

## **TITLE V: PUBLIC WORKS**

Chapter

### **50. GENERAL PROVISIONS**

*Cross-reference:*

*Local legislation regarding public works and utilities, see Title XVII*



## CHAPTER 50: GENERAL PROVISIONS

### Section

- 50.01 Denial of service; when prohibited
- 50.02 Discontinuance of service; notice procedure
- 50.03 Diversion of services, meter tampering, unauthorized reconnection, prohibited; evidence
- 50.04 Diversion of services; civil action
- 50.05 Delinquent utility charges; lien; civil action

### *Cross-reference:*

*Trespass; public power infrastructure facility, see § 130.02*

### **§ 50.01 DENIAL OF 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 village 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)

### **§ 50.02 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 utility owned and operated by the village furnishing water, natural gas, or electricity at retail in the village shall discontinue service to any domestic subscriber for nonpayment of any past-due account unless the utility first gives written notice by mail to any subscriber whose service is proposed to be terminated at least 7 days prior to termination. As to any subscriber who has previously been identified as a welfare recipient to the utility by the Department of Health and Human Services, the notice shall be by certified mail and notice of such proposed termination shall be given to the department. (Neb. RS 70-1603)

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(C) Prior to the discontinuance of service to any domestic subscriber by a utility owned and operated by the village, the domestic subscriber, upon request, shall be provided a conference with the Board of Trustees. A utility owned and operated by the village shall not be subject to Neb. RS 70-1608 to 70-1614, but the Board of Trustees shall establish a procedure to resolve utility bills when a conference is requested by a domestic subscriber. The procedure shall be in writing and a copy of such procedure shall be furnished upon the request of any domestic subscriber. The Board of Trustees shall notify the domestic subscriber of the time, place, and date scheduled for such conference.

(Neb. RS 70-1604)

(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) 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)

**§ 50.03 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 village utility supplying such products or services, in such 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 village utility supplying such service if the service has been disconnected pursuant to Neb. RS 70-1601 through 70-1615 or § 50.02 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 village 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) Penalty, see § 10.99

**§ 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 village 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 village 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 village 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), 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 attorneys' 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 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 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)

Penalty, see § 10.99

#### **§ 50.05 DELINQUENT UTILITY CHARGES; LIEN; CIVIL ACTION.**

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

(Neb. RS 17-538)

(B) All sewer charges established by the Board of Trustees shall be a lien upon the premises or real estate for which the same is used or supplied. Such lien shall be enforced in such manner as the Board or Trustees provides by ordinance.

(Neb. RS 17-925.01)

(C) If the service charge established by the Board of Trustees for the use of any village sewage disposal plant and sewerage system is not paid when due, such sum may be recovered by the village 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 village taxes are certified, assessed, collected, and returned.

(Neb. RS 18-503)

(D) Unless the Board of Trustees otherwise provides, on June 1 of each year, the Village Clerk shall report to the Board a list of all unpaid accounts due for utilities service together with a description of the premises served. If the Board 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.