

CITY COUNCIL PROCEEDINGS

December 10, 2003

The City Council of the City of David City, Nebraska met in open public session in the meeting room of the City Office, 557 4th Street, David City, Nebraska. The Public had been advised of the meeting by publication of notice in The Banner-Press on December 4, and an affidavit of the publisher is on file in the office of the City Clerk. The Mayor and members of the City Council acknowledged advance notice of the meeting by signing the Agenda which is a part of these minutes. The advance notices to the Public, Mayor and Council members conveyed the availability of the Agenda, which was kept continuously current in the office of the City Clerk and was available for public inspection during regular office hours. No new items were added to the agenda during the twenty-four hours immediately prior to the opening of the Council meeting.

Present for the meeting were: Mayor Stephen Smith, Council members Gary L. Kroesing, Ted Lukassen, Nick Hein, and Bill Schatz, City Administrator Jeff Fiegenschuh, City Attorney Jim Egr, Police Chief Stephen Sunday, Power Plant Supervisor John Kabourek, Street Superintendent Jim McDonald, Electric Supervisor Tim Kovar, Waste Water Operator Jim Kruse, Cory Kuhlman representing the David City Golf Course, Gordon Harms, Jerry Kosch, Banner-Press Editor Larry Peirce, and City Clerk-Treasurer Joan E. Kovar. Council member Kirby arrived at 8:17 p.m., due to another engagement as previously advised. Council member Smith was absent due to illness.

The meeting opened with the Pledge of Allegiance.

Council member Hein stated he preferred that all of the Council members were present when voting on the election of a council president. Mayor Smith stated that the council could recess this meeting, and continue it immediately prior to the next Committee of the Whole meeting, and vote on a council president at that time. Therefore, Council member Hein made a motion to table consideration of election of a council president until there is a full council present. Council member Kroesing seconded the motion. City Clerk Kovar stated that if the meeting is recessed she cannot complete her minutes until that time. Therefore, Council members Hein and Kroesing rescinded their motions. Council member Lukassen made a motion to table consideration of election of a council president until the January 14th council meeting at which time, hopefully, all council members will be present. Council member Kroesing seconded the motion. Voting YEA: Council members Schatz, Hein, Lukassen and Kroesing. Voting NAY: None. Council members Kirby & Smith were absent. The motion carried.

Council member Hein made a motion to table consideration of appointing two council members to serve on the finance committee. Council member Kroesing seconded the motion. Voting YEA: Council members Schatz, Lukassen, Hein, and Kroesing. Voting NAY: None. Council members Kirby & Smith were absent. The motion carried. Council members Gary Smith and Ted Lukassen are currently on the finance committee. Council member Lukassen advised the Council that he did not wish to remain on the finance committee.

The following letter was received from Water/Sewer Supervisor Gene Divis:

I, Eugene Divis, plan to terminate my employment as Water and Sewer Supervisor with the City of David City, on December 25, 2003, with the possibility of working a couple of days to help with the changeover at the Water Plant after Christmas, and taking my unused vacation in January.

Council member Lukassen made a motion to accept the resignation of Water/Sewer Supervisor Gene Divis, effective December 25, 2003. Council member Kroesing seconded the motion. Voting YEA: Council members Hein, Schatz, Lukassen, and Kroesing. Voting NAY: None. Council members Kirby & Smith were absent. The motion carried.

Mayor Smith announced the appointment of Department Heads, Police Chief and Officers, and other appointed officials. Council member Kroesing made a motion to approve the appointments as presented. Council member Lukassen seconded the motion. Voting YEA: Council members Schatz, Hein, Kroesing, and Lukassen. Voting NAY: None. Council members Kirby & Smith were absent. The motion carried and the appointments were approved as follows:

APPOINTED OFFICIALS
 December 10, 2003

<u>CODE SECTION</u>	<u>OFFICIAL TITLE</u>	<u>APPOINTEE</u>
201	City Administrator	Jeff Fiegenschuh
203	City Clerk +)	
204	City Treasurer)	Joan E. Kovar *
203.01	Deputy Clerk	Tami L. Comte
206	City Attorney	James M. Egr
	Special Prosecutor	Carl K. Hart
207	City Physician	Victor J. Thoendel, M.D.
208	Chief of Police	Stephen M. Sunday *
209	Police Officers	James D. Sylvester, Sergeant Vincent A. Brehm Kevin L. Broman Daniel J. Schleusener
210	Fire Chief	Michael Hiatt
213	Street Superintendent	James K. McDonald *
214	Electric Supervisor	Tim L. Kovar *
	Power Plant Supervisor	John J. Kabourek *
	Water/Sewer Supervisor	Gene Divis (retiring 12/25/03) *
	Water/Sewer Supervisor	Jim Kruse *
219	Park & Auditorium Supervisor	Bill Buntgen *

* Denotes Department Head

The minutes of the November 12th, 2003 meeting of the Mayor and City Council were approved upon a motion by Council member Hein and seconded by Council member Kroesing. Voting YEA: Council members Schatz, Lukassen, Hein, and Kroesing. Voting NAY: None. Council members Smith and Kirby were absent. The motion carried.

Council member Lukassen made a motion to advance to agenda item #17 - Consideration of renewing the Airport lease with Gordon Harms. Council member Kroesing seconded the motion. Voting YEA: Council members Schatz, Hein, Lukassen, and Kroesing. Voting NAY: None. Council members Smith and Kirby were absent. The motion carried.

Gordon Harms stated that he desires to sell his business to Doug Johnson, a 36 year old from O'Neill, Nebraska, who Harms said will be a fine addition to David City. Harms stated that he has always had a tremendous relationship with the City and city employees, and hopes that the same congenial attitude will continue with Johnson. Harms stated that he and his family will remain living in David City.

Council member Kroesing made a motion to renew the airport lease to December 31, 2003, with Gordon Harms. Council member Hein seconded the motion. City Attorney Jim Egr stated that money is changing hands, loans are being considered, and Section XVI - Liens & Encumbrances states "Lessee agrees to keep the Premises free and clear from all liens and encumbrances, and shall return said premises to lessor upon the termination of this lease free of any encumbrances and liens whatsoever". Egr stated that the proposed lease will need to be changed to accommodate this. Voting YEA: Council members Lukassen, Schatz, Hein, and Kroesing. Voting NAY: None. Council members Smith and Kirby were absent. The motion carried.

Council member Lukassen made a motion to advance to agenda item #18 - Consideration of an Airport lease with Doug Johnson. Council member Hein seconded the motion. Voting YEA: Council members Schatz, Kroesing, Hein, and Lukassen. Voting NAY: None. Council members Smith and Kirby were absent. The motion carried.

Council member Lukassen made a motion to approve a 20 year Airport lease @ \$50/month with Doug Johnson. Council member Kroesing seconded the motion. Council member Schatz stated that with the proposed 20 year lease there is no flexibility or review of the rental rate and would prefer a 5 year lease. Discussion followed. The Council stated they did not lease the ground to make money. Voting YEA: Council members Hein, Schatz, Lukassen, and Kroesing. Voting NAY: None. Council members Smith and Kirby were absent. The motion carried.

As requested by City Attorney Jim Egr, Council member Lukassen made a motion to authorize Mayor Smith and City Clerk Kovar to execute an assignment of lease left prior to December 31, 2003 to Doug Johnson. Council member Hein seconded the motion. Voting YEA: Council members Kroesing, Schatz, Lukassen, and Hein. Voting NAY: None. Council members Smith and Kirby were absent. The motion carried.

Mayor Smith asked for Petitions, Communications and Citizens' Concerns in addition to those contained in the Agenda packets. There were no petitions, communications, or citizens concerns.

Mayor Smith asked for consideration of claims. Council member Kroesing made a motion to authorize the payment of claims. Council member Lukassen seconded the motion. Voting YEA: Council members Schatz, Hein, Lukassen, and Kroesing. Voting NAY: None. Council members Smith and Kirby were absent. The motion carried.

Mayor Smith called for Committee and Officers' Reports in addition to those written reports contained in the Agenda packet.

City Attorney Egr reported that Randy Janak had a doctors excuse and did not appear in court to discuss his property located at Lots One (1), Four (4), Five (5), Eight (8), Nine (9) and Twelve (12), all in Block Twenty-two (22), Original Town of David City, for possible violation of the Stipulation he signed because of various items he is storing on his property. This will be continued on January 6, 2003. Egr also reported that Joe & Sharon Smith appeared in court concerning their unkept property at 595 C Street. Smith's did not have counsel. Since there is a potential of Smith's going to jail, the judge instructed that Smith's fill out an affidavit to determine whether or not they can afford counsel. Egr, Police Chief Sunday, and Joe & Sharon Smith met on Monday evening to discuss the condition of Smith's property, but unfortunately an agreement could not be reached. City Attorney Egr stated that the Council should plan on going to court because Egr doesn't see a negotiation being reached. This will be continued in court on January 6, 2003, at 10:00 a.m..

City Administrator Jeff Fiegenschuh reported the following:

- On August 13, 2003, the Council accepted the bid of Knight Asphalt for Street Improvement District 2003-1. A bill has been received from Knight Asphalt in the amount of \$54,252.99 for Street Improvement District 2003-1. The problem is Street Superintendent Jim McDonald did not budget for this in his street department budget and City Administrator Fiegenschuh did not budget for it either. If McDonald has to take this out of his budget, his budget would be about gone. \$100,000 was budgeted for the Contingency Fund and it was decided that this will have to be paid out of the Contingency Fund. Mayor Smith asked for a motion to do this.

Council member Hein asked if a motion could be made when this wasn't on the agenda. City Attorney Egr said "yes" they could. Therefore, Council member Hein made a motion to pay Knight Asphalt in the amount of \$54,252.99 for Street Improvement District 2003-1 out of the Contingency Fund. Council member Kroesing seconded the motion. Voting YEA: Council members Lukassen, Schatz, Hein, and Kroesing. Voting NAY: None. Council members Hein and Kirby were absent. The motion carried.

- DEQ made a surprise inspection of the power plant. Jeff commended Electric Plant Supervisor John Kabourek and his staff for the on-site inspection which rated an A+.

Police Chief Sunday reported:

- he applied for Nebraska Crime Commission 2003 Local Law Enforcement Block Grant funds which are to assist in reducing crime and improving public safety thru the purchase of equipment for law enforcement. Sunday would use this towards five new weapons/hand guns.
- The police department roof is ½ done. Three pieces of plywood needed to be replaced in the northeast valley. Council member Hein questioned if Sunday visited with Daro's, who own the property to the north, to see what can be done to their tree that sits close to the police department building. Council member Hein will check into this.

Mayor Smith scheduled a Committee of the Whole meeting for Monday, December 29, 2003, at 5:30 p.m. in the City Office meeting room.

Council member Kirby arrived at 8:17 p.m..

Council member Kroesing made a motion to accept the Committee and Officers' Reports as presented. Council member Hein seconded the motion. Voting YEA: Council members Schatz,

Lukassen, Kirby, Hein, and Kroesing. Voting NAY: None. Council member Smith was absent. The motion carried.

Council member Kroesing made a motion to advance to agenda item #20 - Consideration of a Resolution adopting and approving the execution of a State Grant Agreement for Project No. 3-31-0025-01, to be submitted to the Department of Aeronautics of the State of Nebraska to obtain State Financial Aid in the development of the Municipal Airport. Council member Kirby seconded the motion. Voting YEA: Council members Hein, Schatz, Lukassen, Kirby, and Kroesing. Voting NAY: None. Council member Smith was absent. The motion carried.

Exhibit B
David City Municipal Airport
Project No. 3-31-0025-01
Summary of Project Costs
November 25, 2003

Engineering	
HWS	\$14,500.00
Administration	
NDA	\$ 4,600.00
Publication	\$150.00
Legal	<u>\$750.00</u>
Total:	\$20,000.00

Summary of Funds

<u>State</u>	<u>Local</u>	<u>Federal</u>	<u>Total</u>
\$600 (3%)	\$1,400 (7%)	\$18,000 (90%)	\$20,000

Council member Lukassen made a motion to pass Resolution No. 19-2003 adopting and approving the execution of a State Grant Agreement for Project No. 3-31-0025-01, to be submitted to the Department of Aeronautics of the State of Nebraska to obtain State Financial Aid in the development of the Municipal Airport. Council member Kroesing seconded the motion. This would be for development of the Airport Layout Plan. Voting YEA: Council members Hein, Schatz, Kirby, Lukassen, and Kroesing. Voting NAY: None. Council member Smith was absent. The motion carried.

RESOLUTION NO. 19-2003

A RESOLUTION ADOPTING AND APPROVING THE EXECUTION OF A STATE GRANT AGREEMENT FOR PROJECT NO. 3-31-0025-01, TO BE SUBMITTED TO THE DEPARTMENT OF AERONAUTICS OF THE STATE OF NEBRASKA TO OBTAIN STATE FINANCIAL AID IN THE DEVELOPMENT OF THE MUNICIPAL AIRPORT.

Be it resolved by the Mayor and members of the City Council of David City, Nebraska,

that:

1. The City of David City shall enter into a State Grant Agreement with the Nebraska Department of Aeronautics for Project No. 3-31-0025-01 for the purpose of obtaining state financial aid in the development of the Municipal Airport and that such agreement shall be as set forth here-in-below.
2. The Mayor of the City of David City is hereby authorized and directed to execute said State Grant Agreement on behalf of the City, and the Clerk is hereby authorized and directed to attest said execution.
3. The said agreement referred to herein above is inserted in full and attached herewith, and made a part hereof as Exhibit "O".

Dated this 10th day of December, 2003.

Mayor Stephen Smith

City Clerk Joan E. Kovar

Council member Kroesing made a motion to advance to agenda item #21 - Consideration of a Resolution adopting and approving the execution of a State Grant Agreement for Project No. 3-31-0025-02, to be submitted to the Department of Aeronautics of the State of Nebraska to obtain State Financial Aid in the development of the Municipal Airport. Council member Hein seconded the motion. Voting YEA: Council members Kirby, Schatz, Lukassen, Hein, and Kroesing. Voting NAY: None. Council member Smith was absent. The motion carried.

Exhibit B
David City Municipal Airport
Project No. 3-31-0025-02
Summary of Project Costs
November 25, 2003

Land	
Land	\$54,597.38
Engineering	
HWS	\$19,700.00
Gilmore & Assoc.	\$3,397.05
Administration	
NDA	\$ 8,693.57
Legal	<u>\$ 1,500.00</u>
Total:	\$87,888.00

Summary of Funds

<u>State</u>	<u>Local</u>	<u>Federal</u>	<u>Total</u>
\$2,637 (3%)	\$6,152 (7%)	\$79,099 (90%)	\$87,888

Council member Kirby made a motion to pass Resolution No. 20-2003 adopting and approving the execution of a State Grant Agreement for Project No. 3-31-0025-02, to be submitted to the Department of Aeronautics of the State of Nebraska to obtain State Financial Aid in the development of the Municipal Airport. Council member Hein seconded the motion. This would be to reimburse for the Land & Airport Layout Plan. Voting YEA: Council members Schatz, Lukassen, Kroesing, Hein, and Kirby. Voting NAY: None. Council member Smith was absent. The motion carried.

