

**TITLE V**

**UTILITIES**

**ARTICLE 0**

**PUBLIC SEWER SYSTEM**

50.1 DEFINITIONS. For use in this chapter the following terms are defined:

1. "Sewer System, Sewage Works": shall mean all facilities for collecting, pumping, treating and disposing of sewage.
2. "Superintendent": shall mean the water pollution control superintendent or any duly authorized assistant, agent or representative thereof.
3. "Sewage": shall mean a combination of the water carried wastes from residences, business buildings, institutions, and industrial establishments, together with such ground, surface and storm waters as may be present.
4. "Sewer": shall mean a pipe or conduit for carrying sewage and other waste liquids.
5. "Public Sewer": shall mean a common sewer, which is directly controlled by a public authority.
6. "Private Sewer": shall mean a sewer privately owned and not directly controlled by a public authority.
7. "Sanitary Sewer": shall mean a sewer that carries sewage and to which storm, surface and ground waters are not intentionally admitted.
8. "Sanitary Sewage": shall mean sewage discharging from the sanitary conveniences of dwellings (including apartment houses and hotels), office buildings, factories or institutions, and free from storm, surface water and industrial wastes.
9. "Sewage Treatment Plant": shall mean any arrangement of devices and structures used for treating sewage.
10. "Industrial Wastes": shall mean the liquid wastes from industrial processes, trades or businesses as distinguished from sanitary sewage.
11. "Garbage": shall mean solid wastes from the preparation, cooking and dispensing of food, and from the handling, storage and sale of produce.
12. "Properly Shredded Garbage": shall mean garbage that has been shredded to such

degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one half (1/2) inch to any dimension.

13. "Building Drain": shall mean that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five (5) feet outside the inner face of the building wall. [IAC, 1999, 567-69.1(2)]

14. "Building Sewer": is that part of the horizontal piping from the building wall to its connection with the main sewer or on site waste water treatment and disposal system conveying the drainage of one building site. [IAC, 1999, 567-69.1(2)]

15. "B.O.D.": (denoting biochemical oxygen demand) shall mean the amount of oxygen consumed in the biological processes that break down organic matter in water by aerobic biochemical action in five days at twenty (20) degrees C. [IAC, 1999, 567 60.2]

16. "PH": shall mean the hydrogen ion activity of a solution expressed as a logarithm of the reciprocal of the hydrogen ion activity in molds per liter at 25° C. pH is a measure of the relative acidity or alkalinity of the solution. The range extends from zero to 14; seven being neutral, zero to seven being acidic, and seven to 14 being alkaline. [IAC, 1999, 567-60.2]

17. "Suspended Solids": shall mean solids that either float on the surface of, or are in suspension in water, sewage, or other liquids and which are removable by laboratory filtering.

18. "Natural Outlet": shall mean any outlet into a watercourse, pond, ditch, lake or other body of surface or ground water.

19. "Watercourse": shall mean a channel in which a flow of water occurs, either continuously or intermittently.

20. "Contributor": shall mean any person or entity responsible for the production of domestic, commercial or industrial waste that is directly or indirectly discharged into the public sewer system.

21. "Sewer Rental": shall mean any and all rates, charges, fees, or rentals levied against and payable by contributors, as consideration for the servicing of said contributors by said sewer system.

22. "Slug": shall mean any discharge of water, sewage, or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration or flows during normal operation.

50.2 DAMAGING SEWER SYSTEM. No unauthorized person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the sewer system.

50.3 ENTER MANHOLES. No person shall open or enter any manhole of the sewer system, except by authority of the superintendent.

50.4 PRIVATE SEWAGE DISPOSAL LIMITED. Except as hereafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage. [Code of Iowa, 1999, §364.12 (3) (f)]

50.5 TREATMENT REQUIRED. It shall be unlawful to discharge to any natural outlet within the city, or in any area under its jurisdiction, any sanitary sewage, industrial wastes, or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this chapter. [Code of Iowa, 1999, §364.12 (3) (f)]

50.6 PERMIT REQUIRED. No unauthorized person shall uncover, make any connection with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the city.

50.7 COMPULSORY CONNECTION TO PUBLIC SEWER. The owners of any houses, buildings, or properties used for human occupancy, employment, recreation or other purposes, situated within the city and abutting on any street, alley or right-of-way in which there is now located, or may in the future be located, a public sewer, are hereby required to install, at such owner's expense, suitable toilet facilities therein and a building sewer connecting such facilities directly with the proper public sewer, and to maintain the same all in accordance with the provisions of this chapter, such compliance to be completed within thirty (30) days after date of official notice from the city to do so, provided that said public sanitary sewer is located within two hundred (200) feet of the property line of such owner and is of such design as to receive and convey by gravity such sewage as may be conveyed to it. [Code of Iowa, 1999, §364.12 (3f)]

50.8 SEPARATE BUILDING SEWERS. A separate and independent building sewer shall be provided for every building, except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard or driveway. In such cases the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.

50.9 INTERCEPTORS REQUIRED. Grease, oil, sludge and sand interceptors shall be provided by filling stations, automobile wash racks, garages, and other facilities, when, in the opinion of the superintendent, they are necessary for the proper handling of such wastes that contain grease in excessive amounts or any flammable waste, sand or other harmful ingredients. Such interceptors shall not be required for private living quarters or

dwelling units. All interceptors shall be of a type and capacity as provided by the Iowa public health bulletin and state plumbing code, to be approved by the superintendent, and shall be located so as to be readily and easily accessible for cleaning and inspection. The interceptors shall be constructed of impervious material capable of withstanding abrupt and extreme changes in temperature. They shall be of substantial construction, watertight and equipped with easily removable covers that shall be gas-tight and watertight.

50.10 MAINTENANCE OF INTERCEPTORS. All interceptors of grease, oil, sludge and sand shall be maintained by the owner at his expense in continuously efficient operations at all times.

50.11 PROHIBITED DISCHARGES SPECIFIED. Except as hereinafter provided no person shall discharge or cause to be discharged any of the following described waters or waste to a public sanitary sewer.

1. Surface Waters. Any storm water, surface water, groundwater, roof run-off, sub-surface drainage, cooling water or unpolluted industrial process waters.
2. High Temperature. Any liquid or vapor having a temperature higher than one hundred fifty (150) degrees F. in sufficient quantity to injure or interfere with the sewage system, that would constitute a hazard to humans or animals, or create any hazard in the receiving waters of the sewage system.
3. Fat, Oil, and Grease. Any water or waste which contains more than one hundred (100) parts per million, by weight, of fat, oil, or grease.
4. Flammable Materials. Any gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquid, solid or gas.
5. Garbage. Any garbage that has not been properly shredded.
6. Solid or Viscous Substance. Any ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, paunch manure, or any other solid or viscous substance capable of causing the obstruction of the flow in sewers or other interference with the proper operation of the city sewage system.
7. Noxious or Malodorous Gas. Any noxious or malodorous gas or other substance which either singly or by interaction with other wastes is capable of creating a public nuisance or hazard to life or of preventing entry into sewers for their maintenance and repair.
8. Toxic or Poisonous Substance. Any water or waste containing a toxic or poisonous substance in sufficient quantity to injure or interfere with the sewage system, which would constitute a hazard to humans or animals, or create any hazard in the receiving waters of the sewage system.

9. Suspended Solids. Any waters or waste containing suspended solids of such character and quantity that unusual attention or expense is required to handle such material at the sewage treatment plant.
10. Corrosive Wastes. Any water or wastes having corrosive properties capable of causing damage or hazard to structures, equipment or personnel of the sewage system. Free acids and alkalis of such wastes must be neutralized within a permissible range of pH between 4.5 and 10.0.
11. Slugs. Any wastes that for duration of fifteen (15) minutes have a concentration greater than five (5) times that of "normal sewage" as measured by suspended solids and B.O.D.
12. Materials Which React with Water or Wastes. Any waters, wastes, materials or substances which react with water or wastes in the sewer system to release noxious gases, develop color or undesirable intensity, form suspended solids in objectionable concentration or create any other condition deleterious to structures and treatment processes.
13. Special Agreements Permitted. No statement in this section shall be construed as preventing any special agreement, arrangement or contract between the council, and any industrial concern whereby an industrial waste of unusual strength or character may be accepted subject to special conditions, rate and cost as established by the council.
14. Surface Waters Exception. Special permits for discharging surface waters to a public sanitary sewer may be issued by the council where such discharge is deemed necessary or advisable for purposes of flushing, but any permit so issued shall be subject to revocation at any time when deemed to the best interests of the sewer system.

#### 50.11A TEMPORARY SEWER FACILITIES OPERATOR DISPOSAL RIGHTS

1. Any commercial enterprise situated within the City or doing business in the City that operates, leases, or maintains temporary sewage disposal facilities may annually request a permit to dispose of the sewage from its temporary facilities into the City's sewage system.
2. It is intended that the permit fee provided for disposal rights described above shall be equal to the estimated annual cost of lab testing for the sewage disposed of by the commercial enterprise. The Council shall set the permit fee by resolution.
3. Each permit holder shall pay a sewer usage fee of \$.03 per gallon contributed to the sewer system.
4. Sewage disposed of pursuant to this ordinance shall be accepted by the City only during hours when sewage treatment plant personnel are regularly scheduled for work and at locations that are authorized by the sewer treatment plant superintendent or his

designee. The City may refuse to accept sewage from which garbage or other solid substances not amenable to treatment have not been first removed.

50.12 SUPERVISION. The sewer plant superintendent shall be responsible for the operation and maintenance of all sewage treatment facilities on a daily basis.

50.13 CONNECTION REQUIREMENTS. Any connection with a public sanitary sewer must be made under the direct supervision of the superintendent and in accordance with the following:

1. Plumber to Make Connections. Any installation of a private sewer and its connection to a public sewer shall be made by a bonded plumber with experience in laying drain and sewer pipes.
2. Permit for Connection. Any person desiring to make a connection with the sewer system shall first file with the clerk an application therefor, on blanks furnished by the city, setting forth the location and description of the property to be connected with the sewer system and for what purpose the sewer is to be used.
3. Permit Fee. The person who makes the application shall pay two hundred (200) dollars to the clerk to cover the cost of issuing the permit; supervising, regulating, and inspecting the work; and as partial reimbursement to the city for costs of making sewage collection and treatment facilities available.
4. Inspection. All connections with the sanitary sewer system before being covered shall be inspected and approved, in writing, by the superintendent. As soon as all pipe work from the public sewer to inside the building has been completed, and before any back filling is done, the superintendent shall be notified and he shall inspect and test the work as to workmanship and material. No sewer pipe laid under ground shall be covered or trenches filled until after the sewer has been so inspected and approved. If the superintendent refuses to approve the work, the plumber or owner must proceed immediately to correct the work.
5. Connection Deadline. All approved connection permits shall require the owner to complete construction and connection of the building sewer to the public sewer within thirty (30) days from the approval of the permit.
6. Extension of Time. When, in the judgment of the superintendent, a property owner on application has made sufficient showing that due to conditions beyond his control or peculiar hardship, the period of time set forth for the completion of the connection shall be inequitable or unfair to him, an extension of time within which to comply with the provisions herewith maybe granted.
7. Old Building Sewers. Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the superintendent to

meet all requirements of this article.

