minimal insurance amounts outlined in this section are met and maintained.

§3-1114 PERFORMANCE BOND.

A cable operator shall comply with the following bonding requirements:

- (A) A performance or security bond in an amount totaling at least \$20,000 executed by a surety licensed to do business in the State. The purpose of the performance bond is to ensure performance of any requirements imposed by this Article and any applicable franchise on a cable operator. The purpose is also to guarantee that should the cable operator not fulfill any obligations imposed by this Article (or a franchise held by the cable operator), then the surety will make whole (to the extent of the policy) any monetary losses incurred by the City.
- (B) A construction/completion bond shall be furnished prior to the time that a cable operator commences a construction, upgrade, rebuild, or repair/maintenance project that has a capital construction cost or outlay exceeding \$250,000 in value where the construction takes place in one or more easements or in the public way. The amount of the bond shall equal at least 90% of the projected capital construction cost or outlay, but shall not exceed \$500,000. The construction/completion bond shall remain in force at all times until one year after completion of construction as determined by the City building inspector, unless relief is granted or a reduction schedule is detailed in an agreement between the City and the cable operator.
- (C) Any construction/completion bond shall specifically guarantee that a cable operator will timely abide by its construction, upgrade, rebuild, or repair/maintenance schedule for the cable system and/or any time table for technical and service improvements or additions to the cable system as may be committed to, or agreed upon, from time to time by the City and the cable operator.
- (D) If the City draws on a bond as a result of a cable operator's failure to timely discharge its obligations, or failure to construct and activate the cable system, or failure to complete a cable system upgrade or rebuild or repair/maintenance, then the cable operator shall replenish the bond within thirty (30) days to the level required in this section.

§3-1115 FURNISHING OF REPORTS.

Upon written request of the City, a cable operator shall furnish, at no cost to the City, copies of any or all filing with the FCC and the United States Copyright Office within thirty (30) days of the request.

§3-1116 BOOKS AND RECORDS.

A cable operator shall keep complete and accurate books of accounts and records concerning the business and operations of the cable system. In addition:

- (A) The City shall have the right, on seven (7) days written notice, to review at the cable operator's local office all records pertaining to a cable operator's cable operations with respect to the City which are necessary to the enforcement of this Article or an applicable franchise. Any review, unless mutually agreed upon or judicially ordered, should occur within the cable operator's regular office hours. Non-revenue financial records will only be requested in the aggregate on a summary prepared by the cable operator. The City acknowledges the sensitivity of these records, and will request this information only on as needed basis, and will treat this information as confidential and proprietary to the fullest extent allowed by law.
- (B) The City shall have the right to hire, at its own expense, an independent certified public accountant, or other business or financial expert, to review the books and records of a cable operator pertaining to revenue information.
- (C) A false entry in the books and/or records of a cable operator of a material and substantial fact shall constitute a material violation of this Article. Erroneous entries shall not constitute a material violation if made in good faith.

- (D) If after a review or audit of a cable operator's records, it is discovered that the cable operator has underpaid the City by an amount that exceeds two percent (2%) of the total amount paid for any reporting quarter, then the City may require the cable operator to reimburse the City for the actual cost of the audit, in addition to the amount of underpayment.

§3-1117 LOCAL OFFICE; OFFICE HOURS; TELEPHONE AVAILABILITY.

- (A) In order to facilitate the needs of local customers, a cable operator shall maintain a customer service office which is easily accessible to customers, and is located within the community. The customer service office should have an adequate and knowledgeable staff in order to handle the vast majority of customer service inquiries, including but not limited to billing inquiries, refunds, service outages, equipment service and repair, payment of bills and other charges, and inquiries from disabled or physically impaired customers. In addition:
- (1) The cable operator will maintain a local, toll-free or collect call telephone access line which will be available to its subscribers twenty-four (24) hours a day, seven (7) days a week.
 - (a) Trained company representatives will be available to respond to customer telephone inquiries during normal business hours.
 - (b) After normal business hours, the access line may be answered by a service or an automated response system, including an answering machine. Inquiries received after normal business hours must be responded to by a trained company representative on the next business day.
 - (2) Under normal operating conditions, telephone answer time by a customer representative, including wait time, shall not exceed thirty (30) seconds when the connection is made. If the call needs to be transferred, transfer time shall not exceed thirty (30) seconds. These standards shall be met no less than 90% of the time under normal operating conditions, measured on a quarterly basis.
 - (3) A cable operator will not be required to acquire equipment or perform surveys to measure compliance with the telephone answering standards above unless an historical record of complaints indicated a clear failure to comply.
 - (4) Under normal operating conditions, the customer will receive a busy signal less than three percent (3%) of the time.
- (B) The customer service office shall be open during normal business hours of at least forty (40) hours each week, exclusive of holidays.

§3-1118 INSTALLATIONS, OUTAGES, AND SERVICE CALLS

Under normal operating conditions, each of the following standards will be met no less than ninety-five percent (95%) of the time measured on a quarterly basis.