RESOLUTION NO. 20-2003

A RESOLUTION ADOPTING AND APPROVING THE EXECUTION OF A STATE GRANT AGREEMENT FOR PROJECT NO. 3-31-0025-02, TO BE SUBMITTED TO THE DEPARTMENT OF AERONAUTICS OF THE STATE OF NEBRASKA TO OBTAIN STATE FINANCIAL AID IN THE DEVELOPMENT OF THE MUNICIPAL AIRPORT.

Be it resolved by the Mayor and members of the City Council of David City, Nebraska, that:

1. The City of David City shall enter into a State Grant Agreement with the Nebraska Department of Aeronautics for Project No. 3-31-0025-02 for the purpose of obtaining state financial aid in the development of the Municipal Airport and that such agreement shall be as set forth here-in-below.
2. The Mayor of the City of David City is hereby authorized and directed to execute said State Grant Agreement on behalf of the City, and the Clerk is hereby authorized and directed to attest said execution.
3. The said agreement referred to herein above is inserted in full and attached herewith, and made a part hereof as Exhibit "O".

Dated this 10th day of December, 2003.

Mayor Stephen Smith

City Clerk Joan E. Kovar

Mayor Smith declared a ten minute recess at 8:23 p.m. The meeting resumed at 8:33 p.m..

The Brahmsteadt property located at 988 E Street was discussed. Resolution #9-2002 passed 4-10-02 declares this property a public nuisance. Police Chief Sunday contacted DEQ concerning this property but has not received a reply. To clean up the asbestos from the outside of the Curtis Brahmsteadt house at 988 E Street is estimated at \$5,000. Council member Hein made a motion to table consideration of the Brahmsteadt property located at 988 E Street, to the January 14, 2003 council meeting, and hopefully by that time we will have a response from DEQ. Council member Kroesing seconded the motion. Voting YEA: Council members Schatz, Kirby, Lukassen, Hein, and Kroesing. Voting NAY: None. Council member Smith was absent. The

motion carried.

City Administrator Fiegenschuh held several informational meetings and recently met with 9 business leaders to discuss the proposed water rate increase. The business leaders asked that the water rates not go into effect until June 1, 2004, allowing them time to adapt to the increase. Council member Schatz made a motion to pass Ordinance No. 961 on the 3rd and Final reading. Council member Lukassen seconded the motion. Voting YEA: Council members Kirby, Kroesing, Hein, Schatz, and Lukassen. Voting NAY: None. Council member Smith was absent. The motion carried and Ordinance No. 961 was passed and adopted as follows:

ORDINANCE NO. 961

AN ORDINANCE SETTING THE MONTHLY RATES TO BE CHARGED FOR **WATER** USAGE; CUSTOMER CHARGES; EFFECTIVE DATES AND RATES; REPEALING ALL PARTS OF THE MUNICIPAL CODE AND ORDINANCES IN CONFLICT HERewith; AND PROVIDING FOR PUBLICATION OF THE ORDINANCE IN PAMPHLET FORM.

WHEREAS, SECTION 3-101 OF THE MUNICIPAL CODE PROVIDES THAT THE GOVERNING BODY SHALL SET RATES TO BE CHARGED BY ORDINANCE.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DAVID CITY, NEBRASKA.

Section 1. That the following monthly rates and customer charges shall become effective **June 1, 2004**. (Water used in June, which will be billed in July)

For 5/8" by 3/4" meters:

Customer charge of \$7.50 per month (no water usage included)
and \$1.80 per 1,000 gallons.

For 3/4" meters:

Customer charge of \$11.25 per month (no water usage included)
and \$1.80 per 1,000 gallons.

For 1" meters:

Customer charge of \$11.25 per month (no water usage included)
and \$1.80 per 1,000 gallons.

For 1 1/2" meters:

Customer charge of \$18.75 per month (no water usage included)
and \$1.80 per 1,000 gallons.

For 2" meters:

Customer charge of \$56.25 per month (no water usage included)
and \$1.80 per 1,000 gallons.

For 3" meters:

Customer charge of \$75.00 per month (no water usage included)
and \$1.80 per 1,000 gallons.

For 4" meters:

Customer charge of \$75.00 per month (no water usage included)
and \$1.80 per 1,000 gallons.

Section 2. That the following monthly rates and customer charges shall become effective June 1, 2005. (Water used in June, which will be billed in July)

For 5/8" by 3/4" meters:

Customer charge of \$11.25 per month (no water usage included)
and \$1.90 per 1,000 gallons for First 10,000
and \$1.95 per 1,000 gallons Over 10,000

For 3/4" meters:

Customer charge of \$16.90 per month (no water usage included)
and \$1.90 per 1,000 gallons for First 10,000
and \$1.95 per 1,000 gallons Over 10,000

For 1" meters:

Customer charge of \$16.90 per month (no water usage included)
and \$1.90 per 1,000 gallons for First 10,000
and \$1.95 per 1,000 gallons Over 10,000

For 1 1/2" meters:

Customer charge of \$28.10 per month (no water usage included)
and \$1.90 per 1,000 gallons for First 10,000
and \$1.95 per 1,000 gallons Over 10,000

For 2" meters:

Customer charge of \$84.40 per month (no water usage included)
and \$1.90 per 1,000 gallons for First 10,000
and \$1.95 per 1,000 gallons Over 10,000

For 3" meters:

Customer charge of \$112.50 per month (no water usage included)
and \$1.90 per 1,000 gallons for First 10,000
and \$1.95 per 1,000 gallons Over 10,000

For 4" meters:

Customer charge of \$112.50 per month (no water usage included)
and \$1.90 per 1,000 gallons for First 10,000
and \$1.95 per 1,000 gallons Over 10,000

Section 3. That the following monthly rates and customer charges shall become effective June 1, 2006. (Water used in June, which will be billed in July)

For 5/8" by 3/4" meters:

Customer charge of \$16.90 per month (no water usage included)
and \$2.00 per 1,000 gallons for First 10,000
and \$2.10 per 1,000 gallons Over 10,000

For 3/4" meters:

Customer charge of \$21.10 per month (no water usage included)
and \$2.00 per 1,000 gallons for First 10,000
and \$2.10 per 1,000 gallons Over 10,000

For 1" meters:

Customer charge of \$21.10 per month (no water usage included)
and \$2.00 per 1,000 gallons for First 10,000
and \$2.10 per 1,000 gallons Over 10,000

For 1 1/2" meters:

Customer charge of \$42.20 per month (no water usage included)
and \$2.00 per 1,000 gallons for First 10,000
and \$2.10 per 1,000 gallons Over 10,000

For 2" meters:

Customer charge of \$126.55 per month (no water usage included)
and \$2.00 per 1,000 gallons for First 10,000
and \$2.10 per 1,000 gallons Over 10,000

For 3" meters:

Customer charge of \$168.75 per month (no water usage included)
and \$2.00 per 1,000 gallons for First 10,000
and \$2.10 per 1,000 gallons Over 10,000

For 4" meters:

Customer charge of \$168.75 per month (no water usage included)
and \$2.00 per 1,000 gallons for First 10,000
and \$2.10 per 1,000 gallons Over 10,000

Section 4. The monthly rates to be charged for water usage and customer charges will be reviewed by the City Council on a three year basis;

Section 5. That any other ordinance or section of any ordinance passed and approved prior to passage, approval, and publication or posting of this ordinance and in conflict with its provisions, is hereby repealed.

Section 6. This ordinance shall be published in pamphlet form and shall be in full force and effect from and after its passage as provided by law.

PASSED AND APPROVED this 10th day of December, 2003.

Mayor Stephen Smith

City Clerk Joan E. Kovar

Council member Schatz introduced Resolution No. 21 - 2003 and moved for its passage and adoption. Council member Kroesing seconded the motion. Voting YEA: Council members Lukassen, Kirby, Hein, Schatz, and Kroesing. Voting NAY: None. Council member Smith was absent. The motion carried and Resolution No. 21 - 2003 was passed and adopted as follows:

RESOLUTION NO. 21 - 2003

WHEREAS, Chapter 3, Article 2, Section 3-212 of the Municipal Code of the City of David City, Nebraska, provides that customers of the Municipal Sewer Department shall be charged rates set by resolution for the use of the sewer system.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DAVID CITY, NEBRASKA, that for the use of the sewer system, each customer shall pay a monthly Sewer Use Fee, which is an amount calculated as described hereafter:

For residential customers, the monthly sewer rate fee shall be based on the average quantity of water used in the months of December, January, and February preceding April of the current year. Customers who move within the City shall pay the same Sewer Use Fee at their new location as they paid for at their former location until which time the sewer rate fees are recalculated. For new residential customers in the City, an appropriate Sewer Use Fee will be determined by the Water/Sewer Supervisor.

For commercial customers, who use water in a commercial business, industrial, or other non-residential way, a monthly Sewer Use Fee will be calculated monthly based on the current months water usage. Commercial customers who do not want to pay a sewer use fee for water used for watering lawns or shrubs will be responsible, at their own cost, to hire a licensed plumber to install a separate water meter to separately meter such water usage.

The following monthly Sewer Rates and customer charges shall become effective **March 1, 2004**, which will be billed in April.

Customer charge of \$4.60 per month
First 100,000 gallons of water @ \$2.03 per 1,000 gallons
Over 100,000 gallons of water @ \$1.53 per 1,000 gallons

That the following monthly sewer rates and customer charges shall become effective **March 1, 2005**, which will be billed in April.

Customer charge of \$4.80 per month
First 100,000 gallons of water @ \$2.13 per 1,000 gallons

Over 100,000 gallons of water @ \$1.63 per 1,000 gallons

That the following monthly sewer rates and customer charges shall become effective March 1, 2006, which will be billed in April.

Customer charge of \$5.00 per month
First 100,000 gallons of water @ \$2.23 per 1,000 gallons
Over 100,000 gallons of water @ \$1.73 per 1,000 gallons

BE IT FURTHER RESOLVED, that all resolutions and ordinances or parts thereof, in conflict with the provisions of this resolution, are hereby repealed.

Dated this 10th day of December, 2003.

Mayor Stephen Smith

City Clerk Joan E. Kovar

The Planning Commission met on November 29, 2003 and re-considered the zoning permit fees for new residences, multiple units, and commercial/industrial buildings. Council member Schatz made a motion to pass Resolution No. 22-2003 amending David City's current zoning permit fees as recommended by the Planning Commission. Council member Lukassen seconded the motion. Voting YEA: Council members Kroesing, Hein, Kirby, Lukassen, and Schatz. Voting NAY: None. Council member Smith was absent. The motion carried and Resolution No. 22-2003 was passed and adopted as follows:

RESOLUTION NO. 22 - 2003

WHEREAS, the City of David City has adopted a Zoning Permit Application, and

WHEREAS, the City has determined a need to charge fees for the following applications.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DAVID CITY, NEBRASKA that the following application fees are hereby approved and adopted.

Schedule of application fees:

Certificate of Zoning Compliance: No Charge
(needed for any new business going in)

Zoning Permit:

Fence, shed, deck.....	\$25.00
Carport, garage, additional living space.....	\$50.00
New residences.....	\$150.00
Multiple Units: (Duplex, Tri-Plex, Townhouses, (and apartment houses).....	\$150.00 per unit for the 1 st two units \$25.00 per unit for 3 rd and each addtl. unit
Commercial / Industrial buildings	\$250.00
Signs:	\$25.00
Join / Divide Lots.....	\$25.00
Subdivision:	
Preliminary Plat	\$250.00 + \$10.00 per lot
Final Plat.....	\$150.00
Rezoning: \$150.00 + \$75.00 if land use map amended	
Conditional / Special Use.....	\$75.00
Zoning Amendment	\$150.00
Zoning Variance.....	\$75.00

If a special council meeting is required the applicant will be charged for the cost of the special council meeting in addition to the above charges.

The fee schedule should be reviewed annually.

All fees are non refundable.

Dated this 10th day of December, 2003.

Mayor Stephen Smith

City Clerk Joan E. Kovar

Cory Kuhlman, representing the David City Golf Course, stated that they have a deficit balance of (\$6,868.58), mainly due to the top two expenses which are the water bills and the groundskeeper costs. The Golf Board plans to monitor their water usage in the upcoming year to limit the usage, and adjust the grounds keeper costs.

Council member Lukassen stated that he would not allocate money for the David City Golf Course until he sees a long term plan or solution on how the Golf Board will solve this problem. It was suggested that the Golf Board look at their note terms and possibly lower their interest rate or stretch out the terms. Lukassen stated that giving the Golf Course free or reduced water prices is not an incentive for them to save, and is also not good when the Council is increasing the water rates for everyone else in David City. Council member Schatz agreed stating that the Council doesn't want to create a "given" (that this will be a yearly allocation).

Council member Kirby stated that he is a long term member of the golf course and the problem is the water. All of the area golf courses have their own wells. Council member Schatz questioned who would pay for a new well. Kirby replied that the City should let the golf club

worry about how to pay for a new well but at least grant them the opportunity. Kirby is still for the Golf Course putting in their own well. Council member Kroesing stated that he agreed with Kirby. If the City allowed the Golf Course to install a well there could be a mutual agreement that the City could also use the untreated well water for watering the football field/athletic field and filling the lakes during a drought.

City Administrator Fiegenschuh stated that out of five responses from neighboring golf courses, four were allowed their own wells. It was noted that the ballfield has their own well, but it existed before they were annexed. Fiegenschuh stated that he shouldn't be putting in his time to research this for the golf board; the golf board should do this. The Mayor and Council instructed Fiegenschuh that it couldn't take that long to do a survey and Fiegenschuh is to do a little research on this.

The Council discussed allocating \$6,868.58 to the David City Golf Course to help offset their expenses. Council member Lukassen suggested subtracting the Golf Clubs' CDBG Economic Development Revolving Loan Fund payment from the allocated amount so they are still responsible for this payment:

David City Golf Course deficit:	6,868.58
Less principal & interest payment due 10/26/03 on the CDBG Economic Dev. Revolving Loan which will be delayed until 10/26/2012	<u>-2,904.00</u>
Total:	\$3,964.58

Council member Lukassen made a motion to allocate, one time only, \$3,964.58 to the David City Golf Course to help offset their deficit, and to move the principal and interest payment that was due on the CDBG Economic Development Revolving Loan Fund on October 26, 2003, to the end of the payment schedule which will make this payment due October 26, 2012. Council member Kirby seconded the motion. It was noted again that this is a one-time only allocation that won't be considered at all next year. Voting YEA: Council members Kroesing, Hein, and Lukassen. Voting NAY: Council member Schatz. Council member Kirby abstained. Council member Smith was absent. The motion did not pass. *[At the time of passage, nothing was said and City Clerk Kovar was thinking majority of those present, instead of majority of those elected, so this did not pass as it takes 4 to pass a motion. This will be considered again at the January 14, 2003 council meeting].*

When the City and the Village of Bruno were discussing a proposed water line from David City to Bruno, the city incurred some legal expenses. Council member Kirby made a motion to bill the Village of Bruno for half of the legal expenses incurred concerning the proposed water line to Bruno. Council member Kroesing seconded the motion. Council member Hein stated that he felt Bruno should be billed for all of the legal expenses rather than just half. Voting YEA: Council members Schatz, Kroesing, and Kirby. Voting NAY: Council members Hein, and Lukassen. Council member Smith was absent. The motion did not pass. *[At the time of passage, nothing was said and City Clerk Kovar was thinking majority of those present, instead of majority of those elected, so this did not pass as it takes 4 to pass a motion. This will be considered again at the January 14, 2003 council meeting].*

Waste Water Operator Jim Kruse had asked that consideration of entering into an agreement with Rising City to supply water/sewer personnel when needed, be placed on the agenda. Kruse had obtained an interlocal agreement between the City of Stromsburg, the Village of Shelby, the Village of Gresham, and the Village of Polk as an example. Kruse did not do anything with the agreement so nothing was prepared for the Council. Therefore, Council member Hein made a motion to table consideration of entering into an agreement with Rising City to supply

water/sewer personnel when needed. Council member Kroesing seconded the motion. Council member Schatz suggested that City Attorney Egr review this agreement and consider consequences with liability issues. Voting YEA: Council members Kroesing, Schatz, Hein, Lukassen, and Kirby. Voting NAY: None. Council member Smith was absent. The motion carried.

