

CHAPTER SIX

PUBLIC UTILITIES AND SERVICES

ARTICLE 1 - Utility Established

6.0101 Definitions

"Public Utility" means water, sanitary sewer, storm sewer, street lighting, and/or any other utility service furnished by the city to consumers.

6.0102 Water and Sewer Department Established

There is hereby established and created within the City a department to be known as the City Water and Sewer Department. The department shall have general charge of all plants, systems, works, instrumentalities, equipment, materials, supplies, sewage disposal plants, lagoons, intercepting sewer, trunk connections, sewer and water mains, filtration works, pumping stations, and all parts and appurtenances of the foregoing which are used or useful in connection with the collection, treatment, and disposal of sewage, waste and storm sewers for the inhabitants of this City, subject to all ordinances, rules, and regulations.

6.0103 City Water and Sewer Department to be Independent Agency

All of the business affairs of the City Water and Sewer Department shall be conducted, insofar as is possible within the ordinances of the City, as a completely separate and distinct division of the City. Separate and distinct accounts shall be set up on the books of the City Auditor. These accounts shall at all times reflect the true condition of the Water and Sewer Department, as distinct from the remaining business of the City, and shall be so devised as to disclose the annual profit or loss of the department. The funds of the department shall be held in the custody of the City Auditor and disbursed upon warrant in the same manner as other funds, but the Water and Sewer Department shall be given credit upon the books of the City for any and all funds paid by it into the City treasury, and shall be charged on the books of the City with all payments made by the City on its behalf. Transfers from the Water and Sewer Department to the General Fund or any other fund of the City shall not be made except upon order of the governing body (Source: Section 40-33-12 of the North Dakota Century Code) nor shall transfer be made from City funds to the Water and Sewer Department without like order.

Where bonds have now been, or may hereafter be issued against any water works improvement or sewage improvement, which constitute a general obligation of the City, the taxes levied for the payment of such bonds and interest shall be levied and expended for such purpose in the manner provided by law, until such time as it may be possible out of the proceeds of the Water and Sewer Department, after setting up a reasonable reserve for depreciation and new construction, to make payment of the bond requirements from the profits of the Water and Sewer Department. It is expressly declared to be the purpose of this ordinance that as soon as the same can be accomplished without undue burden to the water users of this City, the Water and Sewer Department shall be placed upon an entirely independent basis as a separate business enterprise.

6.0104 Scope of Utility

The properties of the City Water and Sewer Department and all future improvements, extensions and enlargements thereof, together with all cash and other assets held in the City's Water and Sewer Utility Fund and all moneys to be derived thereafter from the services, facilities, products, and by-products of said utility, shall be and are hereby appropriated and dedicated to the purpose of insuring the public health, safety, and welfare by furnishing and making available water and sewerage service to the City and its inhabitants and industries. Said utility shall at all times be under the management and control of the governing body of the City and shall by it be operated and maintained in such manner as to provide its service with maximum efficiency and at the minimum cost which is compatible with the plan of operation herein described.

6.0105 Service Charges - Use of

The City Water and Sewer Department shall at all times be so operated and maintained, and rates and charges for its services, facilities, products, and by-products shall be such, as to make the utility self-supporting and self-perpetuating. Such charges from time to time imposed and collected shall be made and kept adequate to pay as incurred all costs of operation and maintenance of said utility and to establish and maintain reasonable operating reserves; to produce net revenues which shall be sufficient at all times to pay promptly the principal and interest due on all obligations of the City incurred for the improvement, extension, and enlargement of said utility, to the extent that such obligations are according to their terms payable from said net revenues, and to establish and maintain adequate reserves for the security of said obligations. Charges may be set to produce surplus net revenues, over and above current principal, interest, and reserve requirements, in amounts sufficient to provide reasonable allowances for depreciation and replacement of the utility plus a reasonable return on the City's capital investment therein which surplus net revenues, when actually on hand, and to the extent that they are not required as a reserve for depreciation and replacement, may from time to time be appropriated by the governing board to pay or contribute to the cost of any other City functions, subject to the limitations now or hereafter prescribed by law.

The foregoing appropriations shall not, however, be deemed or construed to preclude the City from defraying any part or all of the expense of any improvement, enlargement, or extension of the water and sewer utility by the levy of special assessments or taxes or the issuance of general obligation bonds, whenever and to the extent that such action is authorized in the manner provided by law and is deemed fair and equitable by the governing body.

6.0106 Utility Fund - Separate Accounts

All moneys received by the City in respect of the services, facilities, products, and by-products furnished and made available by the City Water and Sewer Department, except collections of special assessments and taxes appropriated to improvement district funds and moneys borrowed for capital improvements, and all money, receipt and returns received from any investments of such earnings, shall be paid into the treasury of the City and kept in a special fund which shall be permanently maintained on the books of the City, separate and distinct from other funds, and designated as the Water and Sewer Utility Fund. In the records of this fund, all receipts and disbursements of money on account of or in connection with the utility shall be entered and reflected; but the moneys from time to time on hand therein shall always constitute public municipal funds and shall be deposited and their safekeeping secured like other City funds. Separate accounts within the Water and Sewer Utility Fund shall be permanently maintained for the purpose of segregating the revenues required to meet the several expenses and obligations of the utility.

ARTICLE 2 - Water Service

6.0201 Water System

All land, buildings, machinery, equipment, tools, and apparatus, water mains, hydrants, service connections, and all other property used for the purpose of furnishing a water supply to this City, and the inhabitants thereof, now owned or to be owned by this City, whether acquired by the issue of general obligation bonds, special assessment warrants, or other obligations of this City, shall constitute and be known as the waterworks system.

6.0202 Superintendent of City Water and Sewer Department; Reports

A Water and Sewer Utility Superintendent shall be appointed by the governing board. If the Water and Sewer Utility Superintendent is a part-time employee and is also a City employee in some other capacity, only those services respecting the utility shall be an operating charge of the system. It shall be the duty of the Water and Sewer Utility Superintendent to exercise control and management of the operation of the utility system. The Water and Sewer Utility Superintendent shall have power and authority to employ, subject to the approval of the governing body, all such engineers, filter plant operators, meter readers, laborers, and other employees, as may be necessary to the operation of the utility system. All such employees shall be subject to the orders and directions of the Water and Sewer Utility Superintendent, and the Water and Sewer Utility Superintendent shall be responsible for their acts. The Water and Sewer Utility Superintendent shall have power and authority to purchase such materials, supplies, and repairs for the water-sewer system, with the approval of the governing board of the City, as shall be reasonably necessary for the operation of such system. The Water and Sewer Utility Superintendent shall keep such books and records of matters pertaining to the operation of the system as are necessary to show the operation and condition thereof. The Water and Sewer Utility Superintendent shall at all times be subject to the supervision and direction of the governing board and shall perform such other duties and have such other powers and authority as are hereinafter provided.

The Water and Sewer Utility Superintendent shall make monthly reports to the governing body concerning the operation of the department.

