

SPECIAL ORDINANCES

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§ FRANCHISES

The City Council has granted to the United Telephone Company, Inc. the authority to maintain and operate a telephone system within the municipality. Actual details of the agreement, and the present telephone rates, charges, and fees are available at the Municipal Clerk's office.

(Neb. RS 17-525) ('88 Code, § 10-401)

The City Council has granted to the Midwest Cable T.V., Inc. the authority to maintain, and operate a cable television station, and transmitting system in the municipality. Actual details of the agreement and the charges, rates, and fees are available at the Municipal Clerk's office.

(Neb. RS 18-2201 et seq.) ('88 Code, § 10-402)

The City Council has granted to the Kansas-Nebraska Natural Gas Company, Inc. the authority to construct, maintain, and operate a gas transmission, and distribution system within the municipality. Actual details of the agreement, and the present gas rates, charges, and fees are available at the Municipal Clerk's office.

(Neb. RS 17-528.02) ('88 Code, § 10-403)

§ ORDINANCE 490; COMMUNITY DEVELOPMENT AGENCY

An ordinance providing for the creation of a community development agency; providing that the mayor and council of the city of Chappell, Nebraska shall act as said agency; providing for the powers and authority of such agency; and providing the effective date thereof.

Section 1: There is hereby created a community development agency, which agency shall be known as the City of Chappell Community Development Agency.

Section 2: Such agency shall consist of the Mayor and Council of the City of Chappell, Nebraska.

Section 3: Such agency shall function in a manner prescribed in this Ordinance, and may exercise all of the power and authority granted to a community redevelopment authority pursuant to Sections 18-2101 to 18-2144 and Sections 18-2147 to 18-2154 of the statutes of the State of Nebraska.

Section 4: The purpose for which said agency is formed will be to formulate for the City of Chappell, a workable program for utilizing appropriate, private and public resources, to eliminate or prevent the development or spread of urban blight, to encourage needed urban rehabilitation, to provide for the redevelopment of substandard and blighted areas, or to undertake such of the aforesaid activities, or other feasible municipal activities as may be suitably employed to achieve the objectives of such workable program. Such workable program may include, without limitation, provision for the prevention of the spread of blight into areas of the municipality which are free from blight through diligent enforcement of housing, zoning and occupancy controls and standards; the rehabilitation or conservation of substandard and blighted areas or portions thereof by replanning, removing congestion, providing parks, playgrounds, and other public improvements by encouraging voluntary rehabilitation and by compelling the repair and rehabilitation of deteriorating structures; and the clearance and redevelopment of substandard and blighted areas or portions thereof.

Section 5: No member or employee of the Chappell Community Development Agency shall voluntarily acquire any interest, direct or indirect, in any redevelopment project or in any property included or planned by the agency to be included in any project or in any contract or proposed contract in connection with such project. Where the acquisition is not voluntary, such member or employee shall immediately disclose such interest in writing to the Agency and such disclosure shall be entered into the minutes of the Agency. If any member or employee of the agency presently owns or controls or owned or controlled within the preceding two (2) years, an interest, direct or indirect, in any property, included or planned by the Agency to be included in any redevelopment project, they shall immediately disclose

such interest in writing to the Agency and such disclosure shall be entered upon the minutes of the Agency. Upon such disclosure, such member or employee of the Agency shall not participate in any action by the Agency affecting such property.

Section 6: Any Ordinance or part of any ordinance of the City of Chappell, Nebraska, in conflict with this Ordinance is hereby repealed, and should any part or sections of this Ordinance be declared void and unenforceable, such declaration shall not render any other part void and unenforceable.

(Ord. 490 passed 1-17-05)

§ ORDINANCE 497; WATER DROUGHT/EMERGENCY ORDINANCE.

An ordinance authorizing the adoption of a drought emergency contingency plan to establish declaration of a water watch, warning, or emergency; establishing procedures and voluntary and mandatory water conservation measures; authorizing the issuance of administrative regulations; and prescribing certain penalties; and to repeal prior and conflicting provisions.

Section 1. Purpose. The purpose of this ordinance is to provide for the declaration of a water supply watch, warning, or emergency, and the implementation of voluntary and mandatory water conservation measures throughout the city in the event such a watch, warning, or emergency is declared.