8. Preparation of Basement or Crawl Space. No connection for any residence, business or other structure with any sanitary sewer shall be made unless the basement floor is poured, or in the case of a building with a slab or crawl space, unless the ground floor is installed with the area adjacent to the foundation of such building cleared of debris and back filled. The back-fill shall be well compacted and graded so that the drainage is away from the foundation. Prior to the time the basement floor is poured, or the first floor is installed in buildings without basements, the sewer shall be plugged and the superintendent shall seal the plug. Any accumulation of water in any excavation or basement during construction and prior to connection to the sanitary sewer shall be removed by means other than draining into the sanitary sewer.

9. Watercourse Crossings. No sewer connection shall be laid so that it is exposed when crossing any watercourse. Where an old watercourse must of necessity be crossed and where there is any danger of undermining or settlement, cast iron soil pipe or vitrified clay sewer pipe thoroughly encased in concrete shall be required for such crossings. Such encasement shall extend at least six (6) inches on all sides of the pipe. The cast iron pipe or encased clay pipe shall rest on firm, solid material at either end.

10. Sewer Taps; Ys. Connection of the building sewer into the public sewer shall be made at the "Y" or "T" branch, if such branch is available at a suitable location. If no properly located "Y" or "T" branch is available, the property owner shall as his own expense install a "Y" or "T" saddle or factory-proof tapping collar with mortar in the public sewer at the location specified by the street superintendent.

11. Alignment and Grade. All four (4) inch building sewers shall be laid to a straight line and at a grade of not less than one--fourth ( $1/4$ ) inch per foot. A six (6) inch building sewer may be laid at grade of not less than one-eighth ( $1/8$ ) inch per foot. Any deviation in alignment or grade shall be made only with the written approval of the superintendent. Whenever possible the building sewer shall be brought to the building at an elevation below the basement floor.

12. Pipe Specifications. Building sewer pipe shall be free from flaws, splits or breaks. Materials shall be as specified in the state plumbing code except that the building sewer pipe, from the property line to the public sewer, shall comply with one of the following requirements:

- A. Clay sewer pipe A.S.T.M. C 13 50 (standard strength).
- B. Clay sewer pipe A.S.T.M. C 200 50T (extra strength).
- C. Extra heavy cast iron soil pipe.
- D. Cast iron water pipe A.S.A. A21.11.

E. Heavy plastic pipe – Schedule SDR40

13. Jointing. Fittings, type of joint and jointing material shall be commensurate with the type of pipe used and subject to the approval of the superintendent, subject to the following specific requirements. Jointing in vitrified clay pipe sanitary sewers shall be of the O-ring or plastic jointing known as ASTM C 425 Types I and III, flexible compression joints. Cast iron pipe shall be lead jointed, properly swaged tight, or installed with approved gaskets.

14. Sewage Lifts. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such drain shall be lifted by approved artificial means and discharged to the building sewer.

15. Property Owner's Responsibility. All costs and expenses incident to the installation, connection and maintenance of the building sewer shall be borne by the owner. The owner shall indemnify the city from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

16. Bond. The person performing the connecting shall provide a surety bond in the sum of two thousand (2,000) dollars secured by a responsible surety bonding company authorized to operate within the City of New Hampton.

50.14 EXCAVATIONS. All excavations for building sewer installations shall be made in accord with the following:

1. Barricades and Lighting. Adequate barricades and warning lights shall be placed by the owner or his plumber to protect the public from hazard.

2. Public Convenience. Streets and alleys shall be opened in the manner which will cause the least inconvenience to the public and admit the uninterrupted passage of water along the gutter on the street.

3. Pipe Bed. Immediately prior to installing the pipe, the trench bottom shall be accurately shaped and graded by hand and bell holes shall be excavated so that the pipe will have uniform contact with a longitudinal bearing on undisturbed earth along its entire barrel length. Bell holes shall be excavated by the pipe layer immediately prior to laying the pipe and shall be of such depth that the pipe bell does not come in contact with the bottom of the bell hole. All sewer pipes shall be laid with the bell end up grade. Where the floor of the trench at the proper grade is of hard or rock material, the floor shall be excavated four (4) inches or more below grade and back-filled with fine gravel or material approved by the superintendent. Where the floor of the trench at the proper grade is of unstable material the same treatment as described above shall be provided

4. Back-fill. All sewer pipes shall be provided with adequate bottom and lateral support by thoroughly, carefully and adequately tamping and ramming suitable and proper back-fill material beneath, around and to the top of the pipe between the bell holes

and sewer joints. All material used for pipe embedment and tamping back-fill shall be free of stones, sticks, large clods, lumps of earth, debris, or similar material. When back-fill is made in and across a roadway ditch or other watercourse it shall be protected from surface erosion by adequate means. Back-fill shall be made with dirt and tamped by hand to a depth of six (6) inches over the pipe. The back-fill material shall be compacted to a proctor density of 85% below three feet from the surface and 95% within three feet of the surface. The remainder of the trench shall be back-filled and tamped with gravel or materials approved by the superintendent. All excess dirt will be removed immediately and before the connection is approved by the superintendent.

5. Restoration of Public Property. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the city, at the expense of the property owner.

6. Completion by the City. Should any excavation in any street or alley be left open or unfinished, for a period of twenty-four (24) hours or should the work be improperly done, the superintendent shall have the right to finish or correct such work and the expense shall be charged to the property owner.

50.15 SERVICE OUTSIDE THE CITY. The owners of property outside the corporate limits of the city so situated that it may be served by the city sewer system may apply to the council for permission to connect to the public sewer upon the terms and conditions stipulated by resolution of the council. [Code of Iowa, 1999, §364.4 (2 & 3)]

50.16 ABATEMENT OF VIOLATIONS. Construction or maintenance of building sewer lines located upon the private property of any owner, which construction or maintenance is in violation of any of the requirements of this article, shall be corrected, at the owner's expense, within thirty (30) days after date of official notice from the council of such violation. If not made within such time the council shall, in addition to the other penalties herein provided, have the right to finish and correct the work and assess the cost thereof to the property owner. Such assessment shall be collected with and in the same manner as general property taxes. [Code of Iowa, 1999, §364.12 (3)]

50.17 PRIVATE SEWER SYSTEM. In locations where a public sanitary or combined sewer system is not available, the building sewer shall be connected to a private sewage system complying with provisions of this article.

50.18 PERMIT REQUIRED: APPLICATION: FEE. Before commencing the construction of a private sewage disposal system the owner shall first obtain a written permit signed by the clerk. The application for the permit shall be made on a form furnished by the city, which the applicant shall supplement by any plans, specifications and other information as are deemed necessary by the superintendent. A permit and inspection fee of twenty (20) dollars shall be paid to the city at the time the application is filed.

50.19 INSPECTION REQUIRED. A permit for a private sewage disposal system shall

not become effective until the installation is completed to the satisfaction of the superintendent. The superintendent shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for the permit shall notify the superintendent when the work is ready for final inspection which shall be before any underground portions are covered. The superintendent shall make the inspection within twenty-four (24) hours of the receipt of notice.

**50.20 COMPLIANCE WITH STATE RULES.** The type, capacity, location and layout of a private sewage disposal system shall comply with all requirements of the state department of natural resources. [IAC, 1999, 567.69.1]

**50.21 MINIMUM LOT AREA.** No permit shall be issued for any private sewage disposal system employing subsurface soil absorption facilities where the area of the lot is less than fifteen hundred (1500) square feet.

**50.22 DISCHARGE TO NATURAL OUTLETS PROHIBITED.** No septic tank or cesspool shall be permitted to discharge to any natural outlet. [IAC, 1999, 567.62.1]

**50.23 MAINTENANCE OF FACILITIES.** The owner of private sewage disposal facilities shall operate and maintain the facilities in a sanitary manner at all times and at no expense to the city.

**50.24 ADDITIONAL REQUIREMENTS.** No statement contained in this article shall be construed to interfere with any additional requirements that may be imposed by any health officer acting in his official capacity.

**50.25 PRIVATE SYSTEMS ABANDONED.** At such time as a public sewer becomes available to a property served by a private sewage disposal system, a direct connection shall be made to the public sewer in compliance with this chapter and any septic tanks, cesspools and similar private sewage disposal facilities shall be abandoned and filled with suitable material. [Code of Iowa, 1999, §364.12 (3b)]

**50.26 DISPOSAL OF WASTE.** It shall be unlawful for any person to place any effluent or waste from cesspools, septic tanks or privy vaults in any other location in the city except in such location as may be designated by the superintendent. The rate or charge for receiving such waste shall be determined by resolution of the council.

**50.27 SEWER RENTAL REQUIRED.** Every contributor shall pay to the city sewer rental fees as hereinafter provided. [Code of Iowa, 1999, Sec. 384.84 (1)]

**50.28 RESIDENTIAL OR COMMERCIAL USAGE RATE.** Each residential and commercial contributor shall pay a sewer rental based on the amount of water used by said contributor in accordance with the following schedule:

- A. Each contributor shall pay a minimum of \$6.00 per month regardless of usage. The minimum overall sewer charge will increase as follows:

- 1) Effective July 1, 2021, a minimum of \$7.50 per contributor; and
  - 2) Commencing July 1, 2022, a minimum of \$11.25 per contributor; and
  - 3) Commencing July 1, 2023, a minimum of \$15.00 per contributor; and
- B. Each contributor shall pay a fee per month as follows:
- 1) Commencing July 1, 2021, \$2.23 per 1,000 gallons used;
  - 2) Commencing July 1, 2022, \$4.50 per month basic service fee, and \$2.75 per 1,000 gallons used;
  - 3) Commencing July 1, 2023, \$9.00 per month basic service fee, and \$3.16 per 1,000 gallons used;
  - 4) Commencing July 1, 2024, \$9.00 per month basic service fee, and \$3.24 per 1,000 gallons used;
  - 5) Commencing July 1, 2025, \$9.00 per month basic service fee, and \$3.32 per 1,000 gallons used; and
  - 6) Commencing July 1, 2026, \$9.00 per month basic service fee, and \$3.40 per 1,000 gallons used.
- C. The rate per 1,000 gallons used will increase 2.5% per year annually thereafter, unless changed by resolution of the council.

50.29 INDUSTRIAL USE. Any person, firm or corporation using water to the extent of 60,000 gallons a calendar quarter at peak periods for purely industrial purposes may at his election and upon proper application to the city as hereinafter set forth and upon payment for a meter, have installed a separate water meter to service such industrial use only and the billings on such water meters shall not be subject to charges for sewer rental.