6.0203 Water and Sewer Connection, Repairs and Rates

The City Council of the City of New England shall, by resolution, establish the procedure and cost for connection to water and sewer lines in the City of New England, set the monthly charges for water service, and set out the City's and customers responsibilities to water and sewer lines. The owners of all houses, buildings or properties used for human occupancy, employment recreation, or other purpose in the city and abutting on any street, alley or right-of-way in which there is now located, or may in the future be located, a public water connection of the City, is hereby required, at the owner's expense, to connect to such water facility within sixty (60) days after official notice to do so, provided that said public service is within 200 feet (61 meters) of the property line.

Provided however, that this provision is subject to applicable federal and state laws governing rural water districts jurisdiction to provide water service.

6.0204 Application for Water Service and Service Connection Charge

Any party desiring water and sewer service from said utility for premises not heretofore connected with the system, and not subject to the provisions of Section 6.0205, shall apply for a connection on a form provided by the City. Such application shall state an exact description of the premises to be served, and the uses, both general and special, to which the water is to be put, the nature of sewage to be discharged, and the estimated amount of water to be used for a quarter-annual period. Such application shall be filed with the City Auditor, and the applicant shall thereupon pay to the City Auditor, as a connection charge, set by City Council for a residential building, commercial building, or multiple dwelling.

6.0205 Water Service - To Property Not Previously Assessed

No permit shall be issued for the making of any connection between any water or sewer line on any property which has not previously been benefited by existing water and/or sewer lines or whenever the owners of such property have not been assessed for such water and sewer lines, unless and until such person shall have paid or made a written statement with the City to pay in monthly installments within a maximum of sixty (60) months an amount of money as may be therefore determined by the governing body. The amount of the payment shall be based on the area served and benefit resulting to the property involved. Within 30 days of the receipt of such application, the governing body shall determine the amount of money required to be paid before such connection shall be made and shall advise the applicant property owner of such determination. All such money paid and received pursuant to the provisions of this Section shall be placed in the water and sewer utility fund and shall be expended in accordance with the purposes of such fund.

6.0206 Subsequent Connection to Premises

Any party, other than the original applicant, desiring service for premises where a connection has been made pursuant to Sections 6.0204 and 6.0205 shall make written application therefore as in cases described in Section 6.0204, and if the connection charge for such premises has not been fully paid at such time, the applicant shall pay or agree to pay the remainder thereof in like manner and time as described in Sections 6.0204 and 6.0205.

6.0207 Separate Connections for each Premise - Exception

Unless special permission is granted by the Water and Sewer Utility Superintendent, each premise shall have a separate and distinct water service connection and sewer service connection, and where permission is granted for branch service systems, each unit on the branch shall pay the fees as set in Section 6.0223.

6.0208 Service Outside City Limits - Prohibited - Exception

No application for water and/or sewer service outside the city limits of the City shall be approved and no person outside the corporate limits of the City shall hook up to or make connection with the city water and/or sewer system whether the same now is outside or inside the incorporated limits of the City. Water service outside the corporate limits of the City may be permitted pursuant to contractual agreement of the governing body arising in limited and extraordinary circumstances but shall be permitted only upon a resolution unanimously adopted by the governing body. (Source: Section 40-33-13, 14 of the North Dakota Century Code)

6.0209 Service in Unplatted Areas

No application for water and/or sewer service shall be approved and no person shall hook up to or make connection with the City water and sewer system unless the area to be served by said water and/or sewer connection has been duly platted and the plat approved by the governing body and recorded in the office of the County Recorder.

6.0210 Water Service - Construction of - Maintenance of by Owner

The cost of original installation of all plumbing between the main and any service devices maintained by the consumer and all extensions made to such plumbing, as well as all repairs, shall be borne entirely by the consumer, although such plumbing and services as well as the meters shall at all reasonable times be subject to inspection by duly authorized representatives of the City. Any repairs found to be necessary by such representatives shall be made promptly, or the City will discontinue service.

All services shall be constructed by licensed plumbers at the owner's expense, and each service shall be maintained by the owner. Services heretofore acquired by the issuance of special assessment warrants and assessed against the property, or which may be acquired in the future in like manner, shall likewise be maintained by the owner. "Services" means the service line running from the point of connection with the City main to the owner's premises.

6.0211 Water Meters - Checked

Every consumer of water shall provide a suitable place where a water meter can be installed and checked, and each consumer shall supply, maintain, and change the water meter when necessary.

6.0212 Unlawful to Use Water Not Metered - Unlawful to Tamper with Curb Stop

It shall be unlawful for any person to use water from any premises without the consent of the owner. It is also unlawful to use well water for household use or to use water from the City water system except when drawn through a meter installed by the City. No person except an authorized representative of the City shall turn on or off or tamper with any curb stop.

6.0213 Defective Service - Consumers Duty to Report

All claims for defective service shall be made in writing and filed with the Water and Sewer Utility Superintendent on or before the fifteenth (15th) day of the month next succeeding such defective service, or be deemed waived by the claimant. It shall be the duty of the Water and Sewer Utility Superintendent to investigate the facts alleged in each claim and determine the amount, if any, which should be refunded to a claimant by reason of defective service and report such determination to the governing body. If a claim is approved by that body, such amount shall be allowed as credit on the following bill or paid as other claims, but no claim shall be made against the City for any fire or any injuries to the person or property of any consumer of water or sewer service under the provisions hereof.

It is expressly provided that the city shall not be liable under any circumstances for a deficiency or failure in the supply of water, whether by the shutting off of water to make repairs or connections, nor for any other cause whatsoever.

6.0214 Users Consent to Regulations

Every person applying for water and sewer service from the municipal system, and every owner of property for which such application is made, shall be deemed by such application to consent to all the rules, regulations, and rates contained in the resolution or ordinances of the City and to any modification thereof and to all new rules, regulations, or rates duly adopted.

6.0215 Regulations Governing Service

The following rules and regulations shall be considered a part of the contract with every person who takes water and/or sewer service supplied by the City through the city waterworks system and every such person who takes such service shall be considered to be bound thereby.

1. **Shutting Off Water - Who Authorized.** No person except an authorized employee of the water department shall shut off or turn off the water at the curb stop to any premises without first obtaining permission from the water department.
2. **City Reserves Right to Shut Off Water - Notice.** In the case of making repairs or constructing new work, the City reserves the right to shut off the water at once and keep the same shut off as long as may be necessary to accomplish such purposes. Service may also be discontinued for nonpayment of bills or for disregard of rules and regulations affecting the service.
3. **Non-liability of City for Deficient Supply or Quality of Water.** It is expressly provided that the City shall in no event be or become liable to any consumer of water for a deficiency in the supply of water or the quality thereof, whether by shutting off the same to make repairs or to construct new work, or for any other cause whatsoever.
4. **Shutting off or Turning on Water - Charge for.** The water department shall make a charge for each shutting off or turning on service to be set by resolution of City Council.
5. **Entrance and Access to Premises by Waterworks Employees.** Authorized employees of the water and sewer department shall have free access to any premises supplied with water, at proper times, to inspect and ascertain the condition of the meters and fixtures, or for reading meters, and no owner or occupant shall refuse such employees such access. The water department shall have the right to enter any premises and remove the meter for the purpose of examination and test after first notifying the owner or occupant, and to shut off the water to premises where free access is prevented.
6. **Fire Hydrants - Who May Open.** No person(s) except firefighters and City employees in the performance of their official duties shall open or cause to be opened any fire hydrant without the written permission of the Water and Sewer Utility Superintendent.