Section 2. General Definitions:

- a) "Water" as the term is used in this ordinance shall mean water available to the City of Chappell for treatment by virtue of its water rights or any treated water introduced by the City into its water distribution system, including water offered for sale at any coin-operated site.
- b) "Customer" as the term is used in this ordinance shall mean the customer of record using water for any purpose from the City's water distribution system and for which either a regular charge is made or, in the case of coin sales, a cash charge is made at the site of delivery.
- c) "Waste of water," as the term is used in this ordinance, includes, but is not limited to: (1) permitting water to escape down a gutter, ditch, or other surface drain; or (2) failure to repair a controllable leak of water due to defective plumbing.
- d) The "Classes" of uses of water are defined as follows:

Class 1:

Water used for outdoor watering; either public or private, for gardens, lawns, trees, shrubs, plants, parks, golf courses, playing fields, swimming pools or other recreational areas; or the washing of motor vehicles, boats, trailers, or the exterior of any building or structure.

Class 2:

Water used for any commercial or industrial, including agricultural, purposes; except water actually necessary to maintain the health and personal hygiene of bona fide employees while such employees are engaged in the performance of their duties at their place of employment.

Class 3:

Water used for domestic purposes, other than those uses which would be included in either Class 1 or 2.

Class 4:

Water necessary only to sustain human life and the lives of domestic pets and maintain standards of hygiene and sanitation.

Section 2. Definitions of Water Stages:

STAGE ONE: WATER WATCH

Whenever the governing body of the City finds that conditions indicate that the probability of a drought or some other condition causing a major water supply shortage is rising, it shall be empowered to declare, by resolution, that a water watch exists and that it shall take steps to inform the public and ask for voluntary reductions in water use. Such a watch shall be deemed to continue until it is declared by resolution of the governing body to have ended. The resolutions declaring the existence and end of a water watch shall be effective upon their publication in the official city newspaper.

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

Ground water levels have fallen five (5) feet below normal seasonal levels.

System pressure falls below thirty-five (35) pounds per square inch.

Demand for one day is in excess of seven hundred fifty thousand (750,000) gallons per day.

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

EDUCATION ACTIONS:

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

MANAGEMENT ACTIONS:

Leaks will be repaired within forty-eight (48) hours of detection.

The City will monitor its use of water and will curtail activities such as hydrant flushing and street cleaning.

The City will inform the public of the voluntary conservation measures.

STAGE TWO: WATER WARNING

Whenever the governing body of the City finds that drought conditions or some other condition causing a major water supply shortage are present and supplies are starting to decline, it shall be empowered to declare by resolution that a water warning exists and that it will recommend restrictions on nonessential uses during the period of warning. Such a warning shall be deemed to continue until it is declared by resolution of the governing body to have ended. The resolutions declaring the beginning and ending of the water warning shall be effective upon their publication in the official City newspaper.

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

Ground water levels have fallen ten (10) feet below normal seasonal levels.

System pressure falls below thirty-five (35) pounds per square inch.

Plant operations are at eighty percent (80%) capacity for more than three (3) consecutive days.

Demand for one day is in excess of 1,000,000 gallons per day.

GOALS: The goals of this stage are to reduce peak demands by twenty percent (20%) and to reduce overall weekly consumption by ten percent (10%).

EDUCATION ACTIONS:

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

The City will hold public meeting(s) to discuss the emergency, the status of the water supply and further actions which need to be taken.

MANAGEMENT ACTIONS:

Water supply will be monitored daily.

Leaks will be repaired within twenty-four (24) hours of detection.

Pumpage at wells will be reduced to decrease drawdown and to maintain water levels over well screens.

The City will curtail its water usage, including watering the City grounds and washing of vehicles.

The City will inform the public of the voluntary conservation measures.

REGULATION ACTIONS: In addition to the regulation actions under STAGE ONE, the following regulatory authority may be exercised by the Mayor or City Administrator, following approval of the governing body of the City of Chappell, Nebraska:

An alternating lawn watering system will be imposed on City residents. Residents with odd-numbered home addresses will water on odd days, even-numbered houses, on even days.

Outdoor water use, including lawn watering and car washing will be restricted to before 10:00 AM and after 9:00 PM.

Refilling of swimming pools will be limited to one day a week after sunset.

Excess water use charges for usage of water over the amount used in the winter will be imposed at a rate twice the normal rate for water usage.

Waste of water will be prohibited.

