

## DEPARTMENTS

### CHAPTER 3

### DEPARTMENTS

#### ARTICLE 1. WATER DEPARTMENT

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

The Municipality owns the Municipal Water Department and operates the same through its maintenance personnel. The Governing Body, for the purpose of defraying the cost of the care, management, and maintenance of the Municipal Water Department may each year levy a tax not exceeding the maximum limit prescribed by State law, on the actual valuation of all real estate and personal property within the corporate limits that is subject to taxation. The revenue from the said tax shall be known as the Water Fund and shall remain in the custody of the Municipal Treasurer. The Governing Body shall have direct management and control of the Municipal Water Department and shall have the authority to adopt rules and regulations for the sanitary and efficient management of the Water Department. The Governing Body shall set the rates to be charged for services rendered by ordinance and shall file a copy of the rates in the office of the Municipal Clerk for public inspection at any reasonable time. (*Ref. 17-531, 17-534, 17-537, 19-1305 RS Neb.*)

##### **§3-102 MUNICIPAL WATER DEPARTMENT; DEFINITIONS.**

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

MAIN. The term “main” is hereby defined to be any pipe other than a supply or service pipe that is used for the purpose of carrying water to, and dispersing the same in the Municipality.

SUPPLY PIPE. The term “supply pipe” is hereby defined to be any pipe tapped into a main and extending from there to a point at or near the lot line of the consumer’s premise where the shut-off, stop box, or curb cock is located.

SERVICE PIPE. The term “service pipe” is hereby defined to be any pipe extending from the shut-off, stop box, or curb cock at or near the lot line to and beyond the property line of the consumer to the location on the premise where the water is to be dispersed.

SEPARATE PREMISE. The term “separate premise” is hereby defined to be more than one (1) consumer procuring water from the same service or supply pipe. The second (2<sup>nd</sup>) premise may be a separate dwelling, apartment, building, or structure used for a separate business.

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

Every person or persons desiring a supply of water must make application therefore to the Municipal Clerk. Water may not be supplied to any house or private service pipe except upon the approval of the Governing Body or their representative. The Department shall not supply water service to any person outside the corporate limits without special permission from the Governing Body; provided, the entire cost of laying mains, service pipe, and supply pipe shall be paid by the consumer. Nothing herein shall be construed to obligate the Municipality to provide water service to non-residents. (*Ref. 17-537, 19-2701 RS Neb.*)

### **§3-104 MUNICIPAL WATER DEPARTMENT; WATER CONTRACT.**

The Municipality, through its Water Department, shall furnish water to consumers within its corporate limits whose premises abut a street or alley in which a commercial main now is or may hereafter be laid. It may also furnish water to a consumer within its corporate limits whose premises do not abut a street or alley in which a Municipal commercial main is not or may hereafter be laid and may also furnish water to persons whose premises are situated outside the corporate limits of the Municipality, as and when, according to law, the Governing Body may see fit to do so. 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 by present consumers thereof and the furnishing of water service to said consumer shall constitute a contract between the consumer and the Municipality, to which said contract both parties are bound. If the consumer shall violate any of the provisions of said contract or any reasonable rules and regulations that the Governing Body may hereafter adopt, their representative 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 the Governing Body or their representative.

### **§3-105 MUNICIPAL WATER DEPARTMENT; INSTALLATION PROCEDURE.**

In making excavation in streets, alleys, or sidewalks for the purpose of installing pipe, or making repairs, the paving, stones, and earth must be removed and deposited in a manner that will occasion the least inconvenience to the public and provide for adequate drainage. No person shall leave an excavation made in the street, alley, or sidewalk open at any time without a barricade, and during the night, warning lights. After service pipes are laid, the streets, alleys, and sidewalks shall be restored to good condition. If the excavation in any street,

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alley, or sidewalk is left open or unfinished for a period of twenty-four (24) hours or more, the maintenance personnel shall have the duty to finish or correct the work, and all expenses so incurred shall be charged to the consumer. All installations or repairs of pipes require two (2) inspections by the maintenance personnel. The first (1<sup>st</sup>) inspection shall be made when connections or repairs are completed and before the pipes are covered. The second (2<sup>nd</sup>) inspection shall be made after the dirt work is completed and the service is restored. It is the customer's responsibility to notify the Municipal Clerk at the time the work is ready for each inspection. All water main, supply line and service line installation work shall be done under the supervision of the maintenance personnel and strictly in accordance with the rules, regulations and specifications on file with the Municipal Clerk and prescribed for such installation by the Municipal Engineer; Provided, that the said rules, regulation, and specifications have been reviewed and approved by the Governing Body. Where the material proposed to be used for water mains, supply or service lines is not among those on file in the Clerk's office, a determination shall be made as to the suitability of using the proposed materials. This determination shall be made by an Engineer of the Municipality's choice and at the expense of the individual requesting such material be approved. After learning of the results of the determination, the Governing Body shall inform the requesting individual whether or not he may proceed with the laying of such pipe. In every case, regardless of the results of the determination, all costs of the determination shall be paid by the applicant directly to the Engineer. *(Ref. 17-537 RS Neb.)*

### **§3-106 MUNICIPAL WATER DEPARTMENT; INSTALLATION EXPENSE.**

All costs of providing water service from the main to the point of distribution shall be paid by the consumer. Costs shall include corporate cocks, curb-stops, meters, as well as any required deposit or tap fee. It is hereby established, in addition to the above-described expenses, a tapping fee of seven hundred and fifty (\$750.00) dollars per dwelling unit, business, business services or other commercial entities to be serviced by each main tap shall be paid. Said fee shall be required to be paid in full prior to any tap of a water main being made to connect a service line. The terms "dwelling unit," "business," or "business services" as used in this Section shall have the same meaning as that term is defined in Eagle Zoning and Subdivision Regulations, as they may be amended from time to time. The term "commercial entities" as used in this Section shall mean having to do with stores, office buildings, and commercial property. *(Ref. 17-542 RS)(Amended Ord 2022-02, effective April 5, 2022)*

### **§3-107 MUNICIPAL WATER DEPARTMENT; REPAIRS AND MAINTENANCE.**

The Municipality shall repair or replace as the case may be, all pipes constituting major water mains and supply pipe up to the stop box. It shall be the responsibility of the customer to repair or replace all other water pipes, service pipes and appurtenances from the stop box to and including the customer's

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property. All replacements and repairs made by the customer shall be done in the manner and with approved materials under the supervision of the maintenance personnel; provided, that the same have been previously approved by the Governing Body. (*Ref 17-537 RS Neb.*)

### **§3-108 MUNICIPAL WATER DEPARTMENT; USE RATES.**

A. All water consumers located within the corporate limits of the Municipality of Eagle, Nebraska, shall be liable for the following user rates as set by ordinance for all water which is reported to have flowed through the water meter of the consumer. The following rates will be charged for water service:

- (1) The sum of nine dollars (\$9.00) shall be charged for all water consumed up to and including one thousand (1,000) gallons per month. This nine dollars (\$9.00) per month charge shall be a minimum charge for water service and shall be assessed against all Eagle water users within the corporate limit.

In addition to the minimum charge established herein, the following rates for water service shall apply:

- (2) The sum of one dollar and forty cents (\$1.40) shall be charged for each one thousand (1,000) gallons consumed in excess of one thousand (1,000) gallons per month, up to and including four thousand (4,000) gallons per month.
- (3) The sum of one dollar and seventy-five cents (\$1.75) shall be charged for each one thousand (1,000) gallons consumed in excess of four thousand (4,000) gallons per month, up to and including nine thousand (9,000) gallons per month.
- (4) The sum of four dollars and twenty cents (\$4.20) shall be charged for each one thousand (1,000) gallons consumed in excess of nine thousand (9,000) gallons per month, up to and including fourteen thousand (14,000) gallons per month.
- (5) The sum of four dollars and ninety cents (\$4.90) shall be charged for each one thousand (1,000) gallons consumed in excess of fourteen thousand (14,000) gallons per month, up to and including nineteen thousand (19,000) gallons per month.
- (6) The sum of five dollars and sixty cents (\$5.60) shall be charged for each one thousand (1,000) gallons consumed in excess of nineteen thousand (19,000) gallons per month.
- (7) Water may be furnished by the Municipality of Eagle for construction purposes in strict accordance with this paragraph. The contractor shall

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contact the Municipal maintenance staff and obtain a water meter prior to obtaining the Municipality's water. The water so obtained shall be metered using the meter provided by the Municipal maintenance department and shall be obtained from a site designated by the Municipal maintenance department and equipped with a backflow prevention device. The minimum charge for the water so obtained shall be fifty dollars (\$50.00) per load and, in addition, the sum of twenty dollars (\$20.00) shall be charged for each 1,000 gallons of water obtained in excess of 2,000 gallons. Upon completion of the loading of the water, the contractor shall return the meter to the Municipal Clerk and pay the charges incurred for the water obtained. The contractor shall be responsible for any damage done to the water furnished by the Municipality.