6.0216 Non-Payment of Utility Bill

- 1 Water meters are read the first of the month. Public utility (water, sewer, garbage, street lights) bills for the City of New England are mailed out on the seventh (7th) day of the month. Bills are due the first (1st) day of the following month or the following Monday if the first (1st) falls on a weekend.
- 2 Any consumer of the public utilities whose bill(s) remains unpaid after the first (1st) of the following month shall then have a penalty assessed of an amount equal to ten (10%) per cent of the total utility bill.
- 3 For balances not paid by the fifteenth (15th), a Notice of Delinquency & Disconnect shall be sent by the City Auditor to the consumer of said utilities and to the owner/landlord, where applicable, of the property to which utility services are provided
- 4 If the utility consumer is a tenant, the property owner/landlord will be sent a copy of the tenant's Notice of Delinquency & Disconnect, at the time said notice is sent to the consumer, with notification of the date services will be disconnected. If the tenant fails to make the specified payment as of the disconnect date, said owner/landlord will be responsible for payment of the utilities by that date. (see 6.0224)
- 5 Water will be shut off and garbage service discontinued for non-payment on the thirtieth (30th). You may appeal to City Hall before shut off.
- 6 Any customer whose utility services have been discontinued for non-payment shall pay a fifty dollar (\$50) reconnect charge plus the total amount due to date on the account prior to reinstatement of such service.
- 7 The reconnect fee of fifty dollars (\$50) and past due balance must be paid prior to turning water on.
- 8 No utility services shall be furnished to any property which is in arrears to the City of New England.

6.0217 Connection to be Supervised by City Employees

In installing water and sewer service, all taps shall be driven, street excavations made, corporation cocks inserted, pipes installed from the main and the curb stop installed in an iron case to which the service is to be connected by the individual, his/her agent, or employee under the supervision, direction, and control of the water and sewer department. Ten feet spacing shall be allowed between all water and sewer lines in new connections to service. Failure to comply with this Section shall be considered a disregard of the rules of the department and service to the affected property can be withheld or discontinued as the case may be.

6.0218 Service Pipes Specifications

All service pipes connected with the water and sewer utility shall be laid five feet and six inches below the established grades or as low as the street mains. All water and sewer pipes shall be of a material approved by the Water and Sewer Utility Superintendent.

6.0219 Curb Stop Specifications

There shall be a curb stop in every service line attached to the water mains, the same to be placed as near as possible to the curb if on a street, or within one foot of the alley line if the main is located in the alley. There shall be one or more stops and waste cocks attached to every supply pipe at some point between the curb stop and the meter so that the water can be shut off and the house plumbing entirely drained.

6.0220 Check Valves Required When Necessary

Check valves are hereby required on all water connections to steam boilers or any other connection deemed by the Water and Sewer Utility Superintendent to require one. Safety and release valves shall be placed on all boilers or other steam apparatus connection with the water system where the steam pressure may be raised in excess of fifty pounds per square inch.

6.0221 Use of Water During Fire - Unlawful

It is hereby declared to be unlawful for any person in this City or any person owning or occupying premises connected to the utility to use or allow to be used during a fire any water from said utility except for the purpose of extinguishing said fire; and upon the sounding of a fire alarm, it shall be the duty of every such person to see that all water services are tightly closed and that no water is used, except for necessary household purposes during said fire.

6.0222 Waterworks Customers May Lay Larger Pipes with Hydrants - When

Whenever proprietors of lumber yards, manufactories, halls, stores, hotels, public buildings, or regular customers from the water works wish to lay larger pipes with hydrants and hose couplings, to be used only in case of fire, they will be permitted to connect with the street main at their own expense, upon application to the City Auditor and approval by the City governing body.

6.0223 Rates and Charges

Any city owning a system for the distribution of water for fire protection and other public purposes and for selling water to its inhabitants and industries, but for which the water supply is unsuitable or inadequate, may contract to purchase water at wholesale for such purposes from any person, firm, public or private corporation, or limited liability company able and willing to furnish the same, upon such terms and during such period, not exceeding forty years, as the city governing body shall deem appropriate. (Source: Section 40-33-16 of the North Dakota Century Code)

In 1997, Southwest Water was contracted to supply one-hundred (100%) per cent of the water supply to the distribution system of the City of New England. Water and sewer rates are based on the amounts that the City has to pay for the water service and shall be fixed by resolution of the governing body. The resolution fixing water and sewer rates and charges shall be kept on file in the office of the City Auditor and shall be open for public inspection.

6.0224 Rates and Charges - Liability for

The owner or owners of all real property in the City furnished water or sewer service or service line repairs shall be responsible for the payment of any and all such charges regardless of who the occupant or tenant may be. Owners of premises where water or sewer service is supplied shall notify the water or sewer department or the City Auditor in case any tenant moves from said premises, prior to such moving. On request of the owner or owners, the City Auditor will bill or cause to be billed the occupant or tenant for such charges, but if such charges are not paid when due by the occupant or tenant, the owner or owners shall be responsible for such charges and they shall be assessed to the property served. It shall be the duty of the City Auditor to certify to the county auditor such unpaid water or service charges that are unpaid in the same manner and at the same time as other assessments are certified, and they shall be assessed and collected in the same manner.

6.0225 Duty to Report to Auditor

Every owner or operator of a multiple dwelling unit shall file with the City Auditor a report indicating the total number of units under his control. Every owner or operator of a mobile home park shall file with the City Auditor a report indicating the total number of units in the park and shall further notify the City Auditor of any changes in the number of units in the park if the number increases or decreases.

6.0226 Excavators

No person, firm, or corporation shall excavate in or on any street, alley, or other public place for the purpose of installing any water and/or sewer connection until they have complied with the provisions of Sections 3.0212 through 3.0220 of these ordinances.

6.0227 Restriction of Use of Water

The City governing body may from time to time declare that water may not be used for specific purposes or may only be used in certain parts of the City on certain days for certain purposes. The City shall have the right to prohibit the watering of lawns and gardens, the washing of cars, or such other uses of the water as may be necessary to preserve an adequate supply of water for consumption and use by the general public.

6.0228 Bulk Water Sales

1. Southwest Water

Water may not be purchased from the City for resale for commercial or industrial purposes unless the customer pays the City the current rate for bulk water sales per the current City of New England utility rates at that time. The City reserves the right to refuse bulk water sales due to existing situations that may affect the viability of the water supply system.

2. City Wells

Whenever the governing body shall deem it advisable, a municipality owning and operating its own electric lighting system or waterworks may enter into contracts with persons, corporations, or limited liability companies maintaining manufacturing plants, residences, or other buildings outside of the municipal limits, to furnish such plants or buildings with electricity or water if it can be furnished from the surplus remaining after supplying the needs of the municipality and its inhabitants. (Source: Section 40-33-13 of the North Dakota Century Code)

6.0229 Domestic Use Wells

Building permits may be issued to property owners for water well use for domestic irrigation only. All rules, regulations, and conditions established by the Zoning Commission and City Council shall be adhered to. (Source: NDCC Section 61-04-02)

6.0230 Penalties

Failure to comply with the provisions of this Article, shall constitute an infraction and be subject to a fine of not less than twenty-five (\$25) or more than five hundred dollars (\$500) for each violation, and a separate violation may be deemed committed on each day the violation is permitted to exist.

