

ORDINANCE NO.2023-09

OF THE CITY OF PERU, NEMAHA COUNTY, NEBRASKA

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PERU, NEBRASKA, AMENDING THE ORIGINAL CHAPTER 50 OF THE MUNICIPAL CODE OF THE CITY OF PERU, NEBRASKA CODE OF ORDINANCES BY AMENDING SECTION 50.02 ORIGINALLY TITLED "DISCONTINUANCE OF SERVICE; NOTICE PROCEDURE" TO IT'S NEW TITLE WHICH SHALL BE "50.02 DISCONTINUANCE OF SERVICE; POLICY; PROCEDURE; NOTICE; RECONNECTION OF SERVICES"; CREATING A POLICY FOR DISCONTINUANCE AND RECONNECTION OF UTILITY SERVICES; REPEALING ALL ORDINANCES OR PARTS THEREOF IN CONFLICT HEREWITH; MAKING VARIOUS FINDINGS AND PROVISIONS RELATED TO THE SUBJECT MATTER HEREIN; AND SETTING AN EFFECTIVE DATE.

WHEREAS, it is the policy of the City to require timely payment of bills for utility services by the subscribers or patrons of such services and to ensure compliance with all federal, state, and municipal laws, ordinances, resolutions, rules, and regulations pertaining to utility services.

WHEREAS, definite statements need to be made to establish a policy pertaining to the discontinuance and reconnection of utility services.

NOW THEREFORE BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF PERU, NEBRASKA;

SECTION 1. That "Chapter 50: General Provisions" of the City of Peru, Nebraska, Code of Ordinances is amended, consistent with Code §10.17, Amending 50.02 to read as follows:

"§50.02 DISCONTINUANCE OF SERVICE; POLICY; PROCEDURE; NOTICE; RECONNECTION OF SERVICES.

(A) **DISCONTINUANCE POLICY.** The City of Peru may disconnect the utility services of its customers for any of the following reasons or for any other reason permitted by federal, state, or municipal law.

(1) Nonpayment of a delinquent utility service bill. Any service payment is considered delinquent when all or any portion of the bill is not paid by the 12th day of each month, or the next business day if the 12th falls on a weekend or a holiday.

(2) Theft, diversion, or unauthorized use of any utility service;

(3) Molesting a meter, seal or other equipment controlling or regulating the supply of utility service;

(4) Wasting water or causing or allowing water to be wasted due to improper or imperfect pipes, fixtures, appliances or otherwise.

(5) Abandonment by the subscriber or patron or the premises served by a utility service;

or

(6) Failure to comply with any federal, state, or municipal law, ordinance, resolution, rule or regulation.

(B) DISCONTINUANCE PROCEDURE.

(1) Upon establishment of a disconnection list for non-payment or any reason listed in subsection (A), on the last Monday of each month, or the first business day following the last Monday of the month if said Monday should fall on a holiday, City utility staff shall proceed to shut off all accounts determined to be on said list, until reconnection obligations set forth in subsection (I) are satisfied.

(2) The inability of the City utility staff to find a shut off valve and/or to shut off any water service shall not relieve an account holder from paying said utility bill and disconnection/reconnection fee.

(3) Should said water shutoff valve not be operable, account holder shall be given written notice to make necessary repairs within 30 days or the City staff will make necessary repairs and bill said account holder for all costs of such repair. Should circumstances warrant, the Mayor or his/her designee may agree in writing to an extension to have said shut off valve repaired.

(4) Should the utility staff not be able to shut off water service at the stop box on disconnect day due to said stop box not being functional, the City shall post a letter on the main door of said property notifying the owner that the City will be back at a specified time on the following day to gain access to the meter to shut the water off to that property. If the property is a rental property, the City shall notify the owner of said property by phone, email, or mail.

(5) All unpaid and delinquent accounts for nonpayment of utility bill or repair of the shut off valves/stop box shall be subject to and assessable against said real estate as allowed by Nebraska Statutes.

(C) DISCONTINUANCE FOR NON-PAYMENT. 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)

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)

(D) **DISCONTINUANCE NOTICE.** In the event that there are one or more reasons to disconnect a utility service, all delinquent accounts will be sent disconnect notices except in cases where an installment payment plan is in effect. These notices shall be sent by first class mail at least seven (7) days prior to the proposed date of disconnection and 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 5 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 1 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)

(E) 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)

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

(G) The procedures adopted for resolving utility bills by the City Council 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.

(H) 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)

(I) **RECONNECTION OF SERVICES.** A customer's service terminated for any of the reasons specified in subsection (A) may not be reconnected until the following obligations are met:

- (1) Customer must pay all past due accounts.
- (2) Customer must pay the current bill.
- (3) Customer and/or the premises, meter, seal, equipment, pipe, fixtures, or appliances, must be in compliance with Federal, State, and Municipal law, ordinance, resolution, rule or regulation.

(4) The customer must pay the reconnection fee. Said fee for the reconnection of utility service shall be set by City Council from time to time and shall not exceed the reasonable cost of providing such service.

(Neb. RS 70-1605)

SECTION 2. All other sections of Chapter 50 of the Municipal Code of the City of Peru, Nebraska, not in conflict herewith, shall remain in full force and effect.

SECTION 3. That any other ordinance or section thereof passed or approved prior to the passage, approval, and publication or posting of this ordinance that is in direct conflict herewith is hereby repealed.

SECTION 4. This ordinance shall take effect and be in full force and effect from and after its passage, approval, and publication or posting as required by law.

SUSPEND		FIRST READING	<u>NA</u>
READINGS	<u>✓</u>	SECOND READING	<u>NA</u>
(3/4 VOTE)		THIRD READING	<u>NT</u>

PASSED AND APPROVED THIS 17 DAY OF July 2023 AS FOLLOWS:

Cate Wyckoff	Aye: <u>X</u>	Nay: _____	Absent: _____	Abstain: _____
Quentin Kieler	Aye: <u>X</u>	Nay: _____	Absent: _____	Abstain: _____
Marty Peregoy	Aye: <u>X</u>	Nay: _____	Absent: _____	Abstain: _____

Dave Pease (Mayor) Aye: _____ Nay: _____ Absent: _____ Abstain: _____
(on tie breaker)

David Pease

David Pease, Mayor of
City of Peru, Nebraska

ATTEST:

T. Scholz

Clerk for the City of Peru, Nebraska

(Seal)



Approved as to Form & Legality:

Morgan Ritchie
City Attorney