1. Industrial Use Defined. An industrial use shall be defined as a use of water in the manufacture, processing or storage of any product and which use demonstrably returns no water to the sanitary or storm sewer systems of the city.
2. Application. Such industrial use shall file with the city a verified application for installation of such meter containing the following information:
  - A. A description of the proposed industrial use involved in sufficient detail, to enable the city to determine that the use complies with the definition in Sub-section 1 hereof.
  - B. A sketch plan of the installation in sufficient detail to enable the city to determine that no water will be returned to the sewer systems of the city.
  - C. A verified statement that in at least one three (3) month period within three (3) years of installation it is anticipated that industrial use will exceed 60,000 gallons, such statement to be in sufficient detail to enable the city to determine its veracity.

3. Lesser Usage. In the event that such industrial user does not within a three (3) year period in at least one quarter use 60,000 gallons of water, such use shall no longer be construed as industrial use and the clerk shall, upon written notice from the water superintendent, commence assessment of the sewer rental rates set forth in Section 50.28.

4. False Statements. The filing of a false statement hereunder to obtain such industrial meter shall be a misdemeanor and shall be punishable by a fine of one hundred (100) dollars or thirty (30) days in jail.

50.30 SPECIAL RATES. Where, in the judgment of the superintendent and the council, special conditions exist to the extent that the application of the sewer rental provided in Section 50.28 or 50.29 would be inequitable or unfair to either the city or the contributor, a special rate shall be proposed by the superintendent and submitted to the council for approval by resolution. [Code of Iowa, 1999, §384.84 (2b)]

A. SEWER FACILITY CHARGE. Effective July 1, 2021, in addition to the sewer usage rental rates provided for in Section 50.28 of the City Code, each residential dwelling unit contributor, as defined in the City's Zoning Ordinance, shall pay a wastewater facility charge of \$10.00 per month, and each commercial contributor to the sewer system shall pay a facility charge of \$28.00 per month.

50.31 PRIVATE WATER SYSTEMS. Contributors whose premises are served by a private water system shall pay sewer rentals based upon the water used as determined by the superintendent either by an estimate agreed to by the contributor or by metering the water system at the contributor's expense. Any negotiated or agreed upon sales or rentals shall be subject to approval of the council. [Code of Iowa, 1999, §384.84 (2b)]

50.32 RATES OUTSIDE THE CITY. Sewer service shall be provided any contributor located outside the corporate limits of the city which the city has agreed to serve at rates one hundred fifty (150) percent of the rates provided in Section 50.29. No such contributor, however, will be served unless he shall have signed a service contract agreeing to be bound by the ordinances, rules and regulations applying to sewer service established by the council.

50.33 PAYMENT OF BILLS. All sewer rentals shall be due and payable under the terms and conditions provided for in Title I Article 5 of the city code except that the provision of Section 50.34 shall be used to enforce collection of delinquent sewer charge. [Code of Iowa, 1999, §384.84 (1)]

50.34 LIEN FOR NON-PAYMENT. Sewer rental charges remaining unpaid and delinquent on July 1 of any year shall constitute a lien upon the premises served and shall be certified by the clerk to the county auditor for collection in the same manner as property taxes. [Code of Iowa, 1999, §384.84 (1)]

## **ARTICLE 1 SOLID WASTE CONTROL**

51.1 PURPOSE. The purpose of this chapter is to provide for the sanitary storage, collection, and disposal of solid wastes and, thereby, to protect the citizens of this city from such hazards to their health, safety, and welfare as may result from the uncontrolled

disposal of solid wastes.

51.2 DEFINITIONS. For use in this chapter the following terms are defined:

1. "Solid Waste": shall mean garbage, refuse, rubbish, and other similar discarded solid or semi-solid materials, including but not limited to such materials resulting from industrial, commercial, agricultural, and domestic activities. Solid waste may include vehicles, as defined by subsection one of Section 321.1 of the Code of Iowa. Solid waste does not include hazardous waste. [Code of Iowa, 1999, §455B.301 (15) (20)]
2. "Garbage": shall mean all solid and semisolid, putrescible animal and vegetable wastes resulting from the handling, preparing, cooking, storing, serving and consuming of food or of material intended for use as food, and all offal, excluding recognized industrial by-products, and shall include all such substances from all public and private establishments and from all residences. [IAC, 1999, 567-100.2]
3. "Refuse": shall mean garbage, rubbish, and all other putrescible and non-putrescible wastes, except sewage and water carried trade waste. [IAC, 1999, 567-100.2]
4. "Rubbish": shall mean all waste materials of a non-putrescible nature (IAC, 1999, 567-100.2)
5. "Open Burning": shall mean any burning of combustible materials where the products of combustion are emitted into the open air without passing through a chimney or stack. [IAC, 1999, 567-100.2]
6. "Toxic Waste": shall mean materials containing poisons, biocides, acids, caustics, pathological waste, and similar harmful waste which may require special handling and disposal procedures to protect the environment and the persons involved in the storage, transport, and disposal of the waste. (IAC, 567-100.2)
7. "Back Yard Burning": shall mean the disposal of residential waste by open burning on the premises of the property where such waste is generated. (IAC, 1999, 567-100.2)
8. "Residential Waste": shall mean any refuse generated on the premises as a result of residential activities. The term includes landscape wastes grown on the premises or deposited thereon by the elements, but excludes garbage, tires and trade wastes. (IAC, 1999, 567-100.2)
9. "Discard": shall mean to place, cause to be placed, throw, deposit or drop. [Code of Iowa, 1999, §455B.361 (1)]
10. "Litter": shall mean any garbage, rubbish, trash, refuse, waste materials or debris. [Code of Iowa, 1999, §455B.361 (2)]

11. "Open Dumping": shall mean the depositing of solid wastes on the surface of the ground or into a body or stream of water. (IAC, 1999, 567-100.2)

12. "Rubble": shall mean stone, brick or similar inorganic material. ( IAC, 1999, 567 100.2)

13. "Sanitary Disposal Project": shall mean all facilities and appurtenances including all real and personal property connected with such facilities, which are acquired, purchased, constructed, reconstructed, equipped, improved, extended, maintained, or operated to facilitate the final disposition of solid waste without creating a significant hazard to the public health or safety, and which are approved by the director. [Code of Iowa, 1999, §455B.301 (18)]

14. "Hazardous Substance": shall mean any substance or mixture of substances that presents a danger to the public health or safety, and includes, but is not limited to a substance that is toxic, corrosive or flammable, or that is an irritant or that generates pressure through decomposition, heat or other means. [Code of Iowa, 1999, 455B.381]

15. "Owner": shall mean in addition to the record title holder any person residing in, renting, leasing, occupying, operating or transacting business in any premises, and as between such parties the duties, responsibilities, liabilities and obligations hereinafter imposed shall be joint and several.

16. "Yard Wastes": shall mean organic debris including grass clippings, leaves, tree limbs, bark, branches, flowers and tree or bush trimmings that are produced as part of yard and garden development and maintenance. ( IAC, 1999, 567-100.2)

17. "Sanitary Disposal": shall mean a method of treating solid waste so that it does not produce a hazard to the public health or safety or create a nuisance. [IAC, 567 100.2]

18. "Director": shall mean the director of the state Department of Natural Resources or his designee. [Code of Iowa, 1999, §455B.101]

19. "Incinerator": shall mean a combustion apparatus designed for high temperature operation in which solids, semi-solid, liquid or gas is combustible refuse is ignited and burned efficiently and from which the solid residues contain little or no combustible material. [IAC, 1999, 567-20.2]

20. "Salvage Operation": shall mean any business, industry or trade engaged wholly or in part in salvaging or reclaiming any product or material, including, but not limited to, chemicals, drums, metals, motor vehicles or shipping containers. [IAC, 1999, 567-100.2]

51.3 HEALTH HAZARD. It shall be unlawful for any person to permit to accumulate on any premises, improved or vacant, or on any public place, such quantities of solid waste, either in containers or not, that shall constitute a health or sanitation hazard.

51.4 FIRE HAZARD. It shall be unlawful for any person to permit to accumulate quantities of solid waste within or close to any building, unless the same is stored in containers in such a manner as not to create a fire hazard.

#### 51.5 OPEN BURNING PROHIBITED

1) No person or other entity or association shall allow, cause or permit open burning of any refuse or combustible materials, including leaves and yard garden waste, except that the following shall be permitted:

a) Disaster Rubbish. The open burning of rubbish, including yard waste, for the duration of the community disaster period in cases where an officially declared emergency condition exists. [IAC, 1999, 567-23.2 (3a)]

b). Diseased Trees. The open burning of diseased trees. However, when the burning of diseased trees causes a nuisance appropriate action may be taken to require relocation of the burning operation. Rubber tires shall not be used to ignite diseased trees. [IAC, 1999, 567 23.2 (3b)]

c) Flare Stacks. The open burning or flaring of waste gases, provided such open burning or flaring is conducted in compliance with applicable rules or the state department of natural resources. [IAC, 1999, 567 23.2 (3c)]

d) Recreational Fires. Open fires for cooking, heating, recreation and ceremonies, provided they comply with the limits for emission of visible air contaminants established by the state department of natural resources. [IAC, 1999, 567-23.2 (3e)]

e) Training Fires. Fires set for the purpose of bona fide training of public or industrial employees in fire fighting methods, provided that the executive director of the State Department of Natural Resources receives notice in writing at least one week before such action commences. [IAC, 1999, 56723.2 (39)]

f) Large Brush Piles. An owner or occupant of property may burn large brush piles on his own property between November 15 and March 15 provided the burn pile is a minimum of 300 feet from the nearest occupied dwelling. The person desiring to burn a brush pile shall apply for a permit from the City, pay a permit fee of \$25.00, and burn the brush within two weeks of the issuance of the permit. The permittee will adequately monitor the burning brush pile at all times.

g) Ditches. The open burning of ditches that are unable to be mowed will be allowed between November 15 and March 15. The person desiring to burn a ditch must apply for a permit from the City, pay a permit fee of \$25.00, and complete the burning within two weeks of the issuance of the permit. The permittee must be present during the burning.

h) Variance. Any person wishing to conduct open burning of materials not exempted herein may make application for a variance to the executive director of the State Department of Natural Resources. [IAC, 1999, 567 23.2]

i) Penalty. A violation of this Chapter will be considered a simple misdemeanor and, upon conviction, be subject to a fine of not more than one hundred dollars (\$100.00) for a first offense, and not more than three hundred dollars (\$300) for a subsequent offense.