B. All non-resident users, approved for access by the Municipality, shall pay 175% of the rates set forth above in subparagraphs 1 through 6, for premises not located within the corporate boundaries of the Municipality. Non-resident users shall be subject to all ordinances, resolutions, rules, and regulations adopted by the Municipality, regarding use and operation of the water system of the Municipality, including but not limited to, the operation and maintenance of water meter and system protection devices, water use restrictions, termination of service, and payment of water use fees.

C. These rates shall be effective commencing on the 15th day of May, 2023. *(Ref. 17-538 RS Neb.) (Amended Ord 2023-3, effective May 15, 2023)*

### **§3-109 MUNICIPAL WATER DEPARTMENT; 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 Municipal Clerk to shut off the water at the stop box, in which case the consumer shall not be liable thereafter for water rental until the water is turned on again. *(Ref. 17-542 RS Neb.)*

### **§3-110 MUNICIPAL WATER DEPARTMENT; WATER BILLS.**

Water bills shall be due and payable monthly at the office of the Municipal Clerk or his or her designated agent. The Governing Body shall designate a representative to read the water meters each month. For the convenient and economical collection of water use charges, the Governing Body shall adopt a monthly billing cycle or cycles by resolution, which shall be kept on file at the office of the Municipal Clerk. It shall be the duty of the customers of the Water Department to pay their bills monthly in net cash to the Municipal Clerk or his or her designated agent. The Governing Body shall direct the Municipal Clerk or his or her designated agent to charge and collect from each customer for the amount of water consumed since the last examination together with any other charges, properly itemized, due the Water Department. Bills shall be due on the first (1<sup>st</sup>)

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day of each month and shall be payable by the tenth (10<sup>th</sup>) day of that same month. Bills paid after the tenth (10<sup>th</sup>) day of that same month shall have a penalty charge added thereto in an amount set by resolution of the Governing Body and on file at the office of the Municipal Clerk. Bills not paid by the twentieth (20<sup>th</sup>) day of that same month shall be deemed to be delinquent. In the event a deadline falls on a weekend or holiday, the following legal business day shall be the applicable date.

Upon being deemed to be delinquent, as herein defined, the Municipal Clerk or his or her designated agent shall give notice by first-class mail to any subscriber whose service is proposed to be terminated. Such mail shall be conspicuously marked as to its importance. Service shall not be discontinued for at least seven days after notice is sent or given. Holidays and weekends shall be excluded from the seven days. In the event that the bill is not paid within thirteen (13) days, after sending of said notice, it shall be discretionary with the Superintendent or his or her designated agent to cut off service at any time. 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.

Prior to the discontinuance of service to any domestic subscriber by a Municipal Utility owned and operated by a village, the domestic subscriber, upon request, shall be provided a conference with the Board of Trustees. A Municipal Utility shall not be subject to sections 70-1608 to 70-1614 NRS, but the Board of Trustees shall establish a procedure to resolve utility bills when a conference is requested by a domestic subscriber. The procedure shall be in writing and a copy of such procedure shall be furnished upon the request of any domestic subscriber. The Board of Trustees shall notify the domestic subscriber of the time, place, and date scheduled for such conference.

The Municipal Clerk or his or her designated agent shall assess an additional fee set by resolution of the Governing Body and on file at the office of the Municipal Clerk in the event that water is shut off for the non-payment of any water bill, to compensate the Municipality for the additional hook-up necessary to again provide water service to the delinquent customer. (*Ref. 17-542, 70-1603 to 70-1605 RS Neb.*)

### **§3-111 MUNICIPAL WATER DEPARTMENT; LIEN.**

In addition to all other remedies, if a customer shall for any reason remain indebted to the Municipality for water service furnished, such amount due, together with any rents and charges in arrears, shall be considered a delinquent water rent which is hereby declared to be a lien upon the real estate for which the same was used. The Municipal Clerk shall notify in writing or cause to be notified in writing, all owners of premises or their agents whenever their tenants or lessees are sixty (60) days or more delinquent in the payment of water rent. It shall be the duty of the Municipal Clerk to report to the Governing Body a list of

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all such delinquent accounts due for water together with a description of the premise upon which the same was used. The report shall be examined, and if approved by the Governing Body, shall be certified by the Municipal Clerk to the County Clerk to be collected as a special tax in the manner provided by law and/or a notice of said lien recorded in the office of the Register of Deeds. (17-538, 17-925.01, 18-503 RS Neb.)

### **§3-112 MUNICIPAL WATER DEPARTMENT; SINGLE PREMISE.**

No consumer shall supply water to other families, or allow them to take water from his or her premise; not after water is supplied into a building shall any person make or employ a plumber or other person to make a tap or connection with the pipe upon the premise for alteration, extension, or attachment without the written permission of the Governing Body. It shall further be unlawful for any person to tamper with any water meter or by means of any contrivance or device to divert the water from the service pipe so that the water will not pass through the meter or while passing through said meter to cause the meter to register inaccurately. (Ref. 17-537 RS Neb.)

### **§3-113 MUNICIPAL WATER DEPARTMENT; RESTRICTED USE.**

The Governing Body or their representative 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 Municipality 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 Municipality has no control. (Ref. 17-537 RS Neb.)

### **§3-114 MUNICIPAL WATER DEPARTMENT; FIRE HYDRANTS.**

All hydrants for the purpose of extinguishing fires are hereby declared to be public hydrants, and it shall be unlawful for any person other than members of the Municipal Fire Department under the orders of the Fire Chief, or the Assistant Fire Chief; or members of the Governing Body or persons under their orders to open or attempt to open any hydrant and draw water from the same, or in any manner to interfere with the hydrants.

### **§3-115 MUNICIPAL WATER DEPARTMENT; POLLUTION.**

It shall be unlawful for any person to pollute or attempt to pollute any stream or source of water for the supply of the Municipal Water Department. (Ref. 17-536 RS Neb.)

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### **§3-116 MUNICIPAL WATER DEPARTMENT; MANDATORY HOOK-UP.**

Upon written notice by the Governing Body, the property owner, occupant, or lessee of any premise that abuts a water main that is now or may hereafter be laid shall, without delay, cause the said building to be connected with the Municipal Water System. Every building hereafter erected shall be connected with the Municipal Water System at the time of its construction. In the event that any property owner, occupant, or lessee shall neglect, fail, or refuse, within a period of ten (10) days after notice has been given to him or her to do so by registered mail or by publication in a newspaper in or of general circulation in the Municipality, to make such connection said property owner, occupant, or lessee shall be deemed guilty of a misdemeanor.

### **§3-117 MUNICIPAL WATER DEPARTMENT; WATER SERVICE CONTRACTS.**

Contracts for water service are not transferable. Any person wishing to change from one location to another shall make a new application and sign a new contract. If any consumer shall move from the premise where service is furnished he or she shall at once inform, in writing, the Municipal Clerk who may cause the water service to be shut off at the said premise. If the said premise is destroyed by fire or other casualty, he or she shall at once inform the Municipal Clerk who shall cause the water service to be shut off at the said premise. If the consumer should fail to give such written notice, he or she shall be charged for all water used on the said premise until the Municipal Clerk is otherwise advised of such circumstances. (*Ref. 17-537 RS Neb.*)

### **§3-118 MUNICIPAL WATER DEPARTMENT; INSPECTION.**

The Governing Body or their representatives shall have free access, at any reasonable time, to all parts of each premise and building to, or in which, water is delivered for the purpose of examining the pipes, fixtures, and other portions of the system to ascertain whether there is any disrepair or unnecessary waste of water. (*Ref. 17-537 RS Neb.*)

### **§3-119 MUNICIPAL WATER DEPARTMENT; DESTRUCTION OF PROPERTY.**

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



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### **§3-120 MUNICIPAL WATER DEPARTMENT: METERS.**

The municipality shall provide a water meter on each service line. Said water meter shall be of the standard and accuracy as determined and established by the Municipal Engineer. The consumer shall have the responsibility of protecting the meter from freezing and be responsible for preventing any other form of interruption to the normal workings of said meter. Any damage to the meter caused by the intentional act or negligence of the consumer shall be the responsibility of the consumer and repairs or replacements required by such act or negligence shall be billed to the consumer. In the event a meter is determined to be malfunctioning or not working for any reason, the consumer shall immediately notify the municipality and permit the municipality to enter the premises to repair or replace the meter. From and after the first (1<sup>st</sup>) day of July, 1977, all water meters which are attached to the Municipal Water System, whether they are new services or a replacement for a previously existing meter, shall be installed in such a manner so that the meter may be read from outside of the building, dwelling, or structure wherein it is located. Any meter installed in violation of this section shall be deemed to be in violation of the Municipal Code and subject to the penalties of this Chapter in Code Section 3-901 and including but not limited to the cutting off or disconnecting of water service from the building, dwelling, or structure wherein the meter is located. *(Effective October 19, 2011, Ordinance 2011-05)*

### **§3-121 MUNICIPAL WATER DEPARTMENT; MINIMUM USE RATE WHERE NO WORKING METER.**

In the event that a consumer does not have a water meter on the service line, or in the event that any water meter installed on said service line is inoperable for any period during the billing period, consumers shall be charged a minimum water use rate as established herein. There shall be charged to a residential consumer in the event that there is no water meter on the service line or the water meter is not operating properly, a monthly rate of one hundred (\$100.00) dollars. There shall be charged to a commercial consumer in the event that there is no water meter on the service line, or the meter is not functioning properly, a monthly rate of one hundred fifty (\$150.00) dollars.

