

**CHAPTER 50: Utilities General Provisions**

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**§50.01 Diversion of Services, Meter Tampering; Unauthorized Reconnection Prohibited; Evidence; Destruction of Property**

(A) Any person who connects any pipe or conduit supplying water, gas, or electricity without the knowledge and consent of the city, in such manner that any portion thereof may be supplied or at which water, gas, or electricity may be consumed without passing through the meter provided for measuring or registering the amount or quantity passing through it, and any person who knowingly uses or knowingly permits the use of water, gas, or electricity obtained in the above mentioned unauthorized ways, shall be deemed guilty of an offense.

*(Neb. RS 86-329)*

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

*(Neb. RS 86-330)*

(C) When water, gas, or electricity service has been disconnected pursuant to Neb. RS 70-1601 to 70-1615, or § 50.01, any person who reconnects such service without the knowledge and consent of the city shall be deemed guilty of an offense.

(D) Proof of the existence of any pipe or conduit connection or reconnection or of any injury, alteration, or obstruction of a meter, as provided in this section, shall be taken as prima facie evidence of the guilt of the person in possession of the premises where such connection, reconnection, injury, alteration, or obstruction is proved to exist.

*(Neb. 86-331) ('72 Code, § 3-1003) Penalty, see § 10.99*

(E) It shall be unlawful for any person to willfully or carelessly break, injure, or deface any building, machinery, apparatus, fixture, attachment, or appurtenance of the city utility system, or commit any act tending to obstruct or impair the intended use of the above-mentioned property.

Electric: *(Neb RS 28-512) ('72 code, §3-916) Penalty, see §10.99*

Water: *('72 code, §3-720) (Am. Ord. 1493, passed 4-13-95;*

*Am. Ord. 1815, passed 10-24-02) Penalty see §10.99*

Gas: *(Ord.1687, passed 8-12-99; Am. Ord. 1815, passed 10-24-02) Penalty, see § 10.99*

**§50.02 Diversion of Services; Penalty**

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

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

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

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

(C) In addition to damage or loss under subdivisions (B) (1) or (2) of this section, the city may recover all reasonable expenses and costs incurred on account of the bypassing, tampering, or unauthorized metering, including but not limited to disconnection, reconnection, service calls, equipment, costs of the suit, and reasonable attorneys' fees in cases within the scope of Neb. RS 25-1801.

*(Neb. RS 86-331.02)*

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

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

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

(E) There shall be a rebuttable presumption that a customer at any premises where bypassing, tampering, or unauthorized metering is proven to exist caused or had knowledge of such bypassing, tampering, or unauthorized metering if the customer controlled access to the part of the utility supply system on the premises where the bypassing, tampering, or unauthorized metering was proven to exist. *(Neb. RS 86-33 1.03)*

(F) The remedies provided by this section shall be deemed to be supplemental and additional to powers conferred by existing laws, and 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 86-331.04) ('72 Code, § 3-1002) (Ord. 1520, passed 1-25-96)*

**Statutory reference:**

*Definitions related to diversion of utility services, see Neb. RS 86-331.01*

### **§50.03 Denial of Utility Service; When Prohibited**

No applicant for the services of a public 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) (Ord. 1685, passed 5-27-99)*

### **§50.04 Contracts and Terms**

The city, through the Board of Public Works, shall furnish utility services to persons whose premises abut existing city utility distribution systems and may furnish utilities to such other persons within or without its corporate limits, as and when, according to law, the Board of Public Works may see fit to do so. The rules, regulations, and rates for utility service, hereinafter named, shall be considered a part of every application hereafter made for utility service and shall be considered a part of the contract between every consumer served by the Board of Public Works. Without further formality, the making of application on the part of any applicant or the use or the consumption of utility services by customers and the furnishing of utility service to said applicant or customer shall constitute a contract between applicant or customer and the city, to which both parties are bound. If the customer should violate any of the provision of said contract or any reasonable rules and regulations that the Board of Public Works may hereafter adopt, the Board of Public Works, or its agent, shall cut off or disconnect the utility service from the building or place of the violation and no further connection of utility service for the building or place shall again be made save or except by order of the Board of Public Works or its designated agent.