2. BURN BARRELS. The use of burn barrels for open burning is prohibited.

51.6 LITTERING PROHIBITED. No person shall discard any litter onto or in any water or land, except that nothing in this section shall be construed to affect the authorized collection and discarding of such litter in or on areas or receptacles provided for such purpose. When litter is discarded from a motor vehicle, the driver of the motor vehicle shall be responsible for the act in any case where doubt exists as to which occupant of the motor vehicle actually discarded the litter. (Code of Iowa, 1999, §455B.363)

51.7 OPEN DUMPING PROHIBITED. No person shall dump or depositor permit the open dumping or depositing of any solid waste except rubble at any place other than a sanitary disposal project approved by the executive director of the state Department of Natural Resources. [Code of Iowa, 1999, §455 B.307]

51.8 TOXIC AND HAZARDOUS WASTES. The collection, storage and disposal of toxic and hazardous wastes shall be subject to the following:

1. Labeling. All containers used for the storage, collection or transportation of toxic or hazardous wastes shall be plainly marked so as to provide adequate notice of the contents thereof.

2. Vehicles and Containers. All vehicles and containers used for the storage, collection and transportation of toxic and hazardous wastes shall be so constructed that they can be loaded, moved and unloaded in a manner that does not create a danger to public health or safety and in compliance with federal and state laws, rules and regulations.

3. Disposal. No person shall deposit in a solid waste container or otherwise offer for collection and toxic or hazardous wastes. Such materials shall be transported by the owner, responsible person or his agent, to a place of safe deposit or disposal as prescribed by the executive director of the State Department of Natural Resources. [Code of Iowa, 1999, §455B.417]

51.9 WASTE STORAGE CONTAINERS. Every person owning, managing, operating, leasing or renting any premises, dwelling unit or any place where refuse accumulates

shall provide and at all times maintain in good order and repair portable containers for refuse in accordance with the following:

1. Container Specification. Waste storage containers shall comply with the following specifications:

A. Residential. Residential waste containers shall be of not less than twenty (20) gallons nor more than thirty-five (35) gallons in nominal capacity; shall be leak proof, water proof and fitted with a fly tight lid which shall be kept in place except when depositing or removing the contents thereof. They shall have handles, bails or other suitable lifting devices or features and be of a type originally manufactured for the storage of residential wastes with tapered sides for easy emptying. They shall be of lightweight and sturdy construction with the total weight of any individual containers and contents not exceeding seventy-five (75) pounds. Galvanized metal containers, rubber or fiberglass containers and plastic containers which do not become brittle in cold weather may be used. Disposable containers or other containers as approved by the city may also be used.

B. Commercial. Every person owning, managing, operating, leasing or renting any commercial premise where excessive amounts of refuse accumulates and where its storage in portable containers as required above is impractical, shall maintain metal bulk storage containers approved by the city.

2. Location of Containers. Residential solid waste containers shall be stored upon the residential premises. Commercial solid waste containers shall be stored upon private property, unless the owner shall have been granted written permission from the city to use public property for such purposes. The storage site shall be well drained; fully accessible to collection equipment, public health personnel and fire inspection personnel.

3. Non-conforming Containers. Solid waste containers which are not adequate will be collected together with their contents and disposed of after due notice to the owner.

4. Storage of Yard Wastes. All yard wastes shall be stored in containers so constructed and maintained as to prevent the dispersal of wastes placed therein upon the premises served, upon adjacent premises, or upon adjacent public right-of-way. Tree limbs less than one-fourth (1/4) inches in diameter and brush shall be securely tied in bundles not larger than forty-eight (48) inches long and eighteen (18) inches in diameter when not placed in storage containers. The weight of any individual bundle or container shall not exceed fifty (50) pounds.

5. Use of Dumpsters at Residential Property. Dumpsters may be placed or remain at residential properties whenever the City has issued a building permit to the property owner that is in effect. When no building permit exists, dumpsters may be placed and remain at a residential location for no more than 15 continuous days. The supplier of the dumpster shall notify the City Clerk whenever a dumpster is placed at a

residential property.

51.10 SEPARATION OF YARD WASTE REQUIRED. All yard waste shall be separated by the owner or occupant from all other garbage, refuse, and solid waste accumulated on the premises, and shall be composted on the premises or set out for collection by the City, or Contractor, in containers that the City approves by appropriate resolution.

51.11 SANITARY DISPOSAL REQUIRED. It shall be the duty of each owner to provide for the sanitary disposal of all refuse accumulating on his premises before it becomes a nuisance. Any such accumulation remaining on any premises for a period of more than thirty (30) days shall be deemed a nuisance and the city may proceed to abate such nuisances in accordance with the provisions of Chapter 65 of this Code whereby initiating proper action in District Court. (Code of Iowa, 1999, Ch. 657)

51.12 PROHIBITED PRACTICES. It shall be unlawful for any person to:

1. Unlawful Use of Containers. Deposit refuse in any solid waste containers other than his own without the written consent of the owner of such containers.

2. Interfere with Collectors. Interfere in any manner with solid waste collection equipment or with solid waste collectors in the lawful performance of their duties as such, whether such equipment or collectors be those of the city, or those of any other authorized waste collection service.

3. Unlawful Disposal. Dispose of refuse at any facility or location that is not an approved sanitary disposal project.

4. Unlawful Collection. Engage in the business of collecting, transporting, processing or disposing of refuse within the city without a contract therefor with the city or a valid permit therefor.

5. Incinerators. Burn rubbish or garbage except in approved incinerators so maintained and operated as to prevent the emission of objectionable odors or particulate matter.

51.13 COLLECTION AND TRANSPORTATION DEFINITIONS. For use in this article the following terms are defined:

1. "Residential Premises": means any premises served by a residential electric meter.

2. "Collectors": shall mean any person authorized by this article to gather solid waste from public and private places.

3. "Dwelling Unit": shall mean any room or group of rooms located within a

structure and forming a single habitable unit with facilities which are used, or are intended to be used, for living, sleeping, cooking and eating.

4. "Single-family Dwelling": shall mean a structure containing one dwelling unit only.

5. "Multiple-family dwelling": shall mean a structure containing more than one dwelling unit.

6. "Property Served": shall mean any property that is being used or occupied and is eligible to receive solid waste collection and disposal service as provided herein.

51.14 COLLECTION SERVICE. The city shall provide for the collection of all solid waste from residential premises, except bulky rubbish, as provided for in Section 51.19. The city may regulate collection of solid waste from other property within the city.

51.15 COLLECTION VEHICLES. Vehicles or containers used for the collection and transportation of garbage and similar putrescible waste or solid waste containing such materials shall be leak proof, durable and of easily cleanable construction. They shall be cleaned to prevent nuisances, pollution or insect breeding and shall be maintained in good repair.

51.16 LOADING. Vehicles or containers used for the collection and transportation of any solid waste shall be loaded and moved in such a manner that the contents will not fall, leak, or spill therefrom, and shall be covered to prevent blowing or loss of material. Where spillage does occur, the material shall be picked up immediately by the collector or transporter and returned to the vehicle or container and the area properly cleaned.

51.17 FREQUENCY OF COLLECTION. All solid waste, except yard waste, shall be collected from residential premises at least once each week and from commercial, industrial and institutional premises as frequently as may be necessary.

51.18 LOCATION OF CONTAINERS. Containers for the storage of solid waste awaiting collection shall be placed outdoors at some easily accessible place as specified by the haulers contract.

51.19 BULKY RUBBISH. Bulky rubbish, which is too large or heavy to be collected in the normal manner of other solid waste, shall be collected by the collector upon request in accordance with procedures therefor established by the council.

51.20 TREE LIMBS AND BRUSH. Tree limbs of less than four (4) inches in diameter and brush will be collected intermittently provided they are placed at the curb or alley line and are in piles or bundles not exceeding four feet in length and weigh no more than fifty (50) pounds.

51.21 YARD WASTES. Yard wastes will be collected intermittently provided that the

same is store in containers or bags and placed at the curb. The weight of any individual container shall not exceed fifty (50) pounds.

51.22 RIGHT OF ENTRY. Solid waste collectors are hereby authorized to enter upon private property for the purpose of collecting solid waste therefrom as required by this article; however solid waste collectors shall not enter dwelling units or other residential buildings.

51.23 COLLECTOR'S LICENSE. No person shall engage in the business of collecting, transporting, processing or disposing of solid waste other than his own within the city without first obtaining from the city an annual license in accordance with the following:

1. Application. Application for a solid waste collector's license shall be made to the clerk and provide the following:

A. Name and Address. The full name and address of the applicant, and if a corporation, the names and addresses of the officers thereof.

B. Equipment. A complete and accurate listing of the number and type of collection and transportation equipment to be used.

C. Collection Program. A complete description of the frequency, routes and method of collection and transportation to be used.

D. Disposal. A statement as to the precise location and method of disposal or processing facilities to be used.

2. Insurance. No collectors' license shall be issued until and unless the applicant therefor, in addition to all other requirements set forth, shall file and maintain with the city evidence of satisfactory public liability insurance covering all operations of the applicant pertaining to such business and all equipment and vehicles to be operated in the conduct thereof in the following minimum amounts:

Bodily Injury - \$500,000 per person.  
- \$1,000,000 per occurrence.  
Property Damage - \$100,000.

Each insurance policy required hereunder shall include as a part thereof provisions requiring the insurance carrier to notify the city of the expiration, cancellation or other termination of coverage not less than ten (10) days prior to the effective date of such action.

3. License Fee. A license fee in the amount of ten (10) dollars shall accompany the application. In the event the requested license is not granted, the fee paid shall be refunded to the applicant.

4. License Issued. If the council upon investigation finds the application to be in order and determines that the applicant will collect, transport, process or dispose of solid waste without hazard to the public health or damage to the environment and in conformity with law and ordinance the requested license shall be issued to be effective for a period of one year from the date approved.

5. License Renewal. An annual license may be renewed simply upon payment of the required fee if operated in substantially the same manner as provided in the original application and by providing the clerk with a current listing of vehicles, equipment and facilities in use.

6. License Not Transferable. No license authorized by this article may be transferred to another person.

7. Owner May Transport. Nothing herein is to be construed so as to prevent the owner from transporting solid waste accumulating upon premises owned, occupied or used by him, provided such refuse is disposed of properly in an approved sanitary disposal project.

8. Grading or Excavation Excepted. No license or permit shall be required for the removal, hauling, or disposal of earth and rock material from grading or excavation activities, however, all such materials shall be conveyed in tight vehicles, trucks or receptacles so constructed and maintained that none of the material being transported shall spill upon the public rights-of-way.

51.24 COLLECTION FEES. The collection and disposal of solid waste as provided by this article is declared to be a benefit to the property served or eligible to be served and there shall be levied and collected fees therefor in accordance with the schedule of such fees approved by resolution of the council.

