

Chapter 32

UTILITIES*

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ARTICLE I. IN GENERAL**Secs. 32-1--32-30. Reserved.****ARTICLE II. WATER SERVICE****Sec. 32-31. Water rates.**

(a) *Rates.* The rate due and payable to the city by each water user with the city for billings on or after February 26, 2001, for water taken from the city water supply system shall be set by city council resolution. All charges for single-family and multiple-family dwelling users shall be determined and payable on a quarterly basis, and all charges for commercial, industrial and institutional users shall be determined and payable on a monthly or quarterly basis; provided, however, that there shall be a service charge to each water user for each quarter year period during which water service is furnished as set by city council resolution. In case the meter is found to have stopped or to be operating in a faulty manner, the amount of water used will be estimated in accordance with the amount previously used for the comparable period of the last previous year.

(b) *Construction purposes.* When water is desired for construction purposes, the owner shall make application in the regular way and on the regular form and, if approved, the service shall be carried inside the foundation wall. If for any reason the meter cannot be installed at the time, the charges for the water shall be set forth under water rates, and when the building is completed, the meter shall be set per code requirements.

(c) *Water bills.* Water bills shall be mailed to customers for the service periods set forth in subsection (a) of this section, and shall specify the water consumed and the charges in accordance with rates set forth by city council resolution.

(d) *Rates beyond boundaries.* Rates due and payable to the city by each water user located beyond the territorial boundaries of the city shall be on the same basis as specified in subsections (a)--(c) of this section.

(e) *Revision of water rates.* The city council reserves the right to adjust the rates provided in the foregoing sections from time to time.

(Code 1976, § 9-101; Ord. No. 2191-01, § 1, 2-5-2001; Ord. No. 2324-06, 1-12-07)

Sec. 32-32. Service connection fee.

The state-mandated service connection fee listed in this section for testing water supplies will be collected by the city and remitted to the state department of revenue. The service connection fee due and payable to the city by each water user within the city for water taken from the city water supply system shall be an amount set by city council resolution.

(Code 1976, § 9-101.101; Ord. No. 2324-06, 1-12-07)

Sec. 32-33. Charges for services or noncompliance.

(a) Charges will be made and collected by the city for the following water services: Tapping and making connections with the city water mains; for turning on and off water as requested for nonpayment of water bills, or failure to repair leaks; for raising or lowering stop box taps; for remote meter register installations; for meter-reading service; for meter-reading noncompliance; and for other services related to water department operations.

(b) Charges shall also be made and collected for noncompliance with restrictions on water use, section 32-42. Charges for the services or noncompliance shall be fixed by the city in writing and shall become effective 24 hours after the filing of a charge with the city clerk who shall endorse on each filing the time and date of filing.

(Code 1976, § 9-102)

Sec. 32-34. Delinquent water accounts.

All charges for water shall be due and payable within three weeks of the billing date specified by the City Treasurer. Accounts shall be considered delinquent and subject to a penalty of ten percent if not paid within three weeks of the billing date. It shall be the duty of the City Treasurer to endeavor to promptly collect delinquent accounts, and in all cases where satisfactory arrangements for payments have not then been made, the director of public works shall be instructed to discontinue water service at the stop box. All delinquent accounts shall be certified by the city clerk to the city assessor who shall prepare an assessment roll each year providing for assessment of the delinquent amounts against the respective properties served, for collection as other taxes.

(Code 1976, § 9-103; Ord. No. 2387-10, 7-23-10)

Sec. 32-35. Discontinuance of service for ordinance violations.

The director of public works is authorized to shut off water service at any stop box connection at any time provided that:

- (1) The owner or occupant of the premises served, or any person working on any pipes or equipment thereon which are connected with the city water supply system, has intentionally violated any of the requirements of the ordinances of the city relative to the water supply system or connections therewith.
- (2) The owner or occupant of the premises served threatens to violate, or cause to be violated, any of the provisions of this chapter or does not provide access to city water meter reader or maintenance personnel to read or inspect the water meter or water supply system; or does not provide the city with current water meter readings.
- (3) Any charge for water, service, meter, meter parts or any other financial obligations imposed on the present or former owner or occupant of the premises served, by the provisions of this chapter, is unpaid.
- (4) Fraud or misrepresentation by the owner or occupant in connection with an application for service.

