

TITLE V: PUBLIC WORKS

Chapter

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CHAPTER 50: GENERAL UTILITIES

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UTILITY STREET RENTAL

▪ **50.01 SHORT TITLE.**

This subchapter shall be known and may be cited as the AUtility Subchapter of the Village of Jones Creek, Texas@.

(Ord. 114, passed 11-6-1979)

▪ **50.02 DEFINITIONS.**

(A) For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ACT. The state=s Public Utility Regulatory Act of the State of Texas, codified as Tex. Utilities Code Title II, as the same now exists or may hereafter be amended.

COUNCIL. The Village Council of Jones Creek, Texas.

PERSON. Any natural person as well as partnerships, joint ventures, corporations, or any other entity recognized by the laws of the state as capable of owning property, except the state or any political subdivision thereof.

UTILITY. Any person now or hereafter owning or operating, for compensation in this state, equipment or facilities for producing, generating, transmitting, distributing, selling, or furnishing electricity; transmitting or distributing combustible hydrocarbon natural or synthetic natural gas for sale or resale; transmitting, storing, distributing, selling, or furnishing of potable water to the public or for resale to the public for any use; or the conveyance, transmission, or reception of communications over a telephone system.

VILLAGE. The Village of Jones Creek, Texas.

(B) Any word or phrase not herein above specially defined shall be given its usual and customary meaning.

(Ord. 114, passed 11-6-1979)

• **50.03 SAVINGS CLAUSE.**

This subchapter shall not affect any resolution, order, or ordinance heretofore adopted granting a franchise to any utility or relating to the rates charged by, or any standards, classifications, regulations, or practices required to be followed by, any utility and all such resolutions, orders, and ordinances are hereby expressly saved from repeal.

(Ord. 114, passed 11-6-1979)

• **50.04 REPORT REQUIRED.**

Every utility using, with its poles, wires, conduits, pipes, or other fixtures, the streets, easements, alleys, and other public ways within the corporate limits of the village shall file with the Village Secretary/Administrator, not later than February 1 of each calendar year, beginning February 1, 1980, a sworn report showing the gross receipts from the business conducted by such utility within the corporate limits of the village for the calendar year next preceding.

(Ord. 114, passed 11-6-1979)

• **50.05 EXAMINATION OF BOOKS AND RECORDS.**

The Council may, when it sees fit, have the books and records of any utility rendering the report required by ' 50.04 examined by an attorney at law or certified public accountant, or both, retained by the village, but nothing in this subchapter shall be construed to prevent the village from ascertaining the facts by any other method.

(Ord. 114, passed 11-6-1979)

• 50.06 ANNUAL RENTAL REQUIRED.

(A) On February 1 of each and every calendar year, beginning February 1, 1980, every utility for the privilege of using, with its poles, wires, conduits, pipes, and other fixtures, the streets, easements, alleys, and other public ways of the village shall, as a condition to such further use, pay to the village annually for such privilege a rental equal to 2% of the gross receipts received by such utility from its business conducted within the corporate limits of the village for the calendar year next preceding.

(B) Every utility making annual payments pursuant to the terms of any franchise heretofore or hereafter granted shall be entitled to have such annual franchise payments credited against the annual street rental payments required by division (A) above.

(C) The rental for the privilege of using the streets, easements, alleys, and other public ways within the corporate limits of the village established by division (A) above is not charged as a tax but is made for the privilege now enjoyed and to be enjoyed by utilities using the streets, easements, alleys, and other public ways of the village in the conduct of their respective businesses; and such charges are additional to all ad valorem and other taxes and lawful assessments of every nature whatsoever against such utilities.

(D) All rental required to be paid by division (A) above which is not paid by February 1 of any calendar year shall bear interest from such due date until paid at the rate of 10% per annum.

(E) If the village retains the services of legal counsel to collect rental which is delinquent or interest due thereon under the provisions of this section, the village shall also be entitled to be reimbursed by the defaulting utility for the reasonable fees of such attorney for representing the village in collecting the same, such reimbursement to be made within ten days following the receipt by the delinquent utility of a written notice from the Village Secretary/Administrator setting forth the amount due therefor, unless suit is filed by the village against the delinquent utility, in which case such reimbursement shall be included in the amount of any judgment rendered in such suit.