Council member Schatz introduced Ordinance No. 967. The following changes were proposed and approved:

§3-111 MUNICIPAL WATER DEPARTMENT; SINGLE PREMISE. No consumer shall supply water to other ~~families consumers~~, or allow them to take water from his premise.....

§3-121 MUNICIPAL WATER DEPARTMENT; PRIVATE WELLS PROHIBITED. ~~Private wells within the City Limits of the City of David City, Nebraska are hereby prohibited.~~ Private wells and the use of private water systems within the City Limits of the City of David City, Nebraska are hereby prohibited.

§3-601 MUNICIPAL LIBRARY; OPERATION AND FUNDING. The Municipality ~~owns and~~ manages the Roman L. and Victoria Hruska Memorial Library, hereafter called Library, through the Library Board.

Council member Schatz made a motion to suspend the statutory rule that requires an ordinance be read on three separate days. Council member Lukassen seconded the motion. Voting YEA: Council members Schatz, Hein, Lukassen, and Kirby. Voting NAY: Council member Kroesing. Council member Smith was absent. City Clerk Kovar reported that the motion did not pass as it takes 3/4 vote of the council (5) to suspend the statutory rule.

Council member Lukassen made a motion to pass Ordinance No. 967 on the first reading only. Council member Kirby seconded the motion. Voting YEA: Council members Schatz, Hein, Kirby, and Lukassen. Voting NAY: Council member Kroesing. Council member Smith was absent. The motion carried and Ordinance No. 967 was passed on the first reading as follows:

**ORDINANCE NO.
967**

AN ORDINANCE AMENDING CHAPTER 3: DEPARTMENTS OF THE DAVID CITY MUNICIPAL CODE BOOK; PROVIDING AN EFFECTIVE DATE; AND PROVIDING FOR PUBLICATION OF THE ORDINANCE IN PAMPHLET FORM.

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

Section 1. Chapter 3: Departments of the David City Municipal Code Book be amended to read as follows:

**Chapter 3
DEPARTMENTS**

Article 1. Water Department

§3-101 MUNICIPAL WATER DEPARTMENT; OPERATION AND FUNDING. The Municipality owns and operates the Municipal Water Department through the Utilities Superintendent.

The Utilities Superintendent shall have the direct management and control of the Municipal Water Department and shall faithfully carry out the duties of his office. The Water Supervisor shall have the authority to adopt rules and regulations for the sanitary and efficient management of the Water Department subject to the supervision and review of the Governing Body. 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, 19-1305 RS Neb.*)

§3-102 **MUNICIPAL WATER DEPARTMENT; DEFINITIONS.** The following definitions shall be applied throughout this Chapter. Where no definition is specified, the normal dictionary usage of the word shall apply.

Main. The term “main” is hereby defined to be any pipe, 4” or larger, other than a supply or service pipe that is used for the purpose of carrying water to, and distributing 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 disbursed.

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 (2nd) premise may be a separate dwelling, apartment, building, or structure used for a separate business.

§3-103 **MUNICIPAL WATER DEPARTMENT; CONSUMER’S APPLICATION.** Every person or persons desiring a supply of water must make application therefor to the Municipal Clerk. The Clerk may require any applicant 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. Water may not be supplied to any house or private service pipe except upon the order of the Water Supervisor. The Department shall not supply to any person outside the corporate limits water service 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 persons within its corporate limits whose premises abut a street or alley in which a commercial main now is or may hereafter be laid. The Municipality may furnish water to persons within its corporate limits whose premises do not abut a street or alley in which a Municipal commercial main is now or may hereafter be laid and may also furnish water to persons whose premises are situated outside the corporate limits of the 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

consumer 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 nay of the provisions of said contract or any reasonable rules and regulations that the Governing Body may hereafter adopt, the Utilities Superintendent or his agent, may cut off or disconnect the water service from the building or premise or place of such violation. No further connection for water service to said building, premise, or place shall again be made save or except by order of said Superintendent or his agent.

§3-105 **MUNICIPAL WATER DEPARTMENT; WATER TAP FEE.** The customer, upon approval of his application for a new service line, shall pay the City Clerk of the City of David City, Nebraska, a water tap fee according to a schedule of such fees to be adopted by resolution of the City Council. Said fee shall be paid prior to the connection of the private water line of the customer to the water main. The Water Supervisor shall direct the customer to hire a registered and bonded plumber to install the private service line. The customer shall then be required to pay the expense of procuring the materials required as well as the services of the registered and bonded plumber and shall pay all other costs of installation. The customer shall pay the cost of the installation of the stop box and meter and the cost of said stop box. In the event that the Municipality should do any of the installation, including but limited to tapping the main, running of lines from the main to the curb stop and/or installing the curb stop, the customer shall be required to reimburse the Municipality for the cost of any work the Municipality shall accomplish. *(Ref. 17-542 RS Neb.)*

§3-106 **MUNICIPAL WATER DEPARTMENT; REPAIRS AND MAINTENANCE.** The Municipality shall repair or replace, as the case may be, all commercial mains. The customer at this own expense shall replace and keep in repair all service and supply pipes from the commercial main to the place of disbursement. When leaks occur in service or supply pipes, the Water Supervisor shall shut off water service until the leak is repaired at the expense of the customer to the satisfaction of the Water Supervisor. It shall be unlawful for any person to tamper with any water meter, or by any means or device to divert water from the service pipe so that the same shall not pass through said meter, or while passing through said meter, to cause the same to register inaccurately.

§3-107 **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 Water Supervisor to shut off the water at the stop box, in which case he shall not be liable thereafter for water rental until the water is turned on again. *(Ref. 17-542 RS Neb.)*

§3-108 **MUNICIPAL UTILITIES; DISCONTINUANCE OF SERVICE, NOTICE PROCEDURE.** The bill for water delivered to a subscriber shall be due and payable on the first (1st) business day of the month. If the bills is not paid before five o'clock (5:00) p.m. on the tenth (10th) day of the month, it shall be considered delinquent. When the tenth (10th) day of the month falls on Saturday or Sunday, bills become delinquent at five o'clock (5:00) p.m. on the following Monday. The Municipality shall have the right to terminate service of any non-domestic subscriber at any time after said subscriber shall have a delinquent bill. When a domestic subscriber has a bill that has become delinquent, the Municipality shall, before service is disconnected, give the subscriber written notice by First Class Mail that the bill is delinquent and that service may be disconnect if payment is not received by the twentieth (20th) day of the month. The Municipality shall not disconnect the service until ten (10) days after issuance of such "DELINQUENT NOTICE." If a bill remains delinquent after the twentieth (20th) day of the month, a "SERVICE DISCONNECT NOTICE" will be sent by First Class Mail or in person to any

domestic subscriber whose service is proposed to be terminated. If notice is given by First Class Mail, such mail shall be conspicuously marked as to its importance. As to any subscriber who has previously been identified as a welfare recipient to the utility by the Department of Public Welfare, such notice shall be by certified mail and notice of such proposed termination shall be given to the Department of Public Welfare.

The notice shall contain the following information:

1. The reason for the proposed disconnection;
2. A statement of the intention to disconnect unless the domestic subscriber either pays the bill or reaches an agreement with the Department regarding payment of the bill;
3. The date upon which service will be disconnected if the domestic subscriber does not take appropriate action;
4. The name, address, and telephone number of the employee or department to whom the domestic subscriber may address an inquiry or complaint;
5. The domestic subscriber's right, prior to the disconnection date, to request a conference regarding any dispute over such proposed disconnection;
6. A statement that the Department may not disconnect service pending the conclusion of the conference;
7. A statement to the effect that disconnection may be postponed or prevented upon presentation of a duly licensed physician's certificate which shall certify that the domestic subscriber or resident within such subscriber's household has an existing illness or handicap which would cause such subscriber or resident to suffer an immediate and serious health hazard by the disconnection of the utility's service to that household. Such certificate shall be filed with the Department of Utilities within five (5) days of receiving notice under this section and will prevent the disconnection of the Department's services for a period of thirty (30) days from such filing. Only one (1) postponement of disconnection shall be allowed under this subsection for each incidence of non-payment of any due account;
8. The cost that will be borne by the domestic subscriber for restoration of service;
9. A statement that the domestic subscriber may arrange with the Department for an installment payment plan;
10. A statement to the effect that those domestic subscribers who are welfare recipients may qualify for assistance in payment of their utility bill and that they should contact their caseworker in that regard; and
11. Any additional information not inconsistent with this section which has received prior approval from the Governing Body.

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

The procedures adopted by the Governing Body for resolving utility bills, three (3) copies of which are on file in the office of the Municipal Clerk, are hereby incorporated by reference in addition to any amendments thereto and are made a part hereof as though set out in full.

This section shall not apply to any disconnections or interruptions of services made necessary by the utility for reasons of repair or maintenance or to protect the health or safety of the domestic subscriber or of the general public. (*Ref. 70-1605 through 70-1610*)

§3-109 MUNICIPAL UTILITIES; RECONNECTS. Prior to re-connecting the water service, the customer shall pay a reconnect fee. Such reconnect fee shall be set by ordinance, and the administrative policies governing them shall be established by the City Council and shall be on file at the City Office. The funds from these fees shall be used for the repair

and maintenance of the Water System.

- §3-110 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 City Clerk shall notify in writing or cause to be notified in writing, all owners of premises or their agents whenever their tenants or lessees are sixty (60) days or more delinquent in the payment of water rent. It shall be the duty of the Water Supervisor on the first (1st) day of June of each year to report to the Governing Body a list of all unpaid 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 to the Municipal Clerk to the County Clerk to be collected as a special tax in the manner provided by law.
- §3-111 MUNICIPAL WATER DEPARTMENT; SINGLE PREMISE.** No consumer shall supply water to other consumers, or allow them to take water from his premise, nor after water is supplied into a building shall any person make or employ a plumber or other person to make a tap or connection with the pipe upon the premise for alteration, extension, or attachment without the written permission of the Water Supervisor. 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.)*
- §3-112 MUNICIPAL WATER DEPARTMENT; RESTRICTED USE.** The Governing Body or the Water Supervisor 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.)*
- §3-113 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 Fire Department under the orders of the Fire Chief, or the Assistant Fire Chief, or members of the Water Department to open or attempt to open any of the hydrants and draw water from the same, or in any manner to interfere with the hydrants.
- §3-114 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.)*
- §3-115 MUNICIPAL WATER DEPARTMENT; MANDATORY HOOK-UP.** All persons whose property abuts a water main that is now or hereafter may be laid shall be required, upon notice by the Governing Body, to hook-up with the Municipal Water System. *(Ref. 17-539 RS Neb.)*
- §3-116 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, or if the said premise is destroyed by fire or other casualty, he shall at once inform the Water Supervisor who shall cause the water service to be shut off at the said premise. If the consumer should fail to give such notice, he shall be charged for all water used on the said premise until the Utilities Superintendent is otherwise advised of such circumstances. (*Ref. 17-537 RS Neb.*)

§3-117 MUNICIPAL WATER DEPARTMENT; INSPECTION. The Water Supervisor, or his duly authorized agents, 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.*)

§3-118 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 construct or impair the intended use of any of the above mentioned property without the written permission of the Water Supervisor.

§3-119 MUNICIPAL WATER DEPARTMENT; REGISTERED PLUMBER. It shall be unlawful for any plumber or pipe-fitter to do any work upon any of the pipes or appurtenances of the system of waterworks, or to make any connection with or extension of the supply pipes of any consumer taking water from the said system until such plumber or pipe-fitter shall have first procured a license or permit from the Municipality. There is hereby adopted the ordinance providing for the protection of the public health and safety, and for the qualification and registration of persons engaged in the business of plumbing, or laboring at the trade of plumbing; requiring a permit for the installation or alteration of plumbing and drainage systems; defining certain terms; establishing minimum regulations for the installation, alteration or repair of plumbing and drainage systems; providing penalties for its violation of the certain plumbing code known as the "Uniform Plumbing Code, 1988 Edition" as sponsored by the International Association of Plumbing and Mechanical Officials, except such portions as are hereinafter amended, changed, modified or deleted, one (1) printed copy of which in book form has been and now is filed in the office of the City Clerk-Treasurer and the same is hereby adopted and incorporated as fully as are set out at length herein, from the date on which this Chapter shall take effect, the provisions thereof shall be controlling and the qualification and registration of persons engaged in the business of plumbing or laboring at the trade of plumbing and installation, alteration or repair of plumbing in drainage systems within the City and its zoning area.

AMENDMENTS: The following words and phrases are hereby deleted and/or added as specified from the Uniform Plumbing Code, 1988 Edition, wherever they would otherwise appear.

That portion of section 1004 which states:

Asbestos Cement CPVC, P.B-PE or PVC Water Pipe Distribution System outside of Building. "CPVC and P.B water pipe and tubing may be used for hot and cold water distribution system within the building" is hereby deleted.

That portion of section 203(D) which states:

"Copper tube for water piping shall have a weight of not less than that of copper water tube (Type L). Exception - Type M copper tubing may be used for water piping when piping is above ground in a building or underground

outside of structure” shall be amended to read as follows:

“Copper tube for water piping shall have a weight of not less than that of copper water (Tube K) for underground outside of building and under slab inside building. However Type M copper tubing may be used for water piping when piping is above ground in a building.”

Section 503(2) is hereby amended to read as follows:

ABS pipe and PVC DWV may be used for residential and commercial construction. However for commercial construction all ABS and PVC DWV pipe must be Schedule 40. For residential construction all ABS and PVC DWV pipe under slab must be Schedule 40. However for residential construction above slab, all ABS and PVC DWV pipe may be either Schedule 30 or Schedule 40.

PVC pipe or ABS Schedule 40 pipe is permitted for construction under parkways and under streets.

Additionally, building sewer may be four inches (4") or larger Schedule 40 ABS or PVC pipe.

All construction over two (2) stories in height using ABS or PVC must have an expansion sleeve.