- (5) Water shall not be turned off from any service pipe between the hours of 12:00 noon on Friday to 9:00 a.m. on the following Monday.
(Code 1976, § 9-104)

Sec. 32-36. Deficiency of water and shutting off water.

The city shall not be liable for any deficiency or failure in the supply of water to consumers, whether occasioned by shutting the water off for the purpose of making repairs or connections, or from any other cause whatever. In case of fire, or alarm of fire, the city may shut off water to ensure a supply for firefighting; or in making repairs or constructing new works, the director of public works may shut off the water at any time and keep it shut off so long as he shall deem necessary.

(Code 1976, § 9-105)

Sec. 32-37. Access to buildings.

The officers of the water division, and every person delegated by them for that purpose shall have free access at reasonable hours of the day to all parts of every building and premises connected with the city water supply system for reading of meters and inspections.

(Code 1976, § 9-106)

Sec. 32-38. Discontinuance of water service to protect property.

The Director of Public Works is authorized to shut off water service, without charge to the owner, at any stop box connection at any time to protect the public water supply and private property based upon the finding that the property may not be sufficiently heated and that there is a danger that the water pipes may freeze based upon one or more of the following:

- (1) The property is uninhabitable or is vacant;
- (2) Other utilities to the property providing gas or electricity have been shut-off;
- (3) The property is not secured;
- (4) The property is not heated during winter months, October through April.

(Ord. No. 2364-08, 12-26-08)

Sec. 32-39. Water meter inspection and repairs.

The city shall provide for inspection, testings and repair of all water meters connected with the city water supply system at reasonable times.

(Code 1976, § 9-108)

Sec. 32-40. Consent to city water regulations.

Every person applying for or receiving water service from the city systems, and every user of water or owner of property for which such application is made or water service received, shall be deemed by such application or use to consent to all the ordinances, resolutions, rules, regulations and rates of the city, and to all modifications thereof, and all new ordinances, rules, regulations or rates duly adopted, including charges for services or for noncompliance.

(Code 1976, § 9-109)

Sec. 32-41. Cost of installation borne by consumer.

- (1) The cost of original installation or repair of all plumbing between the main and the meter shall be borne entirely by the consumer. Such plumbing shall at all reasonable times be subject to inspection by the city. Any repairs found to be necessary by such representatives shall be made promptly or the city will discontinue service.

- (2) The cost of replacing all plumbing within the City right of way between the main and the shut off as part of a street reconstruction project shall be a charge to the consumer. The cost shall be added to the consumer's water bill and be payable over a period of 10 years in equal installments, together with an amount equal to interest on the unpaid balance at a fixed annual rate set by the City Finance Department equal to the special assessments interest rate adopted that year.

(Code 1976, § 9-110; Ord. No. 2347-07, 12-28-07)

Sec. 32-42. Restrictions on water use.

To avoid a water shortage due to a capacity problem in the water system, the city shall act in accordance with the city's water contingency conservation plan as required by M.S.A. § 103G-291.

Secs. 32-43--32-90. Reserved.

ARTICLE III. SEWER SERVICE

Sec. 32-91. Connection with public sewer system required.

(a) After October 1, 1973, any structures situated on property from which sewage is disposed and abutting a portion of the city public sanitary sewer system shall be connected to the public sanitary sewer system, and any such structures not so connected by October 1, 1973, shall be completely disconnected from the private sewer system, and such private sewage disposal system shall be filled or otherwise abandoned in a manner approved by the city.

(b) The director of public works and the director of inspections may authorize replacement or installation of an in-ground sewage treatment system when connection to the sanitary sewer system is deemed impractical.

(Code 1976, § 9-201)

Sec. 32-92. Connections; how made.

All work relating to sewer connections shall comply with the following:

- (1) Permits shall be procured before breaking ground in any street or alley for such work, as required by section 24-251.
- (2) After the pipe is properly laid, the refilling must proceed at once, and it must be thoroughly tamped or puddled, or both, and so done that there shall be no surplus earth left.
- (3) If there is a deficiency of earth to fill the excavation, the plumber doing the work shall supply such deficiency with clean sand or approved material.
- (4) No rock larger than four inches across or thick may be put into any excavation within two feet of cover over pipe.
- (5) Street, sidewalk or driveway within the public right-of-way removed on this permit must be relaid at the expense of the plumber and to the specifications of the city.
- (6) All work must be done under the supervision of the city, and all drain pipes to public sewers shall be inspected by the city before being covered up.
- (7) All work performed under this article within the public right-of-way shall be guaranteed by the contractor for one year from the date of final approval by the city.