- (A) Standard installations will be performed within seven (7) business days after an order has been placed. Standard installations are those that are located up to one hundred and twenty-five (125) feet from the existing distribution systems.
- (B) Excluding conditions beyond its control, a cable operator will begin working on service interruptions promptly and in no event later than twenty-four (24) hours after the interruption becomes known. A cable operator must begin actions to correct other service problems the next business day after notification of the service problem. Except in emergency situations, all service problems shall be handled or corrected within forty-eight (48) hours from the time the cable operator first received notification (except for intermittent problems not present at the time of the service call).
- (C) The appointment window alternatives for installations, service calls, and other installation activities will be either a specific time or, at maximum, a four-hour time block during normal business hours. A cable

operator may schedule service calls and other installation activities outside of normal business hours for the express convenience of a customer.

- (D) A cable operator may not cancel an appointment with a customer after the close of business on the business day prior to the scheduled appointment.
- (E) If a cable operator representative is running late for an appointment with a customer and will not be able to keep the appointment as scheduled, the customer will be contacted. The appointment will be rescheduled, as necessary, at a time which is convenient for the customer. (*Ord. NO. 3811, 6/24/97*)

§3-1119 NOTIFICATIONS TO SUBSCRIBERS.

(A) A cable operator shall provide written information on each of the following areas at the time of installation of service, at least annually to all subscribers, and at any time upon request:

- (1) Products and services offered, itemizing the basic, premium, and informational services offered, as well as the service tiers offered;
- (2) Prices and options for programming services and conditions of subscription to programming and other services;
- (3) Installation and service maintenance charges and policies;
- (4) Instructions on how to use the cable service;
- (5) Channel positions of programming carried on the system;
- (6) Billing and complaint procedures, including:
 - (a) The address and telephone number of the cable operator's local office;
 - (b) Payment due and delinquent dates;
 - (c) Amount or percentage of late charges, if any;
 - (d) Resolution procedures for billing disputes, complaints, and inquiries;
- (7) The customer service hours and telephone number(s);
- (8) The method of securing a voluntary disconnection;
- (9) The extent of the credit/refund policy;
- (10) The equipment use and return policy together with any required security deposits;
- (11) The additional rights of blind, hearing-impaired or ambulatory impaired customers; and
- (12) Notification of a subscriber's ability to purchase or lease from the cable operator a lock box, parental control mechanism, or other device which will prohibit the viewing of a particular cable service during a period determined by the subscriber.

(B) Subscribers will be notified of any changes in rates, programming services, channel positions, or service tiers as soon as possible through announcements on the cable system and in writing. Notice must be given to subscribers a minimum of thirty (30) days in advance of these changes if the change is within the control of the cable operator. In addition, the cable operator shall notify subscribers thirty (30) days in advance of any significant changes in the other information required by this section.

§3-1120 BILLING PRACTICES.

- (A) Bills will be clear, concise and understandable. Bills must be fully itemized, with itemizations including, but not limited to basic, tiered and premium service charges and equipment charges. Bills will also clearly delineate all activity during the billing period, including optional charges, rebates and credits.
- (B) In case of a billing dispute, the cable operator must respond to a written complaint from a subscriber within thirty (30) days.
- (C) Refund checks will be issued promptly, but no later than either:

- (1) The customer's next billing cycle following resolution of the request or thirty (30) days, whichever is earlier, or
 - (2) The return of the equipment supplied by the cable operator if service is terminated.
- (D) Credits for service will be issued no later than the customer's next billing cycle following the determination that a credit is warranted.

§3-1121 BILLING CREDIT OR REFUNDS FOR SERVICE OUTAGES, INTERRUPTIONS, OR UNSOLICITED SERVICE.

A cable operator shall provide a subscriber with credit or a rebate for a service or interruption exceeding eight (8) hours in duration beyond the time that the customer notified the cable operator of the outage. The credit for purposes of determining the amount of the credit or rebate shall be deemed to be equivalent to or the same as twenty-four (24) hour service outage. No credit or rebate shall be required where the outage was due to matters beyond the immediate control of the cable operator. In addition:

- (A) For notifications by the customer after hours, these credit refund requirements shall only apply if three (3) customers have provided notice in a given area.
- (B) In case of a regional or area outage, all affected subscribers shall be due a credit or refund if the cable operator is able to reasonably determine the subscribers affected. If the cable operator is not able to reasonably determine the subscribers affected by a regional or area outage, a credit or refund shall be given to all customers affected by the outage who make a claim for credit or refund within thirty (30) days of the outage.
- (C) In the case of a charge for unsolicited service, a cable operator shall provide a subscriber with an adjustment or billing credit on the next available billing statement, and the subscriber shall not be considered delinquent for failure to pay a charge for unsolicited service.

§3-1122 SPECIAL SERVICE REQUIREMENTS.

A cable operator shall comply with all Federal and State laws and regulations concerning special service requirements for disabled, sight or hearing impaired or ambulatory impaired customers.