All new housing shall be piped for soft water.
(Ref. 17-537 RS Neb.) (Amended by Ord. No. 799, 9/19/94)

- §3-120 MUNICIPAL WATER DEPARTMENT; COMPLAINTS.** Any consumer feeling himself aggrieved by reason of any controversy with the Water Supervisor may appear before the Governing Body and present his grievance. Any consumer who considers himself aggrieved by being required to pay the charge demanded for the use of water, or for the resumption of water 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 verified claim in the manner provided for protesting 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.
- §3-121 MUNICIPAL WATER DEPARTMENT; PRIVATE WELLS PROHIBITED.** Private wells and the use of private water systems within the City Limits of the City of David City, Nebraska are hereby prohibited.
- §3-122 MUNICIPAL WATER DEPARTMENT; BUILDING REGULATIONS; PROHIBITION OF LEAD PIPES, SOLDER, AND FLUX.** Any pipe, solders or flux used in the installation or repair of any residential or nonresidential facility which is connected to the public water supply system shall be lead free.
For purposes of this section, lead free shall mean:
1) Solders and flux - not more than two-tenths percent. (.2%) lead, and
2) Pipe and pipe fittings - not more than eight percent (8%) lead.
(Ref. 71-5301 RS Neb.) (Ord. No. 695, 4/27/88)
- §3-123 MUNICIPAL WATER DEPARTMENT; APPLICATION FEE.** Every person applying for a Plumber's Certificate of Qualification or Registration shall pay to the City Clerk-Treasurer

at the time he makes such application the following fees:

- A. Master Plumber's Certification - \$50.00
- B. Journeyman Plumber's Certificate, one job, or owner's Certificate - \$25.00
(Ord. No. 799, 9/19/94)

§3-124 MUNICIPAL WATER DEPARTMENT; ISSUANCE OF QUALIFICATION OR REGISTRATION. The City Administrator shall issue Certificates of Qualification or Registration pursuant to the following provisions:

- A. Master Plumber's Certificates of Qualification or Registration shall be issued to every person who makes application for such certificate, pays the required fee and successfully passes the examination conducted by the City Administrator or designee; provided, however, that in lieu of an examination the City Administrator may issue such a certificate to any person who makes application therefor, pays the required fee and possesses and presents to the City Administrator a valid Certificate of Qualification or Registration issued to him by any other governmental agency giving an examination the scope and character of which, in the opinion of the City Administrator, is at least equal to that given by the City Administrator.
- B. Journeyman Plumber's Certificate of Qualification or Registration shall be issued to every person who makes application for such certificate, pays the required fee and successfully passes an examination conducted by the City Administrator; provided, however, that the City Administrator may issue such a certificate to any person who makes application therefor, pays the required fee, and presents to the City Administrator a valid Journey Plumber's Certificate of Qualification or Registration issued to him by any other governmental agency giving an examination the scope and character of which, in the opinion of the City Administrator, is at least equal to that given by the City Administrator.
- C. JOURNEYMAN PLUMBER: "Journeyman Plumber" is hereby defined to be any licensed plumber employed by a Master Plumber, other than a plumber's apprentice or helper, who as his principal occupation is engaged in the practical installation, alteration, repair or removal of plumbing.
- D. MASTER PLUMBER: "Master Plumber" is hereby defined to be any person skilled in the planning, superintending and practical installation of plumbing and drainage, and who is familiar with the ordinances and regulations governing the same, and who is engaged as a contractor in the installation, repair, alteration or removal of plumbing or drainage with the full responsibility of supervision, whether doing such work himself or employing journeyman plumbers and apprentices to assist him; and said term "Master Plumber" shall include every person doing work of any character connected with the installation, removal or drainage of buildings or property and all other plumbing, other than journeyman plumbers or plumber's apprentices or helpers, as defined in this Article. There shall only be one Master Plumber's License issued to a person; but should a person be employed by several different businesses, each business shall be required to execute a bond along with the licensee who is employed by such business. (Ord. No. 799, 9/19/94)

§3-125 MUNICIPAL WATER DEPARTMENT; EXPIRATION OF CERTIFICATES OR QUALIFICATION OR REGISTRATION. Every Certificate of Qualification or Registration shall remain in force and effect until its expiration date unless canceled or revoked.

- A. Plumbing Contractor's Certificates of Qualification or Registration shall expire on April 30 of each year.
- B. Journeyman Plumber's Certificates of Qualification or Registration shall expire on April 30 of each year. (*Ord. No. 799, 9/19/94*)

§3-126 MUNICIPAL WATER DEPARTMENT; FEE FOR RENEWAL OF CERTIFICATES OF QUALIFICATION OR REGISTRATION. All Certificates of Qualification or Registration, except certificates which have been cancelled or revoked, may be renewed from year to year upon request and payment of the required renewal fee. If such renewal is requested and the required fee paid within thirty (30) days after the expiration date of such certificate, the renewal fee shall be fifty dollars (\$50.00) for a Master Plumber's Certificate and twenty-five dollars (\$25.00) for a Journeyman Plumber's Certificate. No certificate shall be renewed more than thirty (30) days after the expiration of such certificate. (*Ord. No. 799, 9/19/94*)

§3-127 MUNICIPAL WATER DEPARTMENT; PLUMBING REGISTRATIONS ON TESTS.

Plumbing regulations on tests are:

- A. Three (3) years as Apprentice before taking Journeyman test.
- B. Three (3) years as Journeyman before taking Masters test.
- C. Cost to take test is thirty-five dollars (\$35.00) for both Journeyman and Master. The person paying the fee will be given the study guide. The person must pay for the code book.
- D. If a person fails the test, he/she can retake the test within six (6) weeks. The cost to retake the test is twenty-nine dollars (\$29.00).
- E. If a person fails a second time, he/she must wait six (6) months. The cost to retake a second time is twenty-nine dollars (\$29.00).
- F. Test time is one hundred twenty (120) minutes.
- G. Test shall be administered by the City Administrator or his designee.
- H. The passing grade for Journeyman Plumber is seventy percent (70%). Passing grade for Master Plumber is eighty percent (80%).
- I. Test will be furnished by and graded by the Uniform Plumbing Code Administration (the most current code adopted by the City). (*Ord. No. 799, 9/19/94*)

§3-128 MUNICIPAL WATER DEPARTMENT; BOND; CONDITIONS. Every master plumber shall provide a personal surety bond in the sum of five thousand dollars (\$5,000.00) signed by one or more sufficient sureties or bond in like amount of some approved corporate surety company doing business in the City, conditioned that the licensee shall indemnify and hold harmless the said City of David City of and from all accidents, damage, liability, claims, judgment, costs, or expenses caused by any negligence arising from the failure to protect such plumbing license in connecting said places prepared to receive water or sewer services, or arising out of furnishing defective material or from failure to execute and perform any plumbing work done by a licensee or by others under a supervision during the period of such plumber's license; and that application for license will be governed by the rules and requirements herein provided or that may hereafter be prescribed and adopted by said City during the period of his said license with reference to plumbing work to the satisfaction of the Water and Sewer Supervisor. The obligee of said bond shall be the City of David City, Nebraska. An action may be maintained thereon by anyone injured by a breach of its conditions for a period of one year after the completion of any plumbing works. (*Ord. No. 799, 9/19/94*)

§3-129 MUNICIPAL WATER DEPARTMENT; INSTALLATION OF PLUMBING BY OWNER. All

plumbing installed by the owner shall comply with the requirements of this Code and in such event the word "owner" shall be substituted for the word "plumber" throughout provided that said owner shall:

- A. Apply for and secure a permit;
- B. Pay \$10.00 registration fee;
- C. Do the work in accordance with this Article..

Personal installation by the owner (other than master plumber) shall be by himself, for himself, in his own home without compensation or pay from any other person for such labor of installation. The owner exercising this privilege shall not set himself up as a master plumber nor shall he employ journeyman plumbers. (*Ord. No. 799, 9/19/94*)

§3-130 MUNICIPAL WATER DEPARTMENT; REQUIREMENTS FOR TAPPING SUMP-PUMP DISCHARGE PIPE INTO STORM SEWERS. Storm sewers may be tapped to insert sump-pump discharge pipe from foundation drains or floor drains upon the following requirements being met by the applicant:

- A. Applicant shall contact the Street Superintendent or Street Foreman, in writing, to determine the location of the storm sewer.
- B. The hole cut into the storm sewer pipe shall be not larger than one inch (1") in diameter larger than the pipe to be installed. The storm sewer shall be tapped as close as possible to the top of the storm sewer pipe.
- C. The discharge pipe shall be Schedule 40 PVC at the point of connection and across public property.
- D. The discharge pipe shall be grouted in place and the storm sewer and discharge pipe shall be left uncovered until inspection by the Street Superintendent or Street Foreman.
- E. All cuts across public road shall require an excavation permit to be obtained by applicant.
- F. Pipes across and under public roads shall have a minimum of one foot (1') of dirt and soil cover on the top of the pipe.
- G. The discharge pump shall be equipped with a check valve or backflow preventer. (*Ord. No. 799, 9/19/94*)

§3-131 MUNICIPAL WATER DEPARTMENT; VIOLATIONS AND PENALTIES. Any person, firm, or corporation violating any provisions of this Code shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punishable by a fine of not to exceed one hundred dollars (\$100.00) or by imprisonment in the County jail for a period not to exceed thirty (30) days or by both such fine and imprisonment; Each separate day, or any portion thereof, during which any violation of this Code occurs or continues shall be deemed to constitute a separate offense and upon conviction thereof shall be punishable as herein provided.

The issuance or granting of a permit or approval of plans shall not prevent the Water and Sewer Supervisor from thereafter requiring the correction of errors in such plans and specifications or from preventing construction and operation being carried on thereunder when violation of this Code or any other ordinance or from revoking any certificate of approval when issued in error. (*Ord. No. 799, 9/19/94*)

(The following sections, 3-131 through 3-145, were adopted in their entirety by Ordinance No. 768, 1/13/93.)

§3-132 MUNICIPAL WATER DEPARTMENT; BACK-FLOW /BACK-SIPHONAGE PREVENTION; STATEMENT OF INTENT.

- A. The purpose of sections 3-131 through 3-145 is to protect the public potable water supply of the City of David City, Nebraska from contamination or pollution by containing within the consumer's internal distribution system or private water system contaminants or pollutants which could backflow through the consumer's plumbing or service connection into the public potable water supply system.
- B. To promote the elimination, containment, isolation or control of existing cross connections, actual or potential, between the public or consumer's potable water supply system and nonpotable water systems, plumbing fixtures and industrial process systems.
- C. Sections 3-131 through 3-145 shall apply to all premises served by the public potable water supply system of the City of David City, Nebraska, and will be reasonably interpreted. It is the City's intent to recognize the varying degrees of hazard and to apply the principle that the degree of protection shall be commensurate with the degree of hazard.
- D. Sections 3-131 through 3-145 provide for the maintenance of a continuing program of cross connection control which will systematically and effectively prevent the contamination or pollution of the public potable water supply system.
- E. The City of David City, Nebraska shall be primarily responsible to implement section 3-131 through 3-145 to prevent contamination or pollution of the public water supply system due to backflow or cross connections for the protection of the water supply system and the residents of this community.
- F. The cooperation of all consumers is required to implement and maintain the program to control cross connections. The consumer is responsible for preventing contamination of the water system within consumer's own premises.
- G. The consumer is responsible for backsiphoned material or contamination and/or pollution through backflow and, if contamination or pollution of the City's potable water supply/system occurs through an illegal cross connection and/or an improperly installed, maintained or repaired device or a device that has been bypassed, he shall be liable for all associated costs of clean-up required for the public potable water supply/system.

§3-133 MUNICIPAL WATER DEPARTMENT; BACK-FLOW /BACK-SIPHONAGE PREVENTION; DEFINITIONS.

- A. Definitions are as follows:
 - 1. "Air gap separation" means the unobstructed vertical distance through the free atmosphere between the lowest opening of any pipe or faucet supplying water to a tank, plumbing fixture, or other device and the overflow level rim of the receptacle, and shall be at least double the diameter of the supply pipe, measured vertically above the flood level rim of the vessel, but in no case less than one inch.
 - 2. "Approved certified tester" means a person qualified to make inspections; to test and repair backflow prevention/ cross connection control devices; and who is approved by the City and certified by the Nebraska State Health Dept.
 - 3. "Authorized representative" means any person designated by the City to administer this cross connection control ordinance.
 - 4. "Auxiliary water supply" means any water source system, other than the public water supply, that may be available in the building or premises.
 - 5. "Backflow" means the flow other than the intended direction of flow, of any foreign liquids, gases, or substances into the distribution system of a public water supply system.
 - 6. "Backsiphonage" means the flowing back of water, or other foreign liquids, gases or substances into the water distribution system due to negative pressure in the distribution system.
 - 7. "Backflow prevention device" means any device, method, or type of construction

- approved by the Nebraska State Health Department intended to prevent backflow/backsiphonage into the public water supply system.
8. "Consumer" means the owner or person in control of any premises supplied by or in any manner connected to the public water supply system.
 9. "Containment" means protection of the public water supply system by installing a cross connection control device, on the main service line to a facility, or as an installation within equipment handling potentially hazardous materials.
 10. "Contamination" means an impairment of the quality of water by sewage, process fluids, or other wastes to a degree which could create an actual hazard to the public health through poisoning or through spread of disease by exposure, contamination, may be a threat to life or health, or may cause an aesthetic deterioration, color, taste or odor.
 11. "Cross connection" means any physical connection or arrangement between two (2) otherwise separate piping systems; one of which contains potable water of the public water supply system, and the second, water of unknown or questionable safety, or steam, gases, chemicals or substances whereby there may be backflow from the second system to the public water supply system. No physical cross connection shall be permitted between a public water supply system and an auxiliary water supply system.
 12. "Degree of Hazard" means an evaluation of the potential risk to public health and the adverse effects of the hazard upon the potable water system of the City.
 - a. Hazard-Health - any condition, device, or practice in the public water supply system and its operation which could create or may create a danger to the health and well-being of the water consumer.
 - b. Hazard-Plumbing - a plumbing type cross connection in a consumer's potable water system that has not been properly protected by a vacuum breaker, air gap separation or backflow prevention device.
 - c. Hazard-Pollution - an actual or potential threat to the physical properties of the water system or to the consumer's potable water system but which would constitute a nuisance or be aesthetically objectionable or could cause damage to the system or its appurtenances, but would not be dangerous to health.
 - d. Hazard-System - an actual or potential threat of severe damage to the physical properties of the public potable water system or the consumer's potable water system, or of a pollution or contamination which would have a protracted effect on the quality of the potable water in the system.
 13. "Isolation" means protection of a facility water service line by installing a cross connection control/backflow prevention device or air gap separation on an individual fixture, appurtenance, or system.
 14. "Pollution" means the presence in water of any foreign substance (organic, inorganic, or biological) in water which tends to degrade its quality so as to constitute a hazard or impair the usefulness of the water to a degree which does not create an actual hazard to the public health but which does adversely and unreasonably affect such waters for domestic use.
 15. "Public Potable Water System" means any publicly or privately owned water system supplying water to the general public which is satisfactory for drinking, culinary, and domestic purposes and meets the requirements of the Nebraska Department of Health.
 16. "Service connection" means the terminal end of a service line from the public water system. If a meter or type of shut off valve is installed at the end of the service line, then the service connection means the downstream end of the meter or valve.
 17. "Water Department" means the Municipal Water Department of the City of David City, Nebraska.

