

Article 3. Parks

§3-301 MUNICIPAL PARKS; OPERATION AND FUNDING:

The Municipality owns and operates the Municipal Parks and other recreational areas through the Parks, Pool and Fire Committee. The Governing Body, for the purpose of defraying the cost of the care, management, and maintenance of the Municipal Park may each year levy a tax not exceeding the maximum limit prescribed by State law, on the actual valuation of all real estate and personal property within the corporate limits that is subject to taxation. The revenue from the said tax shall be known as the Park Fund and shall remain in the custody of the Municipal Treasurer. The Committee shall have the authority to adopt rules and regulations for the efficient management of the Municipal Parks and other recreational areas of the Municipality. The Committee 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 Governing Body prior to the contractual agreement. (*Ref 17-948 thru 17-952 RS Neb*)

§3-302 MUNICIPAL PARKS; INJURY TO PROPERTY:

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

§3-303 MUNICIPAL PARKS; HOURS:

It shall be unlawful for any person to enter the West Municipal Park, formerly called the Pawnee City Pond Park after the hour of eleven o'clock p.m. (11:00 p.m.) and before the hour of six o'clock a.m. (6:00 a.m.), unless attending a public function or activity which has been approved by the Governing Body. (*Ord 790, 7/26/04*)

Article 4. Swimming Pool

§3-401 MUNICIPAL SWIMMING POOL; OPERATION AND FUNDING:

The Municipality owns and manages the Municipal Swimming Pool. 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 Parks, Pool and Fire Committee shall manage the Swimming Pool. The Committee 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. All actions by the Committee shall be under the supervision and control of the Governing Body. *(Ref 17-948, 17-951, 17-952 RS Neb)*

§3-402 MUNICIPAL SWIMMING POOL; ADMISSION CHARGE:

The Committee may, for the purpose of defraying the expenses involved in maintaining, improving, managing, and beautifying the Swimming Pool, make a reasonable admission charge for the use by any person of the Municipal Swimming Pool. 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 17-979 RS Neb)*

§3-403 MUNICIPAL SWIMMING POOL; RULES AND REGULATIONS:

The Committee 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 subject to the review and supervision of the Governing Body. *(Ref 17-949 RS Neb)*

Article 5. Library

§3-501 LIBRARY BOARD; GENERAL POWERS AND DUTIES:

(A) The Library Board shall have the power to make and adopt such bylaws, rules, and regulations for its own guidance and for the government of the library and reading room as it may deem expedient, not inconsistent with Neb RS 51-201 through 51-219. (*Neb RS 51-205*)

(B) The Library Board shall have exclusive control of expenditures, of all money collected or donated to the credit of the library fund, of the renting and construction of any library building, and the supervision, care, and custody of the grounds, rooms, or buildings constructed, leased, or set apart for that purpose. (*Neb RS 51-207*)

(C) The Library Board may erect, lease, or occupy an appropriate building for the use of such a library, and appoint a suitable librarian and assistants, fix the compensation of such appointees, and remove such appointees at the pleasure of the Board. The governing body of the city shall approve any personnel administrative or compensation policy or procedure before implementation of such policy or procedure by the Library Board.

(D) The Library Board may establish rules and regulations for the government of the library as may be deemed necessary for its preservation and to maintain its usefulness and efficiency. The Library Board may fix and impose, by general rules, penalties and forfeitures for trespasses upon or injury to the library grounds, rooms, books, or other property, for failure to return any book, or for violation of any bylaw, rule or regulation. The Board shall have and exercise such power as may be necessary to carry out the spirit and intent of Neb RS 51-201 through 51-219 in establishing and maintaining the library and reading room. (*Neb RS 51-211*)

GROUND AND BUILDING:

The Library Board may purchase or lease grounds, exercise the power of eminent domain, and condemn real estate for the purpose of securing a site for a library building. The procedure to condemn property shall be exercised in the manner set forth in Neb RS 76-704 through 76-724. (*Neb RS 51-201*)

§3-502 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*)

§3-503 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*)

§3-504 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)*

§3-505 MUNICIPAL LIBRARY; LIBRARY BOARD; REPORT:

The Library Board shall, on or before the second Monday in February in each year, make a report to the City Council of the condition of its trust on the last day of the prior fiscal year. The report shall show all money received and credited or expended; the number of materials held, including books, video and audio materials, software programs, and materials in other formats; the number of periodical subscriptions on record, including newspapers; the number of materials added and the number withdrawn from the collection during the year; the number of materials circulated during the year; and other statistics, information, and suggestions as the Library Board may deem of general interest or as the City Council may require. The report shall be verified by affidavit of the President and Secretary of the Library Board. *(Ref 51-213 RS Neb) (Ord 814, 12/27/05)*

Article 6. Utilities Generally

§3-601 UTILITIES GENERALLY; DISCONTINUANCE OF SERVICE, NOTICE PROCEDURE:

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

DOMESTIC SUBSCRIBER. Shall not include municipalities, cities, villages, political subdivisions, companies, corporations, partnerships, limited liability companies, or businesses of any nature. (*Neb. RS 70-1602*)

(B) No public or private utility company, including any utility owned and operated by the city, furnishing water, natural gas, or electricity at retail in this city shall discontinue service to any domestic subscriber for nonpayment of any past-due account unless the utility company first gives notice to any subscriber whose service is proposed to be terminated. Such notice shall be given in person, by first-class mail, or by electronic delivery, except that electronic delivery shall only be used if the subscriber has specifically elected to receive such notices by electronic delivery. If notice is given by first-class mail or electronic delivery, such notice shall be conspicuously marked as to its importance. Service shall not be discontinued for at least seven days after notice is sent or given. Holidays and weekends shall be excluded from the seven days. A public or private utility company shall not charge a fee for the discontinuance or reconnection of utility service that exceeds the reasonable costs of providing such service. (*Neb. RS 70-1605*)

