

CHAPTER 5

PUBLIC OWNED UTILITIES

Revised Chapter 5, Sections 5-101 thru 5-222 were replaced with Sections 5-000 thru 5-208, Ordinance #2013-03, Adopted 05/06/13, Amended Section 5-207.1 (04/09/18); Amended Section 5-000, 5-002, 5-002.1, 5-003.2(b), 5-005, 5-109, 5-207, 5-207.1 & Removed Sections 5-207.2, 5-207.3, Ordinance #2022-01, Adopted 05/02/2022; Amended Section 207.1(c), Ordinance #2022-16, Adopted 09/06/2022.

5-000 DEFINITIONS

The following words, terms and phrases are defined and shall be interpreted as such throughout this chapter and Chapters 11 and 15. Terms not herein defined shall have the meaning customarily assigned to them.

APPROVING AUTHORITY. The Public Works Director or his or her duly authorized deputy, agent or representative.

BUILDING DRAIN. That part of the lowest horizontal piping of a drainage system, which receives the discharge from soil, waste, and other pipes inside the walls of the building and conveys it to the building sewer.

BUILDING SEWER, HOUSE CONNECTION AND SEWER SERVICE. The extension from the building drain to the public sewer or other place of disposal.

CESSPOOL. An open or covered holding containment or pit for receiving drainage or sewage.

CITY. The City of Philip, a municipal corporation of the State of South Dakota.

CONTRACTOR. A licensed sewer and water contractor or licensed trenching contractor as defined in this section.

CROSS CONNECTION. A connection or potential connection between any part of a potable water system and any other environment containing other substances in a manner that, under certain circumstances would allow such substances to enter or adversely affect the potable water system. Other substances may be gases, liquids, or solids, such as chemicals, waste products, steam, water from other sources (potable or non potable), or any matter that may change the temperature, the color, the taste, or add odor to the water.

DISTRIBUTION SYSTEM. The network of pipes, valves and other appurtenances owned and/or operated by the City of Philip for the purpose of delivering potable water.

DIRECTOR. The Public Works Director or his or her duly authorized deputy, agent or representative.

DOMESTIC WASTEWATER. Water-carried wastes from dwellings or wastewaters, which are similar in physical, biological and chemical characteristics.

FLOATING OIL. Oil, fat or grease in a physical state such that it can be separated by gravity from wastewater in an approved pretreatment facility.

GARBAGE. The putrescible animal and vegetable waste resulting from the handling, preparation, cooking and serving of foods.

GROUNDWATER. The water below the earth surface, which occupies the pore spaces in the saturated zone of the geologic stratum.

LANDLORD. An owner of a property that leases the property to a **TENANT OR RENTER.**

MAY. Is permissive.

OWNER. Any natural person, partnership, corporation, business entity, trustee, heir, successors, assigns, administrators or executors which have the right to possess and use any property to the exclusion of others and whom is legally responsible for the payment of water, sewer and/or garbage service charges made against the **PREMISES.**

PERSON. Any individual, firm, company, association, governmental agency, society, corporation, group or political subdivision.

PREMISES. Any real or personal property served or capable of being served by any city service, including but not limited to houses, buildings, mobile homes and trailers.

PROJECT TYPES

- 1) **EXPANSION/ECONOMIC DEVELOPMENT.** A project, which extends sewer and/or water infrastructure to provide service for new developments.
- 2) **IMPROVEMENT.** A project, which provides for increased capacity, or improved efficiency to existing systems. This type of project is located within the existing City service area, or corporate limits.
- 3) **REPLACEMENT.** A project, which replaces or repairs existing infrastructure with similar components having more or less the same capacity as the original.

PUBLIC SEWER OR PUBLIC WATER. A sewer or water main located in publicly owned land, public rights of way or easements and controlled by the City of Philip.

PUBLICLY OWNED TREATMENT WORKS OR POTW. A treatment works as defined by Section 212 of the Clean Water Act, which is owned by a state or municipality (as defined by Section 502(a) of the Clean Water Act). This definition includes any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes and other conveyances only if they convey wastewater to a POTW pretreatment plant. The term also means the municipality as defined in Section 502(4) of the Clean Water Act, which has jurisdiction over the indirect discharges to and the discharges from such a treatment works.

SANITARY SEWER or SEWER. A sewer, which carries domestic wastewater, and to which storm, surface and ground waters are not intentionally admitted.

SEPTAGE. A mixture of liquids and solid materials removed from a septic tank, portable toilet, recreational vehicle holding tank, Type III marine sanitation device, or similar system. The contents of vault privies and substances such as grease trap residues, interceptor residues, and grit and screenings are not included in this definition of **SEPTAGE.**

SEPTIC TANK. A watertight, accessible, covered receptacle which receives wastewater from a building or facility sewer that allows solids to settle from the liquid, provides

digestion for organic solids, stores digested solids through a period of retention, and allows a clarified liquid to discharge to additional treatment works for final treatment and dispersal.

SERVICE AREA. The geographic area in which the city currently provides an actual service. This contrasts with a planning service area in which the city may provide service in the future.

SERVICE LINE. The line from the city main to within five feet of the building and are further defined as follows:

- 1) **DOMESTIC SEWER SERVICE LINE.** Pipe and appurtenances collecting waste water from the premises and delivering it to the city sewer collection system. **DOMESTIC SERVICE LINES** may be located on private property or in public rights of way and are owned, operated, and maintained by the owner of the premises being served.
- 2) **DOMESTIC WATER SERVICE LINE.** Pipe and appurtenances delivering water from the city water distribution system to a meter. **DOMESTIC SERVICE LINES** may be located on private property or in public rights of way and are owned, operated, and maintained by the owner of the premises being served.

SEWER INSTALLATION AND WATER INSTALLATION. The new construction, alteration, repair or improvement of water service lines and appurtenances; sewer mains and appurtenances, sanitary sewer services, sewer treatment plant piping and equipment; and storm sewers, and the placement of sewer and water pipe into a building sufficient distance to allow connection to the building plumbing. Sewer and Water Installation does not include the minor adjustment of manhole castings, valve boxes and curb boxes to finish grade for street construction or reconstruction.

SEWER MAIN or WATER MAIN. A pipe or conduit for carrying wastewater or water.

SHALL. Is mandatory.

STORM DRAIN (see STORM SEWER). A sewer system, which carries storm or surface waters and drainage, but which excludes wastewater and industrial wastes other than uncontaminated cooling water.

STORM SEWER. All pipes, culverts, catch basins, inlets, detention pond inlet and outlet piping, and storm sewer appurtenances which will become an integral part of the public storm sewer systems, whether located in public rights of way or drainage easements, except parking lot drainage pipes and appurtenances are not considered **STORM SEWERS** for purposes of this chapter.

SUPERINTENDENT. The superintendent of the wastewater treatment works or his or her authorized representatives.

SURCHARGE. An additional and/or segregated utility charge

SURFACE WATER. Water on the surface of the earth, as distinguished from groundwater. Some examples are lakes, ponds, rivers and streams.