### **§3-122 MUNICIPAL WATER DEPARTMENT; DEPOSIT.**

Every person or persons desiring a supply of water shall make an application therefore to the Village Clerk. The Village Clerk shall require any applicant, who is the owner of the premises where the water is to be disbursed, to make a service deposit of one hundred fifty (\$150.00) dollars. Water may not be supplied to any house or private service pipe except upon the written order of the Utility Maintenance Employee. The Village Clerk shall record such deposit and give the consumer a receipt for the deposit. The deposit shall remain in a trust fund created by the Municipality for such purpose and for no other purposes of the Municipality except as herein provided. As to the premises where the water is to be disbursed wherein the applicant is the owner, upon the completion of

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twenty-four (24) consecutive months wherein water service charges have been timely paid, the deposit shall be refunded to the consumer. There shall be no refund to the applicant who is a renter of the premises where the water is to be disbursed until the applicant is no longer a renter of said premises. Should the service be terminated, either by the consumer or the Municipality the deposit shall first be applied to any unpaid and due water service fees and charges as provided in this Chapter and any balance shall be refunded to the consumer upon application by the consumer. The Municipality shall make all reasonable efforts to locate the consumer at the time the refund is due as hereinbefore provided. If the Municipality is unable to locate the consumer and a balance remains due and owing to the consumer after applying the deposit as aforementioned, the Municipality shall retain said funds in the trust fund herein established for a period of two (2) years following the date when the refund is due. If, at the end of the two (2) year period following the date when the refund is due, the Municipality has not been able to locate the consumer or the consumer has not requested the refund, the funds shall be transferred from the trust fund to the general funds of the Municipality and used for those purposes and the consumer shall have no claim for a refund of such funds. *(Effective Date January 5, 2010, Ordinance No. 2009-9)*

### **§3-123 MUNICIPAL WATER DEPARTMENT; BACKFLOW PREVENTION DEVICES REQUIRED; CUSTOMER INSTALLATION, MAINTENANCE AND TESTING.**

1. The Governing Body shall designate a representative to oversee the enforcement of this ordinance. This person shall be responsible for reviewing the surveys submitted by the customers of the Municipal Water Department and determining if a backflow prevention device is required to comply with Title 179, NAC 2, "*Regulations Governing Public Water Supply Systems*".
2. All customers of the Municipal Water Department shall be required to report to the Municipal Clerk any potential cross connections which may be on their premises and the Municipal Clerk shall pass such report on to the designated representative. This report shall be made at least every five years.
3. A customer of the Municipal Water Department may be required by the representative of the Governing Body to install and maintain a properly located backflow prevention device at the customer's expense appropriate to the potential hazard as set forth in Title 179, NAC 2, "*Regulations Governing Public Water Supply Systems*" and approved by the cross connection control officer.
  - A. The customer shall make application to the Municipal Clerk to install a required backflow prevention device on a form provided by the Municipality. The application shall contain at a minimum the name and address of the applicant, the type of backflow

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prevention device to be installed, including make and model number, and location of the proposed installation.

- B. The Governing Body representative shall approve or disapprove the application based on whether such installation will protect the Municipal water distribution system from potential backflow and back-siphon hazards.
  - C. When a testable backflow prevention device shall be required, the customer shall also certify to the Municipality at least one (1) time annually that the backflow prevention device has been tested by a Nebraska Health and Human Services System Grade VI certified water operator. Such certification shall be made on a form available at the office of the Municipal Clerk.
  - D. Any decision of the representative of the Governing Body may be appealed to the Governing Body whose decision shall then be final.
- 4. That any other ordinance or section passed and approved prior to the passage, approval and publication or posting of this ordinance, and in conflict with its provisions, is hereby repealed.
  - 5. Any customer refusing to report on possible cross connections on their premises, refusing to install the necessary backflow prevention device, or failing to have a commercial testable backflow prevention device tested at least annually shall be in violation of this ordinance and may have their water service discontinued. Any customer who has had their service discontinued for violation of this ordinance shall be subject to a seventy-five dollar (\$75.00) reconnect fee to have the service reinstated after supplying proof that the potential cross connection has been eliminated or properly protected.

### **§3-124 MUNICIPAL WATER DEPARTMENT; UNSAFE PHYSICAL CONNECTION TO WATER DISTRIBUTION SYSTEM; PROHIBITED POTENTIAL BACKFLOW HAZARD; CUSTOMER ASSESSMENT.**

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, other waste supplies or any other connection whereby potentially unsafe or contaminating materials may be discharged or drawn into the Municipal water distribution system.

At least one (1) time every five (5) years customers of the Municipal Water Distribution System shall be required to assess and report potential backflow and

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back-siphon hazards to Eagle on a form supplied by Eagle to the customer. The customer shall take any steps necessary for protection of public health and safety as determined by the Governing Body.

### **§3-125 MUNICIPAL WATER DEPARTMENT; TAMPERED METERS; RECOVERY OF CHARGES FOR WATER USE**

It shall be unlawful to disconnect, reverse, or otherwise tamper with any meter used to measure water consumption without the direct permission of the Governing Body or their representative. If any meter is found by a member of the Governing Body or their representative to have been disconnected, reversed or tampered with, the water use shall be estimated and charged for the period, and the meter repaired and tested at the customer's expense.

### **§3-126 ADOPTION OF DROUGHT EMERGENCY CONTINGENCY PLAN**

The Municipality of Eagle shall address any short-term water shortage problems through a series of stages based on conditions of supply and demand with accompanying triggers, goals, and actions. Each stage is more stringent in water use than the previous stage since there will be a greater deterioration in water supply conditions. The Chairperson of the Board, or Mayor, is hereby authorized to implement the appropriate conservation measures as set forth in this section, when any of the conditions have been reached which would qualify for any of the specific stages. The Chairperson, or Mayor, is given discretion to declare each particular stage as deemed appropriate by the Chairperson, or Mayor, by reviewing the severity of the trigger conditions and other additional information, and is further authorized to implement conservation measures within the guidelines provided for each particular stage.

#### **STAGE ONE: WATER WATCH**

This stage is triggered by any one of the following conditions:

1. Ground water levels have fallen five feet below normal seasonal levels.
2. Demand is in excess of 200,000 gallons per day for 3-consecutive days.

#### **GOALS:**

The goals of this stage are to heighten awareness of the public of the water conditions and to maintain the integrity of the system.

#### **MANAGEMENT ACTIONS:**

1. Leaks will be repaired within 48 hours of detection.
2. The Municipality will monitor its use of water and will curtail activities such as hydrant flushing and/or street cleaning.

#### **REGULATION ACTIONS:**

The public will be informed through the local media of the water watch and be asked to voluntarily reduce outdoor water use and to efficiently use water for indoor purposes; for example, washing full loads of clothing and/or dishes, limiting the

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length and frequency of showers, or checking for water leaks and dripping of faucets to prevent any unnecessary use of water.

### **STAGE TWO: WATER WARNING**

This stage is triggered by any one of the following conditions:

1. Ground water levels have fallen ten feet below normal seasonal levels.
2. Demand is in excess of 200,000 gallons per day for 7-consecutive days.

#### **GOALS:**

The goals of this stage are to reduce peak demands by 20% and to reduce overall weekly consumption by 10%.

#### **MANAGEMENT ACTIONS:**

1. The water tower supply will be monitored daily in addition to the amounts pumped from each well.
2. Leaks will be repaired within 48 hours of detection.
3. Water height in the water tower dictates our water pressure. The amount pumped from each well is dictated by that level.
4. The Municipality will curtail its water usage, including watering of any Municipal grounds and/or the washing of vehicles.

#### **REGULATION ACTIONS:**

In addition to the regulation actions under Stage One, the following regulatory authority may be exercised by the Chairperson of the Board, or Mayor:

1. An odd/even lawn watering system will be imposed on Municipal residents. Residents with odd-numbered houses will water on odd days defined as Tuesday, Thursday, and Saturday; and even-numbered houses will water on even days defined as Wednesday, Friday and Sunday.
2. Outdoor water use, including lawn watering and car washing will be restricted to before 10:00 a.m. and after 9:00 p.m. on the above days.
3. Refilling of private swimming pools will be limited to one day a week and only after sunset.
4. Waste of water will be prohibited.

### **STAGE THREE: WATER EMERGENCY**

This stage is triggered by any one of the following conditions:

1. Ground water levels have fallen 10 feet below normal seasonal levels.
2. Pumping lowers water levels to within five feet of the top of the well screens.
3. Demand is in excess of 200,000 gallons per day for 12-consecutive days.

#### **GOALS:**

The goals of this stage are to reduce peak demands by 50% and to reduce overall consumption by 25%.

