

CHAPTER 50: UTILITIES GENERALLY

Section

- 50.01 Denial of utility service; when prohibited
- 50.02 Utility bills; collection
- 50.03 Discontinuance of service; notice procedure
- 50.04 Diversion of services; civil action
- 50.05 Diversion of services; meter tampering; unauthorized reconnection, prohibited; evidence
- 50.06 Lien

- 50.99 Penalty

§ 50.01 DENIAL OF UTILITY SERVICE; WHEN PROHIBITED.

No applicant for the services of a public or private utility company furnishing water, natural gas or electricity at retail in this city shall be denied service because of unpaid bills for similar service which are not collectible at law because of statutes of limitations or discharge in bankruptcy proceedings. (Neb. RS 70-1601) (1999 Code, § 3-401)

§ 50.02 UTILITY BILLS; COLLECTION.

(A) Charges for water, sewer and electrical service shall be billed jointly on a monthly basis. The Utilities Superintendent shall read, or cause to be read, water and electric meters on or around the fifteenth day of each month. The City Clerk shall bill the consumers and collect all money received by the municipality on account of the water, sewer and electrical systems. The Clerk shall faithfully account for and pay to the City Treasurer all revenue collected, taking a receipt therefor and filing the receipt in the official records.

(B) Utility bills shall be mailed on the last day of each month, and shall be due upon receipt and payable by 5:00 p.m. on the fifteenth day of next month. Bills not paid by 5:00 p.m. on the fifteenth day of each month shall be deemed to be delinquent and shall be charged a late payment penalty in an amount set by resolution of the governing body and on file with the City Clerk.

(C) Upon being deemed to be delinquent, as herein defined, the Utilities Superintendent may discontinue service pursuant to § 50.03. Once discontinued, service shall not be recommenced except upon payment in full of all delinquent charges and upon further payment of a reconnection fee in the

amount set by resolution of the governing body. The municipality may also take any action authorized by law to effect collection of the delinquent charges.
(1999 Code, § 3-402) (Ord. 01-561, passed 4-3-2001)

§ 50.03 DISCONTINUANCE OF SERVICE; NOTICE PROCEDURE.

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

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

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

(C) The notice required by division (A) shall contain the following information:

- (1) The reason for the proposed disconnection;
- (2) A statement of the intention to disconnect unless the domestic subscriber either pays the bill or reaches an agreement with the utility regarding payment of the bill;
- (3) The date upon which service will be disconnected if the domestic subscriber does not take appropriate action;
- (4) The name, address, and telephone number of the utility's employee or department to whom the domestic subscriber may address an inquiry or complaint;
- (5) The domestic subscriber's right, prior to the disconnection date, to request a conference regarding any dispute over such proposed disconnection;
- (6) A statement that the utility may not disconnect service pending the conclusion of the conference;

(7) A statement to the effect that disconnection may be postponed or prevented upon presentation of a duly licensed physician's certificate which shall certify that a domestic subscriber or resident within such subscriber's household has an existing illness or handicap which would cause such subscriber or resident to suffer an immediate and serious health hazard by the disconnection of the utility's service to that household. Such certificate shall be filed with the utility within five days of receiving notice under this section and will prevent the disconnection of the utility's service for a period of 30 days from such filing. Only one postponement of disconnection shall be allowed under this division for each incidence of nonpayment of any past-due account;

(8) The cost that will be borne by the domestic subscriber for restoration of service;

(9) A statement that the domestic subscriber may arrange with the utility for an installment payment plan;

(10) A statement to the effect that those domestic subscribers who are welfare recipients may qualify for assistance in payment of their utility bill and that they should contact their caseworker in that regard; and

(11) Any additional information not inconsistent with this section which has received prior approval from the City Council or Board of Public Works, in the case of a city utility, or the board of directors or administrative board of any other utility.
(Neb. RS 70-1606)

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

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

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

(G) This section shall not apply to any disconnections or interruptions of services made necessary by the utility for reasons of repair or maintenance or to protect the health or safety of the domestic subscriber or of the general public.
(Neb. RS 70-1615)
(1999 Code, § 3-403)

§ 50.04 DIVERSION OF SERVICES; CIVIL ACTION.

(A) For purposes of this section, the definitions found in Neb. RS 25-21,275 shall apply.

(B) (1) The city utility may bring a civil action for damages against any person who commits, authorizes, solicits, aids, abets or attempts bypassing, tampering or unauthorized metering, when that act results in damages to the utility. A city utility may bring a civil action for damages pursuant to this section against any person receiving the benefit of utility service through means of bypassing, tampering or unauthorized metering.

(2) In any civil action brought pursuant to this section, the city utility shall be entitled, upon proof of willful or intentional bypassing, tampering or unauthorized metering, to recover as damages:

(a) The amount of actual damage or loss if the amount of the damage or loss is susceptible of reasonable calculation; or

(b) Liquidated damages of \$750 if the amount of actual damage or loss is not susceptible of reasonable calculation.