*(Neb. RS 19-2701) ('72 Code, § 3-901) (Am. Ord. 1493, passed 4-13-95; Am. Ord. 1815, passed 10-24-02)*

### **§50.05 Service Contracts**

Contracts for utility services are not transferable. Any person wishing to change from one location to another shall make a new application and sign a new contract. If any consumer shall sell, dispose, or remove from the premises where service is furnished in his or her name, or if the said premise is destroyed by fire or other casualty, he or she shall at once inform the Board of Public Works, or its designated agent, who shall cause the utility services to be shut off from the said premise. If the consumer should fail to give such notice, he or she shall be charged for all utilities used on the said premise until the Board of Public Works, or its designated agent, is otherwise advised of such circumstances.

### **§50.051 Property Owner Agreement**

Any property owner desiring to protect their property shall have the option of signing a Property Owner Agreement with Wahoo Utilities. Said agreement will provide the Utilities with direction as to whether the property owner wishes to have utilities transferred in to their name or having services disconnected at the property when a tenant moves out. The agreement shall default to disconnection of service if property owner fails to return agreement.

**(INSERT PROPERTY OWNER AGREEMENT FORM)**

**§50.06 Application for Service**

Any person wishing to connect with the utility systems shall make an application therefore to the Board of Public Works upon blanks to be furnished by it for that purpose, and provide a copy of valid photo identification. The Board of Public Works will require any applicant to make a service deposit in such amount as may be prescribed by the Board of Public Works. Utility service may be supplied to any house or building, provided, that the entire cost of pipe/wire and other installation charges shall be paid by such consumers. Nothing herein shall be construed to obligate the city to provide utility service to nonresidents.

*(Neb. RS 17-149, 19-2701) ('72 Code, § 3-804) (Am. Ord. 1493, passed 4-13-95; Am. Ord. 1815, passed 10-24-02)*

**§50.065 Point of Service**

All utility service hook-ups shall be coordinated through the Board of Public Works. The point of service and meter location of the utility at the structure shall be determined by the Board of Public Works, and shall be from the closest appropriate facilities of the Board of Public Works. The point of service and meters shall be on the closest part of the structure. If the owner objects to the point of service, the Board of Public Works will consider, but not guarantee, relocating the point of service and meters, the owner pays all additional cost. The electric and gas meters and remote water reader shall be accessible to the Board of Public Works at all times.

**§50.07 Service Deposits**

Deposits for utility services are as follows:

(A) Residential Service:

- (1) Service Deposit for Gas: \$ 75.00
- (2) Service Deposit for Electric Service: \$100.00
- (3) Water and Sewer/Wastewater: \$ 25.00

For customers having all utility services, the deposit will be a total of \$200.00.

(B) Commercial Service:

- (1) Service Deposit for Gas: \$ 75.00
- (2) Service Deposit for Electric Service: \$100.00
- (3) Water and Sewer/wastewater; or \$ 25.00
- (4) One and one half (1½) times the average month's bill at that

location, whichever is greater.

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(C) Residential service customer deposits shall be refunded if there have been no more than three (3) penalties added to the customer's bill for a period of three (3) consecutive years.

(D) Commercial service customer deposits shall be refunded if there have been no more than three (3) penalties added to the customer's bill for a period of three (3) consecutive years.

(E) Customers who have deposits refunded will be required to post another deposit if they have three (3) or more penalties added to their billings for any consecutive twelve (12) month period.

(F) Any customer having left Wahoo with an unpaid utility bill and upon returning to Wahoo requests resumption of service, shall pay a customer deposit two (2) times the normal deposit as well as the balance of the unpaid utility bill before service is connected.

(G) Acceptable letters of recommendation may be used instead of posting a monetary deposit if the following criteria's are met:

(1) The letter of recommendation must be from the customer's former utility company or companies for the previous (1) one year and must include reference to both electric and gas utility payments;

(2) The letter of recommendation must be faxed or mailed directly to the Board of Public Works from the customer's previous utility company.

(3) The Board of Public Works has the right to refuse any letter of recommendation and require a deposit at its discretion.

(4) Any customer who has been given the privilege of using a letter of recommendation rather than posting a monetary service deposit and has three (3) or more penalties added on their bill in a twelve (12) month period, shall be required to post a monetary service deposit to the Board of Public Works.

(H) New connections shall be subject to the following fees as determined by the Board of Public Works:

(1) Impact fees shall be deemed buying into the existing infrastructure (See Section §50.19).

(2) Developer fees shall be deemed the cost of providing major service to the requested site (See Section §50.18).

(I) All service deposit fees are payable in advance of service hook-up.

## **§50.075 Temporary Services**

Temporary services are available. Consumption rates are at regular schedules. The cost of providing temporary service is entirely at the consumer's expense. See appropriate Service Section for details.