TENANT or RENTER. A person(s) that rents and occupies a property from the property owner or their agent.

TOURIST PAY CAMP. Any land used to provide temporary accommodation for the public, or members of an organization, in tents, cabins, camper trailers or other recreational vehicles. Also known as a campground or camper court.

UNIT. An independent, self-contained dwelling in a building, or a separate dwelling located on the same property.

USER. A user is any location supplied with utility service from the city which falls into one of the following classifications:

COMMERCIAL / INDUSTRIAL USER. Any person, family, association of persons, partnership, limited liability company, corporation, office, or entity that occupies or uses seventy-five (75) percent or more of a structure (s) for any business purpose. Tourist Pay Camps shall also be included in the definition of a commercial / industrial user and sewer rates shall apply when occupied.

RESIDENTIAL USER. Any person, family, or association of persons who occupy a structure for use as a dwelling, house, apartments, or residence including mobile home parks, and the use of that structure is not included within the definition of a commercial / industrial user. The main place of worship for an organized and recognized religion shall also be included in the definition of a residential user.

WATER ONLY USER. A water only user is any user, regardless of classification, located outside of the city limits of the City of Philip that are connected to the municipal water system, but not the municipal sewer system.

VAULT PRIVY. A structure which allows for disposal of human excreta into a watertight vault, provides privacy and shelter, and prevents access to the excreta by flies, rodents and other animals. Also referred to as Privy Vault and Outdoor Water Closet.

WASTEWATER. The spent water of the community. From the standpoint of source, it may be a combination of the liquid and water-carried chemical or solid wastes from residences, commercial buildings, industrial plants and institutions together with any groundwater, surface water and storm water that may be present. Also referred to as sewer or sewage.

WASTEWATER FACILITIES or WASTEWATER SYSTEM. All facilities for collecting, pumping, transporting, treating and disposing of wastewater and wastewater sludge.

WASTEWATER TREATMENT WORKS. The facilities provided by the city to treat wastewaters as necessary to meet national pollutant discharge elimination system permit conditions and to comply with other environmental laws, rules and regulations.

WATER FACILITIES or WATER SYSTEM. All facilities for distributing, pumping, transporting, treating and storing potable water.

WATER TREATMENT WORKS. The facilities provided by the city to treat source water as necessary to meet federal, state and local drinking water regulations and to comply with other environmental laws, rules and regulations.

WATERCOURSE. A natural or artificial channel for the passage of surface water either continuously or intermittently.

5-001 UTILITY SERVICE - APPLICATION REQUIRED

- a) Any person desiring any utility service furnished by the city shall make application to the City Finance Office by and through the following. All criteria must be met prior to any utility services being connected and/or reconnected.
- 1) Completing a “City of Philip Utility Account Application” form as approved by the City Council. Application information shall include, but is not limited to, the applicant’s name, mailing address, service address, phone number, and/or email address.
 - 2) Provide proof of identification with a governmental issued photo ID.
 - 3) Pay a customer deposit as set forth in Ord. 5-002.
 - 4) Pay a reconnect fee as established by resolution when applicable.

A separate application shall be made for each premise to be served with city utilities.

Applicants shall abide by the rules and regulations established by the city relative to utility service in effect at the time of application and as they may be revised from time to time in addition to conditions and agreements as the City Council shall deem advisable.

- b) A landlord is subject to the application process for each rental property as outlined in section “a”.

A landlord who elects to pass the responsibility for payment of utility service onto the renter/tenant(s) and they meet the requirements in section “a” above, will negate the landlord from placing a customer deposit with the application. Said exemption for the customer deposit is only applicable when the landlord has made written acknowledgement of their responsibilities for the property in accordance with City Ordinance #5-007.

A landlord shall abide by the rules and regulations as established by the city relative to utility service in effect at the time of application and as they may be revised from time to time.

5-002 CUSTOMER DEPOSITS

Any applicant for city utility service shall make a deposit and shall not be entitled to the use of such utility service until such deposit is made. The amount of the deposit is contained within the Rates and Fee Schedule, which is set and amended by resolution. The deposit is also an indemnity against, theft, misplacement, or injury to city property. The city does not accept letters of credit from previous utilities.

Existing utility customers with a history of timely payments within the last twelve (12) months are not required to pay a deposit when adding or changing service locations.

5-002.1 CUSTOMER DEPOSIT REFUNDS

A customer deposit is held by the City of Philip until at least one of the following is met by the utility account holder.

- a) The utility service is disconnected per Ordinance 5-004. Deposit shall be applied to final bill, and any remaining deposit balance will be refunded to customer.
- b) Customer has established timely payment history with the City of Philip for twelve (12) consecutive months without any late fees. Deposit shall be credited to customer account in July of each year.

5-003 UTILITY BILLING - MONTHLY

Bills for utility services are based on services provided to customer per city ordinance. The city does not pro-rate monthly utility services.

Bills are mailed around the last working day of the month and are due and payable **in the City Finance Office** by 5:00 p.m. on the fifteenth (15th) of each month. If the 15th falls on a weekend or federally observed holiday, payment must be received by 5:00 p.m. on the following business day.

5-003.1 PAYMENT REQUIRED FOR UTILITIES AND SERVICES FOR TEMPORARILY OR PERMANENTLY VACATED PREMISES

The owner or tenant of any real property having municipal utility service and responsible for payment of the monthly charges for water, sewer, garbage and other municipal utilities and services shall pay the monthly charges for all municipal utilities and services without regard to whether the property is vacant for any period of time. The owner or tenant may avoid the obligation to pay the monthly charge for municipal utilities and services for any period of vacancy by having the city turn off the water service at the curb stop and paying the disconnect fee. An additional reconnection fee shall be charged by the city when utility service is restored to the property. Such fees shall be periodically set by resolution.

5-003.2 SLEEP/VACATION UTILITY RATE

- a) Requirements include a minimum of a five (05) months absence from the household.
- b) Payment for this service will be required in advance and will consist of a monthly minimum water and sewer charge. The monthly minimum charges are contained within the Rates and Fee Schedule, which is set and amended by resolution.
- c) Garbage services and fees will be suspended during this time.
- d) The water department will continue to read the meter monthly and any water consumed over the 2,000 gal. minimum will be charged to the customer's account.
- e) During this time, the city is not liable for any broken water meters, frozen water lines or water breaks from the curb stop to the residence. Refer to Ordinances 5-107 (k) and (l).
- f) The customer is held responsible to notify the City Finance Office of their return in order to have garbage services and fees resumed. Refer to Ordinance 5-302(e).
- g) Refund of prepayment is not applicable.

5-004 NOTICE OF DISCONTINUANCE REQUIRED

- a) Owners or consumers desiring to discontinue the use of the city utility services shall be required to give notice thereof to the City Finance Office, and regular rates shall be

charged and billed until such notice is given. Upon notice and direction from the owner and/or tenant, the water meter will be readout by the city.