§3-1123 PREFERENTIAL OR DISCRIMINATORY PRACTICES PROHIBITED

A cable operator shall not, as to rules, regulations, rates, changes, provision of service, or use of a provider's facilities and equipment, make or allow, or grant undue preference or advantage to any person, nor subject any person to prejudice or disadvantage on the basis of age, race, creed, color, sex, national origin, handicap, religious affiliation or location of residence. Cable operators shall not deny cable service, or the extension of cable service, to any group or potential cable subscribers because of the income of the residents of the local area in which such group resides. The provisions of this section shall not, however, prohibit a cable operator from:

- (A) Offering a promotional or incentive discount rate or charge.
- (B) Denying service based on location of residence, if that residence is outside the parameters for lie extension as detailed in a franchise agreement, if applicable.
- (C) Implementing a carefully designated no-frills service tier for lower income, and/or fixed income individuals.
- (D) Making agreements or entering into cable service agreements with multiple dwelling unit owners, including hotel, motel, and mobile park owners, to provide cable service under a bulk billing or other type of arrangement.

§3-1124 USE AND RETURN OF EQUIPMENT.

A customer shall maintain any equipment rented or leased from a cable operator in good working order, and operate the equipment only in the manner specified by the cable operator or the manufacturer of the

equipment.

- (A) If needed for proper operation, or requested by a customer, a cable operator shall deliver to a customer written instructions detailing the proper use of rented, loaned or purchased equipment. A cable operator may comply with this section by delivering the manufacturer's instructions to a customer.
- (B) A customer shall totally and fully reimburse a cable operator for any damage to a cable operator's equipment that is due to the customer's failure to properly maintain and operate the equipment.
- (C) A customer shall be relieved from any responsibility for reimbursing a cable operator for equipment which malfunctions or does not operate due to a hidden or latent defect in the equipment or for which fails to operate or improperly operates due to natural occurrences conditioned by the normal wear and tear of the equipment, or for equipment damaged or destroyed by an act of nature.

§3-1125 SECURITY DEPOSITS.

A cable operator is not required to seek a security deposit from a customer for use or rental of the cable operator's equipment. However, if a security deposit is charged:

- (A) A cable operator shall comply with any, and all, applicable State statutes, rules or regulations concerning security deposits. If the State has no statutes, rules or regulations concerning the security deposit for a particular piece of equipment, then the cable operator shall be prohibited from charging any security deposit for equipment which exceeds the replacement cost to the cable operator.
- (B) A cable operator shall be prohibited from charging any security deposit for cable service which exceeds twice the basic monthly rate. This shall be in addition to any other security deposit allowable under this paragraph.
- (C) A cable operator shall return a security deposit if the equipment is returned in as good condition as when provided to the customer, normal wear and tear excepted.

§3-1126 SERVICE INQUIRY LOGS.

- (A) In order to assist the City in assessing the resolution of customer service requests, inquiries and complaints, a cable operator shall be required to keep and maintain service logs, for the most recent eighteen month period, subject to any limitations imposed by State or Federal law (including any subscriber privacy limitations). At a minimum, the service inquiry logs should contain the following:
 - (1) The date and time of the initial receipt of a service request, inquiry or complaint, together with the date and time of the initial response;
 - (2) The nature of the matter;
 - (3) The precise action taken by a cable operator in order to resolve the matter; and
 - (4) Whether the matter was resolved by allowing a credit or refund of some sort.
- (B) In addition to any other right of inspection that the City may possess, it shall have the right to review and inspect a compilation of the logs. The City shall not have the right of review or inspection for any logs or any information contained within the logs that are otherwise protected by State or Federal law.

§3-1127 RESTORATION OF A SUBSCRIBER'S PROPERTY.

At any time a cable operator disturbs the yard, residence, or other real or personal property of a subscriber, the cable operator shall ensure that the subscriber's property is returned, replaced and/or restored to a substantially similar condition as that in existence prior to the disturbance by the cable operator. The costs associated with both the disturbance and the return, replacement and/or restoration shall be borne by the cable operator. The requirements imposed upon the cable operator extend to any subcontractor or independent contractor employed by the cable operator.

§3-1128 DISCONNECTION FOR NON-PAYMENT.

- (A) A subscriber shall not be subject to disconnection for non-payment unless at the time of posting the following month's bill, payment has not been received by a cable operator.
- (B) Before disconnection of a subscriber's cable service for nonpayment takes place, the subscriber must in fact be subject to disconnection for non-payment and
- (1) At least five (5) days shall have elapsed after a written notice of impending disconnection has been served upon the subscriber, or
 - (2) At least seven (7) days have elapsed after mailing a separate written notice of impending disconnection to the subscriber.
- (C) The written notice of disconnection must state the amount that is owed by the subscriber to a cable operator, the minimum amount required to be paid to avoid disconnection, and the date and place where the payment must be made.
- (D) Receipt of a bad check from a subscriber in response to a written notice of disconnection does not constitute payment, and the affected cable operator need not give the subscriber further notice prior to disconnecting service.
- (E) A cable operator may add a reasonable collection charge to the subscriber's bill if not paid within a reasonable time of the due date unless otherwise prohibited by law.