STAGE THREE: WATER EMERGENCY

Whenever the governing body of the City finds that an emergency exists by reason of a shortage of water supply needed for essential uses, it shall be empowered to declare by resolution that a water supply emergency exists and that it will impose mandatory restrictions on water use during the period of the emergency. Such an emergency shall be deemed to continue until it is declared by resolution of

the governing body to have ended. The resolutions declaring the existence and end of a water supply emergency shall be effective upon their publication in the official City newspaper.

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

Ground water levels have fallen fifteen (15) feet below normal seasonal levels.

System pressure falls below thirty-five (35) pounds per square inch.

Pumping lowers water levels to within five (5) feet of the top of the well screens.

Plant operations are at ninety percent (90%) capacity for more than three (3) consecutive days.

Demand for one day is in excess of 1,200,000 gallons per day.

GOALS: The goals of this stage are to reduce peak demands by fifty percent (50%) and to reduce overall consumption by twenty-five percent (25%).

EDUCATION ACTIONS:

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

The City will hold public meeting(s) to discuss the emergency, the status of the water supply and further actions which need to be taken.

MANAGEMENT ACTIONS:

The City water supplies will be monitored daily.

Leaks will be repaired within twenty-four (24) hours of detection.

Standby wells will be activated for contingency operation.

Pumpage at wells will be reduced to decrease drawdown and to maintain water levels over well screens.

The City will seek additional emergency supplies from other users, the state and federal government.

REGULATION ACTIONS: In addition to the regulation actions available under STAGE TWO, the following regulatory authority may be exercised by the Chairman of the Board;

Outdoor water use will be banned, except for businesses which require outdoor water use to operate.

Waste of water will be prohibited.

Section 4. Voluntary Conservation Measures. Upon the declaration of a water watch or water warning as provided in STAGE ONE and STAGE TWO, the Mayor or the City Administrator is authorized to call on all water consumers to employ voluntary water conservation measures to limit or eliminate nonessential water uses including, but not limited to, limitations on the following uses:

- a) Sprinkling of water on lawns, shrubs or trees (including golf courses).
- b) Washing of automobiles, trucks, and recreations vehicles.
- c) Use of water in swimming pools, fountains and evaporative air conditioning systems.
- d) Waste of water.

Section 5. Mandatory Conservation Measures. Upon the declaration of a water supply emergency as provided in STAGE THREE, the Mayor or the City Administrator is authorized to implement certain mandatory water conservation measures, including, but not limited to, the following:

- a) Suspension of new connections to the City's water distribution system, except connections of fire hydrants and those made pursuant to agreements entered into by the City prior to the effective date of the declaration of the emergency;
- b) Restrictions on the uses of water in one or more classes of water use, wholly or in part;
- c) Restrictions on the sales of water at coin-operated facilities or sites;
- d) The imposition of water rationing based on any reasonable formula including, but not limited to, the percentage of normal use and per capita or per consumer restrictions;
- e) Complete or partial bans on the waste of water; and
- f) Any combination of the foregoing measures.

Section 6. Emergency Water Rates. Upon the declaration of a water supply emergency as provided in STAGE THREE, the governing body of the City shall have the power to adopt emergency water rates by ordinance designed to conserve water supplies. Such emergency rates may provide for, but are not limited to:

- a) Higher charges for increasing usage per unit of use (increasing block rates);
- b) Uniform charges for water usage per unit of use (uniform unit rate); or
- c) Extra charges in excess of a specified level of water use (excess demand surcharge).

Section 7. Regulations. During the effective period of any water supply emergency as provided for in STAGE THREE, the Mayor, City Administrator, or Water Superintendent is empowered to promulgate such regulations as may be necessary to carry out the provisions of this ordinance, any water supply emergency resolution, or emergency water rate ordinance. Such regulations shall be subject to the approval of the governing body at its next regular or special meeting.

Section 8. Violations, Disconnections, and Penalties. If the Mayor, City Administrator, Water Superintendent, or other city official or officials charged with implementation and enforcement of this ordinance or a water supply emergency resolution learn of any violation of any water use restrictions imposed pursuant to Sections 5 or 7 of this ordinance, a written notice of the violation shall be affixed to the property where the violation occurred and the customer of record any other person known to the City who is responsible for the violation or its correction shall be provided with either actual or mailed notice. Said notice shall describe the violation and order that it be corrected, cured, or abated immediately or within such specified time as the City determines is reasonable under the circumstances. If the order is not complied with, the City may terminate water service to the customer subject to the following procedures:

- a) The City shall give the customer notice by mail or actual notice that water service will be discontinued within a specified time due to the violation and that the customer will have the opportunity to appeal the termination by requesting a hearing scheduled before the City governing body or a city official designated as a hearing officer by the governing body;
- b) If such a hearing is requested by the customer charged with the violation, he or she shall be given a full opportunity to be heard before termination is ordered; and
- c) The governing body or hearing officer shall make findings of fact and order whether service should continue or be terminated.