- b) Owners and/or landlords of rental properties must give notice of change of tenants if the utilities are being billed to the tenant.
- c) A disconnection and reconnection is required between tenants and/or owners in order to secure the required application as set forth in Ord. #5-001 and ensure all accounts are paid in full. Readout of the water meter may suffice between owners and/or tenants if the new owner and/or tenant have complied with Ord. #5-001.
- d) A disconnect and/or reconnect fee, as established by resolution, will be charged each time the city is required to turn off or on utility services.
- e) If the City of Philip becomes aware of the change in occupancy before proper notification is given to the Finance Office; the city reserves the right to immediately disconnect city utility services provided to the place of business and/or residency being serviced.

5-005 DELINQUENT ACCOUNTS

- a) Any utility payment received after the payment deadline as established in Ord. 5-003, is considered delinquent and will be assessed a late fee. Late fees are contained within the Rates and Fee Schedule, which is set and amended by resolution. The Finance Office will send a delinquency notice stating the total amount due and the date by which to pay the utility bill or the utility service will be disconnected. The consumer may contact the Finance Office and appeal the bill. If the Finance Office deems appropriate, agreements can be made to schedule payments for the delinquent and current billings. If a customer is not satisfied with the decision, said customer may appeal to the water committee and/or full City Council. (Referenced in Ord. 5-108)
- b) If water service is terminated (disconnected) due to non-payment, the city will restore the water service only after all past due and current account charges including a reconnection fee and any other applicable fees are paid in full to the Finance Office.

5-006 ACCOUNT MUST BE PAID BEFORE WATER TURNED ON

No person shall be permitted connection to the water system until all past utility accounts for the property are fully paid.

5-007 LANDLORDS RESPONSIBILITIES FOR CITY UTILITIES

An owner of rental property, whether commercial or residential, is hereby held responsible for payment of any delinquent water, sewer or garbage charges that are not promptly paid by the owner's tenant or tenants in accordance with Ord. 5-005.

This Ordinance applies to all rental property, whether commercial, single family residential, apartment complexes, mobile home courts, or other rental property. The owner shall be furnished with a copy of the notice of delinquency that is served upon the tenant and the owner shall have all the rights afforded by Ord. 5-005.

5-008 LIABILITY OF CITY

The City of Philip shall not be liable for any damages to the property of any customer of any utility service furnished by the city due to backflow of sewage system, failure of water supply, interruption of service or any cause outside the direct control of the city.

5-100 WATER DEPARTMENT: SUPERVISION AND DUTIES

The Water Departments shall be under the supervision of the Public Works Director who shall be responsible to the water and sewer committee.

The Public Works Director shall be responsible for the management and operation of the water and wells of the City of Philip as well as supervision and control over such persons employed by the City and assigned to his department. The Public Works Director shall read or supervise the reading of meters, connecting and disconnecting water service, and shall perform such other duties as may be assigned to him by the City Council.

The Public Works Director shall make a written report to the water and sewer committees as may be required or requested by the Mayor or the City Council, and the Public Works Directors shall make such recommendations as are proper for the efficient operation of the water and sewer systems and improvements thereof.

5-101 AUTHORITY OF WATER DEPARTMENT

The Public Works Director or any employee of the Water Department shall be permitted at all reasonable hours, and with due notification to resident, to enter the premises or building of consumers for the purpose of reading meters, examining water pipes and fixtures, and set or remove a meter or change its location whenever necessary.

5-102 PLAT OF WATER MAINS, ETC.

The Water Department shall keep and maintain a plat on which shall be shown a complete diagram of all city mains, all taps and service pipes, the size of mains, and such other information as shall be deemed advisable by said department.

5-103 CITY WATER LINE AND USES

Except as otherwise provided in these ordinances, no person shall connect, disconnect, or do any work on any pipes or connections in any way connected to the city water supply and pipe systems connected thereto.

5-104 EXTENSION OF WATER PIPES

Plumbers must not extend water pipes from one premise to another without the permission of the City Council or its duly authorized agent.

5-105 EMERGENCY WATER LIMITATIONS

The City of Philip hereby reserves the right to at any time restrict or prevent the use of any utility service furnished by the city during periods of emergency or circumstances demanding such restriction or prevention of use.

5-106 WATER SERVICE - TAP AND CONNECTION CHARGES

Connections for water service furnished by the city shall be made only by the city and paid for by the customer served.

Where there is no existing tap to the city water mains, or an additional or different tap is to be made, application shall be made in writing to the City Finance Officer by the owner or agent of the property to be served.

The application shall designate the legal description of the property, what kind and size of tap to be made, the nature of the water use and if residential use, specify the number of families or residences to be served thereby, and shall be accompanied by the fee, as set forth by resolution, to be retained by the city if such application be allowed.

5-107

WATER DEPARTMENT REGULATIONS

- a) **STANDARD SERVICE PIPE CONNECTION** - The standard connection with the mains shall be “k” copper pipes unless otherwise approved by the city.
- b) **DEPTH OF SERVICE PIPES** –Within the limits of the street, service pipe shall be laid not less than five (5) feet below the lowest part of the gutter.
- c) **COPPER PIPES SUBSTITUTED** - When non-copper service pipes in the city leak, copper pipe shall be used to replace existing lines rather than repairing old pipe.
- d) **STOPS REQUIRED** - All persons having connections with the city water mains must have a curb stop outside the property line and a shutoff either outside the house or in the basement for shutting off water in case of leaks and repairs.
- e) **GENERAL** – No claim shall be made against the city by reason of the breaking of any service lines or apparatus or from any other damage that may result from shutting off water for any reason. The city may make exceptions to this subsection if construction-related activities cause the service line to leak. Upon notification of the property owner that a water service line is leaking, the owner shall promptly cause the service to be repaired by a licensed contractor. Delay by the owner in repairing the service line shall be cause for the service to be shut off until the repair is made. If the service line is shut off or repaired by the city, the owner shall reimburse the city for all associated costs.
- f) **USE OF WATER** – No consumer shall permit the owner or occupant of other premises to use water from his or her service except by special permission from the water department.
- g) **ONE CUSTOMER TO EACH SERVICE** - Two or more premises with separate owners shall not be supplied from the same service pipe unless each has its own curb box at the sidewalk. Owners who lease or subdivide shall be responsible for water used in said premises. If more than one meter is placed on a service pipe, the meters shall be set so that no one of them shall measure water which has passed through another meter.
- h) **INSPECTION** – No pipes installed underground shall be covered until they have been inspected for leakage under system pressure. If the service line is covered before being inspected, the inspector may require the contractor to expose the line for inspection or may require a pressure or flow test at the contractor’s expense.
- i) **SEPARATE TRENCH** – Water lines may be laid in the same trench as a sewer line but must be laid above the sewer line. In instances where it is not permissible to lay the water line above the sewer line, the water line may be laid below the sewer line, but it

must be incased in a protective barrier and approved by the Public Works Director. All water lines installed with a sewer line in the same trench shall be separated by at least one foot (1') of horizontal distance. All services shall be placed on stable existing material or select and approved backfill material.