ARTICLE 3 - Regulation of Sewer Use

6.0301 Purpose

It is the purpose of this Article to provide ordinances regulating the use of public and private sewers and drains, private sewage disposal, the installation and connection of building sewers, and the discharge of waters and wastes into the public sewer system, and to provide penalties for violations.

6.0302 Definitions

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

1. “Building Drain” means that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five (5) feet (1.5 meters) outside the inner face of the building wall.
2. “Building Sewer” means the extension from the building drain to the public sewer or other place of disposal, also called house connection.
3. “Easement” means an acquired legal right for the specific use of land owned by others.
4. “Floatable Oil” is oil, fat or grease in a physical state such that it will separate by gravity from wastewater by treatment in an approved pretreatment facility. Wastewater shall be considered free of floatable oil if it is properly pretreated and the wastewater does not interfere with the collection system.
5. “Garbage” means the animal and vegetable waste resulting from the handling, preparation, cooking, and serving of foods.
6. “Industrial Wastes” means the wastewater from industrial processes, trade, or business as distinct from domestic or sanitary wastes.
7. “Natural Outlet” means any outlet, including storm sewers, into a watercourse pond, ditch, lake, or other body of surface or groundwater.
8. “May” is permissive (see “shall,” Sec. 15).
9. “Person” means any individual, firm, company, association, society, corporation, or group.
10. “Properly Shredded Garbage” means the wastes from the preparation, cooking, and dispensing of food that have been shredded to such a degree that all particles will be

carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than ½ inch (1.27 centimeters) in any dimension.

11. “Public Sewer” means a common sewer controlled by a governmental agency or public utility.
12. “Sanitary Sewer” means a sewer that carries liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions together with minor quantities of ground, storm, and surface waters that are not admitted intentionally.
13. “Sewage” is the spent water of a community. The preferred term is “wastewater,” Sec. 21.
14. “Sewer” means a pipe or conduit that carries wastewater or drainage water.
15. “Shall” is mandatory (see “may,” Sec. 8).
16. “Sludge” means any discharge of water or wastewater which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration or flows during normal operation and shall adversely affect the collection system and/or performance of the wastewater treatment works.
17. “Storm Drain” (sometimes termed “storm sewer”) means a drain or sewer for conveying water, groundwater, subsurface water, or unpolluted water from any source.
18. “Water and Sewer Utility Superintendent” means the superintendent of wastewater facilities, and/or of wastewater treatment works, and/or of water pollution control of the City or an authorized deputy, agent, or representative.
19. “Suspended Solids” means total suspended matter that either floats on the surface of, or is in suspension in water, wastewater, or other liquids, and that is removable by laboratory filtering as prescribed in “Standard Methods for the Examination of Water and Wastewater” and referred to as non-filterable residue.
20. “Unpolluted Water” is water of quality equal to or better than the effluent criteria in effect or water that would not cause violation of receiving water quality standards and would not be benefited by discharge to the sanitary sewers and wastewater treatment facilities provided.
21. “Wastewater” means the spent water of a community. From the standpoint of source, it may be a combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions, together with any groundwater, surface water, and storm water that may be present.

22. “Wastewater Facilities” means the structures, equipment, and processes required to collect, carry away, and treat domestic and industrial wastes and dispose of the effluent.
23. “Wastewater Treatment Works” means an arrangement of devices and structures for treating wastewater, industrial wastes, and sludge. It is sometimes used as synonymous with “waste treatment plant” or “wastewater treatment plant” or “water pollution control plant.”
24. “Watercourse” means a natural or artificial channel for the passage of water either continuously or intermittently.

6.0303 Use of Public Sewers Required

1. It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the City of New England or in any area under the jurisdiction of the City any human or animal excrement, garbage, or other objectionable waste.
2. It shall be unlawful to discharge to any natural outlet within the City, or in any area under the jurisdiction of the City, any sewage or other polluted waters.
3. Except as hereinafter provided, it shall be unlawful to construct any new privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage within the City.
4. The owner of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes, situated within the City, and abutting on any street, alley, or right-of-way in which there is now located or may in the future be located a public sanitary or combined sewer of the city, is hereby required at the owner’s expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this ordinance, within 60 days after the date of official notice to do so, provided that said public sewer is within two hundred (200) feet (61 meters) of the property line.

6.0304 Private Wastewater Disposal

Where a public sanitary or combined sewer is not available under the provisions of Section 6.0303, the building sewer shall be connected to a private wastewater disposal system complying with the provisions of this section.

Before commencement of construction of a private wastewater disposal system the owner shall first obtain a building permit signed by the Zoning Commission. The application for such permit shall be made on a form furnished by the city, which the applicant shall supplement by any plans, specifications, and other information as are deemed necessary by the Zoning Commission.

The type, capacities, location, and layout of a private wastewater disposal system shall comply with all recommendations and/or regulations of the North Dakota State Department of Health. No final approval shall be issued for any private waste water disposal system not meeting these conditions. No septic tank or cesspool shall be permitted to discharge to any natural outlet or to the ground surface.

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

The owner shall operate and maintain the private wastewater disposal facilities in a sanitary manner at all times, at no expense to the city. All sludge or solids, to be disposed of from a septic tank, cesspool, or other method of disposal shall be disposed of by a licensed septic tank pumper in accordance with the North Dakota State Department of Health Regulation 23-19-01.

No statement contained in this section shall be construed to interfere with any additional requirements that may be imposed by the local health officer.

6.0305 Building Sewers and Connections

1. No unauthorized person shall uncover, make any connection with or opening into, use, alter, or disturb any public sewer.
2. All costs and expense incidental to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.
3. A separate and independent building sewer shall be provided for every building.
4. Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the Water and Sewer Utility Superintendent, to meet all requirements of this ordinance.
5. The size, slope alignment, materials of construction of all sanitary sewers including building sewers, and the methods to be used in excavating, placing of the pipe, jointing, testing, and backfilling the trench, shall all conform to the requirements of the building and plumbing code or other applicable rules and regulations of the City. In the absence of suitable code provisions, specifications of the state building and plumbing codes shall apply.
6. Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.
7. No person shall make connection of roof downspouts, foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer, or building drain which in turn is connected directly or indirectly to a public sanitary sewer.
8. The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the City. All such connections shall be made gastight and watertight and verified by proper testing. Any deviation from the prescribed procedures and materials must be approved by the Water and Sewer Utility Superintendent before installation.
9. The applicant for the building sewer permit shall notify the Water and Sewer Utility Superintendent when the building sewer is ready for inspection and connection to the public sewer. The connection and testing shall be made under the supervision of the Water and Sewer Utility Superintendent or his/her representative.