1. A fee of FIFTY DOLLARS (\$50.00) shall be paid for the reconnection of any water service terminated pursuant to Section 8. In the event of subsequent violations, the reconnection fee shall be TWO HUNDRED DOLLARS (\$200.00) for the second reconnection and THREE HUNDRED DOLLARS (\$300.00) for any additional reconnections.
2. Violations of this ordinance shall be a municipal offense and may be prosecuted in County Court. Any person so charged and found guilty in County Court of violating the provisions of this ordinance shall be guilty of a municipal offense. Each day's violation shall constitute a separate offense. The

penalty for an initial violation shall be a mandatory fine of ONE HUNDRED DOLLARS (\$100.00). In addition, such customer may be required by the Court to serve a definite term of confinement in the county jail which shall be fixed by the Court and which shall not exceed thirty (30) days. The penalty for a second or subsequent conviction shall be a mandatory fine of TWO HUNDRED DOLLARS (\$200.00). In addition, such customer shall serve a definite term of confinement in the county jail which shall be fixed by the Court and which shall not exceed thirty (30) days.

Section 9. Emergency Termination. Nothing in this ordinance shall limit the ability of any properly authorized city official from terminating the supply of water to any or all customers upon the determination of such city official that emergency termination of water service is required to protect the health and safety of the public.

Section 10. Severability. If any provision of this ordinance is declared unconstitutional, or the application thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the ordinance and its applicability to other persons and circumstances shall not be affected thereby.

Section 11. This ordinance shall become effective upon its publication in the official City newspaper.

(Ord. 497 passed 6-19-06)

§ ORDINANCE NO. 498

An ordinance adopted by the City of Chappell, Deuel County, Nebraska annexing certain territory and incorporating the same within corporate boundaries of the City of Chappell pursuant to the provisions of section 17-405 Et. Seq. revised statutes of Nebraska.

The annexation of such territory is deemed necessary for the welfare of the residents and property owners thereof and of this City as a whole.

Section 1. There is hereby annexed to the City of Chappell, County of Deuel, State of Nebraska, and incorporated within the corporate boundaries thereof, the following territory adjoining the present corporate boundaries of the City:

A tract of land being part of the East Half of the Southeast Quarter (E½SE¼) of Section Twenty-one (21), Township Thirteen (13) North, Range Forty-five (45) West of the Sixth Principal Meridian, Deuel County, Nebraska, and more particularly described as follows: Referring to the Southeast corner of the Southeast Quarter of said Section 21 and assuming the South line of said Southeast Quarter as bearing N 89°51'36" W and all bearings contained herein are relative thereto; thence N 89°51'36" W and on said South line a distance of 62.0 feet to the ACTUAL PLACE OF BEGINNING, said place of beginning being on the Westerly right-of-way line of Nebraska State Highway No. L25A; thence N 05°32'43" E and on said Westerly right-of-way line a distance of 301.27 feet; thence N 00°01'18" E continuing on said Westerly right-of-way line and parallel with the East line of said Southeast Quarter a distance of 562.42 feet to the Southerly right-of-way line of U.S. Interstate No. 80; thence N 32°25'01" W and on said Southerly right-of-way line a distance of 557.3 feet to the point of curvature; thence on a 1045.92 foot radius curve to the left and continuing on said Southerly right-of-way line, forming a central angle of 32°11'16" an arc distance of 587.6 feet to the point of tangency; thence tangent N 64°36'17" W a distance of 139.2 feet to the point of curvature; thence on a 17013.73 foot radius curve to the left, forming a central angle of 01°00'51" an arc distance of 301.16 feet; thence leaving said Southerly right-of-way line S 00°30'19" W and parallel with the West line of the East Half of the Southeast Quarter a distance of 612.29 feet; thence S 89°29'41" E a distance of 84.94 feet; thence S 00°30'19" W and parallel with said West line a distance of 200.0 feet; thence N89°29'41" W a distance of 84.94 feet; thence S 00°30'19" W and parallel with said West line a distance of 1074.19 feet to the South line of said Southeast Quarter; thence S 89°51'36" E and on said South line a distance of 1125.54 feet to the place of beginning. Containing 39.73 acres, more or less.