- j) **CONSTRUCTION OVER WATER LINES** – No person shall construct or erect any building or structure upon any lateral or trunk city water main unless he shall have written permission of the Public Works Director. The Public Works Director, upon granting such permission, shall specify what provisions shall be made in the construction thereof to protect the water line, and to provide for the purpose of maintenance and repairs.
- k) **OWNER RESPONSIBILITY FOR PIPES AND FIXTURES** – The city service line includes the curb stop and water supply pipe extending from the city main to the curb stop, and will be maintained by the city. The customer service line includes the water supply pipe and all fixtures extending from the curb stop to the premises served. All owners must, at their own expense, keep the customer service line in good working order and properly protected from frost and other hazards. The initial installation of the city service line, the customer service line and any applicable repair costs to the city streets during the installation will be at the owner's expense.
- l) **WATER METERS** – All dwellings or places supplied with water from the city system shall be metered by the city. They are used for the measurement of water and sewer utility services furnished by the city and shall be approved and installed by, and remain the property of, the city. All water registered on the meter is the responsibility of the customer. A suitable place for meters, safe from frost or other damage and accessible for examination, must be provided by and at the expense of the owner or occupant. In cases where meters fail to register the amount of water used, charges shall be based upon the average used during two or more preceding periods of similar length and during a similar time of year. If meters are damaged by freezing or neglect, the owner or occupant of the premises must pay for such damage. In any case where the neglect, refusal to repair, or refusal to pay said expenses thereof, the water supply may be disconnected and not reconnected until such costs and said fees are paid.
- m) **METER VAULTS/PITS** – All meters located outside of basements or locations that are not protected from freezing shall be placed in meter vaults/pits designed and constructed as approved by the water department.
- n) **SEALING ABANDONED WATER LINES** - It shall be the duty of any landowner who shall abandon any water service line to cause the water service line to be securely and permanently capped and sealed, notwithstanding that the water service is shut off at the curb stop or to remove the water service line to the curb stop. Removal, demolition or other destruction of the residences or other improvements upon the real property shall be prima facie evidence that the water service line has been abandoned. This section shall not apply to mobile home parks and camping grounds, unless the mobile home park or camp ground is, in fact, no longer operating as a business. All capping and sealing shall be approved by the city.
- o) **PORTABLE METER, SPECIAL WATER USERS, PERMIT** - The Public Works Director shall provide one or more portable water meters for any special temporary use where water is taken from a service pipe. Said request shall be made through the

customer application process outlined in Ord. 5-001 along with providing the specifications for the place in which the water is to be taken, the quantity to be taken, and the purpose for which such water will be used, and any fees for the portable meter connection shall be paid. Upon providing the above requirements, a portable meter shall be attached to the tap from which water is taken, the regular water rate shall be charged or such rate as may be fixed by the Public Works Director, with the City Council's approval, plus a non-refundable advance fee in an amount determined from time to time by the City Council. Such meter shall be read when other meters are read or sooner if the use of such water is discontinued.

- p) **FROZEN WATER LINES** – The city shall bear the cost of thawing water lines from the main to the curb box. The owner of the property shall bear the cost of thawing water lines from the residence or building to the curb box.
- q) **CROSS CONNECTIONS** - No faucet connection, valve, or like appliance so constructed as to form a cross connection, directly or indirectly, between a safe drinking water supply and an unsafe or questionable water supply, shall be permitted. No licensed plumber or any other person shall make any cross connection to the water system, supply from a well, cistern or any other source whatsoever, nor from the city water system to any drain pipe, sewer pipe or septic tank.
- r) **SURFACE WATER WELLS** – New surface water wells are prohibited within the City of Philip. (Cross Reference Ord. 11-201(a)(10))
- s) **PRIVY VAULTS AND OUTDOOR WATER CLOSETS** – Privy vaults and outdoor water closets are prohibited within the City of Philip. (Cross Reference Ord. 11-201(a)(11))

5-108 JOINT WATER USERS LIABLE

In case two or more users are supplied with water from the same service pipe, if any of the parties fail to pay the water charge when due, or to comply with any rule of the city, the city reserves the right to disconnect water from the whole service until such charge is paid, or the rules strictly complied with, and it is expressly stipulated that no claim for damage or otherwise may be made against the city by any user whose water charge has been paid, or who has complied with the rules of said city, because of such disconnection, it being expressly stipulated that the necessity for such shut off shall be deemed to be the joint act of all served through such service.

5-109 WATER RATES

Rates and charges for all users of the water system are contained within the Rates and Fee Schedule, which is set and amended by resolution.

Out of city users shall be charged at two times the minimum rate of in city users.

Rates shall be applied to tourist pay camps monthly unless notified by owner that said camp is unoccupied.

5-110 ANNUAL REVIEW OF COST OF WATER OPERATION

The city shall annually conduct a review of the costs of operation and maintenance of the city water system. The city shall also annually review and revise as necessary the water consumption rates to insure rate equity among the various users and to further insure the

availability of sufficient funds to adequately operate and maintain the water system of the city.

5-200 SEWER DEPARTMENT: SUPERVISION AND DUTIES

The Sewer Department shall be under the supervision of the Public Works Director who shall be responsible to the water and sewer committee.

The Public Works Director shall be responsible for the sewage system and lagoons of the City of Philip, as well as supervision and control over all persons employed by the city and assigned to his department. The Public Works Director shall make or supervise all taps of public sewers in addition to such other duties as shall be prescribed by the City Council or by the Ordinances of the City of Philip.

The Public Works Director shall make a written report to the water and sewer committees as may be required or requested by the Mayor or the City Council, and the Public Works Directors shall make such recommendations as are proper for the efficient operation of the water and sewer systems and improvements thereof.

5-201 CITY SEWER LINES AND USES

Except as otherwise provided in these ordinances, no person shall connect, disconnect, or do any work on any sewer pipes, connections, or equipment in any way connected to the city sewer system.

5-202 SEWER SERVICE - TAP AND CONNECTION CHARGES

Connections for sewer service furnished by the city shall be made only by the city and paid for by the customer served.

Where there is no existing tap to the city sewer mains, or an additional or different tap is to be made, application shall be made in writing to the City Finance Officer by the owner or agent of the property to be served.

The application shall designate the legal description of the property, what kind and size tap to be made, the nature of the sewerage use and if residential use, specify the number of families or residences to be served thereby, and shall be accompanied by the fee, as set forth by resolution, to be retained by the city if such application be allowed.

5-203 SEWER REPAIR

Whenever any sewer connecting a building with a common sewer or another drain, becomes obstructed, broken or out of order in any way, the person in charge of the premises drained by such sewer shall, within 48 hours after notice from the Public Works Director, reconstruct, repair, or cleanse such sewer. In case of neglect or refusal, the Public Works Director shall report the same to the water and sewage committee who shall cause such sewer to be reconstructed, repaired, or cleansed at the expense of the person in charge who shall be charged in the same manner as for special assessment. (Cross-Reference: 11-1801)

5-204 SEWER DEPARTMENT REGULATIONS

- a) SEWER CONNECTION REQUIRED - Any person having charge of any structure which is near any street in which the common sewer is or may be laid, shall within fifteen days after written notice connect his dwelling or house with a common sewer main as named by the Public Works Director, if said structure shall accommodate

humans. Said notice shall be signed by the Public Works Director, served by any Philip policeman, and any person disregarding such notice shall be guilty of a misdemeanor.