§3-1129 VOLUNTARY DISCONNECTIONS AND DOWNGRADES.

- (A) A subscriber may at any time request that a particular service tier, pay channel, premium channel, informational service or the entire cable service be disconnected. In addition, where different levels of service are offered by a cable operator, a subscriber may request a downgrade from a particular level of service to a less comprehensive or less expensive level of service.
- (B) For a service tier, premium channel or informational service which is voluntarily disconnected, a subscriber shall pay a pro rata share of the monthly rate for that service.
- (C) Any refund due a subscriber after downgrade or disconnection (both for non-payment and voluntary) shall be made within forty-five (45) days after the downgrade or disconnection.

§3-1130 PROTECTION OF SUBSCRIBER PRIVACY.

A cable operator shall abide by any, and all, subscriber privacy rules or regulations of the Federal or State governments.

§3-1131 RESOLUTION OF COMPLAINTS/INQUIRIES.

A cable operator is required to develop a comprehensive complaint/inquiry resolution policy that is consistent with the rules and regulations outlined in this Article. The City may establish a neutral third-party appeal process to handle complaints/inquiries that are not satisfactorily resolved at the cable operator level.

§3-1132 PERIODIC CABLE SUBSCRIBERS SURVEYS.

- (A) At the request of the City, the City and the cable operator shall conduct a survey of current subscribers of that particular cable operator in order to ascertain the degree of customer satisfaction or dissatisfaction with matters affecting subscriber aspects of the cable system including, but not limited to, billing practices, response times, programming choices available and receivable, responsiveness to inquiries, and use, availability and accessibility of any customer service office.
- (B) The survey shall be specifically limited to customer services, must be unbiased and taken over an adequate sample to reflect a margin of error of no greater than plus or minus 5%. The City and the cable operator shall cooperate in developing and conducting the survey.
- (C) If the survey results demonstrate that the customer service standards and practices set out in

this Article are not sufficient to meet reasonable or identified customer needs, then the Council may take appropriate measures as authorized by this article or by federal or state law or regulation in order to rectify the deficiency or insufficiency in a particular customer service practice by one or more cable operators. In order for the survey to demonstrate an insufficiency to meet reasonable or identified customer needs, the survey questionnaire must have been prepared in deference to prevailing industry standards for comparable cable communities. The survey results shall not be considered to demonstrate any insufficiency if the results are comparable to these industry standards.

(D) If the Council undertakes measures to rectify a demonstrated insufficiency, it may take into account: (1) the cost of the measure and the adverse affect on the economics of the cable operator's operations in the City, and (2) the possible imposition of obligations upon a cable operator that are inconsistent with industry standards and practices in comparable communities. An affected cable operator shall receive advance notice of any proceeding as required under this Article.

(E) The cable operator shall pay one-half of the cost of the required survey. (*Ord. NO. 3811, 6/24/9*)

§3-1133 USE OF STREET AND PUBLIC WAYS.

(A) All wires, conduits, cable (coaxial, fiber or functional equivalent), and other property and facilities of a cable operator shall be located, installed and maintained so as not to endanger or unnecessarily interfere with usual and customary use, traffic and travel upon the City streets, right-of-way, easements and public ways.

(B) If a cable operator's system creates a hazardous or unsafe condition or an unreasonable interference with property, then the cable operator shall at its own expense voluntarily, or upon request of the City, remove or move , as appropriate, that part of the system that creates the hazardous condition.

(C) A cable operator shall not place equipment where it will interfere with the rights of property owners or with other public utility services or any other service facility that benefits the City or its residents' health, safety or welfare.

(D) A cable operator shall, at its expense, protect right-of-way, easements and support or temporarily disconnect or relocate in the same street or other public way, any property of the cable operator when necessitated by reason of: traffic conditions, public safety, a street closing, street construction or resurfacing change or establishment of a street grade, installations of other City utility services, or any improvement, construction or repair related to health, safety or welfare.

(E) A cable operator shall, at the request of any person holding a building moving permit, temporarily remove, raise or lower the cable wires to allow the moving of the building. The expense of temporary removal shall be paid by the person requesting it. The cable operator may require payment in advance. The affected cable operator shall be given not less than fifteen (15) days notice of a contemplated move to arrange for temporary wire changes.

(F) The City shall have the right to make additional use, for any purpose, of any poles or conduits controlled or maintained exclusively for the cable operator in any street or right-of-way, provided the use by the City does not interfere with the cable operator's use. The City shall indemnify and hold the cable operator harmless from all claims, demands, caused of action, suits, actions, proceedings, damages, costs or liabilities of every kind whatsoever arising out of the City's such use of the cable operator's poles or conduits.