#### **EDUCATION ACTIONS:**

1. The Municipality will make news releases to local media describing current conditions and indicate the water supply outlook for the Municipality.

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2. The Municipality will hold public meeting(s) to discuss the emergency and the status of the water supply outlook.

### MANAGEMENT ACTIONS:

1. The water supplies in the Municipal water tower will be monitored daily as well as the amounts pumped from each well.
2. Leaks will be repaired within 24 hours of detection.
3. We shall regulate pumping from each well to insure that the water levels remain over the well screens.
4. The Municipality shall contact Rural Water as a possible cross-connection hook-up for an emergency contingency plan.

### REGULATION ACTIONS:

In addition to the regulation actions available under Stage Two, the following regulatory authority may be exercised by the Chairperson of the Board, or Mayor:

1. Outdoor water use will be banned, except for businesses which require outdoor water use to operate.
2. Waste of water will be prohibited.

### ENFORCEMENT - PENALTY:

In the event that any water consumer fails to comply with the regulatory action taken by the Municipality, the Chairperson, or Mayor, may direct the immediate discontinuance of water service to the location which is not in compliance with the imposed restrictions. Water service may be resumed once the Chairperson, or Mayor, has been provided adequate evidence to show that compliance has been instituted and that compliance will continue under the imposed restrictions. (*Effective Date May 31, 2022, Ordinance No. 2022-04*)

### **§3-127 WELLHEAD PROTECTION; FACILITY DISTANCES.**

No person shall establish or operate any of the following described facilities within the indicated number of feet from any Municipal water well:

FACILITY	DISTANCE
Non-potable water well	1000 feet
Any other well	1000 feet
Sewage lagoon	1000 feet
Absorption or disposal field for waste	500 feet
Cesspool	500 feet
Dump	500 feet
Feedlot or feedlot runoff	500 feet
Corral	500 feet
Pit toilet	500 feet
Sanitary landfill	500 feet
Chemical or petroleum product storage	500 feet
Septic tank	500 feet
Sewage treatment plant	500 feet
Sewage wet well	500 feet
Sanitary sewer connection	100 feet
Sanitary sewer manhole	100 feet
Sanitary sewer line	50 feet
Sanitary sewer line (permanently water tight)	10 feet

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*(Ref. 17-505 RS Neb.)*

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### ARTICLE 2. SEWER DEPARTMENT

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

The Municipality owns the Municipal Sewer System and operates the same through its maintenance personnel. The Governing Body, for the purpose of defraying the cost of the management and maintenance of the Municipal Sewer System may each year levy a tax not exceeding the maximum limit prescribed by State law on the actual valuation of all real estate and personal property within the corporate limits that is subject to taxation. The revenue from the said tax shall be known as the Sewer Maintenance Fund. The Governing Body shall have the direct management and control of the Sewer Department and shall have the authority to adopt rules and regulations for the sanitary and efficient management of the Municipal Department. *(Ref. 17-925.01 RS Neb.)*

#### 3-202 MUNICIPAL SEWER DEPARTMENT; DEFINITIONS.

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

**“BOD”** (denoting Biochemical Oxygen Demand) shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at 20° C, expressed in milligrams per liter.

**“Building Drain”** shall mean that part of the lowest horizontal piping drainage system which receives the discharge from soil, waste, and 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 or House Sewer”** shall mean and include that part of a house or building drainage system extending from the house or building drain to its connection with the main sewer.

**“Combined Sewer”** shall mean a sewer receiving both surface runoff and sewage.

**“Floatable Oil”** shall mean oil, fat or grease in a physical state such as 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.



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**“Garbage”** shall mean solid wastes from the domestic and commercial preparation, cooking and dispensing of food, and from the handling, storage and sale of produce.

**“Industrial Wastes”** shall mean the liquid wastes from industrial manufacturing processes, trade, or business as distinct from sanitary sewage.

**“Local Ventilating Pipe”** shall mean and include any pipe through which foul air is removed from a room or fixture.

**“Natural Outlet”** shall mean any outlet in a watercourse, pond, ditch, lake, or other body of surface or groundwater.

**“Normal Sewage”** shall mean sewage not exceeding maximum tolerance of contamination of 300 milligrams per liter BOD or 350 milligrams per liter of Suspended Solids.

**“Parts per Million”** shall mean a weight-to-weight ratio; the parts-per-million value multiplied by the factor 8.345 shall be equivalent to pounds per million gallons of water.

**“Person”** shall mean any individual, firm, company, association, society, corporation or group.

**“pH”** shall mean the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

**“Plumbing Fixtures”** shall mean and include receptacles intended to receive and discharge water liquid or water-carried wastes into the sewer system with which they are connected.

**“Properly Shredded Garbage”** shall mean the wastes from the preparation, cooking, and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half (1/2) inch (1.27 centimeters) in any dimension.

**“Public Sewer”** shall mean a sewer which is controlled by public authority.

**“Sanitary Sewer”** shall mean a sewer which carries sewage and to which storm, surface, and ground waters are not intentionally admitted.

**“Sewage”** shall mean a combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments together with such ground, surface, and storm waters as may be present.

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**“Sewage Treatment Plant”** shall mean any arrangement of devices and structures used for treating sewage.

**“Sewage Works”** shall mean all facilities for collecting, pumping, treating, and disposing of sewage.

**“Sewer”** shall mean a pipe or conduit for carrying sewage.

**“Sewer Main”** shall mean one or more of the pipes of the Public Sewer owned by the Municipality and utilized for the transportation of sewage from the Building or House Sewer to the Sewage Treatment Plant.

**“Sewer System”** shall mean and include all facilities for collecting, pumping, treating and disposing of sewage.

**“Shall”** is mandatory; **“May”** is permissive.

**“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.

**“Soil Pipe”** shall mean and include any pipe which conveys the discharge of water closets with or without the discharge from other fixtures to the house or building drain.

**“Storm Drain”** (sometimes termed “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”** shall mean solids that either float on the surface of, or are in suspension in water, sewage, or other liquids, and which are removable by laboratory filtering.

**“Trap”** shall mean and include a fitting or device so constructed as to prevent the passage of air or gas through a pipe without materially affecting the flow of sewage or waste through it.

**“Trap Seal”** shall mean and include the vertical distance between the crown weir and the dip of the trap.

**“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.

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**“Vent Pipe”** shall mean and include any pipe provided to ventilate a house or building drainage system and to prevent trap siphonage and back pressure.

**“Waste Pipe”** shall mean and include any pipe which receives the discharge of any fixture, except water closets, and conveys the same to the house drain, soil pipe, or waste stack.

**“Wastewater”** shall mean the spent water of the Municipality. From the standpoint of source, it may be combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions, together with any groundwater, surface water, and storm water that may be present.

**“Watercourse”** shall mean a channel in which a flow of water occurs, either continuously or intermittently.

### **§3-203 MUNICIPAL SEWER DEPARTMENT; MANDATORY HOOK-UP.**

- (A) The owner of all houses, buildings, or properties used for human employment, recreation, or other purposes, situated within the Municipality and abutting on any street, alley, or right-of-way in which there is now located or may in the future be located a public sanitary or combined sewer of the Municipality, is hereby required at his or her expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this Ordinance, within ninety (90) days after date of official notice to do so, provided that said public sewer is within one hundred (100) feet of the property line.
- (B) 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.
- (C) It shall be unlawful to discharge to any natural outlet within the Municipality of Eagle, or in any area under the jurisdiction of said Municipality, any sewage or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this Ordinance.

### **§3-204 MUNICIPAL SEWER; APPLICATION FOR PERMIT.**

- (A) No authorized 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 Municipal Clerk. Any person wishing to connect with the sewer system shall make an application therefore to the Municipal Clerk. An applicant may have to make a service deposit in such amount as has been set by the Governing Body and placed on file at the office of the Municipal Clerk. Sewer service may not be supplied to any house or building except through the

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permit obtained through the Municipal Clerk and approved by the Municipal Building Inspector or designated representative.

- (B) The Department shall not supply sewer service to any person outside the corporate limits without special permission from the Governing Body.
- (C) All costs and expenses incident to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the Municipality from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

### **§3-205 MUNICIPAL SEWER DEPARTMENT; APPLICATION AND RULES CONSTITUTING CONTRACT.**

The Municipality through the Municipal Sewer Department shall furnish sewer services to persons within its corporate limits whose premises abut a street or alley in which a public sewer main is now or may hereafter be laid. The rules, regulations, and sewer rental rates hereinafter named in this Article, shall be considered a part of every application hereafter made for sewer service and shall be considered a part of the contract between every customer now or hereafter served. Without further formality, the making of the application on the part of any applicant or the use of sewer service by present customers thereof shall constitute a contract between the customer and the Municipality to which said contract both parties are bound. If the customer shall violate any of the provisions of said contract or any reasonable rules and regulations that the Governing Body may hereafter adopt, the Governing Body or their representative 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 Governing Body.