- (8) No person shall build a fire within any sewer or drain for any purpose whatsoever.

(Code 1976, § 9-207)

Sec. 32-93. Limit on buildings served by single connection.

No more than one building may be served by a single connection.

(Code 1976, § 9-208)

Sec. 32-94. Right of entry.

The city shall have the right to enter upon the premises drained by any house drain and connected with any public sewer, at all reasonable hours, to ascertain whether the provisions of this article or any ordinance in regard to house drains have been complied with, and if lawful in regard thereto. The city shall notify the owner of such premises or agent of this fact. It shall thereupon be the duty of such owner or agent to cause such drain, or its attachments, to be so altered, repaired or reconstructed as to make them conform to the requirements of law in regard thereto within 15 days from the time of receiving such notice.

(Code 1976, § 9-209)

Sec. 32-95. Service abandoned.

When a service is to be abandoned, the service shall be discontinued at the city main by plugging the connection in an approved manner. When a building is to be demolished, the service shall be abandoned before a demolition permit is issued. If a new building is to be erected on the same site, the service may be reused with prior approval of the city and service may be temporarily abandoned at the property line in an approved manner.

Sec. 32-96. Adoption of certain regulations by reference.

(a) *Metropolitan Council Environment Services Regulations.* The waste discharge rules for the metropolitan disposal system are adopted and incorporated in this article by reference.

(b) *State plumbing code.* The Minnesota State Plumbing Code is incorporated in this article by reference. Such code shall apply to all public sewer connections required by this article.

Sec. 32-97. Service charges for use of sewers.

(a) An annual charge is hereby imposed upon every person, firm or corporation whose premises are served by the sanitary sewer system of the city, either directly or indirectly, for the use of the facilities of such sewer system and for connection therewith which charge shall be as provided in section 32-98. Such charge shall be payable as provided in section 32-99 and shall be subject to the penalties set forth in section 32-98 if not paid within 20 days after the billing date. Such charges for sewer service shall be a charge against the owner of the premises served, and all such charges which have been billed and not paid within 30 days after the due date stated on the bill shall be certified to the county auditor as an assessment against the property served for collection as other taxes.

(b) The obligation to pay the charges specified in this section shall be incurred as of the time of connection of any private sewer disposal system to the city sewer, and such connection shall be deemed to be made if a sewer connection is made to the city sewer at the curblineline, whether or not the connecting sewer is then in operation in connection with the private sewer system on the adjacent premises. Every person, firm or corporation whose premises can be served by the sanitary sewer system of the city, either directly or indirectly, shall pay an annual sewer rental charge as provided in sections 32-98 and 32-99.

(Code 1976, § 9-230)

Sec. 32-98. Sewer rental rates.

Charges for sewer service to residential and nonresidential users within the city provided in section 32-97 for billings on or after February 26, 2001, shall be: an amount per 100 cubic feet of water consumption set by city council resolution, as measured during the winter consumption (or otherwise determined in subsection (1) of this section), and a monthly service charge of an amount set by city council resolution, or an amount quarterly per dwelling or account set by city council resolution.

- (1) All residential sewer customer charges shall be determined by computing the winter water consumption as determined by the city billing cycle for each district. Commercial sewer charges shall be determined by computing the water consumption each month throughout the year. In any case where winter meter readings are not available or appropriate, charges shall be made on the basis of current water consumption.
- (2) A penalty of ten percent shall be added to the amount due on any sewer bill if not paid within three weeks after the billing date. Payments received within three working days following the due date shall be deemed as paid within such period.
- (3) All owners, lessees and occupants of buildings discharging sewerage into the city sewer while using water from any source other than the city municipal water system shall install meters or other measuring devices meeting with the city water meter specifications to measure either the water used or the discharge into the sewer.

(Code 1976, § 9-231; Ord. No. 2191-01, § 2, 2-5-2001; Ord. No. 2324-06, 1-12-07)

Sec. 32-99. Sewer bills.