10. All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the City.

6.0306 Use of Public Sewers – Sanitary Sewer and Storm Drain

1. No person shall discharge or cause to be discharged any unpolluted waters such as storm water, surface water, groundwater, roof runoff, subsurface drainage, or cooling water to any building drain or sewer which in turn is connected directly or indirectly to the sanitary sewer.
2. Storm water and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers, or to a natural outlet approved by the Water and Sewer Utility Superintendent and the North Dakota State Department of Health.
3. No person shall discharge or cause to be discharged any of the following described water or wastes to any public sewers:
 - a. Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas.
 - b. Any waters containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the wastewater treatment plant.
 - c. Any waters or wastes having a pH lower than 5.5, or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the wastewater works.
 - d. Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers or other interference with the proper operation of the wastewater facilities such as, but not limited to ashes, cinders, sand, mud, straw, yard waste, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails, and paper dishes, cups, milk containers, etc. either whole or ground by garbage grinders.
4. In addition to the obstructions previously stated, no person, person's agent, servant, or employee shall place upon any of the paved streets of the City any grass or other material which shall have been cut, blown, or raked from any lawn or berm.
5. The following described substances, materials, waters, or waste shall be limited in discharges to city systems to concentrations or quantities which will not harm either the sewers, wastewater treatment process or equipment, will not have an adverse effect on the receiving stream, or will not otherwise endanger lives, limb, and public property, or constitute a nuisance. The Water and Sewer Utility Superintendent may set limitations lower than the limitations established in the

regulations below if in his/her opinion such more severe limitations are necessary to meet the above objectives. In forming his/her opinion as to the acceptability, the Water and Sewer Utility Superintendent will give consideration to such factors as the quantity of subject waste in relation to flows and velocities in the sewers, materials of construction of the sewers, the wastewater treatment process employed, capacity of the wastewater treatment plant, degree of treatability of the waste in the wastewater treatment plant, and other pertinent factors. The limitations or restrictions on materials or characteristics of waste or wastewaters discharged to the sanitary sewer which shall not be violated without approval of the Water and Sewer Utility Superintendent are as follows:

- a. Wastewater having a temperature higher than 150 degrees Fahrenheit (65 degrees Celsius).
- b. Wastewater containing more than 25 milligrams per liter of petroleum oil, non-biodegradable cutting oils, or product of mineral oil origin.
- c. Wastewater from industrial plants containing floatable oils, fat, or grease.
- d. Any garbage that has not been properly shredded (see Section 6.0302 (13)). Garbage grinders may be connected to sanitary sewers from homes, hotels, institutions, restaurants, hospitals, catering establishments, or similar places where garbage originates from the preparation of food in kitchens for the purpose of consumption on the premises or when served by caterers.
- e. Any waters or wastes containing iron, chromium, copper, zinc, and similar objectionable or toxic substances to such degree that any such material received in the composite wastewater at the wastewater treatment works exceeds the limits established by the Water and Sewer Utility Superintendent for such materials.
- f. Any waters or wastes containing odor-producing substances exceeding limits which may be established by the Water and Sewer Utility Superintendent.
- g. Any radioactive wastes, or isotopes of such half-life or concentration as may exceed limits established by the Water and Sewer Utility Superintendent in compliance with applicable state or federal regulations.
- h. Quantities of flow, concentrations, or both which constitute "sludge" as defined herein.
- i. Waters or wastes containing substances which are not amenable to treatment or reduction by the wastewater treatment processes employed, or are amenable to treatment only to such a degree that the wastewater treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

- j. Any water or wastes which, by interaction with other water or wastes in the public sewer system, release obnoxious gases, form suspended solids which interfere with the collection system, or create a condition deleterious to structures and treatment processes.
6. If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in Section 6.0306(4), and which in the judgment of the Water and Sewer Utility Superintendent, may have a deleterious effect upon the wastewater facilities, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Water and Sewer Utility Superintendent may:
 - a. Reject the wastes;
 - b. Require pretreatment to an acceptable condition for discharge to the public sewers;
 - c. Require control over the quantities and rates of discharge; and/or
 - d. Require payment to cover the added costs of handling and treating the wastes not covered by other sewer charges.

If the Water and Sewer Utility Superintendent permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the Water and Sewer Utility Superintendent and the North Dakota State Department of Health.

7. Grease, oil, and sand interceptors shall be provided when, in the opinion of the Water and Sewer Utility Superintendent, they are necessary for the proper handling of liquid wastes containing floatable grease in excessive amounts as specified in 6.0306 (4) (c), or any flammable wastes, sand, or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the North Dakota Plumbing Code and shall be located as to be readily and easily accessible for cleaning and inspection. In the maintaining of these interceptors the owner shall be responsible for the proper removal and disposal by appropriate means of the captivated material and shall maintain records of the dates, and means of disposal which are subject to review by the Water and Sewer Utility Superintendent. Any removal and having of the collected materials not performed by owner personnel must be performed by currently licensed waste disposal firms.
8. Where pretreatment or flow-equalizing facilities are provided or required by any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense.

9. When required by the Water and Sewer Utility Superintendent, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable structure together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such structures, when required, shall be accessibly and safely located and shall be constructed in accordance with plans approved by the Water and Sewer Utility Superintendent. The structure shall be installed by the owner at his expense and shall be maintained by the owner so as to be safe and accessible at all times.
10. The Water and Sewer Utility Superintendent may require a use of sewer services to provide information needed to determine compliance with this ordinance. These requirements may include:
 - a. Wastewaters discharge peak rate and volume over a specified time period.
 - b. Chemical analyses of wastewaters.
 - c. Information on raw materials, processes, and products affecting wastewater volume and quality.
 - d. Quantity and disposition of specific liquid, sludge, oil, solvent, or other materials important to sewer use control.
 - e. A plot plan of sewers of the user's property showing sewer and pretreatment facility location.
 - f. Details of wastewater pretreatment facilities.
 - g. Details of systems to prevent and control the losses of materials through spills to the City sewer.
11. All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this ordinance shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater," published by the American Public Health Association. Sampling methods, location, times, durations, and frequencies are to be determined on an individual basis by the Water and Sewer Utility Superintendent.
12. No statement contained in this Section shall be construed as preventing any special agreement or arrangement between the City and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the City for treatment.

6.0307 Damage to Sewer Works Prohibited

No person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment which is a part of the wastewater facilities. Any person violating this provision shall be subject to immediate arrest under charge of disorderly conduct.

6.0308 Powers and Authority of Inspectors

1. The Water and Sewer Utility Superintendent and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling, and testing pertinent to discharge to the community system in accordance with the provisions of this ordinance.
2. The Water and Sewer Utility Superintendent or other duly authorized employees are authorized to obtain information concerning industrial processes that have a direct bearing on the kind and source of discharge to the wastewater collection system. The industry may withhold information considered confidential. The industry must establish that the revelation to the public of the information in question might result in an advantage to competitors.
3. While performing the necessary work on private properties referred to in Section 6.0308 (1), the Water and Sewer Utility Superintendent or duly authorized employees of the City shall observe all safety rules applicable to the premises established by the company, and the company shall be held harmless for injury or death to the City employees, and the City shall indemnify the company against loss or damage to its property by City employees and against liability claims and demands for personal injury or property damage asserted against the company growing out of the gauging and sampling operation, except such as may be caused by negligence or failure of the company to maintain safe conditions as required in Section 6.0306 (8).
4. The Water and Sewer Utility Superintendent and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all private properties through which the City holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the wastewater facilities lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

6.0309 Hearing Board

1. A hearing board, consisting of three (3) members, may be selected as needed for arbitration of differences between the Water and Sewer Utility Superintendent and sewer users on matters concerning interpretation and execution of the provisions of this ordinance by the Water and Sewer Utility Superintendent.
2. If a hearing board is used, one member of the board shall be selected to represent the City, one member shall be selected to represent the sewer user involved in the arbitration, and the third member shall be acceptable to both parties and shall serve as the chairman in the arbitration.