### **§3-206 MUNICIPAL SEWER DEPARTMENT; SEWER CONTRACTS; NON-TRANSFERABLE.**

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

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### **§3-207 MUNICIPAL SEWER DEPARTMENT; APPLICATION; TAP FEE**

The customer, upon approval of his or her application for sewer service, shall pay any required tap fee and/or service deposit to the Municipality before beginning installation. The customer shall be required to obtain all of the required materials and pay for all of the costs of labor for installing said service, including the tapping of the main. There is hereby assessed a tap fee of five hundred (\$500.00) dollars per dwelling unit, business, business services, or other commercial entities to be served by each such tap. Said fee shall be paid prior to the tapping of the sewer main for a new or upgraded sewer service. The term "dwelling unit," "business," or "business services," as used in this Section shall have the meaning as defined in the Eagle Zoning and Subdivision Regulations, as from time to time amended. The term "commercial entities" as used in this Section shall mean having to do with stores, office buildings, and commercial property.

### **§3-208 MUNICIPAL SEWER DEPARTMENT; SERVICE TO NON-RESIDENTS.**

Any person whose premise is located outside the corporate limits of the Municipality and who desires to install a house or building sewer that will be connected with the Municipal Sewer System, shall file a written application with the Municipal Clerk for a permit for such connection and setting forth the name of the owner, occupant, or lessee of the premise, the use to which the premise is devoted, and such other information as the Governing Body may require. In all instances the customer shall pay the entire cost of providing this service including all fees. In addition the customer requesting non-resident service shall agree to execute a Hold Harmless Agreement in the form prescribed by the Municipal Attorney.

### **§3-209 MUNICIPAL SEWER DEPARTMENT; DIRECT CONNECTION.**

Each and every building must make a direct connection with the main sewer line. Under no circumstances will two (2) or more structures be allowed to make such connections through one (1) pipe. An apartment building where the dwelling units are not sold shall be considered a structure for purposes of this Section. In the event the structure consists of more than one (1) dwelling unit with each unit located on a separate lot of record or otherwise granted a subdivision permit such that each dwelling unit may be individually sold (hereinafter referred to as condominium), each dwelling unit shall have a separate direct connection with the sewer main. However, all condominiums located within a single structure may be served by a single connection to the sanitary sewer main so long as the connection to the separate sewer systems is made outside the building, there are no more than (4) four condominiums connected by a single connection, and an agreement approved by the Municipal Engineer as meeting the requirements of this Section, binding upon all present and future owners of the structure has been recorded in the office of the Cass County Register of Deeds, granting to all

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owners of the structure or portion thereof, easement and access rights for the construction, maintenance, repair, and replacement of the common sanitary sewer line of the structure; and further, providing as among the owners of the structure for the responsibility for and the payment of all expenses of such construction, maintenance, repair and replacement of such common sanitary sewer line. Before the issuance of any permit to connect to the sanitary sewer system of the Municipality, all of the terms of the Section must be met and any recording fees required to comply with this Section must be paid by the owners. *(Ref. 17-925.02 RS Neb.)*

### **§3-210 MUNICIPAL SEWER DEPARTMENT; OLD HOUSE SEWERS.**

Old house sewers and drains may be used in connection with new buildings or new plumbing only when they are found, on examination by the Municipal Building Inspector or designated representative, to conform in all respects to the requirements Governing new sewers and drains. If the old work is found defective or otherwise unsatisfactory, he or she shall notify the owner to make the necessary changes to conform to the provision of the Municipal Code.

### **§3-211 MUNICIPAL SEWER DEPARTMENT; FEES AND COLLECTIONS.**

The Governing Body has the power and authority to fix the rates to be paid by the customers of the Sewer Department. All such fees shall be on file for public inspection at the office of the Municipal Clerk. The Municipal Clerk shall have the duty of collecting the user fees of the customers of the Sewer Department monthly at the time the water bills are collected and in the same manner as water bills are collected. If a customer shall for any reason order the service discontinued or shall vacate the premises, the amount due under the terms of this Article, together with any user fees and charges in arrear, shall be considered as a delinquent sewer fee which is hereby declared to be a lien upon the premise or real estate from which the sewer was used or supplied, and upon refusal of the customer to pay the said delinquent sewer fee, it shall be collected by being placed upon the assessment roll and tax books for collection. Upon being deemed delinquent, the Municipal Clerk may proceed to give notice to the delinquent customer by certified mail and demand payment immediately including the expense incurred with the certified mail. In the event the said bill is not paid within thirteen (13) days after sending such written notice, it shall be discretionary with the Governing Body or their representative to cut off service immediately by discontinuing the sewer service if that is deemed necessary; provided, that if the delinquent customer has previously been identified as a welfare recipient to the Municipality by the County Welfare Department, such notice may be by certified mail and notice of such proposed termination shall be given to the County Welfare Department. Prior to the discontinuance of service to any domestic subscriber by the Municipal Sewer Department, the domestic

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subscriber, upon the subscriber's request, shall be provided a conference with the Governing Body. The Governing Body has established procedures to resolve sewer bills when a conference is requested by domestic subscribers. These procedures, 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 hereof as though fully set forth herein. A copy of such procedures shall be furnished upon the request of any domestic subscriber. The Governing Body shall notify the domestic subscriber of the time, place, and date scheduled for such conference. The Municipal Clerk or his or her designated agent shall assess an additional fee set by resolution of the Governing Body and on file at the office of the Municipal Clerk in the event that the sewer is shut off for the non-payment of any sewer bill, to compensate the Municipality for the additional hook-up necessary to again provide sewer service to the delinquent customer.

### **§3-212 MUNICIPAL SEWER DEPARTMENT; DISCHARGE OF STORMWATER; UNLAWFUL.**

It shall be unlawful for any person to discharge or cause to be discharged any storm water, surface water, ground water, roof runoff, surface drainage, or unpolluted industrial process waters into the sanitary sewer. It shall further be unlawful to connect or maintain connected to the sanitary sewer system any pump which pumps any of the above identified kinds of water for any purpose whatsoever. In addition to the other remedies that are provided by this Chapter for violations of this Code, the Municipality shall have the right to secure the abatement of any connection or discharging violation of this Section.

### **§3-213 MUNICIPAL SEWER; UNLAWFUL DISCHARGES.**

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

- (a) Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas.
- (b) Any waters or wastes containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singularly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant, including but not limited to cyanides in excess of two (2) mg/liter as CN in the wastes as discharged to the public sewer.
- (c) Any waters or wastes having a pH lower than 5.5, or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage works.

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- (d) Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, underground garbage, whole blood, paunch manure, hair and fleshing, entrails, paper dishes or cups, mild containers, etc., either whole or ground by garbage grinders. (Amended by Ord. No. 99-3, 7/6/99)

### **§3-214 MUNICIPAL SEWER; DISCHARGES PERMITTED AT DISCRETION OF GOVERNING BODY.**

No person shall discharge or cause to be discharged the following described substances, materials, waters, or wastes if it appears likely in the opinion of the Governing Body or their representative 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. In forming an opinion as to the acceptability of these wastes, the Governing Body or their representative will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant, and other pertinent factors. The substances prohibited are:

- (a) Any liquid or vapor having a temperature higher than one hundred eighty (180° F), or fifty-two (52° C).
- (b) Any water or wastes containing fats, wax, grease or oils, whether emulsified or not, in excess of one hundred (100) mg/liter or containing substances which may solidify or become viscous at temperatures between thirty-two (32° F) and one hundred eighty (180° F) and zero (0° C) and fifty-two (52° C).
- (c) Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of three-fourths (3/4) horsepower (0.76 hp metric) or greater shall be subject to the review and approval of the Governing Body or their representative.
- (d) Any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solutions whether neutralized or not.
- (e) Any waters or wastes containing iron, chromium, copper, zinc, and similar objectionable or toxic substances; or wastes exerting an excessive chlorine requirement, to such degree that any such material



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received in the composite sewage at the sewage treatment works exceeds the limits established by the Governing Body or their representative for such materials.

- (f) Any waters or wastes containing phenols or other taste or odor-producing substances, in such concentrations exceeding limits which may be established by the Governing Body or their representative as necessary, after treatment of the composite sewage, to meet the requirements of State, Federal, or other public agencies of jurisdiction for such discharge to the receiving waters.
- (g) Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Governing Body or their representative in compliance with applicable State or Federal Regulations.
- (h) Any waters or wastes have a pH in excess of [9.5].
- (i) Materials which exert or cause:
  - (1) Unusual concentrations of inert suspended solids (such as, but not limited to, Fullers earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride or sodium sulfate).
  - (2) Excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions).
  - (3) Unusual BOD, chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.
  - (4) Unusual volume of flow or concentration of wastes constituting "slugs" as defined herein.
- (j) Waters or wastes containing substances which are not amendable to treatment or reduction by the sewage treatment processes employed, or are amendable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.
- (k) Any waters or wastes having (1) a 5-day BOD greater than 300 parts per million by weight, or (2) containing more than 350 parts per million by weight of suspended solids, or (3) having an average daily flow greater than 2 percent of the average sewage flow of the Municipality, shall be subject to the review of the Governing Body or their

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representative. Where necessary in the opinion of the Governing Body or their representative, the owner shall provide, at his or her expense, such preliminary treatment as may be necessary to (1) reduce the biochemical oxygen demand to 300 parts per million by weight, or (2) reduce the suspended solids to 350 parts per million by weight, or (3) control the quantities and rates of discharge of such waters or wastes. Plans, specifications, and any other pertinent information relating to proposed preliminary treatment facilities shall be submitted for the approval of the Governing Body or their representative and no construction of such facilities shall be commenced until said approvals are obtained in writing.