51.25 DEFINITIONS OF SOLID WASTE DISPOSAL. For use in this article the following terms are defined:

1. "Processing Facility": shall mean the site and equipment for the preliminary and incomplete disposal of solid waste, including but not limited to transfer, open burning, incomplete land disposal, incineration, composting, reduction, shredding and compression. (IAC, 1999, 567-100.2]

2. "Site": shall mean any location, place or tract of land used for collection, storage, conversion, utilization, incineration or land-filling of solid waste, to include the landfill area, non-fill work areas, borrow areas plus a 100 foot wide perimeter surrounding the working areas or the property line if it is closer than 100 feet to the working areas. (IAC, 1999, 567-100.2]

3. "Scavenging": shall mean the uncontrolled removal of materials from the unloading or working area of sanitary disposal project. [IAC, 1999, 567100.2]

4. "Operator": shall mean the person, agency, or employee thereof who is authorized to conduct disposal operations at a public sanitary disposal project or licensed private sanitary disposal project.

5. "Resident": shall mean, in addition to any person residing in the city, any person or entity occupying or using any commercial, industrial, or institutional premises within the city.

51.26 SANITARY DISPOSAL REQUIRED. All solid wastes generated or produced within the City, other than yard waste, shall be disposed of at a sanitary disposal project designated by the City and approved by the Iowa State Department of Natural Resources. (Code of Iowa, 1999, §455B.307)

51.27 EXCEPTIONS. Nothing in this article shall prohibit the filling, leveling or grading of land with earth, sand, dirt, stone, brick, gravel, rock, rubble or similar inert waste provided these materials are not contaminated or mixed with combustible, putrescible or other waste materials, nor to the disposal of animal and agricultural wastes on land used or operated for farming.

51.28 TOXIC AND HAZARDOUS WASTES. Toxic or hazardous wastes shall be disposed of only upon receipt of and in accordance with explicit instructions obtained from the executive director of the state Department of Natural Resources. [IAC, 1999, 567-102.14(2)].

51.29 RADIOACTIVE MATERIALS. Materials that are radioactive shall not be disposed of in a sanitary disposal project. Luminous timepieces are exempt. [IAC, 1999, 567-102.14 (1)].

51.30 SANITARY DISPOSAL PROJECT DESIGNATED. The sanitary landfill facilities operated by the Floyd-Mitchell-Chickasaw Landfill or its successors in interest are hereby designated as the official sanitary disposal project site for the disposal of solid waste produced or originated within the city. In addition, if nonresidential users contract for disposal of their solid waste with a hauler using a sanitary disposal project site other than the Floyd-Mitchell-Chickasaw site and said site has a valid permit from the Iowa Department of Natural Resources, the Council may, by resolution, designate said site as an approved public sanitary disposal project for the disposal of solid waste produced within the city.

51.31 PRIVATE SANITARY DISPOSAL PROJECT. No person may establish and operate a private sanitary disposal project within the city.

## **ARTICLE 2**

### **CATV FRANCHISE**

52.1 DEFINITIONS. For the purpose of this article, and when not inconsistent with the content, words used herein in the present tense include the future; words in plural include the singular and vice versa. The word "shall" is always mandatory. The captions have no force of law, are not part of the section, and are not to be used in construing the language of the section. The following terms and phrases, as used herein, shall be given the meaning set forth below:

1. "Municipality": shall mean the City of New Hampton, a municipal corporation under the laws of the State of Iowa.

2. "Company": shall mean Country Communications Co., a corporation organized and existing under the laws of the State of Iowa, and it is the grantee of the rights under this franchise.

3. "City Council": shall mean the governing body of the municipality.

4. "Federal Communications Commission or FCC": shall mean the present Federal agency of that name as constituted by the Communications Act of 1934, or any successor agency created by the United States Congress.

5. "Person": shall mean any individual, firm, partnership, association, corporation, company or organization of any kind.

6. "Cable Television System" or "System": shall mean a system of antennas, cables, wires, lines, towers, waveguides, or any other conductors, converters, equipment or facilities, designed and constructed for the purpose of producing, receiving, amplifying and distributing, audio, video and other forms of electronic or electrical signals, located in the City of New Hampton, Iowa.

7. "Gross Subscriber Revenues": shall mean only those revenues derived from the basic cable television service charges paid by subscribers located within the municipality and does not include pay service revenues.

52.2 GRANT OF AUTHORITY. There is hereby granted by the municipality to the company the right and privilege to construct, erect, operate and maintain in, upon, along, across, above, over or under the streets, alleys, easements, public ways and public places now laid out or dedicated and all extensions there of and additions thereto within the legal boundary of the municipality, all poles, wires, cables, underground conduits, manholes, and other conductors and fixtures necessary for the maintenance and operation in the municipality of a cable television system for the transmission of television signals and other signals either separately or in conjunction with any public utility maintaining the same in the municipality with all of the necessary or desirable appliances and appurtenances pertaining thereto. Without limiting the generality of the foregoing, this franchise and grant shall and does hereby include the right in, over, under and upon all streets, sidewalks, alleys, easements and public grounds and places in the municipality to install, erect, operate or in any way acquire the use of, as by leasing or licensing, all lines

and equipment necessary to a cable television system and the right to make connections to subscribers and the right to repair, replace, enlarge and extend said lines, equipment and connections. The rights herein granted for the purposes here inset forth shall be non exclusive. Any streets and sidewalks disturbed shall be restored to their original condition.

52.3 FRANCHISE TERM. The franchise granted the company herein shall terminate fifteen (15) years from date of grant, subject to renewal for periods of reasonable duration on the same terms and conditions as contained herein, or on such different or additional terms and conditions as may be lawfully specified by the city council and as are consistent with the requirements of Rules 76.31 of the FCC. No renewal hereof shall be granted unless authorized by the council following an appropriate public proceeding involving public notice and an opportunity for interested parties to participate, during which proceeding, the company's past performance, the adequacy of the franchise's provisions and the consistency of those provisions with applicable FCC rules have been considered.

52.4 REMOVAL OF PROPERTY ON TERMINATION. Upon termination of its franchise, grantee shall remove its poles, cable television transmission and distribution system, and other appurtenances from the streets and sidewalks in the city, when ordered to do so by the city, and shall restore such streets and sidewalks to their original condition.

52.5 REVOCATION OF FRANCHISE. If grantee shall fail to comply with any of the provisions of its franchise, or default in any of its obligations hereunder, except for causes beyond the reasonable control of grantee, and shall fail within thirty (30) days after written notice from municipality to correct such default and noncompliance, the city council of the municipality shall have the right to revoke its franchise and all rights of grantee hereunder. In the event grantee shall be adjudicated, bankrupt or placed in receivership, the municipality may declare the franchise forfeited and terminated.

52.6 PAYMENTS TO THE MUNICIPALITY. The company shall pay to the municipality five (5) per cent of the annual gross revenues received by the company for cable television services rendered to customers located within municipality. At the time of this annual payment, the company shall furnish the municipality with an operating report showing the company's annual gross revenues during the preceding year.

52.7 RECORDS AND REPORTS. The company shall keep full, true, accurate and current books of account, which books and records shall be made available for inspection by the municipality to determine that the necessary payments are being made to the municipality.

52.8 RATES. The company's initial rates for services rendered to single family normal residential customers shall not exceed the following schedule:

1. Installation Charges:

- A. Basic Cable           \$25.00
- B. Second Outlet       \$15.00
- C. FM                   \$15.00
- D. Pay Service Programming \$25.00

2. Monthly Rates:

- A. Monthly Basic Cable TV \$ 8.00
- B. Second Outlet           \$ 2.00
- C. Pay Service Programming \$ 9.95

3. Multiple User Rates:

Installation Charge           Negotiable.

4. No installation charge will be made to customers who request service in writing within thirty (30) days of the initial pre-subscription date as set by publication in a newspaper of general circulation within the municipality and which pre-subscription date must be set prior to commencing construction. The company shall offer promotions of similar value for the five (5) months succeeding this thirty (30) day period.

The company agrees that when it builds the cable TV system in the municipality, it will import via satellite at least five signals, in addition to all local channels that are presently available, including local originations. All rates for service shall be reasonable, compensatory and non-discriminatory.

The rates and charges specified herein may be raised or lowered by the municipality if it finds, upon application of grantee, the request of any party, or its own motion and in compliance with the procedure set forth herein, that a change in rates is necessary to further the public interest in quality cable television service. To allow an application for a change in rates or charges hereunder to be considered and acted upon, it shall be filed with the city council, which shall publish public notice of the application for two consecutive weeks in a newspaper of general circulation in the city, the costs to be paid by company. Notice shall specify a time and place for a public hearing; any person shall have the right to give testimony and present evidence on the change in rates or charges proposed. The city council shall review the testimony and evidence and shall determine whether the rates and charges in question shall be increased, decreased, or remain the same. In connection with any application considered hereunder, the city or any interested party shall have the right to inspect the books and records of the grantee at grantee's office at reasonable times and upon reasonable notice. The inspection of such books and records shall be governed by the laws of the State of Iowa relating to public documents.

52.9 LOCAL OFFICE: COMPLAINT PROCEDURES. During the term of this franchise, and any renewal thereof, the company shall receive and resolve all complaints regarding the quality of service, equipment, malfunctions, and similar matters. A complaint from a

subscriber shall be investigated and acted upon within three (3) business days of its receipt. The company shall keep a maintenance service log which will indicate the nature of each service complaint including time and date. This log shall be made available for periodic inspection by any designated representative of the municipality.

The company shall by appropriate means, such as a card or brochure, as subscribers are connected or reconnected to the system, furnish to such subscribers information concerning the procedures for making inquiries and/or complaints, including the name, address and local telephone number of the employee or agent to whom such inquiries or complaints are to be addressed.

**52.10 LIABILITY AND INDEMNIFICATION.** The company shall pay, and by its acceptance of this franchise the company expressly agrees that it will pay, all damages and penalties which the municipality may legally be required to pay as result of the company's negligence in the installation, operation, or maintenance of the cable television system authorized herein. The municipality shall notify the company's representative within thirty (30) days after the presentation of any claim or demand to the municipality, either by suit or otherwise, made against the municipality on account of any negligence or contract as aforesaid on the party of the company. The company further agrees as follows:

1. Company shall carry workmen's compensation insurance, with statutory limits, and employer's liability insurance with limits of not less than one million (1,000,000) dollars, which shall cover all operations to be performed by company as a result of this article.

2. Company shall carry comprehensive general liability and comprehensive automobile liability insurance with bodily injury limits of not less than five hundred thousand (500,000) dollars per occurrence, and property damage limits of not less than three hundred thousand (300,000) dollars.

3. Company's workmen's compensation, comprehensive general liability and comprehensive automobile liability insurance shall be written by an insurance company with a capital and/or surplus of not less than three million (3,000,000) dollars and company agrees to furnish municipality with certified copies or certificates of insurance of said policies, which shall provide that insurance shall not be canceled unless ten (10) days prior written notice shall first be given to municipality.