§3-134 MUNICIPAL WATER DEPARTMENT; BACK-FLOW /BACK-SIPHONAGE PREVENTION; CROSS CONNECTIONS PROHIBITED.

- A. No water service connection shall be installed or maintained to any premises where actual or potential cross connections to the public water supply system may exist unless such actual or potential cross connections are abated or controlled to the satisfaction of the City or its authorized representative.
- B. No connection shall be installed or maintained whereby an auxiliary water supply may enter a public water supply system.
- C. No connection to a service line or supply line shall be made prior to the terminal end of the service line unless such connection is protected by an approved backflow device unless such connection is approved by the City or its authorized representative.
- D. No water service connection shall be installed or maintained to any premises in which the plumbing system, facilities, and fixtures have not been constructed and installed using plumbing practices considered acceptable by the Municipal Water Department, its authorized representative, or the Nebraska State Health Department as necessary for the protection of health and safety.

§3-135 MUNICIPAL WATER DEPARTMENT; BACK-FLOW /BACK-SIPHONAGE PREVENTION; SURVEY AND INVESTIGATIONS.

- A. The consumer's premises shall be open at all reasonable times to the City or its authorized representative, for the conduction of surveys and investigations of water practices within the consumer's premises to determine whether there are actual or potential cross connections in the consumer's water system.
- B. On request by the City or its authorized representative, the consumer shall complete periodic surveys of water use and plumbing practices on the premises of the consumer's water system to determine whether there are actual or potential cross connections. The consumer shall provide the survey results to the City or its authorized representative.

§3-136 MUNICIPAL WATER DEPARTMENT; BACK-FLOW /BACK-SIPHONAGE PREVENTION; WHERE PROTECTION IS REQUIRED.

- A. An approved backflow prevention device shall be installed between the service connection and the point of potential backflow into a consumer's water supply system when in the judgment of the City or its authorized representative a health, plumbing, pollution or system hazard exists. The type and degree of protection required shall be commensurate with the degree of hazard and/or type of contamination that may enter the public water supply system.
- B. An approved air gap separation or reduced pressure principle backflow prevention device shall be installed at the service connection or within any premises where, in the judgement of the City or its authorized representative the nature and extent of activities on the premises, or the materials used in connection with the activities, or materials stored on the premises, would present an immediate and dangerous hazard to the health should a cross connection occur, even though such cross connection may not exist at the time the backflow prevention device is required to be installed.

This is not limited to the following situations:

- 1. Premises having an auxiliary water supply, unless the quality of the auxiliary supply is acceptable to the City or its authorized representative and the Nebraska Department of Health.

2. Premises having internal cross connections that are not correctable, or intricate plumbing arrangements which make it impractical to ascertain whether or not cross connections exist.
 3. Premises where entry is restricted so that inspections for cross connections cannot be made with sufficient frequency or at sufficiently short notice to assure the cross connections do not exist.
 4. Premises having a repeated history of cross connections being established or re-established.
 5. Premises, which due to the nature of the enterprise therein, are subject to recurring modification or expansion.
 6. Premises on which any contamination causing substance is handled under pressure so as to permit entry into the public water supply system, or where a cross connection could reasonably be expected to occur. This shall include the handling of process waters and cooling waters.
 7. Premises where toxic or hazardous materials are handled.
- C. The following types of facilities fall into one or more of the categories or premises where an approved air gap separation or reduced pressure principle backflow prevention device may be required by the City or its authorized representative or the Nebraska Department of Health to protect the public water supply and must be installed at these facilities unless all hazardous or potentially hazardous conditions have been eliminated or corrected by other methods to the satisfaction of the City or its authorized representative and the Nebraska Department of Health:
1. Agricultural chemical facilities.
 2. Auxiliary water systems, wells.
 3. Premises having water recirculating systems as used for boilers or cooling systems.
 4. Bulk water loading facilities.
 5. Car washes, automobile service facilities.
 6. Chill water systems.
 7. Feedlots.
 8. Fire protection systems.
 9. Hazardous waste storage and disposal sites.
 10. Irrigation and lawn sprinkler systems.
 11. Laundries and dry cleaning facilities.
 12. Petroleum processing or storage plants.
 13. Beauty salons.
 14. Schools.
 15. Sewage pumping stations and wastewater treatment plants.

16. Other commercial or industrial facilities which may constitute potential cross connections.

17. Hospitals, mortuaries, clinics, or others as discovered by surveys.

§3-137 MUNICIPAL WATER DEPARTMENT; BACK-FLOW /BACK-SIPHONAGE PREVENTION; TYPE OF PROTECTION REQUIRED. The type of protection required by sections 3-131 through 3-145 shall depend on the degree of hazard which exists, as follows:

1. An approved air gap separation shall be installed where the public potable water system or the consumer water system may be contaminated with substances which could cause a severe health hazard.
2. An approved air gap separation or an approved reduced pressure principal (RPZ) backflow prevention device shall be installed where the public potable water system or consumer water system may be contaminated with a substance that could cause a health hazard.
3. An approved air gap separation, reduced pressure principal backflow prevention device (RPZ), double check valve assembly, pressure vacuum breaker, atmospheric vacuum breaker, or frost free vacuum breaker shall be installed where the public potable water system or consumer water system may be polluted with substances that could cause a pollutional hazard not dangerous to health.

§3-138 MUNICIPAL WATER DEPARTMENT; BACK-FLOW /BACK-SIPHONAGE PREVENTION; BACKFLOW PREVENTION DEVICES.

- A. Any backflow prevention device required by section 3-131 through 3-145 shall be a model or construction approved by the City or its authorized representative and the Nebraska Department of Health. The following devices are recognized for cross connection control and backflow prevention by the Nebraska Department of Health and are published as part of sections 3-131 through 3-145.
1. Air Gap Separation to be approved shall be at least twice the diameter of the water supply pipe, measured vertically above the top rim of the vessel, but in no case less than one inch (1"). Whenever practical this is the control method of choice.
 2. Reduced Pressure Principle Backflow Preventer to be approved contains two (2) specifically designed, soft seated, independently acting check valves with a reduced pressure zone (with relief valve) between the two checks. Shut off valves before and after the device. Satisfactory for most toxic materials. Significant pressure loss of 10 psi or more. Must be tested and inspected annually, and repaired as necessary.
 3. Double Check Valve Assembly contains two (2) soft seated independently acting check valves in series. Shut off valves before and after the device. Adequate for nontoxic applications only. Minor pressure loss, must be inspected and tested annually, and repaired as necessary.
 4. Pressure Vacuum Breakers may be used as protection against nonpressure connections to vessels containing contaminants where the vacuum breakers are not subject to backpressure. These units may be used under continuous

supply pressure, tested and inspected annually, and repaired as necessary. These devices must be installed a minimum of twelve inches (12") above the highest usage point or outlet. These devices can operate under constant pressure and shut off valve can be located beyond the vacuum breaker.

5. Atmospheric Vacuum Breaker may be used only on nonpressure connections to a nonpotable water system where the vacuum breaker is never subjected to backpressure. Device is not for use under constant pressure, and shut off valve must be located ahead of vacuum breaker. The device must be installed a minimum of six inches (6") above the highest point of usage or outlet. These devices must be inspected and repaired or replaced as necessary.
6. Hose Vacuum Breakers may be used on sill-cocks and similar valves with threaded outlets where any type of hose might be attached. These devices must be inspected and repaired or replaced as necessary.
7. All backflow prevention devices approved by the City shall appear on the current list of approved backflow prevention devices established by the Nebraska Department of Health, unless the device was installed at the time sections 3-131 through 3-145 were passed and complies with required inspection and maintenance.

§3-139 MUNICIPAL WATER DEPARTMENT; BACK-FLOW /BACK-SIPHONAGE PREVENTION; INSTALLATION.

- A. Backflow prevention devices required by sections 3-131 through 3-145 shall be installed at a location and in a manner approved by the City or its authorized representative. All devices shall be installed at the expense of the consumer, unless the City or its authorized representative agrees otherwise.
- B. Backflow prevention devices installed at the service connection shall be located on the consumer's side of the water meter (if one is installed) or the shut off valve as close to the meter or shut off valve as is reasonably practical, and prior to any other connection.
- C. Backflow prevention devices shall be conveniently accessible for maintenance and testing, protected from freezing, and where no part of the device will be submerged or subject to flooding by any fluid. All devices shall be installed according to manufacturer's recommendations.

§3-140 MUNICIPAL WATER DEPARTMENT; BACK-FLOW /BACK-SIPHONAGE PREVENTION; INSPECTION TESTING AND MAINTENANCE.

- A. Backflow/backsiphonage prevention devices designed to be tested shall be tested for proper operation annually or when necessary in the opinion of the City or its authorized representative. Actual testing shall be done by an approved certified tester, and the testing shall be at the expense of the consumer, unless the City or its authorized representative agrees otherwise. Any required maintenance or repairs shall be at the expense of the consumer and subject to the approval of the City.
- B. The consumer's premises shall be open at all reasonable times to the City, its authorized representative, or a certified tester for the purpose of inspection, testing, or maintenance. If entry is required into the premises, the City's authorized representative or approved certified tester shall give consumer notice setting forth a proposed date and time. If the consumer cannot make the premises accessible on that date and time, the consumer shall contact the City's authorized representative or

certified tester to arrange another date and time.

- C. Whenever backflow prevention devices required by this policy are found to be defective, they shall be repaired or replaced without delay at the expense of the consumer.
- D. The consumer must maintain a complete record of each backflow prevention device from purchase to retirement. This shall include a comprehensive listing that includes a record of all test, inspections, and repairs. All record of inspections, tests, and repairs shall be provided within thirty (30) days to the City or its authorized representative.
- E. All backflow prevention devices shall have a tag showing the date of installation, last inspection, test, or other maintenance.

§3-141 MUNICIPAL WATER DEPARTMENT; BACK-FLOW /BACK-SIPHONAGE PREVENTION; *SPECIAL CAUTION*** THERMAL EXPANSION.**

- A. When water is heated and stored in a consumer's water system, or a branch of the system, that has been closed by the installation of a backflow prevention device, or any other checking device; an auxiliary relief valve, or expansion chamber, shall be installed to limit thermal expansion of the water being heated to not more than 80 psi static (no-flow) pressure at any fixture on the system.

§3-142 MUNICIPAL WATER DEPARTMENT; BACK-FLOW /BACK-SIPHONAGE PREVENTION; APPROVED METHODS OF FILLING TANKS/TANKER TRUCKS.

- A. Any water being introduced into a vessel, tank, tanker truck, etc., from any connection to the public potable water system must be through an approved backflow prevention device. The most effective and economical method is by an approved air gap separation between the water inlet and overflow level of the vessel or tank. At no time shall a hose, either hand held or otherwise immersed in a vessel or tank be an acceptable method for this type of application.

§3-143 MUNICIPAL WATER DEPARTMENT; BACK-FLOW /BACK-SIPHONAGE PREVENTION; AUTHORIZED REPRESENTATIVE: AUTHORITY.

- A. The authorized representative shall have the authority to issue any order consistent with the provisions of section 3-131 through 3-145 in order to protect the public health and safety. Any order of the authorized representative shall state the nature of the order, compliance requirements, and a reasonable date by which compliance must be met.

§3-144 MUNICIPAL WATER DEPARTMENT; BACK-FLOW /BACK-SIPHONAGE PREVENTION; APPEALS.

- A. In the event that it is claimed that the true intent and meaning of sections 3-131 through 3-145 have been wrongfully interpreted by the authorized representative; that the time allowed for compliance with any order of the authorized representative is too short; or that conditions peculiar to a particular premise make it unreasonably difficult to meet the literal requirements prescribed by section 3-131 through 3-145, the owner may file a written notice of appeal with the City Clerk within ten (10) days after the decision or order of the authorized representative has been made. The

Governing Body of the City shall hear all appeals and shall have the power and authority, when appealed to, to modify the decision or order of the authorized representative.

Such a decision shall be final, subject only to any remedy which the aggrieved party may have at law or equity.

Appeals shall be in writing and shall state the reason for the appeal.

§3-145 MUNICIPAL WATER DEPARTMENT; BACK-FLOW /BACK-SIPHONAGE PREVENTION; VIOLATION AND PENALTIES.

- A. The City or its authorized representative shall deny or discontinue the water service to any premises or any consumer wherein any backflow prevention device required by sections 3-131 through 3-145 is not installed, tested, and maintained in a manner acceptable to the City or its authorized representative, or if it is found that the backflow prevention device has been removed or bypassed, or if an unprotected cross connection exists.
- B. Water service to such premises shall not be restored until the consumer is in compliance with this cross connection ordinance to the satisfaction of the City or its authorized representative.

§3-146 MUNICIPAL WATER DEPARTMENT; BACK-FLOW /BACK-SIPHONAGE PREVENTION; LIABILITY CLAIMS.

- A. The authorized representative shall be relieved from personal liability. The City shall hold harmless the authorized representative when acting in good faith and without malice, from all personal liability for any damage that may occur to any person or property as a result of an act or omission of the authorized representative in the discharge of his or her duties hereunder. Any suit brought carrying out the provisions of the title shall be defended by the City, or the City's insurance carrier, if any, through final determination of such proceeding.

§3-147 MUNICIPAL WATER DEPARTMENT; SEPARATE WATER LINE TRENCH. Water, sewer, and electric service lines shall each have a separate trench. Water service lines shall be buried at least four feet (4') deep. There shall be a minimum of #12 tracer/detection wire placed above all plastic water service lines installed. There shall be at least six (6) horizontal feet separating utility trenches. (*Ord. No. 805, 1/11/95*)

Departments

Article 2. Sewer Department

§3-201 MUNICIPAL SEWER DEPARTMENT; OPERATION AND FUNDING. The Municipality owns and operates the Municipal Sewer System. The Sewer Supervisor shall have the direct management and control of the Sewer Department and shall faithfully carry out the duties of his office. He shall have the authority to adopt rules and regulations for the sanitary and efficient management of the Department subject to the supervision and review of the Governing Body. (*Ref. 17-149, 17-925.01 RS Neb.*)

§3-202 MUNICIPAL SEWER DEPARTMENT; DEFINITIONS. The following definitions shall be applied throughout this Chapter. Where no definition is specified, the normal dictionary

usage of the word shall apply.

Building or House Sewer. The terms "Building Sewer" and "House Sewer" as used in this Code, 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.

Building or House Drain. The terms "Building Drain" and "House Drain" as used in this Code, shall mean and include that part of the lowest horizontal piping of a house or building drainage system which receives the discharge from soil, waste, or other drainage pipes inside the walls of any building or house.

Soil Pipe. The term "Soil Pipe" as used in this Code, 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.

Waste Pipe. The term "Waste Pipe" as used in this Code, 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.

Local Ventilating Pipe. The term "Local Ventilating Pipe" as used in this Code, shall mean and include any pipe through which foul air is removed from a room or fixture.

Vent Pipe. The term "Vent Pipe" as used in this Code, shall mean and include any pipe provided to ventilate a house or building drainage system and to prevent trap siphonage and back pressure.