### **§3-215 MUNICIPAL SEWER: DISCRETIONARY DISCHARGES OPTIONS OF GOVERNING BODY.**

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 §3-214, and which in the judgment of the Governing Body or their representative, 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 Governing Body or their representative may:

- (a) Reject the wastes,
- (b) Require pretreatment to an acceptable condition for discharge to the public sewers,
- (c) Require control over the quantities and rates of discharge.
- (d) Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of Section 10 of the Article.

If the Governing Body or their representative permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the Municipal Building Inspector and Governing Body or their representative, and subject to the requirements of all applicable codes, ordinances and laws.

### **§3-216 MUNICIPAL SEWER DEPARTMENT; SPECIAL EQUIPMENT.**

In the event a customer of the Municipal Sewer Department discharges an unusually large amount of waste daily, an unusually large amount of grease or

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

### **§3-217 MUNICIPAL SEWER DEPARTMENT; INSPECTIONS.**

The Governing Body or their representative shall have free access at any reasonable time to all parts of each premise and building which is connected to the Sewer System to ascertain whether there is any disrepair or violation of this article therein. The failure of the owner or occupant of any premise or building to permit such access shall be deemed a violation of the contract between the user and the Municipality which will subject the premise or building involved to termination of service as provided in this Code.

### **§3-218 MUNICIPAL SEWER DEPARTMENT; INSTALLATION PROCEDURE.**

In making excavations in streets, alleys, or sidewalks for the purpose of installing must be removed and deposited in a manner that will occasion the least inconvenience to the public and provide for adequate drainage. No person shall leave an excavation made in the street, alley, or sidewalk open at any time without a barricade, and during the night, warning lights. After the house sewer is laid, the streets, alleys, and sidewalks shall be restored to good condition. If the excavation in public way or property is left open or unfinished for a period of twenty-four (24) hours or more, the maintenance personnel shall have the duty to finish or correct the work, and all expenses so incurred shall be charged to the occupant, or lessee of the property. All installations or repairs of pipes require two (2) inspections by the maintenance personnel. The first (1<sup>st</sup>) inspection shall be made when connections or repairs are completed and before the pipes are covered. The second (2<sup>nd</sup>) inspection shall be made after the dirt work is completed and the service is restored. It is the customer's responsibility to notify the Municipal Clerk at the time the work is ready for each inspection. All sewer main, and sewer service line installation work shall be done under the supervision of the maintenance personnel and strictly in accordance with the rules, regulations and specifications of the building and plumbing code or other applicable rules and regulations on file with the Municipal Clerk and prescribed for such installation by the Municipal Engineer; provided, that the said rules, regulation, and specifications have been reviewed and approved by the Governing Body. Where the material proposed to be used for sewerage system installation or repairs is not among those on file in the Clerk's office, a

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determination shall be made and expenses paid using the same procedures as prescribed for determinations of materials for water mains, supply lines and service lines.

### **§3-219 MUNICIPAL SEWER DEPARTMENT; REPAIRS AND REPLACEMENT**

The Municipal Sewer Department may require the owner of any property which is within the Municipality and/or connected to the public sewers or drains to repair or replace the connection line which serves the owner's property and is broken, clogged or otherwise in need of repair or replacement. The property owner's duty to repair or replace such a connection line shall include those portions upon the owner's property and those portions upon the public property or easements up to and including the point of junction with the public main.

The Municipal Clerk shall give the property owner notice by registered letter or certified mail, directed to the last-known address of such owner or the agent of such owner, directing the repair or replacement of such connection line. If within thirty (30) days of mailing such notice the property owner fails or neglects to cause such repairs or replacements to be made, the Governing Body or their representative may cause such work to be done and assess the cost upon the property served by such connection. (*Ref. 18-1748 RS Neb*)

### **§3-220 MUNICIPAL SEWER DEPARTMENT; DEPOSIT**

Any person wishing to connect to the Sewer System shall make an application therefore to the Village Clerk. The Village Clerk shall require any applicant, who is the owner of the premises where the sewer service is requested, to make a service deposit of one hundred fifty (\$150.00) dollars. Sewer service may not be supplied to any house or building except upon the written order of the Utility Maintenance Employee. The Village Clerk shall record such deposit and give the consumer a receipt for the deposit. The deposit shall remain in a trust fund created by the Municipality for such purpose and for no other purposes of the Municipality except as herein provided. As to the premises where the applicant for the sewer services requested is the owner, upon the completion of twenty-four (24) consecutive months wherein sewer service charges have been timely paid, the deposit shall be refunded to the consumer. There shall be no refund to the applicant who is a renter of the premises where the sewer services to be disbursed until the applicant is no longer a renter of said premises. Should the service be terminated, either by the consumer or the Municipality the deposit shall first be applied to any unpaid and due sewer service fees and charges as provided in this Chapter and any balance shall be refunded to the consumer upon application by the consumer. The Municipality shall make all reasonable efforts to locate the consumer at the time the refund is due as hereinbefore provided. If the Municipality is unable to locate the consumer and a balance remains due and owing to the consumer after applying the deposit as aforementioned, the Municipality shall retain said funds in the trust fund herein established for a period of two (2) years following the date when the refund is due. If, at the end of the two (2) year period following the date when the refund is

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due, the Municipality has not been able to locate the consumer or the consumer has not requested the refund, the funds shall be transferred from the trust fund to the general funds or the Municipality and used for those purposes and the consumer shall have no claim for a refund of such funds. *(Effective Date January 5, 2010, Ordinance No. 2009-9)*

### **§3-221 MUNICIPAL SEWER DEPARTMENT; RATE SETTING.**

Customers of the Municipal Sewer Department shall be charged for use of sewer service as follows:

- a. For Property located within the Municipal Corporate Boundaries: Each customer shall be charged the base rate of thirty-one dollars (\$31.00) per month. Additionally, the sum of four dollars \$4.00 shall be charged for each 1000 gallons of water used based upon the average amount of water metered for the premises, occupied by the current occupant or tenant, per month during the preceding winter quarter (January, February, and March). If there is no established usage for the previous January, February, and March period for the premises occupied by the current occupant or tenant, than a flat monthly rate set by resolution by the Governing Body, annually, shall be charged, until a January, February, March water usage average can be established.
- b. For Property located outside the Municipal corporate boundaries: The rates charged users located outside of the Municipal corporate boundaries shall equal 175% of the rates set forth in this code section. Non-resident users shall be subject to all ordinances, resolutions, rules, and regulations adopted by the Municipality regarding use and operation of the sewer system of the Municipality, including but not limited to, the operation and maintenance of system devices, restrictions, termination of service, and payment of sewer use fees.
- c. These rates shall be effective commencing on the 1<sup>st</sup> day of January, 2020. *(Amended Ord 2019-12, effective date 1/1/20)*

### **§3-222 MUNICIPAL SEWER DEPARTMENT; MANHOLES.**

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

### **§3-223 MUNICIPAL SEWER DEPARTMENT; INSPECTIONS GENERALLY.**

The Utilities Superintendent and other duly authorized employees of the Municipality bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement,

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sampling, and testing system in accordance with the provisions of this Article. The Utilities Superintendent or his representative shall have no authority to inquire into any processes including metallurgical, chemical, oil, refining, ceramic, paper or other industries beyond that only having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment.

### **§3-224 MUNICIPAL SEWER DEPARTMENT; COMPLAINTS.**

Any consumer feeling aggrieved by reason of any controversy with a Municipal employee regarding a sewer billing may appear before the Governing Body and present his or her grievance. Any consumer who considers himself or herself aggrieved by being required to pay the charge demanded for the use of the sewer, or for the resumption of sewer service after the same shall have been shut off, shall pay such charge under protest, in which event the Municipal Clerk shall write on the receipt given such customer the words, "Paid Under Protest." Such consumer may then present his or her verified claim in the manner provided for presenting claims to the Governing Body for a refund of the amount so paid under protest. Such claims shall then be considered by the Governing Body in the same manner as other claims against the Municipality.

### **§3-225 MUNICIPAL SEWER; VIOLATION; PENALTY.**

Any person found to be violating any provision of this Chapter shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined in the amount not exceeding five hundred (\$500.00) dollars for each violation. Each 24-hour period in which any such violation shall continue shall be deemed a separate offense. In addition, any person violating any of the provisions of this Chapter shall become liable to the Municipality for any expense, loss, or damage occasioned the Municipality by reason of such violation.