It is hereby made the duty of the City Treasurer to render to the owners, lessees or occupants of all classes of property on a monthly or quarterly basis, as is appropriate, bills for the amount of sewer rental charge as provided in section 32-97. Such bills may be a surcharge upon the water bills rendered to such persons. All such charges when collected shall be placed in a separate fund. These funds shall be used only for the purpose authorized by M.S.A. § 444.075, and such charges, if unpaid, may be collected on direction of the city council as authorized by M.S.A. § 444.075, as set forth in sections 32-97, 32-98 and this section.

(Code 1976, § 9-232; Ord. No. 2387-10, 7-23-10)

Sec. 32-100. Revision of sewer rates.

The city council reserves the right to readjust the rates and charges provided in section 32-98 from time to time.
(Code 1976, § 9-233)

Secs. 32-101. Cost of installation and repair borne by consumer.

The cost of original installation or repair of all service lines up to and including the connection to the city’s main sewer line shall be borne entirely by the consumer. Any repairs found to be necessary shall be made promptly or the city will discontinue water service.
(Ord. No. 2289-05, 3-9-2005)

Secs. 32-102--32-140. Reserved.

ARTICLE IV. STORMWATER UTILITY

Sec. 32-141. Establishment.

Stormwater management shall be operated as a public utility pursuant to M.S.A. § 444.075.
(Ord. No. 2156-00, § 1(1), 2-22-2000)

Sec. 32-142. Rates and charges.

Fees for the use and availability of the storm sewer system shall be determined through the use of a residential equivalent factory (REF). A residential equivalent factory is the ratio of the volume of runoff generated by one acre of a particular land use to the volume of runoff generated by one acre of single-family and two-family residential land use based upon average annual rainfall.
(Ord. No. 2156-00, § 1(2), 2-22-2000)

Sec. 32-143. Determination of residential equivalent factors for land uses.

The residential equivalent factors for the following land uses within the city are as follows:

<i>Land Use</i>	<i>REF</i>
Golf courses	0.3
Single-/two-family residential	1.0
Schools	1.1
Low density townhouse	1.4
Community facilities	1.5
Nursing homes	1.8
Multifamily/high density townhouse	1.9
Religious institutions	2.7
Commercial/office/industrial/hospital	2.9

(Ord. No. 2156-00, § 1(3), 2-22-2000)

Sec. 32-144. Other land uses.

Land uses not listed in the table set forth in section 32-143 shall be classified by the public works director by assigning them to the most similar classes from the standpoint of probable hydrologic response.

(Ord. No. 2156-00, § 1(4), 2-22-2000)

Sec. 32-145. Establishing basic rate.

In determining charges, the city council shall, from time to time, by resolution establish a basic system rate to be charged against one acre of single-/two-family residential land having a residential equivalent factor of one. The charge to be made against each parcel of land shall then be determined by multiplying the residential equivalent factor for the parcel's land use classification times the parcel's acreage times the basic system rate.

(Ord. No. 2156-00, § 1(5), 2-22-2000)

Sec. 32-146. Standardize acreage.

For the purpose of simplifying and equalizing charges against property used for single-family and two-family residential purposes, each of such properties shall be considered to have an acreage of one-fifth acre and shall not be eligible for an acreage adjustment.

(Ord. No. 2156-00, § 1(6), 2-22-2000)

Sec. 32-147. Adjustments of charges.

The city council may, by resolution, from time to time, adopt policies providing for the adjustment of charges for parcels or groups of parcels, based upon hydrologic data supplied by affected property owners, demonstrating an actual hydrologic response substantially different from the residential equivalent factor being used for the parcel or parcels. Such adjustment shall be made only after receiving the recommendation of the public works director and shall not be made effective retroactively. If the adjustment would have the effect of changing the residential equivalent factor for all or substantially all of the land uses in a particular classification, such adjustment shall be accomplished by amending the residential equivalent factor table in section 32-143.

(Ord. No. 2156-00, § 1(7), 2-22-2000)

Sec. 32-148. Exceptions.

The following land uses are exempt from stormwater utility fees:

- (1) Public rights-of-way;
- (2) Wetlands and public waters as defined by state law;
- (3) Ponds designed and used exclusively for stormwater retention or treatment purposes up to the 100-year flood elevation;
- (4) Undeveloped parcels;
- (5) Undeveloped or natural state, county, regional and city parklands;

(6) Railroads; and

(7) City-owned property.