**52.11 SYSTEM CONSTRUCTION, MAINTENANCE AND PROCEDURE.** Upon grant of this franchise to construct and maintain a community television system in the municipality, the company may enter into contracts with light, gas and water departments of the municipality and public utility companies or any other owner or lessee of any poles located within or without the municipality to whatever extent such contract or contracts may be expedient and of advantage to the company for use of poles and posts necessary for proper installation of the system; obtain right of way permits from appropriate state, county and federal officials necessary to cross highways or roads under their respective

jurisdictions to supply main trunk lines from the company's receiving antennas; and maintain antennas suitable to the needs of the system and its subscribers and obtain whatever other permits a municipal, county, state or Federal agency may require. In the construction, installation and maintenance of its system, the company will use steel, cable and electronic devices, all of specialized and advanced design and type; in the operation of its systems, the company will employ personnel with training, skill and experience in electronics and communications. Neither material nor personnel of this sort will be available to the company for its system in the event of a war or other similar national emergency.

1. The company's system, poles, wires, and appurtenance shall be located, erected and maintained so that none of its facilities shall endanger or interfere with the lives of persons, or interfere with any improvements the municipality may deem proper to make or unnecessarily hinder or obstruct the free use of the streets, alleys, bridges, easements or public property.

2. In the event that the municipality shall annex further territory as authorized by law, the company shall extend energized trunk cable to the portions of the municipality so annexed within one (1) year thereafter, unless additional time is granted by the city council upon request of the company for good cause shown.

3. All transmission and distribution structures, lines and equipment erected by the company within the municipality shall be so located as to cause minimum interference with the proper use of streets, alleys and other public ways and places, and to cause minimum interference with the rights and convenience of property owners who adjoin any of said streets, alleys or other public ways and places.

4. In case of any disturbance of pavement, sidewalk, driveway or other surfacing, the company shall, at its own cost and expense and in a manner approved by the municipality, replace and restore all paving, sidewalk, driveway or surface of any street or alley disturbed or any area seeded to grass, or any other surface of whatever nature to as good condition as before said work was commenced.

5. In the event that at any time during the period of this franchise, the municipality shall lawfully elect to alter, or change the grade of any street, alley, or other public way, the company upon reasonable notice by the municipality, shall remove, relay and relocate its poles, wires, cables, underground conduits, manholes and other fixtures at its own expense.

6. Before beginning any construction the company shall meet with the utility manager and the street superintendent to ascertain the location of utility systems in the municipality. The company shall not place poles or other fixtures or do any plowing or digging where the same will interfere with any gas, electric or telephone fixtures, water hydrant or main, and all such poles or any other fixtures placed in any street shall be placed at the outer edge of the sidewalk and inside the curb line, and those placed close to the line of the lot abutting on said alley, and then in such manner as not to interfere with

the usual travel on said streets, alleys and public ways.

7. The company shall have the authority to trim trees upon and overhanging streets, alleys, sidewalks and public places of the municipality so as to prevent the branches of such trees from coming in contact with the wires and cables of the company, all trimming to be done under the supervision and direction of the municipality and at the expense of the company.

8. The company shall provide, upon request and without charge, service to any municipal buildings owned and operated by the municipality and to any public elementary or secondary school. This shall mean only an energized cable to such building. The cost of any internal wiring and additional television sets shall be borne by the institution.

9. Other grant of authority in this franchise to the contrary notwithstanding, the company may not erect poles or other structures above the surface of the ground on streets, alleys, easements, public ways and public places now laid out or dedicated and all extensions thereof and additions thereto within the legal boundary of the municipality. The company may use poles which have already been erected, but where there is no utility transmission above the surface, any installation by the company shall be made underground.

52.12 LINE EXTENSIONS. It shall be the obligation of the company to serve homes, adverse terrain or other factor render providing service impossible or economically noncompensatory. For purposes of determining compliance with the provisions of this section and to provide for a reasonable and nondiscriminatory policy governing extensions of cable service within the municipality, company shall extend service to new subscribers, at the normal installation charge and monthly rate for customers of that classification where there are an average of eighty (80) homes per each linear mile of new cable construction. In the event that these requirements are not met, extensions of service shall be required only on the basis that is reasonable and compensatory.

52.13 COMPLIANCE WITH STANDARDS. All facilities and equipment of company shall be constructed and maintained in accordance with the requirements and specifications of the National Electric Safety Code and such applicable ordinances and regulations lawfully established by the municipality and/or any other local state or Federal agencies.

52.14 COMPANY RULES AND REGULATIONS. The company shall have the authority to promulgate such rules, regulations, terms and conditions governing the conduct of its business as shall be reasonably necessary to enable the company to exercise its rights and perform its obligations under this franchise, and to assure an uninterrupted service to each and all of its customers. Provided, however, that such rules, regulations, terms and conditions shall not be in conflict with the provisions hereof or of Federal and state laws.

52.15 PROCEDURES. No renewal of this franchise shall be effective except pursuant to a public proceeding affording due process. The company shall be a party to any such proceeding and any other proceedings in which its rights, privileges or interest would be affected and shall be fully entitled to such due process rights as may be available under applicable law, ordinances, rules and regulations.

52.16 APPROVAL OF TRANSFER. The company shall not sell or transfer its system to another, nor transfer any rights under this franchise to another without written approval by the municipality, provided that such approval shall not be unreasonably withheld if the vendee, assignee or lessee has filed with the appropriate official of the municipality an instrument duly executed, reciting the fact of such sale, assignment or lease, accepted the terms of this franchise and agreeing to perform all conditions thereof and can produce satisfactory evidence of its ability to do so.

52.17 COMPLIANCE WITH FCC RULES AND REGULATIONS. The company shall, at all times, comply with the rules and regulations governing CATV operations promulgated by the FCC, specifically those set forth in Section 76.31 of the FCC Rules and Regulations. This shall include adherence by the company to FCC rules regarding technical and engineering specifications involved in the construction of the CATV system and signal carriage therein.

52.18 PUBLICATIONS COSTS. The company shall pay the costs of the legal publication of this franchise in a newspaper of general circulation within the municipality.

52.19 ACTIVITIES PROHIBITED. The company shall not allow its cable or other operations to interfere with television reception of persons not served by the company, nor shall the system interfere with, obstruct or hinder, in any manner, the operation of the various utilities serving the residents of the municipality. The company shall not, as to rates, charges, service facilities, rules, regulations, or in any other respect, make or grant any preference or advantage to any person, nor subject any person to any prejudice or disadvantage, provided that nothing in this franchise shall be deemed to prohibit the establishment of a graduated scale of charge and classified rate schedules to which any customer coming within such classification would be entitled.

52.20 LANDLORD. No landlord shall demand or accept payment from company for permitting company to provide cable television service on or within said landlord's property or premises provided, however, that direct expenses incurred by him in connection with the installation of cable television. No cable television outlet shall be installed or removed without written authorization of the owner of the property.

52.21 THEFT OF SERVICES OR TAMPERING. No person, whether or not a subscriber to the cable system shall willfully, maliciously or otherwise damage or cause to be damaged any wire, cable, conduit, apparatus, appurtenance, or equipment of a franchise operating a cable television system within the municipality, or commit any act with intent to cause such damage, or to tap, tamper with or otherwise connect any wire or device to a

wire, cable, conduit, apparatus, appurtenance or equipment of such franchisee with the intent to obtain cable television or other communications service with intent to cheat or defraud said franchise of any lawful charge to which it is entitled.

52.22 SEVERABILITY. If any section, subsection, sentence, clause, phrase or portion of this article, is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holdings shall not affect the validity of the remaining portions hereof. Should any provision of this franchise be inconsistent or at variance with any rule, regulation or policy, in whole or in part, of the Federal Communications Commission or any other agency having jurisdiction, such provision shall be invalid, but the remaining provisions hereof shall not be affected thereby.

### **ARTICLE 3 PUBLIC WATER SYSTEM**

53.1 DEFINITIONS. For use in this chapter the following terms are defined:

1. "Water System" or "Water Works": shall mean all public facilities for securing, collecting, storing, pumping, treating and distributing water.
2. "Superintendent": shall mean the superintendent of streets or his duly authorized assistant, agent or representative.
3. "Water Main": shall mean a water supply pipe provided for public or community use.
4. "Water Service Pipe": shall mean the pipe from the water main to the building served.
5. "Consumer": shall mean, in addition to any person receiving water service from the city, the owner of the property served, and as between such parties the duties, responsibilities, liabilities and obligations hereinafter imposed shall be joint and several.
6. A "prime meter" measures water consumed and disposed through the public water and sanitary sewer systems, respectively.
7. An "irrigation meter" measures water which is not disposed through the public sanitary sewer treatment system.

53.2 SUPERINTENDENT: DUTIES. The superintendent shall supervise the installation of water service pipes and their connection to the water main and enforce all regulations pertaining to water services in this city in accordance with this article. This article shall apply to all replacements of existing water service pipes as well as to new ones. The

superintendent shall make such rules, not in conflict with the provisions of this article, as may be needed for the detailed operation of the water system, subject to the approval of the council. In the event of an emergency he may make temporary rules for the protection of the system until due consideration by the council may be had. [Code of Iowa, 1999, §372.13 (4)]

**53.3 MANDATORY CONNECTIONS.** All residences and business establishments within the city limits intended or used for human habitation, occupancy or use shall be connected to the public water system, unless such public water supply is not reasonably available. From and after January 1, 1978, it shall be unlawful for any person, firm, residence, business or corporation located within the city which is intended or used for human habitation, occupancy, or use, in any manner, to drill its own well, or to connect to any water supply or source other than the city public water supply, unless such public water supply is not reasonably available thereto.

**53.4 EXTENSION OF CITY SUPPLY.** If the public water supply was not reasonably available to permit connection as required in Section 53.3 and the city subsequently agrees to extend the public supply so that it is reasonably available for connection, then and at that time the connection as required by Section 53.3 shall be made.

**53.5 ABANDONED CONNECTIONS.** When an old water service is abandoned or a service is renewed with a new tap in the main, all abandoned connections with the mains shall be turned off at the corporation cock and made absolutely water tight.

**53.6 PERMIT.** Before any person shall make a connection with the public water system, a written permit must be obtained from the street superintendent. The application for the permit shall be filed with the street superintendent on blanks furnished by him. The application shall include a legal description of the property, the name of the property owner, the name and address of the person who will do the work, the general uses of the water. The street superintendent shall issue the permit, bearing his signature and stating the time of issuance, if the proposed work meets all the requirements of this article and if all fees required under this article have been paid. Work under any permit must be begun within six (6) months after it is issued. The street superintendent may at any time revoke the permit for any violation of this article and require that the work be stopped. [Code of Iowa, 1999, §372.13 (4)]

**53.7 FEE FOR PERMIT.** Before any permit is issued the person who makes the application shall pay one hundred (100) dollars to the clerk to cover the cost of issuing the permit and supervising, regulating, and inspection of the work. [Code of Iowa, 1999, §384.84 (2a)]

**53.8 COMPLIANCE WITH PLUMBING CODE.** The installation of any water service pipe and any connection with the water system shall comply with all pertinent and applicable provisions, whether regulatory, procedural or enforcement provisions, of the state plumbing code.