## **§50.08 Replaced with Chapter 38: Utility Rates (2/19/09)**

## **§50.09 Fee Setting**

The Board of Public Works shall set the service fees to be charged to customers of the Utility Department. All such fees shall be set by resolution, non-discriminatory, and on file in the office of the Utilities. The City Council shall set all consumption rates by ordinance upon recommendation of the Board of Public Works.

The Board of Public Works shall bill the consumers and collect all money received by the city on the account of the Utilities Department. The utility shall faithfully account for and pay to the City Treasurer the collected occupational tax, taking the receipt therefore in duplicate, filing one with the City Clerk and keeping the other on file in the Utility Department's official records.

All such rates shall be on file for public inspection at the office of the Utilities. No commodity shall be furnished to any customer at a rate other than that provided by ordinance. The City Council may, in its discretion, set a different uniform rate for nonresidents if it deems it advisable.

## **§50.10 Minimum Rates and Seasonal Service**

All utility consumers shall be liable for the minimum rate provided by ordinance unless and until the consumer shall, by written order, direct the Board of Public Works or its designated agent to shut off the utility, in which case the consumer shall not be liable thereafter for utility rental until the utility is turned on again.

Seasonal Service-Utility customers that request to have a utility or utilities service disconnected for a period of at least 5 months will not be charged the minimum monthly customer service charge or charges, and will not be charged a fee or fee's to reconnect the service or services when the customer is ready for the service to be reconnected.

If the utility customer request to have the utility or utilities reconnected before the 5 month disconnection period has ended, the customer will be charged \$25 per service to have it reconnected. All fees must be paid before any service will be reconnected. Service will only be reconnected during normal business hours and subject to availability of each department to reconnect service.

### **§50.11 Utility Billing System**

Utility bills shall be due and payable monthly at the office of the Utilities. The Board of Public Works or its designated agent shall make read, or cause to be read, all utility meters one time per month through four billing periods. It shall be the duty of the customers of the Utilities Department to appear each month at the office of the Utilities to pay their bills in net cash. The Board of Public Works shall charge and collect from each customer the minimum charge together with any other charges, properly itemized, due the Utilities Department. Bills shall be calculated and rendered during one of the following four cycle schedules as established by geographic boundaries:

- (1) Cycle One-Bills sent out on or about the seventh day of the month.
- (2) Cycle Two-Bills sent out on or about the fourteenth day of the month.
- (3) Cycle Three-Bills sent out on or about the twenty-first day of the month.
- (4) Cycle Four-Bills sent out on or about the twenty-eighth day of the month.

Utility bills shall be due fifteen days after presentation. Should the due date fall on a weekend or holiday, bills shall be due on the following workday. Failure to make payment of bills by the due date will result in the mailing of a notice of discontinuance of utility services titled 'Disconnection Notice'. The subscriber shall have eight working days following the mailing of said notice to make payment of original bill, plus a 5% delayed payment penalty added to the gas charges and a 10% delayed payment penalty added to the electric charges, prior to the discontinuance of utility services. After disconnect, reconnection may be had during regular working hours upon payment of the past due billing along with the non-recoverable \$25 fee. Reconnection may be had after hours or on weekends and holidays upon receipt of payment of the past due billing and a non-recoverable \$35 fee for water or electrical service or a non-recoverable \$50 fee for gas service.

*Electric Ord. 1746 Passed 12-2000—Gas Ord. 1697 Passed 10-1999*

### **§50.12 Discontinuance of Service; Notice Procedure**

Terms of payment - All bills rendered are net, due, and payable on receipt, and delinquent if not paid pursuant to § 50.11. Delinquent accounts are subject to a 5% delayed payment penalty for gas charges and 10% delayed payment penalty for the electric charges. Unpaid delinquent accounts are subject to disconnection with proper notice.

(A) As to any subscriber who has previously been identified as a welfare recipient to the city by the Department of Health and Human Services, such

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notice shall be by certified mail, and notice of such proposed termination shall be given to the Department of Health and Human Services.