(G) In those areas of the City where transmission or distribution of both telephone and power companies are underground or are later placed underground, a cable operator's feeder and drop cables shall also be placed underground.

§3-1134 CONSTRUCTION STANDARDS.

Methods of operation, construction, installation, maintenance, repair, replacement, removal or restoration of any cable system or part thereof shall comply with the then most current editions of technical codes

adopted by the City, the State, or the United States which are customary to the cable television industry. The codes referred to specifically include, but are not limited to the National Electrical Safety Code, the National Electric Code, and all locally adopted construction, fire, safety and zoning codes. To the extent that these are inconsistent with other provisions of a franchise, or State, or local law, then the more stringent shall govern in order to protect the public health, safety and welfare.

§3-1135 **SYSTEM EXPANSION.**

A cable operator shall extend cable service to any area within the City that has a density of thirty (30) homes per mile, or fractional equivalent, as measured from the extremity of the system nearest the unserved area. A newly installed subscriber shall not be assessed or apportioned the cost for installation, except for the usual and normal connection fees paid by subscribers, so long as the system expansion is technically and economically feasible. A cable operator shall not be required to extend its systems to a point which is more than one-half mile from the existing cable system.

§3-1136 **PERMITS AND LICENSES.**

A cable operator shall obtain, at its own expense, all permits and licenses required by law, rule, regulation or ordinance, and maintain the same in full force and effect for as long as required.

§3-1137 **EMERGENCY ALERT SYSTEM; STANDBY POWER.**

In order that subscribers may be alerted in the event of an impending, imminent or actual, natural or man-made emergency, then all cable operators shall ensure that its system is designed to permit the override of the audio portion of all channels through use of a touch-tone telephone, or other similar means, through the Central Communications Center operated by the Fremont Police department. In addition to any other requirements listed in this section, a cable operator shall:

- (A) Maintain all channel video blanking ability to facilitate the needs of hearing and sight-impaired customers;
- (B) Test the emergency override system not less than once a month;
- (C) Cooperate with the City on the use and operation of the emergency override system;
- (D) Develop a plan, with the City's concurrence, in order to provide continuity of cable service, and response to service calls in the event of a natural or man made emergency.
- (E) As one method of providing continuity of cable services in the event of a natural or man-made emergency, a cable operator shall, unless exempted by the City, have the capacity for three (3) hours automatically activated standby power for the system head and fiber optic nodes.

§3-1138 **PREVENTATIVE MAINTENANCE PROGRAM.**

Each cable operator shall devise and implement a regular periodic (at least annual) preventative maintenance program for the cable system in order to ensure that there is no degradation of the cable system that would affect the citizens' health and welfare, or negatively affect the quality of cable services being provided. Within forty-five (45) days after the completion of the periodic preventative maintenance program, a cable operator shall prepare and submit a written report to the City summarizing the results of the tests conducted and all items performed or addressed during the program.

§3-1139 **FRANCHISE REQUIRED.**

- (A) No person or cable operator, other than the City, shall be permitted to construct, operate or maintain a cable system which requires the laying or positioning of cable (coaxial, fiber or functional equivalent) across the right-of way of the City without first having entered into a franchise agreement with the City.
- (B) The Council may award one or more non-exclusive cable service franchises within its geographical limits.
- (C) A franchised operator shall be selected as part of a public proceeding and hearing which affords due

process to both the City and the applicant. If the applicant is selected as a franchised operator, then the applicant will enter into a franchise agreement with the City, pursuant to the provisions of Federal, State and local laws and regulations.

(D) The City reserves the right to construct, operate or maintain a City owned cable system and/or to the right to provide commercial cable services within the City limits. The City shall not be required to submit a proposal for, or receive, a franchise in order to do so.

§3-1140 FRANCHISE AGREEMENT; MINIMAL REQUIREMENTS.

If the Council awards an applicant a franchise to construct, operate or maintain a cable system in all or part of the City, or approves a proposal for renewal of a franchise, then a franchise agreement shall be entered into. A newly franchised operator may not lay any cable until the franchise agreement is executed by the newly franchised operator and the City. At a minimum, a franchise agreement shall contain provisions for the following:

- (A) The term or duration of the franchise;
- (B) An agreement to comply with this Article;
- (C) Any applicable construction, upgrade or rebuild schedule.

§3-1141 EXTENT OF GRANT OF FRANCHISE.

(A) Upon an award of a franchise, and the subsequent execution of a franchise agreement, a cable operator may construct, install, maintain, operate, repair, replace, remove, or restore a cable system within the geographical limits set forth in the franchise agreement.

(B) The franchised cable system may utilize the streets, right-of-way, easements and public ways of the City.

(C) The franchised operator shall be responsible for obtaining its own easements for private property, including privately owned utility or street light poles.

(D) A franchised operator, through a separate pole or utility easement agreement with an affected utility, may locate the cable system on, or within, the property of the utility company.

§3-1142 FRANCHISE TERM.