6.0310 Penalties

1. Any person found to be violating any provision of this ordinance except Section 6.0307 shall be served by the City with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.
2. Any violation beyond the time limit provided for in Section 6.0310(1) shall be an infraction, and upon conviction thereof, shall be fined in an amount not exceeding one thousand dollars (\$1,000) for each violation. Each day in which any such violation continues shall be deemed a separate offense.
3. Any person violating any of the provisions of this ordinance shall become liable to the City for any expense, loss, or damage occasioned the City by reason of such violation.

ARTICLE 4 - Reserved

ARTICLE 5 - Adoption of State Plumbing Code

6.0501 Adoption

To promote and protect the public health there is hereby adopted the State Plumbing Code, which has been adopted by the State Plumbing Board and approved by the State Health Department, consisting of rules and regulations governing plumbing work, and the whole thereof, of which not less than one (1) copy is on file in the office of the City Auditor, and the same is hereby adopted as fully as is set out at length herein and all plumbing work in the City shall comply with said code.

6.0502 Plumbing Code - Enforcement of Provisions

All plumbing work and all private sanitary drains and cesspools now existing, or hereafter to be installed, altered or repaired in any building or in or under any private property within the corporate limits shall be under the supervision and regulation of the Water and Sewer Utility Superintendent, whose duty it shall be to enforce all the provisions of this code relating thereto and from time to time to make such rules and regulations as may be appropriate for the execution of the same.

6.0503 Plumbing Code - Changes in Existing Installations

The Water and Sewer Utility Superintendent of the water and sewer department is hereby given authority to order the repair, alteration, or removal of any sanitary sewer connection or plumbing, any connection to storm water sewer, or any private sanitary drain, cesspool, or privy, which in the Water and Sewer Utility Superintendent's judgment is so installed or is in such condition as to be unsanitary, or to constitute a public nuisance or menace to health. In case of such repair, alteration, or removal, if the plumbing code is not observed and connections not properly executed by the owner or owners thereof, in accordance with the Water and Sewer Utility Superintendent's directions, the Water and Sewer Utility Superintendent may cause the same to be discontinued from any source of water supply. It shall thereafter be unlawful for any person in any manner to use any such installation, or to supply water thereto, until the same shall have been put in a safe and sanitary condition according to the Water and Sewer Utility Superintendent's direction.

6.0504 Plumbing Code - New Installations

All plumbing work and all excavations in the public streets or alleys, the cutting and replacing of pavement, laying of water and sewer connections, and connections to storm water sewers, and all construction of private sanitary drains and cesspools within the corporate limits shall be undertaken and executed only by a master plumber or other persons as have obtained a general license for such work together with a permit for each separate job, provided that the tapping of water mains and the placing of corporate cocks therein shall be done only under the direction of city employees.

ARTICLE 6 - Garbage, Refuse, And Rubbish

6.0601 Definitions

For the purpose of this Article the following words shall have the meanings given herein:

1. "Ashes" is the residue from burning wood, coal, coke, or other combustible materials.
2. "Garbage" is putrescible animal and vegetable wastes resulting from the handling, preparation, cooking, and consumption of food.
3. "Refuse" is all putrescible and non-putrescible solid wastes (except body wastes) including garbage, rubbish, ashes, street cleanings, dead animals, abandoned automobiles, and solid market and industrial wastes.
4. "Rubbish" is non-putrescible solid wastes (excluding ashes) consisting of both combustible and noncombustible wastes, such as paper, cardboard, tin cans, yard clippings, wood, glass, bedding, crockery, and similar materials.

6.0602 Accumulation of Refuse Prohibited

No person shall permit or allow to accumulate in or about any yard, lot, place, premises; or upon any street or sidewalk, adjacent to or abutting upon any lot, block, place, or premises owned and occupied by that person, any and all refuse, nor allow such yard, lot, place, or premises to be or remain in such condition.

6.0603 Containers

All garbage and rubbish shall be placed by the person upon whose premises the same shall have been produced or accumulated, in watertight containers, which shall be protected against the access of flies and rodents. Garbage container racks or enclosures, if used, must be placed at the rear of each lot at or as near to the property line as possible.

On collection day all garbage and rubbish must be placed in tied plastic bags or other suitable disposable containers and placed in the alley of those lots having access to any alley and along the curb if no alley is accessible. The City may specify where containers shall be placed along the alley or street for the convenience of collection.

6.0604 Burning

No garbage, refuse, or rubbish shall be burned within the City or in disposal grounds maintained by the City.

6.0605 Nuisance

Failure to comply with the provisions of Sections 6.0602, 6.0603, and 6.0604, shall constitute a public nuisance infraction and be subject to a fine of not less than twenty-five (\$25) or more than five hundred dollars (\$500) for each violation, and a separate violation may be deemed committed on each day the violation is permitted to exist.

6.0606 City Collection

All garbage and rubbish as defined herein, excluding yard clippings, shall be placed in plastic bags suitable for collection by the city or franchised contractor on specified collection dates. This is necessary to maintain and preserve community cleanliness and sanitation, except that this Section shall not require the collection of garbage and rubbish where streets and alleys are in a temporary condition which makes it impossible to do so and in case of the failure to collect such garbage and rubbish, such failure shall not relieve the occupant of the premises from the payment of the garbage and rubbish collection fees hereinafter provided.

6.0607 Fees

Fees for the collection of garbage and rubbish by the City or franchised contractor and the disposal thereof are set by resolution of the City governing body.

6.0608 Fees – Payment – Collection

In all places where water service is provided, fees for garbage and rubbish collection shall be added to and collected as a part of the water bill and collected by the water department, but shall be separately stated on the bill. Garbage and rubbish collection bills shall be due and payable at the same time as the water bill. If such charge is not paid when due, the water service to such premises shall be shut off by the water department in the same manner as is now provided for in the case of delinquency in payment of water bills and such service shall not be restored without the payment of the penalties now provided for.

In all places where water service is not provided, the fees for garbage and rubbish collection shall be paid to the Water Department of the City upon monthly or quarterly bills from the Water Department. If the garbage and rubbish charge so established is not paid when due, such sum may be recovered by the City, in an action at law against the owner or occupant, or both, of the property so served.

The proceeds from the collection of the fees and charges shall be placed in the utility fund, and all of the expense of the City, in the purchase and maintenance of equipment and in the collection and disposal of garbage and rubbish, shall be paid out of the utility fund.

The rates and charges for use of its facilities shall be such as to make the system self-supporting and self-perpetuating and adequate to pay all costs of operation and maintenance of the system and to establish and maintain reasonable operating reserves, and to pay all obligations of the city incurred in establishing, improving, and extending the system.