(B) The notice shall contain the following information:

- (1) The reason for the proposed disconnection;
- (2) A statement of the intention to disconnect unless the domestic subscriber either pays the bill or reaches an agreement with the city regarding payment of the bill;
- (3) The date upon which service will be disconnected if the domestic subscriber does not take appropriate action;
- (4) The name, address, and telephone number of the employee or department to whom the domestic subscriber may address an inquiry or complaint;
- (5) The domestic subscriber's right, prior to the disconnection date, to request a conference regarding any dispute over such proposed disconnection;
- (6) A statement that the city may not disconnect service pending the conclusion of the conference;
- (7) A statement to the effect that disconnection may be postponed or prevented upon presentation of a duly licensed physician's certificate which shall certify that the domestic subscriber or a 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 city's service to that household. Such certificate shall be filed with the city within five days of receiving notice under this section and will prevent the disconnection of the city's service for a period of 30 days from such filing. Only one postponement of disconnection shall be allowed under this subsection 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 city for a level 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 Board of Public Works.

(C) A domestic subscriber may dispute the proposed discontinuance of service by notifying the city with a written statement that sets forth the reasons

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for the dispute and the relief requested. If a statement has been made by the subscriber, a conference shall be held before the city may discontinue services.

(D) The procedures adopted by the Board of Public Works for resolving utility bills, files of which are in the office of the Utilities, 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.

(E) This section shall not apply to any disconnections or interruptions of services made necessary by the city for reasons of repair or maintenance or to protect the health or safety of the domestic subscriber or of the general public.

*('72 Code, § 3-1001) (Ord. 1212, passed 9-22-83; Am. Ord. 1399, passed 7-23-92; Am. Ord. 1607, passed 9-25-97)*

**Statutory reference:** *Utility discontinuance regulated, see Neb. RS 70-1602 et seq.*

### **§50.13 Utility Loans and/or Grants**

(A) The City Utility Department shall be authorized to make utility loans and/or grants to or for the benefit of customers of the City Utility Department by the extension of credit by the City Utility Department from its own capital, or from capital raised by Nebraska Finance Authority, solely for the purchase or installation of utility conservation measures with repayment of the loans to be made through the City Utility Department's periodic billing system.

(B) Neb. R.R.S. 66-1001 through 66-1011, pertaining to utility loans, are incorporated herein by reference.

(C) The City Utility Department is authorized to promulgate rules and regulations, subject to the approval of the Board of Public Works, for the implementation of this section.

(D) After January 1, 2001, the City Utility Department shall not make utility loans and/or grants to or for the benefit of customers of the City Utility Department for the purchase or installation of utility conservation measures except for those loans to be made in calendar year 2001 for which it has committed budget funds prior to January 1, 2001.

(E) All existing loans of the City Utility Department and those loans, as aforementioned, made after January 1, 2001, shall continue to be valid loans of the City Utility Department to said customers and shall be collected pursuant to the terms and conditions of said respective loans, the rules and regulations of the City Utility Department promulgated for the implementation of said loans, and applicable statutes of the state.

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(F) When all loans of the City Utility Department have been paid and/or are no longer deemed collectible, the Utilities Manager of the City Utility Department shall so notify the Board of Public Works, and the Board of Public Works shall enact a resolution repealing this code section.

*('72 Code, § 3-924) (Ord. 1319, passed 12-14-89; Am. Ord. 1748, passed 12-28-00)*

### **§50.14 Complaints**

Any consumer feeling himself or herself aggrieved by reason of any controversy with the Board of Public Works or their designated agent, may appear before the Board of Public Works and present his or her grievance. Any consumer who considers himself or herself aggrieved by being required to pay the charge demanded for the use of utilities, or for the resumption of utility service after the same shall have been shut off, shall pay such charge under protest, in which event the Utility shall write on the receipt given such customer the words, "Paid Under Protest." The consumer may then present his or her verified claim in the manner provided for presenting claims to the Board of Public Works for a refund of the amount so paid under protest. The claims shall then be considered by the Board of Public Works in the same manner as other claims against the utility.

*('72 Code, § 3-923) (Am. Ord. 1493, passed 4-13-95; Am. Ord. 1815, passed 10-24-02)*

### **§50.15 Individual Service**

No consumer shall supply utilities to another consumer or allow said other consumer to take utilities from his/her/its premise; nor after utility is supplied into a building shall any person make or employ a person to make a connection with the pipes/wires for alteration, extension, or attachment without the written permission of the Utilities Manager.

### **§50.16 Inhabitants of Annexed Land; Benefits; Ordinances**

The inhabitants of territories annexed under the provisions of sections 17-405.01 to 17-405.05 of state statute shall receive substantially the benefits of other inhabitants of such municipality as soon as practicable, and adequate plans and necessary city council or village board action to furnish such benefits as police, fire, snow removal, and utility service must be adopted not later than one year after the date of annexation, and such inhabitants shall be subject to the ordinances and regulations of such municipality;

Provided, that such one-year period shall be tolled pending final court decision in any court action to contest such annexation.