- b) **MATERIALS USED IN SEWER AND CONNECTIONS** - The main sanitary sewer soil pipe and its branches shall be of PVC or, upon approval by the Public Works Director, pipe having equivalent quality.
- c) **MINIMUM GRADE** - All sewers outside of buildings must be laid in the ground of sufficient solidity for a proper foundation and in a trench with a uniform grade of not less than one-eighth inch to the foot and one-fourth inch if practicable.
- d) **SEPARATE CONNECTIONS** - The main drain of each house or building shall be independently connected to the sanitary sewer where the sanitary sewer is in front of said building. Where it is necessary to construct a private sewer to connect with a sewer main in an adjacent street, such sewer plans shall be used as are reviewed and approved by the Public Works Director.
- e) **EXISTING CONNECTIONS** – Existing building sewers may be used in connection with new buildings only when they are found, on examination and test by the Public Works Director or Wastewater Superintendent, to meet all requirements of the sewer regulations.
- f) **CONNECTIONS NOT ALLOWED** - No connection from any cesspool or privy vault shall be made with any sanitary sewer or drainpipe.
- g) **CONSTRUCTION OVER SEWER LINES** - No person shall construct or erect any building or structure upon lateral or trunk city sewer lines or water mains unless he shall have written permission of the Public Works Director. The Public Works Director, upon granting such permission, shall specify what provisions shall be made in the construction thereof to protect the sewer line or water line, or both, and to provide for the purpose of maintenance and repairs.
- h) **INSPECTION** - No sewer trench shall be filled or sewer pipe covered, until the sewer service has first been inspected by the Public Works Director or his assistant. Persons making sewer connections shall give at least 48 hours notice to the Public Works Director of the time when such sewer service shall be ready for inspection. The Public Works Director shall inspect the sewer within a reasonable time and if such sewer service is not properly laid or connected, the Public Works Director shall order the same taken out and re-laid. When such sewer service is completed, approved, and permission granted, the owner or person in charge shall be allowed to use the same.
Cross-Reference: 5-222 (Penalty)
- i) **FILLING** - The filling of earth around and on top of all connecting pipes with lateral or main sewers shall be done in a manner to obtain the greatest compaction possible. The earth shall be laid and tamped in regular layers not exceeding nine inches in depth up to the road surface or thoroughly soaked with water, and the street or alley shall be left in as good a condition, whether paved or unpaved, as it was prior to the laying of such pipe connection.

- j) **OWNER RESPONSIBILITY FOR PIPES AND FIXTURES** – The city service line includes the sewer main and will be maintained by the city. The customer service line includes the sewer connection at the main, the sewer pipe and all fixtures extending from the main to the premises served. All owners must, at their own expense, keep the customer service line in good working order and properly protected from frost and other hazards. The initial connection to the main and future repairs on the customer’s service line will be at the owner’s expense.
- k) **DIMENSIONS OF HOUSE AND BUILDING DRAIN** - All house and building drains connected to the sanitary sewer service shall be at least four inches in diameter.
- l) **DRAINS IN PUBLIC GARAGES AND WASH RACKS** – Every public garage or other public place having a wash rack used for washing vehicles shall install a standard garage drain approved by the Public Works Director. Such drain shall be so constructed and operated as to prevent mud, sand and other debris from being washed into the city sewer system, and shall be kept in proper working order. The provisions of this section shall apply only if the sewage is discharged into the city sewer system.
- m) **CESSPOOL DRAINAGE INTO STREETS AND GUTTERS PROHIBITED** - It shall be unlawful for any person to allow any cesspool or septic tank to drain into any of the streets and gutters of this city.
- n) **PROHIBITED CONNECTIONS WITH PUBLIC SANITARY SEWER** - No person, corporation, or other public or private entity shall make or cause to be made any connection of roof downspouts, foundation drains, area drains, or any other source of surface water or groundwater, either directly or indirectly, to the city sanitary sewer system, for any purpose, unless such connection is approved by the Public Works Director.
- o) **CROSS CONNECTIONS** - No faucet connection, valve, or like appliance so constructed as to form a cross connection, directly or indirectly, between a safe drinking water supply and an unsafe or questionable water supply, shall be permitted. No licensed plumber or any other person shall make any cross connection to the water system, supply from a well, cistern or any other source whatsoever, nor from the city water system to any drain pipe, sewer pipe or septic tank.
- p) **SEALING INTERMITTENTLY USED SEWER LINES**
 - 1. It shall be the duty of any landowner, who shall have located on his premises sewer service lines that are subject to periods of non-use, to provide for the temporary sealing of the service line when not in actual use for the disposal of sewage for any period of time. The method used to temporarily seal any unused sewer lines shall be designed and adequate to prevent any liquids or solid matter from entering the sewer lines. This section specifically applies to mobile home parks, campgrounds and any other location where access to the city sewer system is available other than through the plumbing system of a permanent structure.
 - 2. This section shall also be applicable to any landowner upon whose property the improvements have been removed, demolished or destroyed by any cause and upon which the landowner intends to rebuild the improvements.
 - 3. The landowner shall immediately notify the city when the temporary sealing or capping is completed and the Public Works Director or Sewer Superintendent shall inspect the sewer inlets to assure compliance with this section and the

approved method of temporary sealing or capping of the sewer inlet. In the event a landowner increases the number of sewer service inlets, the landowner shall apply for a new permit for the additional inlets. In the event one or more of the sewer inlets are damaged and require repair to comply with this section; the landowner shall immediately repair the same and notify the City Finance Officer. Upon notification, the Public Works Director or Sewer Superintendent shall inspect the repairs to assure the repairs are in compliance with this Ordinance.

- q) **SEALING ABANDONED SEWER LINES** - It shall be the duty of any landowner who shall abandon any sewer service line to cause the sewer service line to be securely and permanently capped and sealed, or to remove the sewer service line to the trunk sewer. Removal, demolition or other destruction of the residences or other improvements upon the real property shall be prima facie evidence that the sewer service line has been abandoned. This section shall not apply to mobile home parks and camping grounds unless the mobile home park or campground is, in fact, no longer operating as a business concern. All capping and sealing shall be approved by the city.
- r) **SEPTIC TANKS AND CESSPOOLS** – The construction of cesspools and installation of septic tanks are prohibited within the City of Philip. An exception to this may be allowed when the City Sewage System is not available and upon approval of the Public Works Director and City Council. (Cross Reference Ord. 11-201(a)(11))

5-205

REFUSE PROHIBITED

No one shall discharge or permit to be discharged any of the following described water, wastes or other materials to any public sewers:

- a) Any gasoline, benzene, naphtha, fuel, grease (including cooking grease), oil, or other flammable or explosive liquid, solid, or gas.
- b) Any waters containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the wastewater treatment plant.
- c) Any water or wastes having corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the wastewater works.
- d) Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the wastewater facilities such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshing, entrails, and paper dishes, cups, milk containers, etc. either whole or ground by garbage grinders.