The East 300 Ft. of Section 21, T13N, R45W of the 6th P.M., Deuel County, Nebraska, located North of U.S. Interstate No. 80 Right of Way.

The East 300 Ft. of the SE1/4 of Section 16, T13N, R45W of the 6th P.M., Deuel County, Nebraska, located South of the Southerly right of way line of the Union Pacific Railroad Company.

Section 2. The corporate limits of the City of Chappell are hereby extended and increased so as to include and embrace within the corporate limits of the City of Chappell, the territory described in Section 1 hereof, and such territory is hereby declared to be a part of the City of Chappell.

Section 3. The map attached to this ordinance is an accurate map of the territory annexed, and such map is hereby adopted as the official map of the territory annexed, and the Mayor of the City of Chappell is hereby authorized and directed to certify that the map is an accurate map of the territory annexed under the provisions of this ordinance, and to record in the office of the County Clerk, County of Deuel, State of Nebraska, this ordinance together with a certified copy of the official map attached.

Section 4. That this ordinance shall be in full force and take effect from and after its passage, approval and publication or posting according to law.

(Ord. 498 passed 9-18-06)

SEXUAL PREDATOR RESIDENCY RESTRICTIONS.

DEFINITIONS.

For the purpose of this ordinance, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CHILD CARE FACILITY. A place with a license issued under the Nebraska Child (Care Licensing Act, sections 71-1908 to 71-1923, as currently existing or hereafter amended. It shall include licensed places both inside and outside the corporate limits of the City.)

SEX OFFENDER. An individual who has been convicted of a crime listed in Neb. Rev. Stat. Section 29-4003 and who is required to register as a sex offender pursuant to the Sex Offender Registration Act or any person convicted under the law of another state if, at the time of the conviction under the law of such other state, the offense for which the person was convicted would have required registration under the Nebraska Sex Offender Registration Act, if the conviction occurred in Nebraska.

SEXUAL PREDATOR. An individual who is required to register under the State of Nebraska's Sex Offender Registration Act, who is classified as Level 3 as determined by the Nebraska State Patrol under Neb. Rev. Stat. Section 29-4013, which is the classification of those registrants with a high risk of recidivism and who has victimized a person who was eighteen years of age or younger in the past.

RESIDENCE. A place where the person regularly sleeps, where the person has established his or her home, where he or she is habitually present or to which when he or she departs he or she intends to or does regularly return. A residence may include more than one location and may be mobile or transitory. Residency may be shown by, among other evidence, receipt of mail at the premises or identification of the premises as a residence on a driver's license, vehicle registration or other document, such as utility or other service billings.

SCHOOL. A public, private, denominational or parochial school which meets the requirements for accreditation or approval prescribed by the State of Nebraska, pursuant to Nebraska Revised Statute Chapter 79, and which has or includes any or all grades kindergarten through 12th grade.

Sex Offender Residence Prohibitions; Exceptions and Penalties.

(A) Prohibited location of residence of sexual predator. It shall be unlawful for any sexual predator, as defined in the previous Section, to reside within five hundred (500) feet of a school or child care facility.

(B) Measurement of distance. For purposes of determining the minimum distance separation, the requirement shall be measured by following a straight line from the outer property line of the permanent residence or temporary residence to the nearest outer boundary line of a school or child care facility.

(C) Exceptions. A sexual predator residing within five hundred (500) feet of a school or child care facility does not commit a violation of this Ordinance if he or she:

(1) Resides within a prison or a correctional or treatment facility operated by the state or a political subdivision.

(2) Established his or her residence location prior to July 1, 2006 and has not moved from that residence.

(3) Established his or her residence after July 1, 2006, and the school or child care facility triggering the restriction was established after the initial date of the sexual predator's residence at that location.

(4) The person is a minor residing with a parent.

(5) The person's place of residence becomes a violation of this Ordinance solely because of annexation into the City.

(6) This section does not preclude a sexual predator deemed to be handicapped or disabled under the Fair Housing Act, Rehabilitation Act or Americans with Disabilities Act from pursuing requests for reasonable accommodations.

(Ord. 501, passed 3-17-08) Penalty, see § 10.99

Statutory reference:

Political subdivision restrictions on sex offender residency; requirements, see Neb. Rev. Stat § 29-4017