53.9 PLUMBER REQUIRED. All installations of water service pipes and connections to the water system shall be made by a competent plumber, to the extent made on city property.

53.10 BOND REQUIRED. The person performing the work shall provide a surety bond in the amount of two thousand (2,000) dollars secured by a responsible surety bonding company authorized to operate within the state.

53.11 EXCAVATIONS. All trench work, excavation and back-filling required in making a connection shall be performed in accordance with applicable excavation provisions as provided for installation of building sewers.

53.12 TAPPING MAINS. All taps into water mains shall be made under the direct supervision of the superintendent and in accord with the following:

1. Independent Services. No more than one house, building or premises shall be supplied from one tap unless special written permission is obtained from the council and unless provision is made so that each house, building or premise may be shut off independently of the other.

2. Sizes and Location of Taps. All mains six (6) inches or less in diameter shall receive no larger than a three-fourths (3/4) inch tap. All mains of over six (6) inches in diameter shall receive no larger than a one inch tap. Where a larger connection than a one inch tap is desired, two (2) or more small taps or saddles shall be used, as the superintendent shall order. All taps in the mains shall be made at or near the top of the pipe, at least eighteen (18) inches apart. No main shall be tapped nearer than two (2) feet of the joint in the main.

3. Corporation Cock. A brass corporation cock, of the pattern and weight approved by the superintendent, shall be inserted in every tap in the main. The corporation cock in the main shall in no case be smaller than the service pipe.

4. Location Record. An accurate and dimensional sketch showing the exact location of the tap shall be filed with the superintendent in such form as he shall require. [Code of Iowa, 1999, §372.13 (4)]

53.13 INSTALLATION OF WATER SERVICE PIPE. Water service pipes from the main to the meter setting shall be standard weight type K copper. Pipe must be laid with sufficient slack and to such depth, as to prevent rupture from settlement or freezing.

53.14 CURB STOP. There shall be installed a main shut off valve of the inverted key type on the water service pipe at the outer sidewalk line with a suitable lock of the pattern approved by the street superintendent. The shut off valve shall be covered with a heavy metal cover having the letter "W" marked therein, visible and even with the pavement or ground.

53.15 INTERIOR SHUT-OFF VALVE. There shall be installed a shut-off valve on every service pipe inside the building as close to the entrance of the pipe within the building as possible and so located that the water can be shut off conveniently and the pipes drained. Where one service pipe supplies more than one customer within the building, there shall be separate valves for each such customer so that service may be shut off for one without interfering with service to the others.

53.16 INSPECTION AND APPROVAL. All water service pipes and their connections to the water system must be inspected and approved in writing by the street superintendent before they are covered, and he shall keep a record of such approvals. If he refuses to approve the work, the plumber or property owner must proceed immediately to correct the work so that it will meet with his approval. If any person, firm, residence, business, or corporation is refused approval of its water service connection by the street superintendent, and such person, firm, residence, business, or corporation feels that the connection is properly installed, such person, firm, residence, business, or corporation may appear before the council at its next regular meeting after refusal by the street superintendent to request that the decision of the street superintendent be overruled by the council. If the council refuses to overrule the street superintendent, the person, firm, residence, business, or corporation may appeal to the New Hampton Board of Adjustment by paying a fifty (50) dollar filing fee and by taking appeal on forms obtainable from the clerk. Every person who uses or intends to use the municipal water system shall permit the street superintendent or his designee to enter the premises to inspect or make necessary alterations or repairs at all reasonable hours and on proof of authority.

53.17 COMPLETION BY THE CITY. Should any excavation be left open or only partly refilled for twenty-four (24) hours after the water service pipe is installed and connected with the water system, or should the work be improperly done, the street superintendent shall have the right to finish or correct the work, and the council shall assess the costs to the property owner or the plumber. If the plumber is assessed, he must pay the costs before he can receive another permit, and the plumber's bond shall be security for the assessment. If the property owner is assessed, such assessment may be collected with and in the same manner as general property taxes. [Code of Iowa, 1999, §364.12(3a & h)]

53.18 SHUTTING OFF WATER SUPPLY. After giving reasonable notice, the street superintendent may shut off the supply of water to any customer because of any substantial violation of this article, or valid regulation under Section 53.2 that is not being contested in good faith. The supply shall not be turned on again until all violations have been corrected and the street superintendent has ordered the water to be turned on.

53.19 PROPERTY OWNER'S RESPONSIBILITY. All costs and expenses incident to the installation, connection and maintenance of the water service pipe from the main to the building served shall be borne by the owner. The owner shall indemnify the city from any loss or damage that may directly or indirectly be occasioned by the installation or maintenance of said water service pipe.

53.20 FAILURE TO MAINTAIN. When any corporation cock, water service pipe or

curb stop becomes defective or creates a nuisance and the owner fails to correct such nuisance after notice pursuant to Subsection 364.12 (h), The Code, the city may do so and assess the costs thereof to the property. [Code of Iowa, 1999, §364.12 (3a & h)]

53.21 OPERATION OF CURB STOP. It shall be unlawful for any person except the street superintendent or his designee to turn water on at the curb or stop initially or after it is shut off pursuant to Section 53.18.

53.22 PURPOSE OF WATER METERS. The purpose of this article is to encourage the conservation of water and facilitate the equitable distribution of charges for water service among consumers.

53.23 WATER USE METERED. All water furnished to consumers shall be measured through meters furnished and installed by the city. [Code of Iowa, 1999, §384.84 (1)]

53.24 FIRE SPRINKLER SYSTEMS EXCEPTION. Fire sprinkler systems may be connected to water mains by direct connection without meters under the direct supervision of the superintendent. No open connection can be incorporated in the system, and there shall be no valves except a main control valve at the entrance to the building which must be sealed open.

53.25 LOCATION OF METERS. Subject to the other provisions of this article, at the time that water lines are tapped for any new construction, city owned meters shall be installed by the superintendent and at the time of the completion of construction, the city may replace the previously installed meter with an outside read water meter. All meters shall be so located that they are easily accessible to meter readers and repairmen and so that they are protected from any damage. In all cases where possible, such meters shall be so equipped that they can be read by a meter reader without entering the building.

53.26 METER SETTING. The property owner shall have provided all necessary piping and fittings for proper setting of the meter, such actual setting to be done by the city, including a globe type valve on the inlet side of the meter. Meter pits may be used only upon approval of the superintendent and of a design and construction approved by him. All water lines and valves from the city water main to the meters are deemed to be owned by the respective property owner.

53.27 METERS FURNISHED BY THE CITY. For all new installations where City water service is provided, the City will furnish and install meters that are less than one inch in diameter water line meters. Property owners shall own, install, repair, and replace all water meters that are one inch or greater in diameter water line meters, but all such installation and repair shall be approved by the City.

53.28 METER REPAIRS. Whenever a water meter for a water line of up to a one and one-half (1 ½) inch diameter if found to be out of order, the superintendent shall have it replaced or repaired and he shall have it sealed. If it is found that damage to the meter has occurred due to any freezing or due to the carelessness or negligence of the consumer or

property owner, the property owner shall be liable for the costs of such repair or replacement. The repair or replacement of water meters of a size greater than one and one half (1 ½) inch water line diameter shall be subject to the rules set forth in Section 53.27.

53.29 PRIVATELY OWNED METERS. All privately owned meters in service as of February 20, 1978, shall be subject to the following regulations:

1. Maintenance Test. Every privately owned meter shall be removed from service at least once in the first five (5) years after February 30, 1978, and thoroughly tested for accuracy. Any such meter found inaccurate beyond a tolerance of one and one half (1 ½) percent shall not be returned to service, until properly adjusted and repaired.

2. Costs of Testing and Repair. All costs of testing and repair or adjustment of privately owned meters shall be borne by the owners thereof. Any such costs not paid when due shall constitute a lien upon the property served and shall be certified to the county auditor for collection in the manner of other property taxes, provided, however, that the city reserves the right to take other available legal action to collect such costs other than certification for payment with taxes. The cost of testing or repair of city owned meters shall be borne by the city, unless the damage causing such repair or replacement shall be due to the freezing or due to the carelessness or negligence of the consumer or property owner.

3. Replacement. Any privately owned water meter up to one and one-half (1 ½) inch in water line diameter which in the sole judgment of the city is no longer serviceable shall be removed from service and replaced with a sealed meter furnished and owned by the city. Nothing contained herein shall prevent the city through its superintendent, from sealing privately owned water meters.

4. City Ownership of Meters. The city shall have the right within five (5) years of February 20, 1978, to install city owned water meters on all water lines up to one and one half (1 ½) inch in diameter unless the existing water meter on such lines shall already have been transferred to city ownership by the property owner.

53.30 UNAUTHORIZED TAMPERING. No unauthorized person shall disconnect, reverse, break any seal on, or tamper in any way with any such water meter.

53.31 RIGHT OF ENTRY. The superintendent, or his designated agent, shall be permitted to enter the premises of any consumer at any reasonable time to remove, change, repair, inspect, or test any meter, whether privately or publicly owned.

53.32 METER INSTALLATION FEE. There shall be a fee charged to the property owner for each new installation of a water meter in accordance with the schedule of such fees approved by resolution of the council. [Code of Iowa, 1999, §384.84 (2)]

53.33 SERVICE CHARGES. Each consumer shall pay for water service provided him by the city based upon his use of water as determined by meters provided for in Article 3 of

this chapter. Each location, building, premises or connection shall be considered a separate and distinct consumer whether owned or controlled by the same person or not. The owner of any multi-family dwelling that is served by a single water meter will be billed directly for service provided the property until such time as separate water meters are installed for each unit. [Code of Iowa, 1999, §384.84 (1)]

53.34 WATER SERVICE RATES. The City shall provide water service to each user at the following monthly rates:

- A. Each contributor shall pay a minimum of \$5.00 per month regardless of usage. The minimum overall water bill will increase as follows:
  - 1) Effective July 1, 2021, a minimum of \$6.00 per contributor; and
  - 2) Commencing July 1, 2022, a minimum of \$9.00 per contributor; and
  - 3) Commencing July 1, 2023, a minimum of \$12.00 per contributor; and
- B. Each contributor shall pay a fee per month as follows:
  - 1) Effective July 1, 2021, \$2.10 per 1,000 gallons used;
  - 2) Commencing July 1, 2022, \$3.50 per month basic service fee, and \$2.50 per 1,000 gallons used;
  - 3) Commencing July 1, 2023, \$7.00 per month basic service fee, and \$2.89 per 1,000 gallons used;
  - 4) Commencing July 1, 2024, \$7.00 per month basic service fee, and \$2.96 per 1,000 gallons used;
  - 5) Commencing July 1, 2025, \$7.00 per month basic service fee, and \$3.03 per 1,000 gallons used; and
  - 6) Commencing July 1, 2026, \$7.00 per month basic service fee, and \$3.11 per 1,000 gallons used.
- C. The rate per 1,000 gallons used will increase 2.5% per year annually thereafter, unless changed by resolution of the council.