The term of a franchise may be for a period not to exceed ten (10) years from the date that a franchise agreement, or a franchise renewal agreement, is approved by the Council. Provided, a franchise may provide for an extension for an additional five (5) years as follows:

(A) At any time between two (2) years and three (3) years prior to the expiration of the franchise, the cable operator may request an extension for up to an additional five (5) years.

(B) Upon receipt of a request from the cable operator, the City shall review the performance of the cable operator. The performance review shall include, but not be limited to, consideration of the following:

- (1) Compliance with City ordinances and the cable operator's franchise;
- (2) Compliance with State and Federal laws and FCC rules and regulations;
- (3) Performance of the system, quality and quantity of programming, services offered, and cost of service;
- (4) Customer satisfaction as reflected by the period cable subscriber surveys provided for in this Article; and
- (5) Technological upgrades and efforts to implement technological developments.

(C) The City's review shall be completed within six (6) months of receipt of the request for extension.

(D) If the City Council determines that the cable operator's performance has been satisfactory, then

the extension shall be granted. If the City council determines that the performance has not been satisfactory, then the franchise shall expire at the end of its original term.

§3-1143 FRANCHISE APPLICATION; FEE.

The City may develop rules and regulations with respect to the submission and processing of applications for a franchise. The rules and regulations shall primarily be aimed at determining the legal, financial, technical and character qualifications of the applicant. Unless otherwise prohibited by law, the rules and regulations may require an applicant to pay an application fee which shall be equal to the administrative costs associated with processing an application for a franchise. If required, the total application fee must be paid prior to the Council's formal action on the franchise application and shall not be subject to refund. No application fee shall be required to renew an existing franchise provided that the cable operator has complied with the provisions of the Article and the franchise agreement.

§3-1144 FRANCHISE FEES.

(A) Each franchised operator shall pay to the City, franchise fees based on a percentage of the gross revenues of the franchised operator as follows:

- (1) Three percent (3%) of the gross revenues which are considered subscriber revenues; and
- (2) Five percent (5%) of the gross revenues which are considered non-subscriber revenues.

(B) The franchise fee is for the privilege of using the streets, rights-of-way, easements, and public ways and other facilities of the City in the operation of the cable system, and for the City's supervision during the term of the franchise. If the FCC, Congress or other governmental entity with authority over cable service allows a franchising authority to increase the franchise fee beyond the above percentage, then the City shall have the authority to increase the franchise fee to the maximum rate allowable. It is intended that the franchise fees will promote the health, safety and welfare of the citizens of the City. Accordingly, the franchise fee shall be deposited into the general revenues of the City, unless otherwise specified.

- (1) Within forty-five (45) days after the end of each reporting quarter, a franchised operator shall file with the City a detailed report clearly showing the gross revenues received by the franchised operator for operations within the City during the proceeding reporting quarter, and certified by an officer of the franchised operator attesting to the accuracy of the revenue figures. The report shall be in a form approved by the City. The report shall include revenue from whatever source, directly or indirectly derived from the operation of the cable system, or the provision of any cable service by or to the cable system. Revenue may be reported in the aggregate for the total franchise service area by general service type or source.
- (2) In the event that payment is not made within sixty (60) days after the end of a reporting quarter, then the cable operator may be declared in default of the franchise, and the City may take action against the cable operator as authorized in this Article.
- (3) The acceptance of any payment shall not be construed as a release of, or an accord or satisfaction of, any claim that the City might have for further or additional sums payable under the terms of this Article, or for any other performance or obligation of a franchised operator.
- (4) Payments of compensation mad by a franchised operator to the City pursuant to this Article shall be considered in addition to, and exclusive of, any and all authorized taxes, business license fees, or other levies or assessments presently in effect or later adopted.
- (5) A franchise fee does not include any items excluded by federal law.

§3-1145 ASSIGNMENT OF FRANCHISE.