Trap. The term "Trap" as used in this Code, 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. The term "Trap Seal" as used in this Code, shall mean and include the vertical distance between the crown weir and the dip of the trap.

Plumbing Fixtures. The term "Plumbing Fixtures" as used in this Code, 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.

Sewer System. The term "Sewer System" as used in this Code, shall mean and include all facilities for collecting, pumping, treating, and disposing of sewage.

Sewage. The term "Sewage" as used in this Code, shall mean and include 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.

Sanitary Sewer. The term "Sanitary Sewer" as used in this Code, shall mean and include a sewer which carries sewage and to which storm, surface, and ground waters are not intentionally admitted.

Storm Sewer. The term "Storm Sewer" as used in this Code, shall mean and include a sewer which carries storm and surface drainage, but excludes sewage and polluted industrial wastes.

Garbage. The term "Garbage" as used in this Code, shall mean and include solid wastes from the preparation of cooking and dispensing of food and produce.

Properly Shredded. The term "Property Shredded" as used in this Code, shall mean and include shredding to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers with no particle larger than one-half inch (1/2") in diameter.

Biological Oxygen Demand. The term "Biological Oxygen Demand" as used in this Code, shall mean and include the quantity of oxygen utilized in biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at twenty (20) degrees C., expressed in parts per million by weight.

pH. The term "pH" as used in this Code, shall mean and include the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

Suspended Solids. The term "Suspended Solids" as used in this Code, shall mean and include solids that either float on the surface of, or are in immersion in water, sewage, or other liquids, and are removable by filtering.

§3-203 MUNICIPAL SEWER DEPARTMENT; APPLICATION FOR PERMIT. Any person wishing to connect with the Sewer System shall make an application therefor to the Sewer Supervisor. The Supervisor may require any applicant 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 upon the written order of the Supervisor. The Department shall not supply sewer service to any person outside the corporate limits without special permission from the Governing Body; Provided, that the entire cost of pipe and other installation charges shall be paid by such consumers. Nothing herein shall be construed to obligate the Municipality to provide sewer service to nonresidents. (*Ref. 17-149, 19-2701 RS Neb.*)

§3-204 MUNICIPAL SEWER DEPARTMENT; SEWER 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 commercial main is now or may hereafter be laid. The Municipality may also furnish sewer service to person 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 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 Utilities Superintendent, or his agent, may cut off or disconnect the sewer service from the building or premise of such violation. No further connection for sewer service to said building or premise shall again be made save or except by order of the Superintendent or his agent.

§3-205 MUNICIPAL SEWER DEPARTMENT; MANDATORY HOOKUP. Upon written notice by the Utilities Superintendent, the property owner, occupant, or lessee of any building within two hundred feet (200') of any Municipal sewer main shall without delay cause the said building to be connected with the Sanitary Sewer System and equipped with inside sewerage facilities. Every building, hereafter erected, shall be connected with the

Sanitary Sewer 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 ninety (90) days after notice to do so has been given by registered mail or by publication in a newspaper in or of general circulation in the municipality, to make such connection, the Governing Body shall have the power to cause the same to be done, to assess the cost thereof against the property, and to collect the assessment thus made in the manner provided for collection of other special taxes and assessments. *(Ref. 17-149, 17-149.01 RS Neb.) (Amended by Ord. No. 758, 11/12/92)*

§3-206 MUNICIPAL SEWER DEPARTMENT; DIRECT CONNECTIONS. Each and every building must make a direct connection with the main sewer line. Under no circumstances will two (2) or more houses be allowed to make such connections through one (1) pipe.

§3-207 MUNICIPAL SEWER DEPARTMENT; SERVICE CONTRACTS. Contracts for sewer service are not transferable. Any person wishing to change from one location to another shall make a new application and sign a new contract. If any customer shall move from the premise where service is furnished, or if the said premise is destroyed by fire or other casualty, he shall at once inform the Utilities Superintendent.

§3-208 MUNICIPAL SEWER DEPARTMENT; INSTALLATION PROCEDURE. In making excavations in streets, alleys, or sidewalks for the purpose of installing pipe, or making repairs, the paving, stones, and earth must be removed and deposited in a manner that will occasion the least inconvenience to the public and provide for adequate drainage. No person shall leave an excavation made in the street, alley, or sidewalk open at any time without a barricade, and during the night, warning lights. After the house sewer is laid, the public ways and property shall be restored to good condition. If the excavation in the public ways and property is left open or unfinished for a period of twenty-four (24) hours or more, the Utilities Superintendent may finish or correct the work, and all expenses so incurred shall be charged to the owner, occupant, or lessee of the property. All installations or repairs of pipes require an inspection by the Utilities Superintendent. This inspection shall be made when connections or repairs are complete and before the pipes are covered. It is the customers responsibility to notify the Utilities Superintendent at the time the work is ready for each inspection. All installation shall be done under the supervision and strictly in accordance with the rules, regulations, and specifications for such installation prescribed by the Utilities Superintendent; Provided, that the said rules, regulations, and specifications have been reviewed and approved by the Governing Body.

§3-209 MUNICIPAL SANITARY SEWER DEPARTMENT; SEWER TAP FEE. The customer, upon approval of his application for sanitary sewer service, shall pay to the Clerk of the City of David City, Nebraska, a sanitary sewer tap fee according to a schedule of such fees to be adopted by resolution of the City Council. Said fee shall be paid prior to the connection of the sanitary sewer line of the customer to the sanitary sewer main. The Sewer Supervisor shall direct the customer to hire a registered and bonded plumber to install the private sanitary sewer service line. The customer shall then be required to pay the expense of procuring the materials required as well as the services of the registered and bonded plumber and shall pay all other costs of installation.

§3-210 MUNICIPAL SEWER DEPARTMENT; REPAIRS AND REPLACEMENT. The Municipal Sewer Department may require the owner of any property which is within the Municipality and connected to the public sewers or drains to repair or replace any connection line which serves the owner's property and is broken, clogged or otherwise in need of repair or replacement. The property owner's duty to repair or replace such a connection line

shall include those portions upon the owner's property and those portions upon public property or easements up to and including the point of junction with the public main.

The 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 Sewer Supervisor may cause such work to be done and assess the cost upon the property served by such connection. (*Ref. 18-1748 RS Neb.*) (*Amended by Ord. No. 623, 12/12/84*)

§3-211 MUNICIPAL SEWER DEPARTMENT; CLASSIFICATION. The Governing Body may classify for the purpose of rental fees the customers of the Municipal Sewer Department; Provided, that such classifications are reasonable and do not discriminate unlawfully against any consumer or group of consumers. (*Ref. 17-925.02 RS Neb.*)

§3-212 MUNICIPAL SEWER DEPARTMENT; RATE SETTING. Customers of the Municipal Sewer Department shall not be charged a flat rate for the use of sewer service. Rates shall be set by resolution and shall be on file at the office of the Municipal Clerk for public inspection at any reasonable time.

§3-213 MUNICIPAL SEWER DEPARTMENT; SERVICE DEPOSIT. The Governing Body, in its discretion, may require a service deposit from any or all customers of the Municipal Sewer Department in a sum set by resolution and filed in the office of the Municipal Clerk for public inspection at any reasonable time. From the said fund shall be deducted all delinquent sewer charges. The deposit shall be collected by the Municipal Clerk who shall immediately turn the same over to the Municipal Treasurer who shall keep the deposit in a trust fund for customers of the Sewer Department. The said fund shall be put out at interest separate and apart from the other funds. Interest arising therefrom shall be expended solely for the repair of equipment and property belonging to the Municipal Sewer Department. (*Ref. 17-925.01 RS Neb.*)

§3-214 MUNICIPAL UTILITIES; DISCONTINUANCE OF SERVICE. NOTICE PROCEDURE. The Sewer Supervisor shall compute or cause to be computed, sewer rental bills based on water usage. The bill for sewer service provided to a subscriber shall be due and payable on the first (1st) business day of the month. If the bill is not paid before five o'clock (5:00) p.m. on the tenth (10th) day of the month, it shall be considered delinquent. When the tenth (10th) day of the month falls on Saturday or Sunday, bills become delinquent at five o'clock (5:00) p.m. on the following Monday. The municipality shall have the right to terminate service of any non-domestic subscriber at any time after said subscriber shall have a delinquent bill. When a domestic subscriber has a bill that has become delinquent, the Municipality shall, before service is disconnected, give the subscriber written notice by First Class Mail that the bill is delinquent and that service may be disconnected if payment is not received by the twentieth (20th) day of the month. The Municipality shall not disconnect the service until ten (10) days after issuance of such "DELINQUENT NOTICE." If a bill remains delinquent after the twentieth (20th) day of the month, a "SERVICE DISCONNECT NOTICE" will be sent by First Class Mail or in person to any domestic subscriber whose service is proposed to be terminated. If notice is given by First Class Mail, such mail shall be conspicuously marked as to its importance. As to any subscriber who has previously been identified as a welfare recipient to the utility by the Department of Public Welfare, such notice shall be by certified mail and notice of such proposed termination shall be given to the Department of Public Welfare.

The notice shall contain the following information:

1. The reason for the proposed disconnection;
2. A statement of the intention to disconnect unless the domestic subscriber either pays the bill or reaches an agreement with the Department regarding payment of the bill;
3. The date upon which service will be disconnected if the domestic subscriber does not take appropriate action;
4. The name, address, and telephone number of the employee or department to whom the domestic subscriber may address an inquiry or complaint;
5. The domestic subscriber's right, prior to the disconnection date, to request a conference regarding any dispute over such proposed disconnection;
6. A statement that the Department may not disconnect service pending the conclusion of the conference;
7. A statement to the effect that disconnection may be postponed or prevented upon presentation of a duly licensed physician's certificate which shall certify that the domestic subscriber or resident within such subscriber's household has an existing illness or handicap which would cause such subscriber or resident to suffer an immediate and serious health hazard by the disconnection of the utility's service to that household. Such certificate shall be filed with the Department of Utilities within five (5) days of receiving notice under this Section and will prevent the disconnection of the Department's services for a period of thirty (30) days from such filing. Only one (1) postponement of disconnection shall be allowed under this subsection for each incidence of non-payment of any due account;
8. The cost that will be borne by the domestic subscriber for restoration of service;
9. A statement that the domestic subscriber may arrange with the Department for an installment payment plan;
10. A statement to the effect that those domestic subscribers who are welfare recipients may qualify for assistance in payment of their utility bill and that they should contact their caseworker in that regard; and
11. Any additional information not inconsistent with this Section which has received prior approval from the Governing Body.

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

The procedures adopted by the Governing Body for resolving utility bills, three (3) copies of which are on file in the office of the Municipal Clerk, are hereby incorporated by reference in addition to any amendments thereto and are made a part hereof as though set out in full.

This section shall not apply to any disconnections or interruptions of services made necessary by the utility for reasons of repair or maintenance or to protect the health or safety of the domestic subscriber or of the general public. (*Ref. 70-1605 through 70-1610 et seq. RS Neb.*)

§3-215 MUNICIPAL SEWER DEPARTMENT; UNLAWFUL USE. 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. Except as hereinafter provided, no person shall discharge or cause to be discharged any of the following described waters or wastes into the Municipal Sewer System unless a written agreement is entered into authorizing different discharge parameters:

1. Liquids or vapors having a temperature higher than one hundred fifty (150) degrees F.
2. Water or waste which may contain more than one hundred (100) parts per million by

- weight of fat, oil, or grease.
3. Gasoline, benzene, naphtha, fuel oil, other flammable or explosive liquid, solid, or gas.
 4. Garbage that has not been properly shredded.
 5. Sand, mud, metal, rags, paper, or other solid or viscous substance capable of causing obstruction to the flow in the sewer system.
 6. Toxic or poisonous substances in sufficient quantity to interfere with or injure the sewage treatment process, constitute a hazard to humans, animals, or fish, or create any hazard in the receiving area of the sewage treatment plant.
 7. Suspended solids of such character and quantity that unusual attention or expense is required to handle such materials.
 8. Waters or wastes having a pH lower than 5.5 or higher than 9.0 or having other corrosive properties capable of causing damage to the structures, equipment, and personnel of the Municipal Sewer Department.
 9. Any noxious or malodorous gas or substance capable of creating a public nuisance.
(*Ref. 17-145 RS Neb.*)

§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 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 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; 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 any substance which is not the usual and natural waste carried by the Sewer System.

§3-218 MUNICIPAL SEWER DEPARTMENT; INSPECTIONS. The chief sewer official or his authorized agents, shall have free access at any reasonable time to all parts of each premise and building which is connected with the Sewer System to ascertain whether there is any disrepair or violations of this Article therein.

§3-219 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 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.
(*Ref. 17-149, 19-2701 RS Neb.*)

§3-220 MUNICIPAL SEWER DEPARTMENT; LIEN. In addition to all other remedies, if a customer shall for any reason remain indebted to the Municipality for sewer service furnished, such amount due, together with any rents and charges in arrears shall be considered a delinquent sewer rent which is hereby declared to be a lien upon the real estate for which the same was furnished. 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 sewer rent. It shall be the duty of the Sewer Commissioner on the first (1st) day of June of each year to report to the Governing Body a list of all unpaid accounts due for sewer service together with a description of the premise served. 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. (*Ref. 17-925.01 RS Neb.*)

§3-221 MUNICIPAL SEWER DEPARTMENT; COMPLAINTS. Any consumer feeling himself aggrieved by reason of any controversy with the Sewer Commissioner may appear before the Governing Body and present his grievance. Any consumer who considers himself 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 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.

§3-222 MUNICIPAL SEWER DEPARTMENT; SEPARATE SEWER LINE TRENCH. Water, sewer and electric service lines shall each have a separate trench. Sewer service lines shall be buried to grade at least four feet (4') deep. There shall be a minimum of #12 tracer/detection wire placed above all plastic sewer service lines installed. There shall be at least six (6) horizontal feet separating utility trenches. (*Ord. No. 805, 1/11/95*)

§3-223 MUNICIPAL SEWER DEPARTMENT; VIOLATION AND PENALTIES. Any person, firm, or corporation violating any provisions of this Code shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punishable by a fine of not to exceed one hundred dollars (\$100.00) or by imprisonment in the County jail for a period not to exceed thirty (30) days or by both such fine and imprisonment. Each separate day, or any portion thereof, during which any violation of this Code occurs and upon conviction thereof shall be punishable as herein provided.