(C) The notice required by division (A) 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 utility 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 utility's 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 utility may not disconnect service pending the conclusion of the conference;
- (7) A statement to the effect that disconnection shall be postponed or prevented upon presentation of a duly licensed physician's, physician assistant's, or advanced practice registered nurse's certificate, which shall certify that a 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 utility within 5 days of receiving notice under this section, excluding holidays and weekends, and will prevent the disconnection of the utility's service for a period of at least 30 days from such filing. Only 1 postponement of disconnection shall be required under this division for each incidence of nonpayment of any past-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 utility 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 City Council or Board of Public Works, in the case of a city utility, or the board of directors or administrative board of any other utility. (*Neb. RS 70-1606*)

(D) The utility shall establish a third-party notice procedure for the notification of a designated third party of any proposed discontinuance of service and shall advise its subscribers, including new subscribers, of the availability of such procedures. (*Neb. RS 70-1607*)

(E) The provisions of Neb. RS 70-1608 through 70-1614 shall apply to disputes over a proposed discontinuance of service.

(F) The procedures adopted for resolving utility bills by the City Council or Board of Public Works for any city utility, 1 copy of which is on file in the office of the City Clerk, are hereby incorporated by reference in addition to any amendments thereto and are made a part of this section as though set out in full.

(G) 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. (*Neb. RS 70-1615*) (*Ord 481, 11/28/83*) (*Amended by Ord 498, 10/8/84; 700, 11/24/97; 1005, 8/9/2021*)

§3-602 UTILITIES GENERALLY; DIVERSION OF SERVICES, METER TAMPERING, UNAUTHORIZED RECONNECTION, PROHIBITED; EVIDENCE:

(1) Any person who connects any pipe or conduit 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 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 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 or quantity of water passing through it, without the knowledge and consent of the Municipality shall be deemed guilty of an offense.

(3) When water service has been disconnected pursuant to sections 70-1601 to 70-1615 RS Neb, or section 3-601 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 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 663, 2/26/96*)

§3-603 UTILITIES GENERALLY; DIVERSION OF SERVICES:

- (1) For purposes of this section, the definitions found in Neb RS 25-21,275 shall apply.
- (2)
 - (a)
 1. The municipality may bring a civil action for damages against any person who commits, authorizes, solicits, aids, abets, or attempts:
 - a. Bypassing,
 - b. Tampering, or
 - c. Unauthorized metering when such act results in damages to a municipal utility.
 2. The municipality may bring a civil action for damages pursuant to this section against any person receiving the benefit of utility service through means of bypassing, tampering or unauthorized metering.
 - (b) In any civil action brought pursuant to this section, the municipality shall be entitled, upon proof of willful or intentional bypassing, tampering, or unauthorized metering to recover as damages:
 1. The amount of actual damage or loss if the amount of the damage or loss is susceptible of reasonable calculation; or
 2. Liquidated damages of \$750.00 if the amount of actual damage or loss is not susceptible of reasonable calculation.
 - (c) In addition to damage or loss under subdivision (2)(b)1. or 2., the municipality may recover all reasonable expenses and costs incurred on account of the bypassing, tampering, or unauthorized metering including, but not limited to, disconnection, reconnection, service calls, equipment, costs of the suit, and reasonable attorneys' fees in cases within the scope of section 25-1801 RS Neb (*Ref 25-21,276 RS Neb*)
- (3)
 - (a) There shall be a rebuttable presumption that a tenant or occupant at any premises where bypassing, tampering or unauthorized metering is proven to exist caused or had knowledge of such bypassing, tampering, or unauthorized metering if the tenant or occupant:
 1. Had access to the part of the utility supply system on the premises where the bypassing, tampering, or unauthorized metering is proven to exist and
 2. Was responsible or partially responsible for payment, either directly or indirectly, to the utility or to any other person for utility services to the premises.
 - (b) There shall be a rebuttable presumption that a customer at any premises where bypassing, tampering, or unauthorized metering is proven to exist caused or had knowledge of such bypassing, tampering, or unauthorized metering if the customer controlled access to the part of the utility supply system on the premises where the bypassing, tampering, or unauthorized metering was proven to exist. (*Ref 25-21,277 RS Neb*)
- (4) The remedies provided by this section shall be deemed to be supplemental and additional to powers conferred by existing laws. The remedies provided in this section are in addition to and not in limitation of any other civil or criminal statutory or common-law remedies. (*Ref 25-21,278 RS Neb*) (*Ord 798, 11/24/03*)

Article 7. Penal Provision

§3-701 VIOLATION; PENALTY:

- (1) Any person, or any person's agent or servant, who violates any of the provisions of this chapter, unless otherwise specifically provided herein, shall be deemed guilty of an offense and upon conviction thereof shall be fined in any sum not exceeding five hundred dollars (\$500.00.) A new violation shall be deemed to have been committed every twenty-four (24) hours of failure to comply with the provisions of this chapter.
- (2) (a) Whenever a nuisance exists as defined in this chapter, the Municipality may proceed by a suit in equity to enjoin, abate, and remove the same in the manner provided by law.
(b) Whenever, in any action, it is established that a nuisance exists, the court may, together with the fine or penalty imposed, enter an order of abatement as a part of the judgment in the case. (*Ref 17-505, 18-1720, 18-1722 RS Neb*) (*Amended by Ord 756, 8/28/00*)