53.34 (A) INFRASTRUCTURE MAINTENANCE. In addition to the rates for water and sewer services provided for elsewhere in Title V of the City Code, each residential and commercial user shall pay a month fee per meter for the maintenance, improvement, and operation of the City's infrastructure. Effective July 1, 2021, the infrastructure maintenance and operation fee shall be as follows:

- A. Stormwater Infrastructure - \$2.50 per residential user and \$5.00 per commercial user
- B. Water and Sewer Infrastructure - \$5.00 per user
- C. Road Maintenance and Equipment - \$5.00 per user

53.35 RATES OUTSIDE THE CITY. Water service shall be provided any consumer located outside the corporate limits of the city which the city has agreed to serve at the rates one hundred fifty (150) percent of the rates provided in Section 53.34. No such consumer, however, will be served unless he shall have signed a service contract agreeing to be bound by the ordinances, rules and regulations applying to water service established

by the council. [Code of Iowa, 1999, §364.4 (2) & 384.84 (2c)]

53.36 BILLING FOR WATER SERVICE. Billing and payment for water service shall be in accordance with the provisions of Title 1, Article 5 of this city code. [Code of Iowa, 1999, §384.84 (1)]

53.37 ACCURACY TEST. The superintendent shall make a test of the accuracy of any water meter at any time when requested in writing, but not oftener than once in eighteen (18) months. Such request shall be accompanied by a refundable deposit of five (5) dollars guaranteeing payment of costs if found due. If the meter is found to over-run to the extent of two (2) percent or more, the cost of the test shall be paid by the city and a refund shall be made of the meter test deposit. If the meter is found to be accurate or slow, or less than two (2) percent fast, the consumer deposit shall be forfeited as the reasonable costs of the test. [Code of Iowa, 1999, §384.84 (1)]

53.38 IRRIGATION METERS. In addition to a prime meter, an irrigation meter may additionally be installed to a residential water system. The water measured by an irrigation meter may include water for above ground swimming pools, yards, gardens and other approved uses where sanitary sewer charges are not applicable. The property owner shall bear the expense of installing an irrigation meter, which shall be installed not more than four feet from the prime meter unless the property owner receives special permission. Shut off valves are required ahead and after the irrigation meter and must be within one foot of the meter. A back flow preventer to protect against contamination of the water system must be installed after the irrigation meter. The irrigation meter must be installed horizontal to the floor with the arrow on the meter being in the direction of the flow of water to the outside. No underground irrigation system is allowed in the public right of way. Irrigation meters, back flow preventer, and outside reader shall be purchased from the City. The property owner shall install the back flow preventer and provide the meter setting and all plumbing is to be inspected and approved by the City. The City will install the outside reader after inspection.

53.39 RATES FOR IRRIGATION METER. Sewer charges shall not apply to the volume of water measured by an irrigation meter. The water rate to be charged for an irrigation meter shall be equal to the rate that the City charges for a prime meter, including the minimum monthly charges.

#### **ARTICLE 4 NATURAL GAS FRANCHISE**

54.1 FRANCHISE GRANTED. That there is hereby granted to United Petroleum Gas Company, a Minnesota corporation, its successors or assigns, the right, permission, authority and power and privilege to maintain, build, lay and operate in and along the streets, highways and other public grounds within said city, a system of mains, pipes, conduits and other necessary attachments and appurtenances for the storage, conveyance, distribution and sale of gas, for heat and other purposes in the City of New Hampton, Iowa, and the right, permission, authority, power and privilege to maintain, use, own and

operate such gas works within the corporate limits of said City of New Hampton, Iowa, as may be necessary to carry out the terms of this grant. Such right, authority, permission and power are hereby granted for the term of twenty-five (25) years, from and after the date of the final acceptance thereof by the grantee.

54.2 SYSTEM ESTABLISHED. The grantee by the acceptance of this franchise agrees to acquire, build, lay, maintain and operate in and along the streets, highways, and other public grounds within said city a system of mains, pipes, conduits and other necessary attachments and appurtenances for the storage, conveyance, distribution and sales of gas, either artificially manufactured or natural gas, for light, fuel, power, heat and other purposes in the City of New Hampton, Iowa; and said equipment shall be sufficient for the supply of such gas as may from time to time be reasonably needed and consumed by said City and its inhabitants, and may maintain, construct, use, own and operate a gas works within the corporate limits of said city but that nothing herein shall limit the right and power of the grantee to sell or furnish gas to consumers outside the corporate limits of said city nor from using of all of the grantee's works, mains and equipment for such purposes, provided that in no manner shall the city or the inhabitants thereof be discriminated against by the supplying of gas outside the city. The grantee, however, shall not be liable to the city or its inhabitants by reason of the failure of the grantee to lay additional equipment or to deliver gas as required by this franchise ordinance as result of Acts of God or the public enemy, inability of the grantee's pipeline supplier to furnish an adequate supply of gas, due to an emergency, temporary or permanent, including but without restricting it to, the securing of materials, due to an order or decision of a public regulatory body or other acts or conditions wholly beyond the control of the grantee. During a period of shortage of gas caused as aforesaid, the grantee shall have the right and authority, subject to the approval of the city council, to adopt reasonable rules and regulations in connection with the limiting, curtailing, or allocating extension of service, or supplying as to any customer or prospective customer, and withholding the supplying of gas to new customers, provided that such rules and regulations shall be just and reasonable and uniform as applied to each class of customers.

54.3 PUBLIC CONVENIENCE AND INDEMNIFICATION OF CITY. The grantee shall not lay its gas mains and service pipes so as to interfere with or obstruct the drainage of said city or the construction of sewers or underground fixtures for the conveyance of water or the necessary and proper use of said street, alleys, and public places. The grantee shall with reasonable promptness restore the surface of streets in which it makes excavations to as good condition as they were before the commencement of such work, and during the progress of such work the grantee shall be responsible for keeping streets and other places guarded, in order to prevent accident to persons or property. If at any time the city is subjected to liability for injury to persons or property growing out of the negligence of the grantee, its agents, servants or employees in connection with the operations of the grantee; the grantee shall fully indemnify and hold the city harmless from any and all such liability, provided, however, that in case suit is instituted against the city, the city shall promptly notify the company of such suit, giving it ample time to appear and defend the same.

54.4 EXTENSIONS OF SERVICE. The grantee, its lessees, successors or assigns shall make such reasonable extensions of time mains from time to time as may be necessary thereto; provided, however, that the grantee, its lessees, successors or assigns shall not be required to make any extensions of its mains for the purpose of serving any new consumer or consumers which shall necessitate the installation of more than one hundred (100) feet of main for each consumer to be served, (nor where the estimated revenue to be derived from serving such new consumer or consumers is insufficient to show an adequate return computed on the remainder of the period of this franchise upon the total investment required to serve such new consumer or consumers).

54.5 SERVICE CONNECTIONS. Grantee agrees to extend customer service connections from the main to the customer's property line, at nearest point to the main, as part of the distribution system. Grantee may charge the customer a reasonable rate per foot for installation of the service connection from the property line to the customer's premises. In the event the customer decides to dig and back fill the trench on his property, credit shall be given for such work in applying the charge.

54.6 EXCAVATIONS. Whenever the grantee shall desire to excavate in any street or alley for the purpose of laying gas mains, it shall give the city at least three (3) days notice thereof by filing a written notice with the clerk and shall not, during the progress of the work, unnecessarily obstruct the passage or proper use of such street, or alley, and it shall, within a reasonable time, restore as far as practical, said street or alley to as good condition as it was before such excavations were made; provided it shall in no case interfere with any improvements being made by the city without the consent of the engineer.

54.7 INSURANCE. The grantee for itself, successors and assigns agrees to furnish the city a complete schedule of insurance carried by the grantee to fully protect the city from any and all obligations, liabilities, or claims of any nature whatsoever, growing out of the operations, constructions and maintenance of the said gas plant and gas distribution system. If the city at any time determines the insurance inadequate, the grantee will add to the insurance coverage to the extent required by the city.

54.8 AUTHORITY OF CITY. The grantee agrees for and in behalf of itself, its lessees, successors and assigns that all authority and right in this franchise contained shall at all times be subject to all right, power and authority now or hereafter possessed by the said city, or any other regulatory tribunal having jurisdiction thereover to regulate, fix and control just, reasonable, and compensatory gas rates, and to regulate, control and direct the manner in which the grantee, its lessees, successors and assigns shall use the streets, alleys, bridges and public places in said City of New Hampton.

54.9 RULES AND REGULATIONS. The grantee shall at all times have the right to make and promulgate such reasonable regulations and rules in respect to requiring money deposits or guarantees from persons desiring gas that it may deem necessary for its protection.

54.10 FINANCIAL STATEMENT. The grantee shall file annually not later than sixty (60) days after each fiscal year in the office of the clerk, a statement showing the capitalization of the grantee and the profit and loss statement for the previous fiscal year, all as related to the grantee's gas operations in the city. This statement shall be properly certified. The city shall be accorded the right to examine the books of the grantee and to require such verifications as the city may reasonably request.

54.11 ACCEPTANCE. The company, its successors, lessees or assigns, shall, within ninety (90) days after passage and publication of this ordinance, file with the clerk in writing its acceptance thereof and shall start installation of a distribution system under the franchise, in the city, within one hundred twenty (120) days after notification by Northern Natural Gas Company as to availability of natural gas for distribution in said city, and in the event no gas is available for distribution in the city within three (3) years after the granting of the franchise, as contemplated in this ordinance, the franchise and this ordinance may be revoked and repealed at the option of the council.

54.12 SEVERABILITY. If this ordinance, having become final and operative as herein provided, shall be declared in part illegal or void, then nevertheless, the lawful provisions hereof which are separate from the unlawful provisions, shall be and remain in full force and effect.

54.13 GRANTEE TO PAY EXPENSES. The grantee agrees to pay all expenses incurred in connection with the holding of a general election by the people of New Hampton in authorizing the granting of this franchise.

54.14 OPTION TO PURCHASE. The grantee grants to the City of New Hampton the option to purchase the distribution system and business at any fifth (5th) anniversary of the introduction of natural gas into the system for commercial use. The City of New Hampton shall give the grantee twelve (12) months prior notice of its intention to exercise this option. The price to be paid shall equal to the unamortized portion of the total investment in the distribution system, plant and business, plus the difference between the amount actually earned, net after all taxes, and a return of six (6) percent per year on the grantee's total capital investment for the period from the date of introduction of natural gas into the system for commercial use to the date of sale. The investment of the grantee shall, for the purposes of this paragraph, be amortized over a period equal to the unexpired portion of the franchise on the date of introduction of natural gas into the system for commercial use.