(Ord. No. 2156-00, § 1(8), 2-22-2000)

Sec. 32-149. Adjustments of acreage.

The total parcel acreage will be used to calculate the parcel charge. It is the responsibility of the owner of any premises to supply the city with any necessary information required to determine if a parcel or portion of a parcel qualifies as an exception and is eligible for an acreage adjustment. The city will review the proposed adjustment upon receipt of a complete submittal package. The adjustment must be approved by the public works director and will become effective at the beginning of the next billing cycle.

(Ord. No. 2156-00, § 1(9), 2-22-2000)

Sec. 32-150. Supplying information.

For the purpose of evaluating acreage adjustment requests, the owner, occupant or person in charge of any premises shall supply the city with such information as the city may reasonably request related to the use, development and area of the premises. Willful failure to provide such information or to falsify it is a violation of this section.

(Ord. No. 2156-00, § 1(10), 2-22-2000)

Sec. 32-151. Estimated charges.

If the owner, occupant or person in charge of any premises fails or refuses to provide the information requested, as provided in section 32-149, the charge for such premises shall be estimated and billed in accordance with such estimate, based upon information then available to the city.

(Ord. No. 2156-00, § 1(11), 2-22-2000)

Sec. 32-152. Billing method.

Stormwater utility fees will be computed and collected by the city along with other utilities such as sewer and water. Payment shall be required on or before the due date established for such other billing. Delinquent accounts will be treated the same as sewer and water accounts.

(Ord. No. 2156-00, § 1(12), 2-22-2000)

Sec. 32-153. Certification of past due fees on taxes.

Any stormwater utility fees past due on October 1 of any year may be certified to the county auditor for collection with real estate taxes in the following year or any year thereafter. In addition, the city shall also have the right to bring a civil action or to take other legal remedies to collect unpaid fees.

(Ord. No. 2156-00, § 1(13), 2-22-2000)

Secs. 32-154--32-199. Reserved.

ARTICLE V. UTILITY LINES AND SERVICE**DIVISION 1. GENERALLY****Sec. 32-200. Excavation permits required.**

No person shall excavate in a public street to service a water main, make connection therewith, or for any purpose which will expose a water main, unless given a permit to do so by the city.

(Code 1976, § 9-123)

Sec. 32-201. Stop boxes.

All stop boxes and cocks must conform to the specifications of the city.

(Code 1976, § 9-126)

Sec. 32-202. Repair of leaks.

In case of failure upon the part of any consumer or owner to repair any leak occurring from their service pipe within 24 hours after verbal or written notice has been given upon the premises, the water will be shut off from the same and will not be turned on until the sum as set by city council resolution has been paid. When the waste of water is great, or when damage is likely to result from the leak, the water will be turned off if the repair is not proceeded with immediately upon the giving of such notice.

(Code 1976, § 9-131; Ord. No. 2324-06, 1-12-07)

Sec. 32-203. Water meters.

(a) Except for extinguishment of fires, or when authorized by special permit from the city clerk, and for temporary purposes only, no person shall use water from the water supply system of the city, or permit water to be drawn therefrom, unless the water is metered by passing through a meter supplied or approved by the city. Meters shall be set within six feet of the point of service entry into the building.

(b) No person without authorization by the city clerk shall connect, disconnect, take apart, or in any manner change, or cause to be changed, or interfere with any such meter or its action.

(c) No person shall damage or knowingly or negligently permit damage to be done to a water meter on his premises or elsewhere. Any person damaging any such meter or knowingly or negligently permitting the meter to be damaged shall pay all costs of making the required repairs to such meters upon demand therefor by the city. Any person damaging any such meter or knowingly permitting the same to be damaged shall be guilty of a misdemeanor.

(d) The city council shall from time to time fix the charge to be made to customers for new water meters in original connection installations, and payment for the same shall be made in advance before delivery for installation.

(e) Whenever any meter shall become obstructed or out of order, the director of public works shall cause it to be repaired. The director of public works shall direct the cost of such repairs to be paid out of the funds of the water department unless the meter has been damaged by freezing or willful neglect by someone outside of the city employ. On request of any customer and payment to the city clerk of a fee set by city council resolution, the director of public works will test such water meter. All water meters obtained from the city shall remain the property of the city and may be replaced at any time by the director of public works if found to be worn or defective beyond repair. Such replacement shall be paid for from water department funds.