Laws 1967, c. 74, § 4, p. 241.

### **§50.17 Relocation of Facilities**

If feasible in the opinion of the utility and in the public interest, facilities could be relocated. The customer shall be responsible for the total cost of relocation. The facilities shall not be relocated to another individual's property or moved in a manner such that the relocation is an inconvenience to another individual.

### **§50.18 Developer Fee**

The developer shall reimburse the Utility for costs incurred by the Utility to change or provide services on newly subdivided or replatted or rezoned property. Subject to utility approval, the developer may hire private contractors to install the sewer and water mains. Gas and electrical systems shall be installed by utility personnel. Items readily removable shall not be included in the cost calculations of the electric system. The Utility Board or its designated agent shall establish charge. Credits may be available if the requested service meets specified conditions.

### **§50.19 Impact Fee**

The Customer shall pay a fee to the Utilities to compensate for the cost of new individual services and to pay for facilities utilized.

(A) The Utility Board shall establish charges based on the cost to provide individual services to the consumer.

(1) Electric: 120/240V 200Amps or less \$500, 320Amps: \$600, 400Amps: \$800, 3 phase by arrangement.

(2) Water: ¾ inch service \$525, 1 inch service \$575, anything larger will have to be by special arrangement.

(3) Sewer: Single family \$750, Multi-family \$500 for 1<sup>st</sup> unit, plus \$350 for each additional unit, Mobile home lots \$500 per lot, Industrial or commercial lots maximum \$3,500 per acre, but not less than \$750 per acre.

(4) Natural Gas: \$500 Residential lot, Commercial applications are by special arraignment.

### **§50.20 Use of Utility Property and Equipment and Equipment Rental Rates**

No utility equipment, material, tools or supplies shall be used for personal benefit without prior approval of the Utilities General Manager. Use of equipment or tools by employees shall be restricted to:

- (A) Personal use not resulting in monetary gains
- (B) Occasional events
- (C) After regular work hours

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Employees shall be qualified to operate the equipment and shall pay the standard rate for use of the equipment, tool or supplies. Repeated use of equipment by an employee shall not be permitted.

If contractors (for work inside city service limits) or residents of the city have special needs they may rent utility equipment or tools with a qualified utility operator. Time of use shall be after regular working hours. Repeated use of equipment shall not be permitted. In all cases the employee shall be on overtime pay and shall ONLY operate the equipment and shall NOT assist with other work. The requesting person or employee shall pay full labor cost and equipment rental fees.

Equipment rental rates are as follows:

Digger Derrick Truck	\$50.00/Hour
Aerial Basket Truck	\$35.00/Hour
Trencher	\$30.00/Hour
Cement Saw Rent	\$5.00 /Hour
Tractor – Backhoe	\$40.00 /Hour
Air Compressor	\$20.00 /Hour
Boring Machine	\$20.00 /Hour
Hole Hog	\$5.50 /Lineal Foot
Sewer Machine	\$27.50 /Hour
2” – 3” Dewatering Pump	\$12.00 /Hour
4” Dewatering Pump	\$15.00 /Hour
Pipe Thawing Transformer	\$15.00 /Hour
Main Tapping Machine	\$27.50 /Tap
Bobcat	\$25.00 /Hour
Dump Truck	\$20.00 /Hour
Mileage Out Of Town	\$00.50 /Mile
Sludge Disposal of septic tank	
(within the City Corporate Limits)	\$17.00 /per load
(outside the City Corporate Limits)	\$25.00/per load

*(Am Ord. 1815, passed 8-19-09)*

### **§50.21 Easements**

The Utility recognizes and will use ‘Prescriptive Easement’ rights. To be eligible the utility facilities must be in place for a minimum of 7 years, uncontested during that time frame and the installation was open and overt.

### **§50.25      Accounts Receivable**

Charges for services outside of monthly consumption billings will become collectable through Wahoo Utilities accounts receivable. Bills will be mailed out by the 10<sup>th</sup> of each month and be due within thirty days for net pay. Bills unpaid at that time will be assessed a 1.5% late fee, per month on balance owed. Bills that remain unpaid after 90 days may be sent to a collection agency with an additional \$25.00 collection fee added.