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### **ARTICLE 3. FIRE DEPARTMENT**

#### **§3-301 MUNICIPAL FIRE DEPARTMENT; OPERATION AND FUNDING.**

The Municipality operates the Municipal Fire Department through the Municipal Fire Chief and Firemen. The Governing Body, for the purpose of defraying the cost of the management, maintenance, and improving the Fire Department may each year levy a tax not exceeding the maximum limits prescribed by State law, on the actual valuation of all real estate and personal property within the Municipality that is subject to taxation. The revenue from the said tax shall be known as the Fire Department Fund. The Fund shall be at all times in the possession of the Municipal Treasurer. The Fire Chief shall manage the Fire Department and it shall be his or her duty to inform the Governing Body when any of the fire engines, hose, ladders, or other apparatus needs repair. Upon the written consent and directive of the Governing Body, the Fire Chief shall cause the repair, improvement, or maintenance of the said equipment and shall personally supervise and approve of the same. In addition to the above, the Governing Body is hereby authorized to enter into contractual arrangements with the appropriate Rural Fire District to provide for the Municipality and the Rural Fire Department. (*Ref. 17-718, 17-953 RS Neb.*)

#### **§3-302 MUNICIPAL FIRE DEPARTMENT; MEMBERSHIP.**

The Fire Chief shall appoint no more than twenty-five (25) members for each Department Company subject to the review and approval of the Governing Body. All vacancies shall be filled in this manner. In order to qualify for membership, an individual must reside in or be employed in his or her primary occupation, in the Village of Eagle, Nebraska, or within the Rural Fire District serviced by the Fire Department, and must be at least nineteen (19) years old or older. Said members shall be considered to be employees of the Municipality for the purpose of providing them with Workmen's Compensation Insurance. Each member shall be entitled to a term life insurance policy in the amount of ten thousand (\$10,000.00) dollars for death from any cause to age sixty-five (65) and such policy shall, at the option of the individual fireman, be convertible to a permanent form of life insurance at age sixty-five (65); PROVIDED, that the firemen covered are actively and faithfully performing the duties of their position. The Fire Department shall consist of so many members as may be determined by the Governing Body. The members may organize themselves in any way they may decide, subject to the review of the Governing Body. They may hold meetings and engage in social activities with the approval of the Governing Body. The Secretary shall, upon request, keep a record of all meetings and shall make a report to the Governing Body of all meetings and activities of the Fire Department. The Governing Body may, for services rendered, compensate or reward any member or members of the Fire Department in an amount set by resolution. All members of the Fire Department shall be subject to such rules and regulations, and shall perform such duties, as may be prescribed or required

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of them by the Fire Chief or the Governing Body. The members of the Fire Department shall, during the time of a fire or great public danger, have and exercise the powers and duties of policemen and shall have full power and authority to arrest all persons guilty of any violation of the Municipal Code, or the laws of the State of Nebraska. (*Ref. 35-101 thru 35-103 RS Neb.*)

### **§3-303 MUNICIPAL FIRE DEPARTMENT; FIRES.**

It shall be the duty of the Fire Department to use all proper means for the extinguishments of fires; to protect property within the Municipality; and to secure the observance of all ordinances, laws, and other rules and regulations with respect to fires and fire prevention.

### **§3-304 MUNICIPAL FIRE DEPARTMENT; FIGHTING DISTANT FIRES.**

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

### **§3-305 MUNICIPAL FIRE DEPARTMENT; PRESERVATION OF PROPERTY.**

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

### **§3-306 MUNICIPAL FIRE DEPARTMENT; IMPERSONATING FIREMEN.**

It shall be unlawful for any person to falsely impersonate a fireman by wearing a badge or other apparel usually worn by a fireman for the purpose of obtaining any benefit whatsoever. Nothing herein shall be construed to prohibit the theatrical representation of a fireman for bona fide entertainment purposes when there is no intent to defraud. The penalties for violating this section are contained under Neb. Rev. Stat §28-609. (*Ref. 28-609 RS Neb.*)



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### **§3-307 MUNICIPAL FIRE DEPARTMENT; MANDATORY ASSISTANCE.**

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

### **§3-308 MUNICIPAL FIRE DEPARTMENT; POWER OF ARREST.**

The Municipal Fire Chief or the Assistant Fire Chief shall have the power during the time of a fire and for a period of thirty-six (36) hours after its extinguishments, to arrest any suspected arsonist, or other person hindering or resisting the fire fighting effort, or any person who conducts himself or herself in a noisy or disorderly manner. The said officials shall be severally vested with the usual powers and authority of Municipal Policemen to command all persons to assist them in the performance of their duties.

### **§3-309 MUNICIPAL FIRE DEPARTMENT; FIRE INVESTIGATION.**

It shall be the duty of the Fire Department to investigate or cause to be investigated, the cause, origin, and circumstances of every fire occurring in the Municipality in which property has been destroyed or damaged in excess of two hundred fifty (\$250.00) dollars. All fires of unknown origin shall be reported, and such officers shall especially make an investigation and report as to whether such fire was the result of carelessness, accident, or design. Such investigation shall be begun within two (2) days of the occurrence of such fire and the State Fire Marshal shall have the right to supervise and direct the investigation whenever he or she deems it expedient or necessary. The officer making the investigation of fires occurring within the Municipality shall immediately notify the State Fire Marshal and shall, within one (1) week of the occurrence of the fire, furnish him or her with a written statement of all the facts relating to the cause and origin of the fire, and such further information as he or she may call for. (*Ref. 81-506 RS Neb.*)

### **§3-310 MUNICIPAL FIRE DEPARTMENT; AMBULANCE SERVICE.<sup>1</sup>**

As a division of the Municipal Fire Department, the Fire Chief is hereby authorized to designate and appoint ambulance service members and to secure appropriate training for them. To defray the costs and expenses incurred in responding to a call requiring the ambulance service, the Fire Department is

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<sup>1</sup> 3-310 Modified by Ordinance 2009-1

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hereby authorized and directed to charge a fee based on a schedule which may be established by Resolution of the Governing Body.

The Fire Chief, or his or her designees, shall advise the Municipal Clerk of all ambulance calls for which billing is to be made to the recipient of the services. The Municipal Clerk shall make all necessary billings in the name of the Municipality or may contract for such services. *(Ref. 13-303 RS Neb.) (Modified by Ordinance 2009-1. Effective Date 3/19 /2009)*

### **§3-311 MUNICIPAL FIRE DEPARTMENT; AMBULANCE SERVICE RESPONSE.**

The ambulance service is hereby authorized to respond to ambulance calls within the Municipality and the Rural Fire District. Upon proper request of emergency personnel, the Fire Chief, or his or her designee, may authorize the response of the ambulance service to areas outside of the herein designated response area. The Fire Chief is hereby empowered to enter into agreements with other emergency response governmental entities to provide services on an ongoing basis outside the hereinbefore described response area. The Fire Chief shall, annually, as a part of his or her annual report to the Governing Body describe and identify all such agreements.

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### **ARTICLE 4. PARKS**

#### **§3-401 MUNICIPAL PARKS; OPERATION AND FUNDING.**

The Municipality owns and operates the Municipal Parks and other recreational areas through the standing committee of the Governing Body - "Park Board". The Governing Body, for the purpose of defraying the cost of the care, management, and maintenance of the Municipal Park may each year levy a tax not exceeding the maximum limit prescribed by State law, on the actual valuation of all real estate and personal property within the corporate limits that is subject to taxation. The revenue from the said tax shall be known as the Park Fund and shall remain in the custody of the Municipal Treasurer. The Park Board shall have the authority to adopt rules and regulations with the approval of the Governing Body for the efficient management of the Municipal Parks and other recreational areas of the Municipality. The Park Board shall not enter into a contract of any nature which involves an expenditure of funds, unless the contract has been approved by resolution of the majority of the members of the Governing Body prior to the contractual agreement. (*Ref. 17-948 to 17-952 RS Neb.*)

#### **§3-402 MUNICIPAL PARKS; INJURY TO PROPERTY.**

It shall be unlawful for any person to maliciously or willfully cut down, injure, or destroy any tree, plant, or shrub. It shall be unlawful for any person to injure or destroy any sodded or planted area, or injure or destroy any building, structure, equipment, fence, bench, table, or any other property of the Municipal Parks and recreational areas. No person shall commit any waste on or litter the Municipal Parks or other public grounds. Violation of this section shall be a misdemeanor.

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### **§3-403 MUNICIPAL PARKS; PARK HOURS.**

It shall be unlawful for any person to be present in the Municipal park, or the parking lots contiguous thereto, after 10 p.m. and before 7 a.m. each day, unless there is a special event, or an employee of the Municipality in the park for official purposes. The Governing Body may promulgate rules pursuant by resolution for use and occupancy requirements of the Municipal park in addition to the following:

1. Park Hours 7 A.M. – 10 P.M. No Trespassing after the park is closed.
2. Parking lots to be used for Pool and Park Patrons Only. Unattended Cars left in lot after park hours will be towed at Owners Expense.
3. No loitering in the Park after Hours.
4. \$50.00 Fine for Littering.
5. No Drugs or Alcohol Permitted.
6. No Fireworks.
7. All Pets must be on a Leash.
8. No Motorized Vehicles on the Grass.
9. All Park Property must remain in the Park.
10. Cash Reward given for the Information leading to the Arrest and Conviction of Anyone damaging or destroying park and pool equipment.