(Code 1976, §§ 9-111, 9-132; Ord. No. 2324-06, 1-12-07)

Sec. 32-204. Service abandoned.

When a service is to be abandoned, the meter shall be removed and returned to the city and the service shall be disconnected at the city main by plugging or capping the corporation cock or valve in an approved manner. When a building is to be demolished, the service shall be abandoned before a demolition permit is issued. If a new building is to be erected on the same site, the service may be reused with prior approval of the city and the service may be temporarily abandoned at the stop box by plugging.

Sec. 32-205. Private water supplies.

No water pipe of the city water supply system shall be connected with any pump, well or tank that is connected with any other source of water supply, and, when such are found, the director of public works shall notify the owner to disconnect the same, and if not done immediately the water supply shall be turned off forthwith.

(Code 1976, § 9-137)

Sec. 32-206. Size of connections.

Connections with the mains for ordinary domestic supply shall be a minimum of five-eighths of an inch except with permission of the director of public works.

(Code 1976, § 9-138)

Sec. 32-207. Connections beyond city boundaries.

In any and all cases where water mains of the city have been or shall be extended to or constructed in any road, street, alley or public highway adjacent to or outside the corporate limits of the city, the city is hereby authorized to issue permits to the owners or occupants of properties adjacent to, or accessible to, such water mains to tap and make proper water service pipe connections with such water mains of the city in conformity with and subject to all the terms, conditions and provisions of the ordinances of the city relating to the tapping of the city water mains and making water service pipe connections therewith, and to furnish and supply water from the waterworks system of the city to such owners and occupants of properties adjacent or accessible to such water mains of the city through and by means of water meters duly installed.

Water service rendered to such persons shall be subject to all provisions of this article, and persons accepting such service shall thereby agree to be bound and obligated by this article.

(Code 1976, § 9-139)

Sec. 32-208. Fire hydrant connections.

It shall be unlawful for any person, except when authorized by permit issued by the city, to open or interfere with any of the hydrants or gates of the city water supply system.

Secs. 32-209--32-240. Reserved.

DIVISION 2. UNDERGROUND UTILITY LINES

Sec. 32-241. Purpose of division.

The city council finds that it is in the public interest and desirable in order to promote and preserve the general welfare, to ensure the orderly development of the city and to provide for the safety and convenience of its inhabitants, that all new, replaced and relocated overhead distribution system and transmission lines of electrical and communication utilities, excluding high voltage transmission lines of 15,000 volts or more, be installed underground.

(Code 1976, § 6-501)

Sec. 32-242. Utility lines defined.

The term "utility lines" shall include, but not be limited to, electric, communications, street lighting and cable television distribution lines, circuits and systems. Appurtenances and associated equipment such as, but not limited to, surface mounted transformers, pedestal mounted terminal boxes and meter cabinets, and concealed ducts in an underground system are not included in utility lines. High voltage transmission lines of 15,000 volts or more are excluded.

(Code 1976, § 6-502)

Cross reference(s)--Definitions generally, § 1-2.

Sec. 32-243. Underground utility lines required.

In addition to any other requirements of this division, the following shall be applicable to the installation of utility lines:

- (1) *New installation.* Every permanent extension of any utility lines, and any service lateral providing permanent utility services shall be installed underground when for:
 - a. New installation of buildings, signs, streetlights and other such structures, where the service lateral is street fed;
 - b. Any new subdivision;
 - c. New commercial or industrial development.

- (2) *Replacement in improvement projects.* Any permanent replacement, relocation, reconstruction, upgrading or new construction of more than 400 yards of any utility line, including any service lateral, shall be installed underground when for or made in connection with street paving, street widening, public utility installation and other such improvements.
- (3) *Ornamental streetlights.* All new and replacement street lighting systems shall be of ornamental style utilizing decorative poles and underground wiring, as authorized by the director of public works.
- (4) *Additions to underground lines.* Wherever any part or portion of the utility lines of any utility in an area or district of the city is now located underground, such part or portion shall remain underground and any replacement, relocation, reconstruction, repair and extension thereof shall be installed underground.
- (5) *High voltage lines.* All high voltage circuits and transmission lines of 15,000 volts or more which are excluded from the requirements of this division, construction of which is commenced after the passage of this division, shall not be placed on creosote treated wood poles or lattice towers to the extent technically and economically feasible, but rather two-legged or single pole structures of metal or wood.
- (6) *Waiver.* The requirements of subsections (1) and (2) of this section may be waived by the city council, after conducting a public hearing, if any of the following are applicable:
 - a. Incompatibility with the planned development;
 - b. Unusual topography, soil or other physical conditions make undergrounding unfeasible from an engineering or cost viewpoint;
 - c. Incompatibility with the long-range plans and timetable of the utility's undergrounding program;
 - d. Undergrounding is not technically or economically feasible.
- (7) *Existing poles and wires.* Nothing in this section shall be construed as prohibiting necessary repairs to any poles or wires properly in use within the city limits.