The issuance or granting of a permit or approval of plans shall not prevent the Water and Sewer Supervisor from thereafter requiring the correction of errors in such plans and specifications or from preventing construction and operation being carried on thereunder when violation of this Code or any other ordinance or from revoking any certificate of approval when issued in error. (*Ord. No. 832, 12/11/96*)

Departments

Article 3. Police Department

§3-301 POLICE DEPARTMENT; DUTIES. The Police Department shall consist of the Chief of Police and such further number of regular policemen as may be duly ordered by resolution of the Council. The Chief of Police shall, subject to the direction of the Mayor, have control and management of all matters relating to the Police Department, its officers and members, and shall have the custody and control of all property and books belonging to the department. He shall devote his whole time to the municipal affairs, interests of the Municipality, and to the preservation of peace, order, safety, and cleanliness thereof. The Department shall execute and enforce all laws and also the orders of the Mayor. It shall be the duty of the Department to protect the rights of persons and property. There shall be a proper police force at all fires. The Department shall take notice of all nuisances, impediments, obstructions, and defects in the streets, avenues, alleys, business places,

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

§3-302 POLICE DEPARTMENT; OFFICER BOND. No appointment of a law enforcement officer shall be valid until a bond in the amount of two thousand (\$2,000.00) dollars, payable to the City, has been filed with the Municipal Clerk by the individual appointed, or a blanket surety bond arranged and paid for by the Governing Body and bonding all such officers of the Governing Body has been filed. Such bonds shall be subject to the provisions of Chapter II, Article 1, Nebraska Revised Statutes. (*Ref. 81-1444 RS Neb.*) (*Ord. No. 662, 8/27/86*)

§3-303 POLICE DEPARTMENT; JURISDICTION. The Police Department of the City of David City, Nebraska, and any and all of its officers acting in an official capacity are authorized to provide police service and protection to citizens and the public at large in David City and within an area extending one mile in all directions beyond the City limits of the City of David City, Nebraska. (*Ref. Resolution No. 13-1987, 9/23/87*)

Departments

Article 4. Parks Department

§3-401 MUNICIPAL PARKS DEPARTMENT; OPERATION AND FUNDING. The Municipality owns and operates the Municipal Parks and other recreational areas through the Park Supervisor. 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 for the said tax shall be known as the Park Fund and shall remain in the custody of the Municipal Treasurer. The City Council shall have the authority to adopt rules and regulations for the efficient management of the Municipality. The Park Supervisor shall not enter into a contract of any nature which involves an expenditure of funds, except for ordinary operating expenses, unless the contract has been approved by resolution of the majority of the members of the City Council prior to the contractual agreement. (*Ref. 17-948 thru 17-952 RS Neb.*)

§3-402 MUNICIPAL PARKS DEPARTMENT; OPERATION AND FUNDING. 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.

§3-403 MUNICIPAL PARKS DEPARTMENT; RENTALS. The City Council may, for the purpose of defraying the expenses involved in maintaining, improving, managing, and beautifying the Park Schweser House and Park camp grounds, make a reasonable rental charge for the use by any person or organization of the Park Facilities. The City Council shall prescribe rules and regulations for such rentals. Rental rates may be structured for classes of persons and organizations in a reasonable manner; Provided, that nothing herein shall be construed to permit or allow discrimination on the basis of race, creed,

color, or national origin in the classification of persons and organizations for rental purposes. (Ref. 17-953 RS Neb.)

Departments

Article 5. Swimming Pool / Aquatic Center

- §3-501 **MUNICIPAL SWIMMING POOL; OPERATION AND FUNDING.** The Municipality owns and manages the Municipal Swimming Pool/Aquatic Center. The Governing Body, for the purpose of defraying the cost of the management, maintenance, and improvements of the Swimming Pool 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 Municipality that is subject to taxation. The revenue from the said tax shall be known as the Swimming Pool Fund and shall include all gifts, grants, deeds of conveyance, bequests, or other valuable income-producing personal property and real estate from any source for the purpose of endowing the Swimming Pool. The Swimming Pool Fund shall at all times be in the custody of the Municipal Treasurer. The City Council shall manage the Swimming Pool. The Council shall have the power and authority to hire and supervise the Swimming Pool Manager and such employees as they may deem necessary and shall pass such rules and regulations for the operation of the Swimming Pool as may be proper for its efficient operation. (Ref. 17-948, 17-951, 17-952 RS Neb.)
- §3-502 **MUNICIPAL SWIMMING POOL; ADMISSION CHARGE.** The City Council may, for the purpose of defraying the expenses involved in maintaining, improving, managing, and beautifying the Swimming Pool/Aquatic Center, make a reasonable admission charge for the use by any person of the Municipal Swimming Pool/Aquatic Center. The said charges shall be on file at the office of the Municipal Clerk and shall also be posted in a conspicuous place at the Municipal Swimming Pool for public inspection. Such rates may be structured for classes of persons in a reasonable manner; Provided, that nothing herein shall be construed to permit or allow discrimination on the basis of race, creed, color, or national origin in the classification of persons for admission charges. (Ref. 17-949 RS Neb.)
- §3-503 **MUNICIPAL SWIMMING POOL; RENTALS.** The City Council may authorize the Swimming Pool Manager to have the authority to rent the Municipal Swimming Pool to such organizations and other persons as they may in their discretion see fit, subject to the review of the City Council. The Council shall prescribe rules and regulations for such rentals and shall require an appropriate number of qualified lifeguards to be in attendance during the rental period. Such fees and other costs shall be on file at the office of the Municipal Clerk and posted in a conspicuous place at the Municipal Swimming Pool. (Ref. 17-949 RS Neb.)
- §3-504 **MUNICIPAL SWIMMING POOL; RULES AND REGULATIONS.** The City Council shall have the power and authority to enact by-laws, rules, and regulations for the protection of those using the Swimming Pool and for the efficient management thereof. They may provide suitable penalties for the violation of such by-laws, rules, and regulations. (Ref. 17-949 RS Neb.)

Departments

Article 6. Library

- §3-601 **MUNICIPAL LIBRARY; OPERATION AND FUNDING.** The Municipality manages the Roman L. and Victoria Hruska Memorial Library, hereafter called Library, through the

Library Board. The City Council, for the purpose of defraying the cost of the management, purchases, improvements, and maintenance of the Library may each year levy a tax not exceeding the maximum limit prescribed by State law, on the actual valuation of all real estate and personal property within the Municipality that is subject to taxation. The revenue from the said tax shall be known as the Library Fund and shall include all gifts, grants, deeds of conveyance, bequests, or other valuable income-producing personal property and real estate from any source for the purpose of endowing the municipal Library. The Library Fund shall at all times be in the custody of the Municipal Treasurer. The Board shall have the power and authority to appoint the librarian and to hire such other employees as they may deem necessary and may pass such other rules and regulations for the operation of the Library as may be proper for its efficient operation. All actions by the Board shall be under the supervision and control of the City Council. (Ref. 51-201, 51-202, 51-211 RS Neb.)

- §3-602 **MUNICIPAL LIBRARY; BOOKS.** The Library Board may authorize the sale, exchange, or disposal of any surplus, damaged, defective, obsolete, or duplicate books in the Library. Records shall be kept of any such surplus, damaged, defective, obsolete, or duplicate books so disposed of.
- §3-603 **MUNICIPAL LIBRARY; RULES AND REGULATIONS.** The Library Board shall establish rules and regulations for the governing of the Municipal Library for the preservation and efficient management thereof. They shall fix and impose by general rules, penalties and forfeitures for injury to the Library grounds, rooms, books, or other property, or for failure to return a book. All fees, penalties, and forfeitures may be collected in civil action in the event of failure, neglect, or refusal to pay the said assessments. (Ref. 51-205, 51-214 RS Neb.)
- §3-604 **MUNICIPAL LIBRARY; DAMAGED AND LOST BOOKS.** Any person who injures or fails to return any book taken from the Library shall forfeit and pay to the Library not less than the value of the book in addition to any replacement costs and penalty which the Library Board may assess. (Ref. 51-211 RS Neb.)
- §3-605 **MUNICIPAL LIBRARY; BOOK REMOVAL.** It shall be unlawful for any person not authorized by the regulations made by the Library Board to take a book from the Library, without the consent of the Librarian, or an authorized employee of the Library. Any person removing a book from the Library without properly checking it out shall be deemed to be guilty of a misdemeanor. (Ref. 51-211 RS Neb.)
- §3-606 **MUNICIPAL LIBRARY; COST OF USE.** The Municipal Library shall be free for the use of the inhabitants of the Municipality. The Librarian may exclude from the use of the Library and reading rooms any person who shall willfully violate or refuse to comply with the rules and regulations established for the government thereof. (Ref. 51-201, 51-212 RS Neb.)
- §3-607 **MUNICIPAL LIBRARY; MONEY COLLECTED.** Any money collected by the Library shall be turned over monthly by the Librarian to the Municipal Treasurer along with a report of the sources of the revenue. (Ref. 51-209 RS NEB.)

Departments

Article 7. Auditorium

- §3-701 **MUNICIPAL AUDITORIUM; OWNERSHIP.** The Municipality owns and manages the Municipal Auditorium through the Auditorium Supervisor. The City Council, for the

purpose of defraying the cost of the management, maintenance, and improvements on the Municipal Auditorium 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 Municipality that is subject to taxation. The revenue from the said tax shall be known as the Auditorium Fund and shall include all gifts, grants, deed of conveyance, bequests, or other valuable income-producing personal property and real estate from any source for the purpose of endowing the Municipal Auditorium. The Auditorium Fund shall at all times be in the custody of the Municipal Treasurer. The City Council shall have the power to hire and supervise such employees as they may deem necessary and shall pass such rules and regulations for the operation of the Auditorium as may be proper for its efficient management. All actions by the Auditorium Supervisor shall be under the supervision and control of the City Council. *(Ref. 17-953 thru 17-955 RS Neb.)*

§3-702 MUNICIPAL AUDITORIUM; RENTALS. The City Council may, for the purpose of defraying the expenses involved in maintaining, improving, managing, and beautifying the Auditorium, make a reasonable rental charge for the use by any person or organization of the Auditorium. The City Council shall prescribe rules and regulations for such rentals. Rental rates may be structured for classes of persons and organizations in a reasonable manner; Provided, that nothing herein shall be construed to permit or allow discrimination on the basis of race, creed, color, or national origin in the classification of persons and organizations for rental purposes. *(Ref. 17-953 RS Neb.)*

§3-703 MUNICIPAL AUDITORIUM; RULES AND REGULATIONS. The City Council shall have the power and authority to enact by-laws, rules, and regulations for the protection of the Municipal Auditorium and the safety of those using the Auditorium facilities. They may provide suitable penalties for the violation of such by-laws, rules, and regulations. All damage suffered by the Auditorium during any rental shall be assessed against the person or organization responsible for the rental thereof, or shall be deducted from the damage deposit which the City Council or Auditorium Supervisor may in their discretion have required prior to the said rental. All rental fees, rules, and regulations shall be on file for public inspection at the office of the Municipal Clerk at any reasonable time. *(Ref. 17-953 RS Neb.)*

Departments

Article 8. Electrical System

§3-801 MUNICIPAL ELECTRICAL SYSTEM; OWNERSHIP. The Municipality owns and operates the Municipal Electrical System through the Electric Supervisor. The Governing Body, for the purpose of defraying the cost of the care, management, and maintenance of the Municipal Electrical System may each year levy a tax not exceeding the maximum limit prescribed by State law, on the actual valuation of all real estate and personal property within the corporate limits that is subject to taxation. The revenue from the said tax shall be known as the Electrical Fund and shall remain in the custody of the Municipal Treasurer. The Electric Supervisor shall have the direct management and control of the Municipal Electrical System and shall faithfully carry out the duties of his office. He shall have the authority to adopt rules and regulations for the safe and efficient management of the Electrical System subject to the supervision and review of the Governing Body. The Governing Body shall by resolution set the rates to be charged for services rendered and shall file the same in the office of the Municipal Clerk for public inspection at any reasonable time. *(Ref. 17-902 thru 17-904, 17-906, 17-909 RS Neb.)*

§3-802 MUNICIPAL ELECTRICAL SYSTEM; CONTRACTS AND TERMS. The Municipality

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

§3-803 MUNICIPAL ELECTRICAL SYSTEM; CONSUMER'S APPLICATION. Every person or persons desiring electrical service must make application therefor to the Electric Supervisor. Any applicant may be required to make a service deposit in such amount as has been set by the Governing Body and on file at the office of the Municipal Clerk. Electricity may not be supplied to any house or building except upon the written order of the Electric Supervisor. The System shall not supply to any person outside the corporate limits electrical service without special permission from the Governing Body; Provided, that the entire cost of wire, installation, and other expenses shall be paid by the consumer. Nothing herein shall be construed to obligate the Municipality to supply electrical service to nonresidents. *(Ref. 17-902, 19-2701 RS Neb.)*

§3-804 MUNICIPAL ELECTRICAL SYSTEM; ELECTRICAL SERVICE CONTRACTS. Contracts for electrical service are not transferable. Any person withing to change from one location to another shall make a new application and sign a new contract. If any consumer shall sell, dispose, or remove from the premise where service is furnished in his name, or if the said premise is destroyed by fire or other casualty, he shall at one inform the Electric Supervisor who shall cause the electrical service to be shut off from the said premise. If the consumer should fail to give such notice, he shall be charged for all electricity used on the said premise until the Electric Supervisor is otherwise advised of such circumstances. *(Ref. 17-902, 19-1404 RS Neb.)*

§3-805 MUNICIPAL ELECTRICAL SYSTEM; REGISTERED ELECTRICIAN. Under no circumstances shall connections be made between the wires of the electrical distribution system of this Municipality and the meter of the consumer, except by an employee of the municipality or a registered and bonded electrician authorized to do so by the Electric Supervisor. The consumer may have wiring done by any competent registered and bonded electrician from the meter to the points of distribution. All wiring, equipment, and apparatus shall be installed according to the electrical code duly adopted by the Municipality. All installation shall be done under the supervision and strictly in accordance with the rules, regulations, and specifications for such installation prescribed by the Electric Supervisor and Building Inspector; Provided, that such rules, regulations, and specifications have been reviewed and approved by the Governing Body. *(Ref. 17-902 RS Neb.)*

§3-806 MUNICIPAL ELECTRICAL SYSTEM; METERS. All electrical meters shall be read at

least one (1) time each month during which electrical service is used, between the twenty-fifth (25th) day and the fifth (5th) day of each month. In the event a meter is broken or otherwise fails to register accurately the use of electricity by any consumer, the six (6) month average of the season, one (1) year previous to such breakage, shall be used for billing purposes. (Ref. 19-1404 RS Neb.)

§3-807 MUNICIPAL ELECTRICAL SYSTEM; FEES AND COLLECTIONS. The Governing Body has the power and authority to fix the rates to be paid by electrical consumers for the use of electricity. All rates shall be on file for public inspection at the office of the Municipal Clerk. The City Office/David City Utilities office staff shall bill the consumers and collect all money received by the Municipality on the account of the Municipal Electrical System. (Ref. 17-902 RS Neb.)

§3-808 MUNICIPAL ELECTRICAL SYSTEM; MINIMUM RATES. All electrical consumers shall be liable for the minimum rate provided by ordinance unless and until the consumer shall, by written order, direct the Electric Supervisor to shut off the electricity in which case he shall not be liable thereafter for electrical service until the electricity is turned on again. (Ref. 17-902 RS Neb.)

