

## CHAPTER 51: UTILITIES GENERALLY

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## **GENERAL PROVISIONS**

### **§ 51.01 METERS GENERALLY.**

All utility meters which measure a utility provided by the city shall be furnished and set by the city. Only approved meters shall be installed and used by customers. Meters shall be and remain the property of the city. The customer shall keep all meters clean and in good repair at the expense of the customer. The owner or tenant of the premises where a meter is located shall provide ready and convenient access to the meter so it might be easily examined and read by appropriate city personnel. The city reserves the right to test utility meters at any time and if it is found to be beyond repair, the city shall have the right to place a new meter at the city's expense.

(2002 Code, § 82-1)

***DISCONNECTION*****§ 51.15 NOTICE PROCEDURE.**

(A) The city shall have the right to discontinue services and remove its properties if the charges for such services are not paid within 13 days after the date that they become delinquent. Before any termination, the City Clerk shall first give notice by first class mail or in person to any domestic subscriber whose service is proposed to be terminated. If notice is given by first class mail, such mail shall be conspicuously marked as to its importance. Service shall not be discontinued for at least seven days after notice is sent or given, excluding holidays and weekends.

(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 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; which certificate shall be filed with the City Clerk within five days of receiving notice under this section and will prevent the disconnection of the city's services for a period of 30 days from such filing; however, only one postponement of disconnection shall be allowed under this division (B)(7) for each incidence of non-payment of any 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 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 Council.

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

(2002 Code, § 82-31)

**Statutory reference:**

*Related provisions, see Neb. RS 70-1606*

**§ 51.16 REQUEST FOR CONFERENCE.**

(A) Upon notice to the employee designated by the city of any request for a conference by a domestic subscriber, the employee shall:

(1) Notify the domestic subscriber, in writing, of the time, place and date scheduled for the conference; and

(2) Hold a conference within 14 days of the receipt of the domestic subscriber's request. Such conference shall be informal and not governed by state rules of evidence. If the employee determines at the conference that the domestic subscriber did not receive proper notice or was denied any other right afforded under this subchapter, the employee shall recess and continue the conference at such time as the subscriber has been afforded his or her rights. Failure of a domestic subscriber to attend a scheduled conference shall relieve the city of any further action prior to the discontinuance of service. If a domestic subscriber shall contact the city prior to the scheduled conference and demonstrate that failure to attend was for a legitimate reason, the city shall make a reasonable effort to reschedule the conference.

(B) The employee of the city shall, based solely on the evidence presented at the conference, affirm, reverse or modify the city's decision which involves a disputed bill which results in a threatened termination of utility service. The employee shall allow termination of utility service only as a measure of last resort after the utility shall have exhausted all other remedies less drastic than termination.

(2002 Code, § 82-32)

**Statutory reference:**

*Related provisions, see Neb. RS 70-1610, 70-1611*

**§ 51.17 APPEAL.**

(A) Any domestic subscriber may appeal an adverse decision of the employee to the Council, who shall by resolution establish a hearing procedure to resolve utility bills appealed by domestic subscribers.

(B) The procedure shall be in writing and a copy of such procedure shall be furnished upon the request of any domestic subscriber.

(C) Such appeal shall be filed with the Council within the time specified in the procedures established.

(D) Nothing in this subchapter shall prohibit the Council from providing such additional stages of appeal as it may deem appropriate.

(2002 Code, § 82-33)

***Statutory reference:***

*Related provisions, see Neb. RS 70-1612*

**§ 51.18 THIRD-PARTY NOTICE.**

For disconnect of service, the city shall provide a third-party notice by first class mail or personal contact.

(2002 Code, § 82-34)

***Statutory reference:***

*Related provisions, see Neb. RS 70-1607*

**§ 51.19 APPLICABILITY.**

The subchapter 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.

(2002 Code, § 82-35)

***Statutory reference:***

*Related provisions, see Neb. RS 70-1615*

**§ 51.20 DIVERSION OF SERVICES.**

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

**BYPASSING.** The act of attaching, connecting or in any manner affixing any wire, cord, socket, motor, pipe or other instrument, device or contrivance to the utility supply system or any part of the system in such a manner as to transmit, supply or use any utility service without passing through an authorized meter or other device provided for measuring, registering, determining or limiting the amount of electricity, gas or water consumed. **BYPASSING** shall also mean the act of employing any means to obtain the use or benefit of electricity, gas or water without paying for the use at the rate established by the supplier for such utilities.

**CUSTOMER.** The person responsible for payment for utility services for the premises, and shall include employees and agents of the customer.

**TAMPERING.** The act of damaging, altering, adjusting or in any manner interfering with or obstructing the action or operation of any meter or other device provided for measuring, registering, determining or limiting the amount of electricity, gas or water consumed.

**UNAUTHORIZED METERING.** The act of removing, moving, installing, connecting, reconnecting or disconnecting any meter or metering device for utility service by a person other than an authorized employee or agent of such utility.

**UTILITY.** Any person lawfully operating in whole or in part for the purpose of supplying electricity, gas, water, including steam, or any combination, to the public or to any other person.

**UTILITY SERVICE.** The provision of electricity, gas, steam, water or any other service or commodity furnished by the utility for compensation.

**UTILITY SUPPLY SYSTEM.** All wires, conduits, pipes, cords, sockets, motors, meters, instruments, load control equipment and all other devices used by the utility for the purpose of providing utility services.

(B) *Presumptions.*

(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 such 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 shown to exist; or

(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 rebuttal presumption that a customer at any premises where 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.

(C) *Remedies*. 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.  
(2002 Code, § 82-36) Penalty, see § 51.99

### **§ 51.99 PENALTY.**

(A) Any person violating any provision of this chapter or Chapters 52, 53, 54 or 55 for which no specific penalty is prescribed shall be subject to § 10.99.

(B) (1) The city may bring civil action for damages against any person who commits, authorizes, solicits, aids, abets or attempts bypassing, tampering or unauthorized metering, per § 51.20 of this chapter, when such act results in damages to the utility. The city may bring a civil action for damages pursuant to this division (B) against any person receiving the benefit of utility service through means of bypassing, tampering or unauthorized metering.

(2) In any civil action pursuant to this division (B), the city shall be entitled, upon proof of willful or intentional bypassing, tampering or unauthorized metering, to recover as damages the amount of actual damages or loss if the amount of the damage or loss is susceptible of reasonable calculation, or liquidated damages of \$750.

(3) In addition to any damage or loss under division (B)(2) above, 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, cost of suit and reasonable attorney's fees within the scope of Neb. RS 25-1801.  
(2002 Code, § 82-36)