- (A) A cable operator's franchise may not be assigned in whole or in part without the City's prior written approval. For purposes of this section, "assignment" shall mean the transfer, sale, or any other form of assignment of a cable operator's franchise, to include any transaction or action which effectively or actually changes ownership from one person or entity to another to include the transfer of fifty percent (50%) or more of the ownership interest of an entity. Any attempted assignment without prior written approval shall constitute a default in the franchise. A proposed assignment shall be subject to the following:
- (1) At least one hundred and twenty (120) days before a proposed assignment is scheduled to become effective, the franchised operator shall make a written request to the Council for the City's approval of the proposed assignment.
 - (2) The City will not unreasonable withhold its consent to an assignment. However, in making its determination, the Council may consider the following criteria:
 - (a) Qualifications of the proposed assignee;
 - (b) Financial ability and stability of the proposed assignee;
 - (c) The experience of the proposed assignee which may include conducting an investigation of the proposed assignee's service record in other communities;
 - (d) Legal integrity of the proposed assignee or transferee;
 - (e) If requested by the Council, submittals from the proposed assignee concerning any changes it intends to make in the operation and maintenance of the present cable system;
 - (f) The corporate connection, if any, between the franchised operator and the proposed assignee;
 - (g) the economic viability or non-viability of the cable system in the future, based upon certain factors including the impact of the purchase price on the City and/or the proposed assignee; and
 - (h) Any other aspect of the proposed assignee's background which could affect the health, safety and welfare of the citizenry of the City as it relates to the operation of the cable system.
 - (3) Nothing in this section shall restrict the City from considering other criteria, and in particular, any criteria established under State or Federal law, rule or regulation.
 - (4) Before an assignment or transfer is approved by the City, the proposed assignee shall execute an affidavit that it has read, understood, and intends to abide by any existing franchise agreement
 - (5) The City may condition such transfer upon such terms and conditions as it deems appropriate; provided, however, that any such terms and conditions shall be related to the legal, technical, and financial qualifications of the prospective controlling party or transferee.
 - (6) In the event of any approved assignment, the assignee shall assume all obligations and liabilities of the former franchised operator, except as noted in the following subsection.
 - (7) The City's consent to an assignment shall not relieve the former franchised operator of its liabilities under the franchise agreement until the assignment actually takes place unless specifically relieved by Federal or State law or by the Council at the time an assignment is approved. In the event of an assignment, the former franchised operator shall remain liable for any then incurred franchise fees for the period governed by the applicable State statute of limitations.
- (B) Consent shall not be required for an assignment to any entity controlled by, controlling, or under common control of the cable operator's. In addition, consent shall not be required for the granting of a security interest in the cable operator's system including its franchise. However, if the holder of the security interest repossesses, forecloses or takes other action concerning its collateral, it shall dispose of the system within a reasonable period of time and the disposition by the holder of the security interest shall be considered an assignment subject to the provision of this section.

§3-1146 **PUBLIC, EDUCATIONAL AND GOVERNMENTAL ACCESS.**

- (A) To the extent permitted by law, and in order to fulfill a public, educational and governmental access policy that will facilitate the long range needs of the community, each cable operator shall provide at its own expense PEG channels as follows:
- (1) Three (3) twenty-four (24) hour per day educational channels shall be provided within the community, two (2) for the use of the City of Fremont public schools, and one (1) for the use of State accredited private or parochial schools within the service area.
 - (2) One (1) twelve (12) hour per day PEG channel shall be provided within the community for non-commercial use by various governmental subdivisions. If the City determines the need for more channel time to exist on this channel, then this channel shall be made available for the additional hours specified.
 - (3) If at any time ninety percent (90%) of the total time allocated for the PEG channel referred to in division (2) immediately above is consistently used five (5) days a week for a period of six (6) months, then the cable operator shall provide an additional PEG channel. The use of this additional channel may be reviewed every six (6) months at the request of the cable operator. If after any six (6) month period, the City determines that the combined use of the original and added PEG channel has dropped so that if the two (2) channels were combined the usage would not justify more than one channel under this division, the requirement for the additional PEG channel shall cease until the criteria for the additional PEG channel is met once again.
 - (4) A cable operator shall provide reasonable technical and production assistance for each school or political subdivision without charge. Additional technical and production assistance shall be provided at the cable operator's cost.
- (B) The provision of PEG channels shall include the installation of one (1) modular and one (1) processor per each governmental user of a PEG channel. Installation shall be considered as complete when the government user's system is operational.

§3-1147 **PUBLIC SERVICE.**

A cable operator shall furnish upon request, one outlet and one converter for each public school building, municipal office building, public library, fire station, police station and court house which is passed by the operator's cable system. Basic cable service and the next additional service tier shall be provided at no charge. An initial connection will be made at no charge with additional connections to be made for the cost of time and materials only.

§3-1148 **PROGRAMMING.**

- (A) In order to ensure that subscribers receive the widest, and most diverse, selection of video programming possible, the provision of service and video programming categories to subscribers by cable operators shall include at least the following broad categories:
- (1) Local broadcast stations where retransmission consent has been obtained;
 - (2) Sports programming services (regional and/or national);
 - (3) News, information, public affairs/interest programming services;
 - (4) Financial/consumer-oriented programming services;
 - (5) Scientific and/or cultural programming services;
 - (6) Children's programming services; and
- (B) With the continual increases in available programming services, a cable operator shall continually evaluate new services for addition to the programming offered by the cable operator.

§3-1149 TECHNICAL STANDARDS.

Any cable operator providing cable service within the City shall activate and maintain a cable system with a channel capacity of at least fifty-four (54) channels. In addition:

- (A) All local broadcast services which may be received with stereo signals shall be provided to all subscribers with the stereo signal.
- (B) If there is new technology which would enhance substantially the quality or quantity of programming available to subscribers, a cable operator shall, at the request of the City investigate the feasibility of implementing the new technology and shall implement the new technology if the implementation is technologically and economically feasible.
- (C) A cable operator shall comply with any rules and regulations of the FCC concerning technical operation, signal quality and consumer electronics equipment compatibility. In addition, the City may at any time amend this Article to incorporate any and all standards concerning these matters adopted by the FCC.