§3-809 MUNICIPAL ELECTRICAL SYSTEM; SERVICE DEPOSIT. A service deposit for electrical service shall be required of all new subscribers for such service as a guarantee for payment. The amounts of such deposits, set by Resolution, and the administrative policies governing them shall be established by the City Administrator and approved by the City Council and shall be on file at the City Office. The funds from the investments shall be used for the repair and maintenance of the Electric System. (Amended by Ord. Nos. 587, 10/27/82; 786, 12/8/93)

§3-810 MUNICIPAL UTILITIES; DISCONTINUANCE OF SERVICE, NOTICE PROCEDURE. The bill for electrical energy delivered to a subscriber shall be due and payable on the first (1st) business day of the month. If the bill is not paid before five (5:00) p.m. on the tenth (10th) day of the month, it shall be considered delinquent. When the tenth (10th) day of the month falls on Saturday or Sunday, bills become delinquent at five (5:00) p.m. on the following Monday. The Municipality shall have the right to terminate service of any non-domestic subscriber at any time after said subscriber shall have a delinquent bill. When a domestic subscriber has a bill that has become delinquent, the Municipality shall, before service is disconnected, give the subscriber written notice by First Class Mail that the bill is delinquent and that service may be disconnected if payment is not received by the twentieth (20th) day of the month. The Municipality shall not disconnect the service until ten (10) days after issuance of such "DELINQUENT NOTICE." If a bill remains delinquent after the twentieth (20th) day of the month, a "SERVICE DISCONNECT NOTICE" will be sent by First Class Mail or in person to any domestic subscriber whose service is proposed to be terminated. If notice is given by First Class Mail, such mail shall be conspicuously marked as to its importance. As to any subscriber who has previously been identified as a welfare recipient to the utility by the Department of Public Welfare, such notice shall be by certified mail and notice of such proposed termination shall be given to the Department of Public Welfare.

The notice shall contain the following information:

1. The reason for the proposed disconnection;
2. A statement of the intention to disconnect unless the domestic subscriber either pays the bill or reaches an agreement with the Department regarding payment of the bill;
3. The date upon which service will be disconnected if the domestic subscriber

- does not take appropriate action;
4. The name, address, and telephone number of the employee or department to whom the domestic subscriber may address an inquiry or complaint;
 5. The domestic subscriber's right, prior to the disconnection date, to request a conference regarding any dispute over such proposed disconnection;
 6. A statement that the Department may not disconnect service pending the conclusion of the conference;
 7. A statement to the effect that disconnection may be postponed or prevented upon presentation of a duly licensed physician's certificate which shall certify that the domestic subscriber or resident within such subscriber's household has an existing illness or handicap which would cause such subscriber or resident to suffer an immediate and serious health hazard by the disconnection of the utility's service to that household. Such certificate shall be filed with the Department of Utilities within five (5) days of receiving notice under this Section and will prevent the disconnection of the Department's services for a period of thirty (30) days from such filing. Only one (1) postponement of disconnection shall be allowed under this subsection for each incidence of non-payment of any due account;
 8. The cost that will be borne by the domestic subscriber for restoration of service;
 9. A statement that the domestic subscriber may arrange with the Department for an installment payment plan;
 10. A statement to the effect that those domestic subscribers who are welfare recipients may qualify for assistance in payment of their utility bill and that they should contact their caseworker in that regard; and
 11. Any additional information not inconsistent with this Section which has received prior approval from the Governing Body.

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

The procedures adopted by the Governing Body for resolving utility bills, three (3) copies of which are on file in the office of the Municipal Clerk, are hereby incorporated by reference in addition to any amendments thereto and are made a part hereof as though set out in full.

This section shall not apply to any disconnections or interruptions of services made necessary by the utility for reasons of repair or maintenance or to protect the health or safety of the domestic subscriber or of the general public. (*Ref. 70-1605 et seq. RS Neb.*) (*Amended by Ord. Nos. 588, 10/27/82; 686, 11/23/87*)

§3-811 MUNICIPAL UTILITIES; RECONNECTS. Following the disconnection of a subscriber and prior to the re-connection of the electric service, the customer shall pay a reconnect fee.

Such reconnect fee shall be set by resolution, and the administrative policies governing them shall be established by the City Council and shall be on file at the City Office. The funds from these fees shall be used for the repair and maintenance of the Electric System.

§3-812 MUNICIPAL ELECTRICAL SYSTEM; RESTRICTED USE. The Municipal Electrical System does not guarantee the delivery of electric current over the lines of the distribution system except when it has sufficient power, current, equipment, and machinery to do so. The Electric Supervisor has the power and authority to disconnect or discontinue such service for any good and sufficient reason without liability. The Municipality shall use due care and reasonable diligence to provide and supply uninterrupted service to consumers, but shall not be liable for damages resulting from interruption of service due to causes over which the Municipality has no control and the Municipality expressly reserves the right to discontinue or disconnect any consumer's

service without preliminary notice. (Ref. 17-902 RS Neb.)

§3-813 MUNICIPAL ELECTRICAL SYSTEM; BUILDING MOVING. Should any house or building moving occur or be necessary and it becomes necessary in said work to remove or disturb any of the property or wires of the Municipal Electrical System, the same should not be done except upon written permission received from the Electric Supervisor, who shall then order paid in advance the actual cost of moving the said wires and such cost shall be paid by the applicant prior to the moving of the building or house. All expense of removing, changing, and replacing the said wires or apparatus of the Electric System shall be paid out of the deposit made prior to moving and any surplus remaining after all expenses are paid shall be returned to the applicant; Provided, that if in the course of moving the said building or house it becomes apparent that additional expense will be incurred, such additional deposit as deemed necessary may be demanded.

§3-814 MUNICIPAL ELECTRICAL SYSTEM; POSTING SIGNS. It shall be unlawful for any person to post, tack, or fasten to the poles, structures, fixtures, or equipment of the Municipal Electrical System any sign, poster, advertisement, or banner without written permission from the Electric Supervisor. (Ref. 19-1404 RS Neb.)

§3-815 MUNICIPAL ELECTRICAL SYSTEM; COMPLAINTS. Any consumer feeling himself aggrieved by reason of any controversy with the Electric Supervisor may appear before the Governing Body and present his grievance. Any consumer who considers himself aggrieved by being required to pay the charge demanded for the use of electricity, or for the resumption of electric 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 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.

§3-816 MUNICIPAL ELECTRICAL SYSTEM; TRIMMING TREES. Any person desiring to cut or remove trees or branches thereof in close proximity to the lines of the Municipal Electrical System shall, before doing the said work, give reasonable written notice to the Electric Supervisor and shall follow any and all rules and regulations which he may prescribe for doing such work. It shall be unlawful for any person felling or removing such trees or branches to disrupt or damage the lines without first giving proper notice and receiving permission in writing to do so. Whenever it becomes necessary to protect the lines or property of the Electrical System, the Governing Body shall have the power to order the cutting and removal of any overhanging branches, or limbs of trees so that the lines will be free and safe.

§3-817 MUNICIPAL ELECTRICAL SYSTEM; INSPECTIONS. The Electric Supervisor or his duly authorized agents shall have free access at any reasonable time to each premise and building to or in which electricity is supplied; Provided, that in the event of an emergency, such inspections may take place at any time. (Ref. 17-902 RS Neb.)

§3-818 MUNICIPAL ELECTRICAL SYSTEM; DESTRUCTION OF PROPERTY. It shall be unlawful for any person to willfully or carelessly break, injure, or deface any building, machinery, apparatus, fixture, attachment, or appurtenance of the Municipal Electrical System. (Ref. 28-512 RS Neb.)

Article 9. Utilities Generally

§3-901 UTILITIES GENERALLY; DISCONTINUANCE OF SERVICE, NOTICE PROCEDURE. The Municipality shall have the right to discontinue services and remove its properties if the charges for such services are not paid within twenty (20) days after the date that the same becomes delinquent. Before any termination, the Department of Utilities shall first give notice by first class mail or in person to any domestic subscriber whose service is proposed to be terminated. If notice is given by first class mail, such mail shall be conspicuously marked as to its importance. Service shall not be discontinued for at least seven (7) days, weekends and holidays excluded. As to any subscriber who has previously been identified as a welfare recipient to the utility by the Department of Social Services, such notice shall be by certified mail and notice of such proposed termination shall be given to the Department of Social Services.

The notice shall contain the following information:

1. The reason for the proposed disconnection;
2. A statement of the intention to disconnect unless the domestic subscriber either pays the bill or reaches an agreement with the Department regarding payment of the bill;
3. The date upon which service will be disconnected if the domestic subscriber does not take appropriate action;
4. The name, address, and telephone number of the employee or department to whom the domestic subscriber may address an inquiry or complaint;
5. The domestic subscriber's right, prior to the disconnection date, to request a conference regarding any dispute over such proposed disconnection;
6. A statement that the Department may not disconnect service pending the conclusion of the conference;
7. A statement to the effect that disconnection may be postponed or prevented upon presentation of a duly licensed physician's certificate which shall certify that the domestic subscriber or resident within such subscriber's household has an existing illness or handicap which would cause such subscriber or resident to suffer an immediate and serious health hazard by the disconnection of the utility's service to that household. Such certificate shall be filed with the Department of Utilities within five (5) days of receiving notice under this Section and will prevent the disconnection of the Department's services for a period of thirty (30) days from such filing. Only one (1) postponement of disconnection shall be allowed under this subsection for each incidence of non-payment of any due account;
8. The cost that will be borne by the domestic subscriber for restoration of service;
9. A statement that the domestic subscriber may arrange with the Department for an installment payment plan;
10. A statement to the effect that those domestic subscribers who are welfare recipients may qualify for assistance in payment of their utility bill and that they should contact their caseworker in that regard; and
11. Any additional information not inconsistent with this Section which has received prior approval from the Governing Body.

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

The procedures adopted by the Governing Body for resolving utility bills, three (3) copies of which are on file in the office of the Municipal Clerk, are hereby incorporated by reference in addition to any amendments thereto and are made a part hereof as though set out in full.

This section shall not apply to any disconnections or interruptions of services made necessary by the utility for reasons of repair or maintenance or to protect the health or safety of the domestic subscriber or of the general public. (*Ref. 70-1605 et seq. RS Neb.*) (*Amended by Ord. No. 634, 1/23/85*)

§3-902 UTILITIES GENERALLY; DIVERSION OF SERVICES, METER TAMPERING, UNAUTHORIZED RECONNECTION, PROHIBITED; EVIDENCE. (1) Any person who connects any instrument, device, or contrivance with any wire supplying or intended to supply electricity or electric current or connects any pipe supplying water, without the knowledge and consent of the Municipality, in such manner that any portion thereof may be supplied to any instrument by or at which electricity, electric current, or water may be consumed without passing through the meter provided for measuring or registering the amount or quantity passing through it, and any person who knowingly uses or knowingly permits the use of electricity, electric current, or water obtained in the above mentioned unauthorized ways, shall be deemed guilty of an offense.

(2) Any person who willfully injures, alters, or by any instrument, device, or contrivance in any manner interferes with or obstructs the action or operation of any meter made or provided for measuring or registering the amount of quantity of electricity, or water passing through it, without the knowledge and consent of the Municipality shall be deemed guilty of an offense.

(3) When electrical, or water service has been disconnected pursuant to sections 70-1601 to 70-1615 RS Neb., or section 3-1101 of this Code, any person who reconnects such service without the knowledge and consent of the Municipality shall be deemed guilty of an offense.

(4) Proof of the existence of any wire, pipe, or conduit connection or reconnection or of any injury, alteration, or obstruction of a meter, as provided in this section, shall be taken as prima facie evidence of the guilt of the person in possession of the premises where such connection, reconnection, injury, alteration, or obstruction is proved to exist. (*Ref. 86-329 through 86-331 RS Neb.*) (*Ord. No. 858, 4/8/98*)

Departments

Article 10. Penal Provision

§3-1001 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 one hundred (\$100.00) dollars for each offense. A new violation shall be deemed to have been committed every twenty-four (24) hours of such failure to comply.

Section 2. Any other ordinance or section passed and approved prior to passage, approval, and publication or posting of this ordinance and in conflict with its provisions is repealed.

Section 3. This ordinance shall be published in pamphlet form and shall be in full force and effect from and after its passage as provided by law.

Passed and approved this 10th day of December, 2003.

(Seal)

(Passed on 1st reading only 12/10/03)
Mayor Stephen Smith

(Passed on 1st reading only 12/10/03)
City Clerk Joan E. Kovar

Council member Kroesing introduced Ordinance No. 968. Council member Hein made a motion to suspend the statutory rule that requires an Ordinance be read on three separate days. Council member Lukassen seconded the motion. Voting YEA: Council members Kirby, Schatz, Kroesing, Hein, and Lukassen. Voting NAY: None. Council member Smith was absent. The motion carried.

Council member Kroesing made a motion to pass and adopt Ordinance No. 968 on the third and final reading. Council member Hein seconded the motion. Voting YEA: Council members Kirby, Lukassen, Schatz, Kroesing, and Hein. Voting NAY: None. Council member Smith was absent. The motion carried and Ordinance No. 968 was passed and adopted as follows:

ORDINANCE NO. 968

AN ORDINANCE OF THE CITY OF DAVID CITY, NEBRASKA TO SET THE PAY FOR THE CITY ADMINISTRATOR, REPEAL ALL ORDINANCES OR PORTIONS OF ORDINANCES IN CONFLICT THEREWITH; PROVIDE AN EFFECTIVE DATE; AND PROVIDE FOR PUBLICATION OF THE ORDINANCE IN PAMPHLET FORM.

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

SECTION 1. The Mayor and City Council of David City, Nebraska, do hereby establish and fix the salary for City Administrator Jeff Fiegenschuh at \$41,000 per year, plus 2% of any grants obtained after the passage of this ordinance.

SECTION 2. Any and all ordinances, or sections thereof, passed and approved prior to the passage, approval and publication or posting of this ordinance, and in conflict with its provisions, is hereby repealed.

SECTION 3. This ordinance shall be published in pamphlet form and shall be in full force and effect beginning on December 26, 2003.

PASSED AND APPROVED this 10th day of December, 2003.

Mayor Stephen Smith

City Clerk Joan E. Kovar

Council member Kirby made a motion to table consideration of hiring a Zoning Administrator. Council member Kroesing seconded the motion. Voting YEA: Council members Schatz, Lukassen, Kirby, and Kroesing. Voting NAY: Council member Hein. Council member Smith was absent. The motion carried.

Mayor Smith wished everyone a Blessed Christmas Season.

There being no further business to come before the Council, Council member Kroesing made a motion to adjourn. Council member Hein seconded the motion. Voting YEA: Council members Lukassen, Kirby, Schatz, Hein, and Kroesing. Council member Smith was absent. The motion carried and Mayor Smith declared the meeting adjourned at 9:55 p.m..

Mayor Stephen Smith

City Clerk Joan E. Kovar



CERTIFICATION OF MINUTES
December 10, 2003

I, Joan E. Kovar, duly qualified and acting City Clerk for the City of David City, Nebraska, do hereby certify with regard to all proceedings of December 10, 2003; that all of the subjects included in the foregoing proceedings were contained in the agenda for the meeting, kept continually current and available for public inspection at the office of the City Clerk; that such subjects were contained in said agenda for at least twenty-four hours prior to said meeting; that the minutes of the meeting of the City Council of the City of David City, Nebraska, were in written form and available for public inspection within ten working days and prior to the next convened meeting of said body; that all news media requesting notification concerning meetings of said body were provided with advance notification of the time and place of said meeting and the subjects to be discussed at said meeting.

Joan E. Kovar