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### **ARTICLE 5. LIENS**

#### **§3-501 LIENS; WATER AND SEWER USE CHARGES.**

All unpaid rates, charges, penalties, or assessments made, charged, or levied for the consumption or use of water pursuant to Eagle Municipal Code § 3-101 et. seq. and the use of the Municipal Sanitary Sewer System pursuant to Eagle Municipal Code § 3-201 et. seq. shall constitute a lien upon the real estate to which water is supplied or sanitary sewer is supplied. (*Ref. 17-538, 17-925.01 RS Neb.*)

#### **§3-502 LIENS; RECORDING;**

Sixty (60) days following the due date for all charges, rents, rates, assessments, taxes or the like for which liens may be filed pursuant to § 3-601, the Municipal Clerk shall file with the Register of Deeds for Cass County a lien for such amount as may remain due and owing on the real estate to which the water was provided or sanitary sewer use was provided. Such lien shall be filed regardless of whether the water service or sewer use has been discontinued for said property. The Municipal Clerk is authorized to pay such filing fees as may be required for said lien filing with the Register of Deeds without further order or approval of the Governing Body.

#### **§3-503 LIENS; FORM.**

The liens shall contain the identity of the customer, the street address of the property to which the service was provided, the legal description of the real estate to which the lien attaches, the name of the titleholder of the property, an itemization of all charges and penalties for which the lien attaches, the dates for which the service was performed or material provided by the Municipality and the date and amount of such work and materials, and the date when the amount covered by the lien was due and payable to the Municipality. Such lien shall be under oath and signed by the Municipal Clerk.

#### **§3-504 LIENS; NOTICE.**

At the time the Municipal Clerk files with the Register of Deeds the lien as hereinbefore provided, the Municipal Clerk shall provide notice to the customer as listed on the Municipal record books at the customer's last known address. If the owner of the property is different than the customer, the Clerk shall provide separate notice to the owner of the real estate. Said notice shall be provided by registered mail, return receipt requested, and shall be directed to the last known address of the occupant and owner as appears on the Municipal records and on the County Tax Assessor's Records.

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### **§3-505 LIENS; COLLECTION.**

The Municipal Clerk shall maintain a record of all liens which shall be filed on behalf of the Municipality pursuant of the Article. Upon the filing of the lien and the termination of service to the real estate involved, service may not be provided again to said real estate until the lien has been satisfied in full pursuant to the terms of this Article. If, a lien which attaches to said real estate pursuant to the terms of this Article has not been satisfied within one (1) year from the date said lien is filed, the Municipal Attorney may, commence proceedings for the foreclosure of said lien.

### **§3-506 LIENS; INTEREST.**

The amount identified in the lien as filed by the Municipal Clerk with the Register of Deeds shall bear interest at the maximum percentage rate per annum permitted under Neb. Rev. Stat. § 45-101.03 as that section may hereafter from time to time be amended or replaced.

### **§3-507 LIENS; PAYMENT.**

Once a lien has been filed with the Register of Deeds pursuant to this Article, service may not be restored to the subject real estate until such time as payment has been received by the Municipal Treasurer for the following amounts:

1. Payment in full of the principal amount of the lien including any penalties and services and materials included in said lien;
2. Payment of all interest due on said lien pursuant to this Article;
3. Payment of all filing fees and costs incurred by the Municipality to provide the notices required by this Article;
4. Payment of a deposit which shall amount to twice the principal amount of lien as filed for which payment is being received. Except for the amounts therein designated, the deposit herein required shall be held pursuant to the terms of Eagle Municipal Code Sections in this chapter.

### **§3-508 LIENS; SPECIAL WATER & SEWER USE CHARGE COLLECTION.**

As an alternate means of collecting delinquent water & sewer use charges, the Municipal Clerk shall certify to the Cass County Tax Assessor all delinquent water & sewer use charges which exist on the first (1<sup>st</sup>) day of August of each year and request the Cass County Tax Assessor to assess, collect and return the same in the same manner as other Municipal taxes are assessed, collected and returned. Such collection method shall include the collection of those charges for which a lien has been filed. This Section is to be viewed as a cumulative remedy for the collection of delinquent and past due water & sewer charges rather than an alternate remedy. (*Ref. 18-503 RS Neb.*)

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### ARTICLE 6. UTILITIES GENERALLY

#### §3-601 UTILITIES GENERALLY; DIVERSION OF SERVICES; PENALTY.

The Municipality may bring a civil action for damages pursuant to Neb. Rev. Stat. §§86-331.01 et. seq. against any person, who commits, authorizes, solicits, aids, abets, or attempts:

- (a) bypassing,
- (b) tampering with, or
- (c) unauthorized metering when such act results in damages to a Municipal utility.

A Municipality may bring a civil action for damages pursuant to this Section against any person receiving the benefit of utility service through means of bypassing, tampering or unauthorized metering. In any civil action brought pursuant to this Section, the Municipality shall be entitled, upon proof of willful or intentional bypassing, tampering, or unauthorized metering to recover as damages:

- A. The amount of actual damage or loss if the amount the damage or loss is susceptible of reasonable calculation; or
- B. Liquidated damages of (i) until July 1, 1985, five hundred (\$500.00) dollars and (ii) on July 1, 1985, and thereafter, seven hundred fifty (\$750.00) dollars if the amount of actual damage or loss is not susceptible of reasonable calculation.

In addition to damage of loss under subdivision A or B of this Section, the Municipality may recover all reasonable expenses and costs incurred on account of the bypassing, tampering, or unauthorized metering including, but not limited to, disconnection, reconnection, service calls, equipment, costs of the suit, and reasonable attorney's fees in cases within the scope of Neb. Rev. Stat. § 25-1801 as amended from time to time.

There shall be a rebuttable presumption that a tenant or occupant at any premise where bypassing, tampering or unauthorized metering is proven to exist caused or had knowledge of such bypassing, tampering, or unauthorized metering if the tenant or occupant

- (a) had access to the part of the utility supply system on the premises where the bypassing, tampering, or unauthorized metering is proven to exist
- (b) was responsible or partially responsible for payment, either directly or indirectly, to the utility or to any other person for utility services to the premises.

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

The remedies provided by this Section shall be deemed to the supplemental and additional to powers conferred by existing laws and the remedies provided in this Section are in addition and not in limitation of any other civil or criminal statutory or common law remedies. *(Ref. 86-331.01 to 86-331.04 RS Neb.)*

### **§3-602 UTILITIES GENERALLY; PAYMENT PLAN ON DELINQUENT CHARGES.**

The Municipal Clerk is hereby authorized, in addition to all other remedies and provisions afforded by law to enter into an agreement with customers and users of the Municipal water and sewer services for the payment of charges which are delinquent under the ordinances of the Municipality. Such deferred payment plan shall require monthly or semi-monthly payments, shall provide for payments over no more than twenty-four (24) months, shall require the unpaid balance of any account to bear interest at the rate of 1.33% per month, compounded interest upon interest, and shall require all other charges made to the customer to be paid prior delinquency during the term of the agreement. The Municipal Clerk shall establish such other terms and conditions and provisions of the agreement as may be necessary and appropriate to safeguard the assets of the Municipality and ensure payment of the agreement or termination of service in the event of non-payment.

### **§3-603 FILING FEE; RATE FILING.**

The Municipality shall charge and collect a filing fee from Natural Gas Companies for a rate filing. The fee shall be seventy-five dollars (\$75.00).



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### ARTICLE 7. POLICE DEPARTMENT

#### **§3-701 POLICE DEPARTMENT; INTERLOCAL COOPERATION AGREEMENT.**

Pursuant to the authority granted to this Governing Body by Neb. Rev. Stat. 13-802, *et seq.* and Eagle Municipal Code §1-208, the Chairperson and the Municipal Clerk are hereby authorized and directed to enter into an Interlocal Cooperation Agreement with the Cass County Sheriff to provide for enforcement of State and local laws and ordinances, as approved by the Governing Body. (*Ref. 13-802 et. seq. RS Neb.*)

#### **§3-702 POLICE DEPARTMENT; ARREST JURISDICTION.**

(1) The Municipal Marshal or any other 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 the territorial limits of the Municipality of Eagle.

(2) The Municipal Marshal or any other 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 the Municipality 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) The Municipal Marshal or any other 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) The Municipal Marshal or any other 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) The Municipal Marshal or any other 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

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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

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 § 13-1802 RS Neb. (*Ref. 29-215 RS Neb.*)

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### **ARTICLE 8. PENAL PROVISION**

#### **§3-801 VIOLATION; PENALTY.**

Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this Chapter, set forth at full length herein or incorporated by reference shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be fined not more than five hundred dollars (\$500.00) for each offense. A new violation shall be deemed to have been committed every twenty-four (24) hours of such failure to comply. (*Ref 17-207 NRS Neb.*)