6.0609 Fees – Payment – Collection by Franchised Contractor

In the event the City elects to franchise a contractor to perform the collection services contemplated by this Section, collection of fees, limited as set out in this Section, are to be made by the contractor. Failure to pay fees billed by the contractor within thirty (30) days of billing and reporting of the failure to pay to the City shall release the contractor from collection responsibility regarding the delinquent premises. On being notified of delinquencies the City may avail itself of any or all of the collection provision of Section 6.0608.

6.0610 Disposal of Refuse not Collected by the City

All other wastes as defined, and not included under garbage, rubbish, and ashes, may be disposed of by the person creating such waste, by hauling such waste for disposal to such points as are designated or approved by the City and payment of applicable fees set by resolution of the City Council.

1. The following items are permitted to be placed in the New England City Landfill:
 - a. New Pit – Carpet, Furniture, Insulation, Sheetrock
 - b. Old Pit – Tires (fee)
 - c. Wood Pile – Trees. Non-usable Lumber
 - d. Metal Pile – Metal, Tin, (Washer, Dryers, Stoves – fee)
 - e. Grass & Leaf Pile – Grass, Leaves, Garden Refuse
 - f. Garbage Truck (if present) - Household Garbage, Electronics Televisions, Computers, Microwaves.

2. The following items are not permitted to be placed in the New England City Landfill:
 - a. Cardboard. Paint Cans (if not dried up), Garbage Bags, Putrescible Waste, Plastic
 - b. Refrigerators, Freezers, Air Conditioners (or any appliance containing chlorofluorocarbons), Paint Cans (with liquid paint)
 - c. Motor Vehicles.

Such items not permitted may be transported by the owner to the Dickinson landfill or wrecking yard and are subject to their regulations and fees

3. New England City Landfill hours of operation shall be set by resolution.

6.0611 Supervision

The collection, removal, and disposal of garbage and rubbish under the provisions of this Article shall be under the supervision, direction, and control of the Public Works Superintendent with the assistance of the Southwestern District Health Unit. The Public Works Superintendent shall, unless there is a franchised contractor, appoint such employees as shall be necessary to carry out the purposes of this Article, which appointments shall be subject to the approval of the governing body.

6.0612 Rules and Regulations

The Public Works Superintendent with the assistance of the Southwestern District Health Unit shall prescribe such reasonable rules and regulations in connection with preparation, handling, and disposition of garbage and rubbish as may be necessary to regulate, enforce, and carry out the provisions of this Chapter. The health officer may direct that the City garbage and rubbish collection crews shall not collect garbage and rubbish from any premises where such rules and regulations are not complied with and the failure to collect the same shall not relieve the owner or occupant of the premises from the payment of fees nor from the enforcement of the penalties of this Code. In the absence of City collection crews the health officer may give instructions to a franchised contractor.

ARTICLE 7 – MUNICIPAL LIGHTING

6.0701 Creation of City of New England Street Lighting

Pursuant to the provisions of Chapter 40-30 of the North Dakota Century Code, all lands, easements, rights in land, facilities, poles, wires, cables, conduits, and other electrical fixtures and equipment necessary or proper for the maintenance and operation thereof heretofore or hereafter acquired by purchase, lease or otherwise and set aside by the governing body of the City of New England for a municipal street lighting system are hereby declared to be and shall henceforth constitute, be held, operated, maintained, improved, enlarged, and administered as a single system.

6.0702 Control of System

All properties and other assets set aside or held by the City of New England for such undertaking and all moneys to be derived from operation of said undertaking shall at all times be under the management and control of said governing body and shall be operated under such rules, regulations, terms, and conditions as said governing body may from time to time establish.

6.0703 Rates and Changes to Be Established

In order to provide funds to defray the costs of construction, operation, maintenance, and repair of the street light and traffic signal system the governing body of the City of New England shall determine, establish, maintain, and change, by resolution, a schedule of rates, charges, and fees for all the services, facilities, and benefits furnished by the system. The governing body may impose and collect the fees, charges, or rates monthly at the time and in the manner that the governing body may provide.

6.0704 Rates and Charges to Be Billed and Collected

The rates and charges shall be billed and collected in the same manner and time as are bills for other utility services as provided by resolution.

6.0705 System to Be Self-Supporting

Said System shall be so operated and maintained, and the rates and charges for use of its facilities shall be such as to make the system self-supporting and self-perpetuating and adequate to pay all costs of operation and maintenance of the system and to establish and maintain reasonable operating reserves, and to pay all obligations of the city incurred in establishing, improving, and extending the system. Nothing herein shall be deemed or construed to preclude the city from defraying any part of the expense of the operation or of any improvement or extension of the system by the levy of special assessments or taxes or the issue of general obligation bonds, whenever and to the extent that such action is authorized in the manner provided by law and is deemed fair and equitable by the governing body.

6.0706 Installation of Street Lights

The governing body shall from time to time designate where street lights shall be installed and the manner and procedures to be followed in making such installations. The City Engineer shall be responsible for the regulation, control, maintenance, and use of such program.

ARTICLE 8 – CEMETERY

6.0801 Definitions

“City” - The City of New England, North Dakota, owning and controlling the cemetery.

“Cemetery” - A tract of land used for burials or above-ground interment.

“Burial Permit” - Legal written permission for burial to occur.

“Internment” - Disposition of human remains or cremains by burial or entombment.

“Memorial” - A monument, marker bench, or large urns (marked or unmarked).

“Monument” - A memorial of granite or other approved material that extends above the surface of the lawn.

“Marker” - A memorial of granite or other approved material that does not extend above the surface of the lawn.

6.0802 Establishment

A cemetery has been established and is continued upon land owned by the City of New England, North Dakota, and described as New England City Cemetery, City of New England. The plat of the cemetery filed with the county recorder in Hettinger County, North Dakota, is adopted as the official plat of the cemetery. No person shall lay out or establish any cemetery, or use any lot of land within this City for the burial of dead except in New England City Cemetery, or some other tract of land duly designated as a cemetery.

6.0803 Sale of Lots

The prices of cemetery lots and services will be set by resolution of the City Council. Any person paying for a lot is entitled to a deed conveying the lot. A deed conveying a lot gives the purchaser only the right of burial therein and shall be considered as a license that restricts the use to burial purposes.

6.0804 Conditions of Lot Purchase

All lot agreements are subject to reasonable rules and regulations as the Council may adopt relative to the use of the cemetery. No lot shall be used for any purpose other than the burial of human remains and the placing of memorials as permitted by this ordinance or any additional regulation that the Council may provide.

6.0805 Handling of Funds

All money received from the sale of lots and other services must be paid to the City Auditor. No cemetery service shall be performed until verification of ownership is completed. All money received from the sale of lots and performance of services shall be placed in the cemetery fund.

6.0806 Burial Permits

Before any interment, a burial permit or death certificate shall be presented from the funeral home, State Registrar of Vital Statistics. No interment shall be made unless the City is notified and a copy of such burial permit is filed with the City.

6.0807 Interments

Permission in writing from a lot owner must accompany all requests for permission to bury bodies of persons that are not members of the immediate family of the lot owner. Prior to interment, the excavator shall contact the city for staking of the appropriate lot. No interment may be made in the cemetery unless all laws, ordinances, rules, and regulations regarding interments have been complied with and until purchase price of the lot and all burial fees are paid.