§3-1150 DEFAULT.

When the franchised operator violates an integral provision of this Article, or acts so as to compromise the corporate character, or legal, financial or technical integrity and/or stability of the cable system or the franchised operator to a degree that the interests of the subscribers and users are negatively affected, then the franchised operator shall be considered in default of this Article.

- (A) Examples of a default shall include, but are not limited to: bankruptcy, insolvency, failure to pay taxes or franchise fees, failure to receive written City approval for an assignment, or failure to substantially abide the integral terms and conditions of the franchise agreement or this Article. Events in the nature of force majeure or conditions which cannot be corrected because they are matters beyond the immediate control of the affected cable operator shall not be considered a default.
- (B) In the event that a default occurs, the City shall notify the affected cable operator in writing of the specific violation(s). A copy of the notice of default shall be mailed to the surety of the performance bond.
- (C) The cable operator shall have forty-five (45) days from the receipt of the written notice to bring itself into compliance so that it is no longer in default of its franchise or this Article, as the case may be.
- (D) If the cable operator fails to cure its default within the time period provided for above, the matter shall be set for public hearing before the Council to be held within seventy-five (75) days after the notice of default was mailed to the cable operator. Written notice of the time and place of the public hearing shall be sent by certified mail to the cable operator and the surety at least ten (10) days prior to the date of the hearing.
- (E) At the time of the hearing, the cable operator may present information on the current status of the alleged default in the franchise agreement. If the cable operator fails to attend the hearing where a continuance of the hearing has not been granted by the Council, then the franchised operator may be declared in default of the franchise agreement.
- (F) If the default has not been resolved at the time of or as a result of the hearing, the Council may, after the public hearing, direct the cable operator to take corrective action within a specified period of time, or may declare the cable operator in default of the franchise agreement, and revoke or terminate the franchise. The Council's action shall be mailed to the cable operator and the surety within fifteen (15) days of the Council's action.
- (G) If the Council directs corrective action to be taken and the cable operator or surety does not rectify the default within the time specified, then the Council may further notice declare the cable operator to be in default and revoke or terminate the franchise.

§3-1151 PENALTIES.

Subject to the provisions of the preceding section concerning notice and hearing, any violation or failure to abide by, and comply with, any provision or requirement of this Article shall be a violation of this Article, and shall be subject to civil remedies as provided by State or Federal law, including monetary fines where permissible.

§3-1152
AMENDMENT.

FEDERAL LEGISLATION, RULES AND REGULATIONS; FRANCHISE SUBJECT TO

In addition to any requirements contained within this Article, all cable operators shall be expected to comply with all applicable provisions of the Cable Communications Policy Act of 1984, the Cable Television Consumer Protection and Competition Act of 1992, the Telecommunications Act of 1996, all later legislation directed at controlling or regulating cable operators, and any rules and regulations issued pursuant to this legislation. In addition, any franchise issued pursuant to this Article shall be subject to amendment to incorporate any federal legislation, rules or regulations which become effective after the date of the franchise.

§3-1153 **INTER-GOVERNMENTAL COOPERATION.**

- (A) In the event that a cable operator's system serves areas outside the jurisdiction of the City (to include the Community), then the various jurisdictions or governmental subdivisions shall have the right to enter into one or more agreements concerning the matters covered by this Article. By way of example, it is contemplated that the City of Fremont, the Village of Inglewood and Dodge County may enter into one or more agreements to assist them in regulating cable operators. These agreements may include, but shall not be limited to, the following general areas:
- (1) Allocation of the total franchise fee collected from the entire system between the various governmental subdivisions.
 - (2) The taking of any surveys and the allocation of any cost to be paid by the various governmental subdivisions.
 - (3) PEG channel use.
- (B) Except as may be otherwise prohibited, a cable operator shall honor any agreements entered into pursuant to this section.

§3-1154 **TAMPERING AND UNAUTHORIZED RECEPTION OF CERTAIN SIGNALS.**

- (A) No person shall intercept or receive, or assist in intercepting or receiving, any communications service offered over a cable system, unless specifically authorized to do so by a cable operator, or as may otherwise be specifically authorized by law.
- (B) For purposes of this section, ASSIST IN INTERCEPTING OR RECEIVING shall include the manufacture or distribution of equipment intended by the manufacturer or distributor for the unauthorized reception of cable service.
- (C) Without securing permission from a cable operator, or making payment to a cable operator, then no person shall be authorized to make any connection, whether physically, electrically, acoustically, inductively, or otherwise, with any part of an authorized or franchised cable system for the purpose of receiving or intercepting, or assisting others to receive or intercept any cable service provided lawfully by the cable operator.
- (D) No person shall be authorized to willfully tamper with, remove or damage any cable, wires, equipment, or facilities used for the distribution of cable services.
- (E) Any person who willfully violates this section shall be fined in the amount not to exceed three hundred dollars (\$300.00) and shall be assessed the costs of the prosecution.