(Code 1976, § 6-503)

Sec. 32-244. Installation of underground utilities.

The installation of all underground utility lines shall be approved by the director of public works. All excavations for the purpose of placing facilities underground shall be made in accordance with Code requirements:

- (1) The top of all duct and cable system structures shall be located at a sufficient depth to protect the system from injury in accordance with the National Electrical Safety Code.
- (2) All utilities shall keep current records and plats on all overhead and underground facilities they own or operate in the city. Such records and plats are to be available to all utilities and the city upon request.

- (3) In the repair, addition or change of any underground facilities, no person or company shall be permitted to interfere with the underground facilities of any other person or company, except so far as shall be necessary to make such repairs, additions or changes. Conditions requiring emergency street openings and for repair shall be subject to the provisions of this Code.
- (4) All companies laying underground facilities under the provisions of this section shall complete such work by a time fixed by the director of public works.
- (5) All customers of the utility receiving service from the overhead lines to be removed must rewire their existing service to accept underground lines by a time fixed by the director of public works.
- (6) The utility shall notify its affected customers at least 60 days prior to the proposed starting date of construction that the utility is required by this section to replace overhead facilities supplying service to the building; that on or about a certain date such overhead facilities will be removed. If the person desires to continue receiving service, he must execute the utility's applicable underground agreement form when requested and convert or adapt the facilities at his expense to accept the new underground service.
- (7) After any particular segment of a utility's facilities are installed underground, the city shall determine the date by which the overhead facilities are being replaced thereby shall be removed by the utility. The date of removal shall be within six months after the utility completes the installation of its replacement underground facilities or such earlier dates as the city determines is a reasonable period of time for the customer to convert or adapt his facilities to accept the new underground service.

(Code 1976, § 6-504)

Sec. 32-245. Temporary overhead installations.

The director of public works may grant special permission on such terms as may be deemed appropriate, in cases of emergency or other unusual circumstances, without discrimination as to any person or utility, to temporarily erect, construct, install, maintain, use or operate poles, overhead wires and associated overhead structures for periods up to nine months.

(Code 1976, § 6-505)

Sec. 32-246. Authorized service representatives.

Those employees designated or authorized by any utility to enter any building, areaway, or other private place, for the purpose of placing, extending, or repairing any wires, cables, conduits, or other fixtures pertaining to the underground service, shall be furnished appropriate identification which shall be displayed upon request. No person except those designated shall seek to enter any private place under pretense of being employed on such service, and no authorized

service representatives shall in any way alter, remove or interfere with the wires, cables, conduits or fixtures of any person or company other than that in whose employ he may be, without proper authority from the owners or agents.

(Code 1976, § 6-506)

Sec. 32-247. Connection with side line of street.

Any person controlling underground utility lines may connect the same with the side line of the street by using such space under the street and sidewalk from the space heretofore granted, as may be necessary.

(Code 1976, § 6-507)

Sec. 32-248. Sides of buildings.

Any person or utility using or operating service wires in any manner other than by the use of poles or brackets may carry the same up the side or front of any building, provided that such wires or their supports shall not extend over six inches into any street, alley or public place, and provided that no wires or support shall cross the front of any window or opening in the building.

(Code 1976, § 6-508)

Sec. 32-249. Liability and claims.

All persons providing electrical distribution and communications services under this division shall at all times save the city harmless from all damages arising from all accidents, injuries and damages that may be caused to any person or property by installation or use of such underground wire, conduit or cables, and on ten days' notice from the city shall appear and defend all suits against the city as a result of any such accident, injury or damage.

(Code 1976, § 6-509)