Any damage resulting from interments, whether on the same lot or surrounding area or cemetery grounds will be the responsibility of the excavator and must be repaired to city satisfaction within a reasonable period of time.

6.0808 Burial Vaults

All caskets must be encased in a permanent type burial case or vault. Fiberglass vaults are prohibited.

6.0809 Disinterment and Removal

Before any grave may be opened, written permission of the lot owner and the next of kin shall be filed with the city administrator, a permit from the county health officer shall be secured and presented, and the required fees paid. This provision does not apply when disinterment is ordered by a duly authorized public authority.

1. The City shall assume no liability for damage to any casket or burial case in making the disinterment and removal.

6.0810 Transfer of Lots

Cemetery lots or fractional lots may be resold with the approval of the Mayor and a new property deed will be issued.

6.0811 Conduct of Persons in the Cemetery

1. A person may not discharge any firearm within the cemetery grounds without written permission of the superintendent.
2. A person may not remove any object from any place in the cemetery or make any excavation without the written permission of the city.
3. A person may not obstruct any drive or path in the cemetery or in any way injure, deface, or destroy any structure, grave, flower, tree, or other thing in the cemetery.
4. A person may not drive any vehicle at a speed faster than a walk. All automobiles must be kept off the grass.
5. A person may not disturb the quiet of the cemetery by noise or improper conduct of any kind.
6. A person may not enter or leave the cemetery except at the entrances provided.
7. A person may not use the cemetery grounds or any road therein as a public thoroughfare, nor drive any vehicle through the cemetery grounds except for purposes relating to the cemetery.
8. Children shall not be permitted to engage in playing within cemetery grounds. Children under ten (10) years of age shall not be admitted to the grounds unless accompanied by an adult, who shall be responsible for their conduct while therein.
9. Animals must not be allowed to run at large and must be under control at all times.

6.0812 Monuments and Markers

All monuments and markers shall be placed in the space shown on the cemetery plat or as identified by the superintendent. No monument may be placed on a lot platted until the full purchase price of the lot has been paid. Monuments and markers must be constructed of granite, marble, or other suitable material.

6.0813 Installation of Monuments and Markers

Upon placement of an order for a monument, the lot owner or monument salesperson shall contact the City to identify the lot to be used.

1. Persons engaged in erecting monuments and other structures shall be responsible for proper design and layout of said monument or structure.
2. Scattering of materials on adjoining lots, or leaving materials on the ground longer than absolutely necessary is prohibited. Any damages occurring during the installation and/or placement must be repaired at the expense of the sales company or lot owner.

6.0814 Decoration of Lots

1. The ground planting of flowers, plants, shrubs, or trees by the lot owner is not permitted. The City shall have the authority to remove all floral designs, flowers, weeds, trees, shrubs, plants, or herbage of any kind, if in the judgment of the cemetery officials, they do not conform to the standards maintained and policy adopted. Any existing trees, shrubs or plants that are already on lots, should they die, shall not be replaced. These existing plants will be removed if they become a menace to pedestrians, or create an unpleasant atmosphere, or to allow for excavation of an adjoining grave.
2. The placing of boxes, shells, toys, metal designs, ornaments, chairs, settees, glass, wood or iron cases, and similar articles upon lots shall not be permitted. If such items are placed, the City may remove them.
3. All objects not described above, including balloons, banners, food and beverages, knickknacks, shepherd hooks, solar lights and lanterns, stuffed animals, wind chimes, windmills, windsocks, and statuary not incorporated into a monument, are prohibited and may be subject to immediate removal.
4. The City reserves the right to remove all monuments, markers, flowers, plants, trees, decorations, or other similar things without liability to the owner whenever any of these objects become unsafe, unsightly, dangerous, detrimental, diseased, or when they do not conform to the standards maintained or policy adopted.
5. Flowers and decorations in planters or pots or those attached as part of the marker or stone are allowed during any time of the year. Other decorations, not prohibited by other Sections of the policy shall be allowed to be placed on the grave site no sooner than three (3) days prior to Memorial Day and will be allowed to remain no longer than three (3) days following Memorial Day. Flowers and decorations not maintained or removed at the end of the allotted time will be removed and disposed of.
6. The loss or disposal of any flowers or decorations will not be the responsibility of the City of New England. Special ornamentation is allowed during funerals but must be removed within five (5) days.
7. If these are not removed by the date, the ornamentation will be removed and disposed of and the City will not be liable for such loss.

6.0815 Hours

The cemetery is accessible to anyone every day, dusk to dawn.

6.0816 Penalty

Any person violating any provision of this Article is guilty of an infraction and subject to a fine of twenty-five dollars (\$25).

ARTICLE 9 – PUBLIC LIBRARY

6.0901 Identification

The name of this organization is the New England Public Library, located in New England, North Dakota, and established by the City of New England according to the provisions of Chapter 40-38 of the North Dakota Century Code, and exercising the powers and assuming the duties granted to it under said statutes.

6.0902 Appointments and Terms of Office

Appointments and terms of office are as provided by Section 40-38-03 of the North Dakota Century Code.

6.0903 Meeting Attendance

Members shall be expected to attend all meetings except as they are prevented by a valid reason. Failure to attend four consecutive board meetings shall be cause for recommending dismissal to the New England City Council. Illness will be accepted as cause for absence for up to one year, at which time, dismissal will be recommended.

6.0904 Officers

The City Council of the City of New England shall appoint a board of five directors. The officers shall be a president, vice-president, secretary, and treasurer elected from among the appointed directors at the annual meeting of the Board. No member shall hold more than one office at a time. No member shall be eligible to serve more than two consecutive terms in the same office. Vacancies in office shall be filled by vote at the next regular meeting of the Board after the vacancy occurs.

6.0905 Nominations

A nominating committee shall be appointed by the president three months prior to the annual meeting and shall present a slate of officers at the annual meeting. Additional nominations may be made from the floor at that time. Nominations will be presented to City Council for acceptance.

6.0906 Terms

Officers shall serve a term of three years from the annual meeting at which they are elected and until their successors are duly elected.

6.0907 Duties of President

The president shall preside at meetings of the Board, authorize calls for special meetings, appoint all committees, execute all documents authorized by the Board, serve as an ex-officio voting member of all committees except the nominating committee, sign the monthly vouchers for all expenditures of library funds approved by the Board, and generally perform all duties associated with the office of president.

6.0908 Duties of Other Board Members

The vice president, in the event of the absence or disability of the president, or of a vacancy in that office, shall assume and perform the duties and functions of the president. The secretary shall keep a true and accurate record of all meetings of the Board and shall issue notice of all regular and special meetings. The treasurer maintains records of all library monies received and expended; and performs duties as are associated with the office.

One member of the City Council or designated representative must be a member of the Board of Directors.

ARTICLE 10 – MEMORIAL HALL

6.1001 Memorial Hall

Memorial Hall may be rented for various functions. The following items are available for use:

Tables, chairs, and some kitchen equipment.

6.1002 Rental and Fees

The rental agreement, “Duties of Renters” list, and the building key may be picked up at the City Auditor’s office at City Hall. The rental fees for Memorial Hall are set by resolution of the City Council.

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