(3) In addition to damage or loss under division (B)(2)(a) or (B)(2)(b) above, the utility may recover all reasonable expenses and costs incurred on account of the bypassing, tampering or unauthorized metering including, but not limited to, disconnection, reconnection, service calls, equipment, costs of the suit and reasonable attorney's fees in cases within the scope of Neb. RS 25-1801. (Neb. RS 25-21,276)

(C) (1) There shall be a rebuttable presumption that a tenant or occupant at any premises where bypassing, tampering or unauthorized metering is proven to exist caused or had knowledge of that bypassing, tampering or unauthorized metering if the tenant or occupant:

(a) Had access to the part of the utility supply system on the premises where the bypassing, tampering or unauthorized metering is proven to exist; and

(b) Was responsible or partially responsible for payment, either directly or indirectly, to the utility or to any other person for utility services to the premises.

(2) There shall be a rebuttable presumption that a customer at any premises where bypassing, tampering or unauthorized metering is proven to exist caused or had knowledge of that bypassing, tampering or unauthorized metering if the customer controlled access to the part of the utility supply system on the premises where the bypassing, tampering or unauthorized metering was proven to exist. (Neb. RS 25-21,277)

(D) The remedies provided by this section shall be deemed to be supplemental and additional to powers conferred by existing laws. The remedies provided in this section are in addition to and not in limitation of any other civil or criminal statutory or common-law remedies.

(Neb. RS 25-21,278)

(1999 Code, § 3-404)

§ 50.05 DIVERSION OF SERVICES; METER TAMPERING; UNAUTHORIZED RECONNECTION, PROHIBITED; EVIDENCE.

(A) It is an offense for any person to do any of the following:

(1) To connect any instrument, device or contrivance with any wire supplying or intended to supply electricity or electric current or to connect any pipe or conduit supplying gas or water, without the knowledge and consent of any city utility supplying the products or services, in a manner that any portion thereof may be supplied to any instrument by or at which electricity, electric current, gas or water may be consumed without passing through the meter made or provided for measuring or registering the amount or quantity thereof passing through it;

(2) To knowingly use or knowingly permit the use of electricity, electric current, gas or water obtained unlawfully pursuant to this section;

(3) To reconnect electrical, gas or water service without the knowledge and consent of any city utility supplying the service if the service has been disconnected pursuant to Neb. RS 70-1601 through 70-1615 or § 50.03 of this code; or

(4) To willfully injure, alter, or by any instrument, device or contrivance in any manner interfere with or obstruct the action or operation of any meter made or provided for measuring or registering the amount or quantity of electricity, electric current, gas or water passing through it, without the knowledge and consent of any city utility supplying the electricity, electric current, gas or water passing or intended to pass through the meter.

(B) Proof of the existence of any wire, pipe or conduit connection or reconnection or of any injury, alteration, interference or obstruction of a meter is prima facie evidence of the guilt of the person in possession of the premises where that connection, reconnection, injury, alteration, interference or obstruction is proved to exist.

(Neb. RS 28-515.02) (1999 Code, § 3-405)

§ 50.06 LIEN.

(A) All water rates, taxes or rent assessed by the City Council shall be a lien upon the premises or real estate, upon or for which the same is used or supplied; and the taxes, rents or rates shall be paid and collected and the lien enforced in a manner as the Council shall by ordinance direct and provide.

(Neb. RS 17-538)

Friend - Public Works

(B) All sewer charges established by the City Council shall be a lien upon the premises or real estate for which the same is used or supplied. The lien shall be enforced in a manner as the Council provides by ordinance.

(Neb. RS 17-925.01)

(C) If the service charge established by the City Council for the use of any city sewage disposal plant and sewerage system is not paid when due, the sum may be recovered by the city in a civil action or it may be certified to the County Assessor and assessed against the premises served and collected or returned in the same manner as other city taxes are certified, assessed, collected and returned.

(Neb. RS 18-503)

(D) Unless the City Council otherwise provides, on June 1 of each year, the City Clerk shall report to the Council a list of all unpaid accounts due for utilities service together with a description of the premises served. If the Council approves the report, the Clerk shall certify the report to the County Clerk to be collected as a special tax in the manner provided by law.

(1999 Code, § 3-406)

§ 50.99 PENALTY.

(A) Any person, or any person's agent or servant, who violates any of the provisions of this chapter, unless otherwise specifically provided herein, shall be deemed guilty of an offense and upon conviction thereof shall be fined in any sum not exceeding \$500. A new violation shall be deemed to have been committed every 24 hours of failure to comply with the provisions of this chapter.

(B) (1) Whenever a nuisance exists as defined in this code, the municipality may proceed by a suit in equity to enjoin, abate and remove the same in the manner provided by law.

(2) Whenever, in any action, it is established that a nuisance exists, the Court may, together with the fine or penalty imposed, enter an order of abatement as a part of the judgment in the case.

(1999 Code, § 3-1101) (Ord. 00-20, passed 6-6-2000)