Permitted to be discharged/deposited into any sewer line connected with a public sewer include the following: feces, urine, necessary closet paper, liquid house waste, and domestic garbage process by an approved disposal unit.

5-206

PENALTIES

- a) Notwithstanding any other provision of the revised Ordinances of the City of Philip, any person who violates Section 5-203(g), 5-203(p) or 5-205 shall be fined by the Court the sum of two hundred dollars (\$200.00) and Court costs. In addition, the Court may require the violator to reimburse the city for all costs incurred in cleaning or repairing any sewer lines affected as a result of a violation of this section. Costs

incurred shall include any costs incurred by the city to accomplish remedial measures in the entire sewer system, including the wastewater lagoon, caused by a violation of this section.

- b) The city shall be, and hereby is, authorized and directed to institute legal action against any landowner violating this section to recover the costs of cleaning or repairing any sewer lines affected by a violation of this section. Costs incurred shall include any costs incurred by the city to accomplish remedial measures in the entire sewer system, including the wastewater lagoon, caused by a violation of this section.

5-207

SEWAGE RATES

Rates and charges for all users of the sanitary sewer system are contained within the Rates and Fee Schedule, which is set and amended by resolution.

Out of city users shall be charged at two times the minimum rate of in city users.

Rates shall be applied to tourist pay camps monthly unless notified by owner that said camp is unoccupied.

5-207.1

WASTEWATER SURCHARGE (Amended 04/09/18 – Effective 06/01/18 Bill)

The City of Philip designates the following as wastewater surcharges and shall be collected as part of the established sanitary sewer monthly minimum rates collected in accordance with Ord. 5-207 as captured and committed.

- a) Loan #C461205-05: The City of Philip designates \$6.40 of the established sanitary sewer monthly minimum rates collected in accordance with Ord. 5-207 as captured and committed. Said commitment is subject to adjustment from time to time as necessary to repay a \$750,000 Clean Water State Revolving Loan Fund (SRF) loan over a period of no more than thirty (30) years at an interest rate of three and one-quarter percent (3.25%), in accordance with the loan agreement to be entered into by the City of Philip and the SD Department of Environment and Natural Resources, the proceeds of which loan are to be used for the Wood and Walden Avenue Wastewater Improvements project. Such surcharge shall be segregated from all other funds of the City of Philip, shall be and are hereby pledged to secure such loan, and shall be used for no purposes other than for the repayment thereof. Said surcharge of \$8.80 was implemented and reflected with the May 01, 2012, utility billing; and, amended to \$6.40 to be implemented and reflected with the June 01, 2018, utility billing.
- b) Loan #C461205-07: The City of Philip designates \$5.80 of the established sanitary sewer monthly minimum rates collected in accordance with Ord. 5-207 as captured and committed. Said commitment is subject to adjustment from time to time as necessary to repay a \$605,000 Clean Water State Revolving Loan Fund (SRF) loan over a period of no more than thirty (30) years at an interest rate of two and one-half percent (2.5%), in accordance with the loan agreement to be entered into by the City of Philip and the SD Department of Environment and Natural Resources, the proceeds of which loan are to be used for the Southwest Philip Wastewater Improvements project. Such surcharge shall be segregated from all other funds of the City of Philip, shall be and are hereby pledged to secure such loan, and shall be used for no purposes other than for the repayment thereof. Said surcharge will be implemented and reflected with the June 01, 2018, utility billing; and, amended to \$4.70 to be implemented and reflected with the June 01, 2022, utility billing.

- c) Loan #2013L-106: The City of Philip designates \$0.70 of the established sanitary sewer monthly minimum rates collected in accordance with Ord. 5-207 as captured and committed. Said commitment is subject to adjustment from time to time as necessary to repay a \$55,927 Consolidated Water Facilities Construction Program (CWFCP) loan over a period of no more than twenty (20) years at an interest rate of two percent (2%), in accordance with the loan agreement to be entered into by the City of Philip and the SD Department of Agricultural and Natural Resources, the proceeds of which loan are to be used for the Northeast Wastewater System Improvements project. Such surcharge shall be segregated from all other funds of the City of Philip, shall be and are hereby pledged to secure such loan, and shall be used for no purposes other than for the repayment thereof. Said surcharge will be implemented and reflected with the October 1, 2022, utility billing. (Ord. #2022-16, approved 09/06/2022)

The City Council of the City of Philip reserves the right and authority to review and adjust the aforementioned sewer surcharge charges established by this ordinance through resolution of said City Council.

5-208

ANNUAL REVIEW OF COST OF SEWER OPERATION

The city shall annually conduct a review of the costs of operation and maintenance of the city sewer system. The city shall also annually review and revise as necessary the sewer use rates to insure rate equity among the various users and to further insure the availability of sufficient funds to adequately operate and maintain the sanitary sewer system of the city.

5-301

GARBAGE – DEFINITIONS

- a) Occupied Premises, defined: Any place of abode, dwelling, or any place of business or commercial activity, in operation, shall be prima facie evidence that garbage, trash, and refuse is being produced and accumulated on said premises and shall be the duty of the City of Philip, and its agents, officers, and employees, to inspect and supervise said premises and remove therefrom any and all garbage, trash, or refuse found thereon.
- b) Family Domestic Unit, defined: A “family domestic unit”, for the purpose of this Ordinance, shall be deemed to be and mean any single independent family unit, irrespective of number of persons constituting such family. Each independent family unit living in multiple dwelling residences, apartment houses, or any type of residence, including but not limited to trailer houses, shall each be deemed a family domestic unit for the purpose of this Ordinance. A rooming house that supplies lodging only for hire, and which does not serve meals to any lodger and does not permit cooking and eating on the premises, shall be deemed a one-family domestic unit for the purposes of this Ordinance.
- c) Commercial Units, defined: A “commercial unit” for the purpose of this Ordinance, shall be deemed to be and mean any occupied premises other than family domestic unit.
- d) Commercial hauler defined: A “commercial hauler” for the purposes of this section shall be defined as any person who hauls or transports any garbage, trash, refuse, rubbish and waste material through or upon the streets or alleys of this City for a consideration or a fee, or as part of a business activity.

2001 Amended Ch.5, sect.a & b of original, Revised Ordinance #2001-13; 11/12/01.

REGULATION

- a) Accumulation of Garbage, Trash, or Refuse – Unlawful: Any accumulation of garbage, trash, or refuse on any premises, occupied or unoccupied in a manner other than that authorized by this Ordinance, within the limits of the City of Philip, is hereby declared to be a public nuisance and is prohibited.
- b) Unlawful Dumping: No garbage, trash, or refuse shall be stored or accumulated anywhere within the limits of the City of Philip in a manner other than authorized by this Ordinance or thrown or swept into any street, gutter, sewer, intake, alley, vacant lot, pond, or other property. Every occupied premises within the City of Philip shall be responsible for the keeping of the sidewalks in front of any buildings or improvements located thereon, if any, free from any accumulation of all garbage, trash or refuse. Every property owner and occupant of every family, domestic unit or commercial unit shall, however, be authorized to keep and store garbage, trash and refuse in the manner defined by this Ordinance.
- c) Burning, unlawful: No garbage, trash, leaves or refuse of any kind shall be burned within the limits of the City of Philip, other than approved State regulated incinerators.
- d) Required Receptacles: To provide for the regular deposit of garbage, trash and refuse, as herein required, it shall be the duty of every owner, agent, lessee, renter, or purchaser of any occupied building, dwelling, or premises within the City of Philip, excepting commercial units, to provide forthwith, and maintain in good order, and in a clean and neat condition and state of repair, for the use of each such occupied premises, one or more, thirty (30) gallon garbage receptacles, with lids therefor.
 1. Trash and Refuse Requirements, Family Domestic Units: All garbage, trash and refuse shall be stored within the garbage receptacles until such time as it is collected. Any trash or refuse which is not hereafter specifically exempted but which is of such quantity or size that the trash receptacles will not contain it shall be compressed, baled or tied securely in bundles and stacked neatly beside the authorized trash receptacles for subsequent collection. Under no circumstances will loose or unbundled trash or refuse be collected.
 2. Commercial Units Requirements: To provide for the regular deposit of garbage, trash and refuse from commercial units, it shall be the duty of every owner, agent, lessee, renter, or purchaser of any occupied premises utilized as commercial unit to provide therewith and to maintain, in a good order, and in a neat and clean state of condition, for the exclusive use of each such commercial unit, not less than two (2) thirty (30) gallon fire proof garbage receptacles with lids therefore. In the event that the occupant of any commercial unit shall not provide the trash receptacles as hereinbefore provided, it shall be the responsibility of the owner of such premises to provide the required garbage receptacles. Provided further, that in the event that a private contractor, as hereinafter provided, shall provide alternate receptacles, and in that event, the foregoing requirements for commercial units shall be inapplicable. All garbage, trash and refuse shall be stored within the authorized garbage receptacles, but in the event that certain trash or refuse is of such quantity or size so that it cannot be contained within the authorized garbage receptacles, it shall be baled, or securely tied in bundles and stored beside the authorized trash receptacles for subsequent collection. Under no circumstances will loose or unbundled trash or refuse be collected

3. Location of Receptacles: All receptacles as hereinbefore required shall be located upon the premises of the family domestic unit or commercial unit, adjacent to public access. If said occupied premises are served by an alley or other public access way other than a public street, said collection area and placement of garbage receptacles shall be within three feet (3') of the boundary line of said alley or public access way. Occupied premises having no alleys or access way other than a public street to the front thereof, shall temporarily place said garbage receptacles within three (3') feet of such street in front of said premises on such date and during such hours as set by the City Council of the City of Philip. Other than during such times, said receptacles shall be located to the rear of said occupied premises within a screened area or otherwise hidden from public view.
- e) Collections: Pursuant to South Dakota Codified Law and ARSD, the City of Philip shall regulate the manner of handling of garbage, trash, refuse, rubbish and other waste material in the following manner:
 1. Family Domestic Units: The City of Philip hereby specifically reserves unto itself the exclusive right to collect, remove and dispose of all garbage, trash, refuse and rubbish from all family domestic units within the corporate limits of said City; provided, however, nothing herein shall limit or prevent the City of Philip from making and entering into contracts with private persons licensed pursuant to 5-306 or other governmental subdivisions for the purpose of contracting for the collection, removal, and disposal of all garbage, or to obtain by contract, any and all services for which the City of Philip may be responsible by virtue of this Ordinance.
 2. Commercial Units: All commercial units shall make arrangements for disposal of their garbage, trash, refuse, rubbish and waste material with a commercial hauler who has been licensed by the City of Philip pursuant 5-306.
2001 Revised Ordinance #2001-13, sect.e; 11/12/01.
 - f) Private Contractors: The City of Philip shall be authorized upon the advertising and letting for bids, as provided for by law, to contract with private individuals, licensed pursuant to 5-306, for the removal of all or any specified part of any garbage, trash, or refuse, and upon such terms and for such periods as the City Council of Philip may obtain from the lowest and best possible bid or bidders therefore. Such contracts, however, shall not exceed a term of five (5) years.
2001 Revised Ordinance #2001-13, sect.f; 11/12/01.
 - g) Public Contractors: Nothing herein shall be construed to, nor is the same intended to limit the right of the City Council of Philip, to make and enter into compacts, agreements, or contracts of any kind or character with other municipalities, compacts of other municipalities or other governmental sub-bodies for the purposes of fulfilling the function and duty, or to provide the services, the City of Philip is to provide pursuant to this Ordinance; the City Council of the City of Philip being authorized and empowered to enter into all such compacts, agreements or contracts with other municipalities or other political subdivisions, to contract for this purpose.

All contracts or compacts entered into, however, with such other municipalities or other government subdivisions, shall require the resulting organization to otherwise comply with and conform its practices, services and operations to this Ordinance.

- h) Exceptions: The owners, lessees, renters, or purchasers, of any occupied premises within the limits of the City of Philip, in addition to the duties imposed by this Ordinance, shall be responsible for the removal, at their own sole cost and expense, to a Restricted Use Rubble Site or to such locations as may hereafter be designated by the City Council of the City of Philip, the following specified items of garbage, trash or refuse:
1. Discarded automobile parts, furniture, stoves and appliances;
 2. Waste materials from slaughter packing houses, junk yards, tire shops, auto wrecking yards, and like waste materials;
 3. Refuse from billboards and signs;
 4. Christmas trees or tree wastes;
 5. Manure, other than light spread manure for application to lawns or gardens for fertilizing purposes; provided, however, manure is not being kept on any premises for any purpose or kept in piles for later use;
 6. Building materials, all plaster, broken concrete, stone, wood, roofing material, wire or metal binding, sacks or loose and discarded or unused materials of all kinds resulting from the wrecking, construction, or reconstruction of any room, basement, wall, fence, sidewalk or building;
 7. Dead animals, carcasses, or animal renderings;
 8. Highly explosive or inflammable garbage, trash or refuse;
 9. All other specific items of garbage, trash or refuse as may hereafter be designated as excepted wastes by the City Council of the City of Philip shall be, and hereby is authorized and empowered to permit persons subject to the foregoing exceptions to accumulate such wastes and to accumulate such wastes and to periodically dispose of the same, subject to reasonable terms and conditions as said City Council may, from time to time, impose.

Otherwise, such garbage, trash and refuse as hereinbefore specifically identified shall be removed by the owner, lessee, renter, purchaser or person in the possession and control thereof, within twenty-four (24) hours from the time such garbage, trash or refuse has come into being.

- i) Removal to Authorized Restricted Use Rubble Site; Except as otherwise provided in this Ordinance, the City of Philip, or such persons or subdivisions with whom it has contracted, is hereby required to dispose of all such garbage, trash or refuse at an authorized dump grounds and there to dispose of in the manner required by law. The deposit, dumping, collection, and other disposition of all garbage, trash and refuse within the limits of the City of Philip, at any other unauthorized area, is hereby declared unlawful.
- j) The City Council shall establish the days of the week and hours during which the Philip Municipal Rubble Site shall be open to the public for the disposal of lawful materials. At all other times, the Philip Municipal Rubble Site shall be locked to the public and it shall be unlawful to dispose of any materials at said rubble site at other than the designated hours or to be on said premises at other than the designated hours.
- k) Property designated for the disposal of solid or liquid waste shall be in that fenced in portion of said grounds. It shall be unlawful for anyone to dispose of solid or liquid waste outside of said fence.
- l) Items accepted will be allowed according to State regulations for this type of facility.

- m) Persons violating this Ordinance shall be subject to a fine not to exceed two hundred dollars (\$200) or cost of removal or both.
- n) Ordinance shall be in effect and in force following its final adoption and publication in the official newspaper for the city.

1992 Revised Ordinance 92, sec. 16; 12/30/92

5-303

CONDEMNATION

Receptacles Which May Be Condemned: Every receptacle required under this Ordinance, which is not:

- a) So located as to conform to the requirements of this Ordinance;
- b) In conformity with easy access for the removal of refuse;
- c) Of tight construction as to exclude rodents and other animals and to prevent any contents thereof from being scattered by the wind or otherwise;
- d) So located as not to be obnoxious to occupants of adjacent buildings;

Is hereby declared to constitute a public nuisance, and as such shall, be condemned by the City Council of the City of Philip. Further, said City Council of the City of Philip is hereby authorized, upon three (3) days written notice, to order the demolition, replacement, or removal of condemned receptacles.

Other nuisances: Any violation of this Ordinance, or any subdivision thereof, is hereby declared to be contrary to the public welfare and a menace to the health and safety of the general public, and to that end, any violations of this ordinance is hereby declared to be a public nuisance.

5-304

SERVICE FEES AND COLLECTION THEREOF

The City Council of the City of Philip is hereby authorized, empowered and directed, from time to time, to set by general resolution monthly service fees for the collection, hauling, and disposition of all garbage, trash and refuse; provided, however, separate fees shall be established for each of the following categories:

- a) Family domestic units;
- b) Commercial units;
- c) Restricted Use Rubble Site fees for the disposition of accepted garbage, trash and refuse.

Collection – The monthly service fees, as determined by the City Council, shall be added to and collected as a part of all water bills sent out and utilized in the normal course of the operation of the City of Philip’s Water Department. Said service charge shall, however, be separately stated on such bills. Bills for charges pursuant to this Ordinance shall be due and payable each month at the same time as the water billing.

If such charge is not paid when due, the water service to the occupied premises may be terminated by the City of Philip in the same manner as provided for in the event of delinquent water and sewer charges, and such water service shall not be restored until the charge in question has been paid in full, together with any penalty otherwise provided for by this Ordinance.

Special Billing – In any situation wherein garbage service must be furnished to any person, who is not obtaining water service, said individuals shall be billed on a monthly basis or upon such other basis as the City Council may, by resolution, establish.

5-305 SEVERABILITY

Severability – If any provision of this Ordinance is declared unconstitutional, or applicability thereof to any person or circumstance is held unconstitutional, the remainder of this Ordinance and the applicability thereof to other persons or circumstances shall not be affected.

5-306 LICENSE REQUIRED

It shall be unlawful for a commercial hauler to haul or transport any garbage, refuse, rubbish, trash, or waste material through or upon any street or alley of this City without first having obtained a license to perform such services from the City of Philip.

- a) Application for License: The application for a license required by the provisions of this chapter shall be filed at the office of the municipal Finance Officer.
- c) Amount of Fee: The annual fee of the license shall be determined by the City Council by the adoption of a resolution.
- c) Approval Required: Before any license shall be issued under the provisions of this chapter, the same shall first be approved by the City Council.
- d) Financial Assurance: Prior to issuance of said license, the commercial hauler shall provide financial assurance in the form of a bond, letter of credit, certificate of deposit or other assurance acceptable to the City of Philip in amount to be established by resolution of the City Council to assure performance in conformity with federal, state and local regulations.
- e) Proof of Insurance: Prior to issuance of said license, the commercial hauler must provide proof of liability and workers' compensation insurance. Thereafter, proof of insurance shall be provided annually on or before December 31st of each year to the City Finance Officer.
- f) Indemnification: As part of the license agreement, the commercial hauler shall indemnify the City against and hold the City harmless from any expense, liability and claims of any kind or character arising out of either the commercial hauler's failure to follow all federal, state, city and landfill regulations or arising out of any injury or damage occurring during the course of his conducting his business.
- g) Landfill Contractor: Prior to issuance of said license, the commercial hauler shall provide proof of a contract to haul to a landfill certified by the state and authorized by the City.

- h) Transfer: No license issued under the provisions of this chapter shall be transferable.
- i) Expiration: Every license issued under the provisions of this chapter shall be reviewed for renewal or expiration on or before the thirty-first (31st) day of December following its date of issuance.
- j) Display of License: A copy of the license issued under this chapter shall be displayed on/in each vehicle licensed at all times.
- k) Licenses Generally: Licensed commercial haulers shall provide themselves with suitable vehicles which shall be watertight and shall be permanently covered on top so as to prevent the escape of odors or contents and so as to hide the garbage from the public view. Such vehicles shall be thoroughly washed at such times as may be directed by the City of Philip or as may be necessary to keep vehicles in proper sanitary condition. Such vehicles when conveying garbage shall be so loaded and unloaded that the contents shall not fall or spill upon the ground. No article or item shall be carried on such vehicle so as to drag upon the street. All vehicles used for the collection of garbage shall be equipped with an all-metal box, which shall otherwise comply with the requirements hereof. All metal boxes shall be equipped with metal doors, which shall be in a closed position when the truck is in motion.
- l) Loading of Vehicles: Vehicles used for transporting garbage, trash, rubbish and waste material to sanitary landfill shall be so loaded that no material shall fall off or be blown off the vehicle while in transit.
- m) Revocation: Any license issued under the provisions of this chapter may be revoked by the City Council for the violation by the licensee of any applicable provision of state law or city ordinance, rule, or regulation.
- n) Frequency of garbage collection: Collections from family domestic units shall be at least once a week. Collections from commercial units shall be frequent enough so as to avoid unsanitary conditions.
- o) Reporting of weights: All licensed commercial haulers will report to the City Finance Officer, on a monthly basis, the total weight and/or tonnage of garbage, trash, rubbish, and waste materials collected within the City of Philip for every calendar month. Each hauler will provide certified scale weigh tickets, or other form of certified weight measures deemed acceptable by the City, for garbage collected within the City, on or before the 10th of every calendar month for the previous month's garbage collections.