(Ord. 114, passed 11-6-1979; Ord. 241, passed 8-14-1989)

• 50.07 ISSUANCE OF RECEIPT AND EFFECT THEREOF.

(A) Upon receipt of the above rental, the Village Secretary/Administrator shall deliver to the utility a receipt for such rental, which said receipt shall authorize such utility to use and occupy the streets, easements, alleys, and other public ways of the village in the conduct of its respective business for the 12 consecutive months beginning on January 1 of the calendar year in which such rental is paid.

(B) This subchapter does not grant a franchise to any utility and shall never be so construed by the courts of this state or otherwise.

(C) Any utility using or occupying the streets, easements, alleys, or other public ways of the

village, with its poles, wires, conduits, pipes, or other fixtures, shall, after installing, maintaining, or removing such poles, wires, conduits, pipes, or other fixtures, as the case may be, have the duty to place such streets, easements, alleys, or other public ways in as good condition as they were in prior to such installation maintenance or removal.

(D) The Council hereby reserves the right to cancel at any time the privileges hereby granted with respect to any utility upon the affirmative vote of a majority of the members of the Council taken at any regular or special meeting thereof after notice and an opportunity to be heard has been afforded such utility. Provided, however, where the effective date of such cancellation occurs during a calendar year for which such utility has theretofore paid the rental fee prescribed by ' 50.06(A), the pro rata portion of such rental for the remainder of such calendar year shall be refunded by the Secretary/Administrator to such utility, unless such rental was only credited as a result of a franchise payment pursuant to the provisions of ' 50.06(B).

(Ord. 114, passed 11-6-1979)

' 50.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to ' 10.99 of this code of ordinances.

(B) (1) Any person violating any provision of ' ' 50.01 through 50.07 shall be guilty of a misdemeanor and, upon conviction therefor, shall be punished by a fine not to exceed \$500.

(2) Each and every day any violation of ' ' 50.01 through 50.07 continues or occurs shall constitute a separate offense.

(3) The village hereby expressly reserves any and all administrative or civil remedies available to it under the provisions of the Act or any other provision of the constitution and laws of the state.

(Ord. 114, passed 11-6-1979)

CHAPTER 51: GARBAGE

Section

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▪ **51.01 SHORT TITLE.**

This chapter shall be known and may be cited as the ASolid Waste Collection Chapter of the Village of Jones Creek, Texas@.
(Ord. 337, passed 8-19-1999)

▪ **51.02 AGREEMENT.**

The Village Council has heretofore entered into an exclusive solid waste and curbside collection agreement (hereinafter Athe agreement@) with Waste Connections (hereinafter Athe contractor@). Under the terms of the agreement, the village is required to bill and collect from the units using such service and remit to the contractor the fees therein specified and the sales tax due thereon, and is allowed to add thereto the necessary cost of the employees of the village.
(Ord. 337, passed 8-19-1999)

▪ **51.03 FEES.**

The Village Council hereby sets the following monthly fees to be billed and collected for each unit:

(A) One cart residential: \$17.99 fee + \$1.39 tax = \$19.38;

(B) Two cart residential: \$23.56 fee + \$1.82 tax = \$25.38;

(C) Commercial: \$26.35 fee + \$2.04 tax = \$28.39;

(D) Tax exempt organizations: one cart -\$18, two carts -\$20.57;

(E) One cart residential (outside village limits): \$19.99 + \$1.54 tax = \$21.53; and

(F) Two cart residential (outside village limits): \$25.56 + \$1.98 tax = \$27.54.

(Ord. 337, passed 8-19-1999; Ord. 352, passed 8-21-2001; Ord. 382, passed 10-18-2005; Ord. 409, passed 9-30-2008)

▪ **51.04 BILL; LATE FEE.**

The Village Council hereby provides that, on or about day 20 of each calendar month, the occupant of each unit shall be billed according to the schedule specified in ' 51.03, that such bill shall state that the payment thereof is due by day ten of the next calendar month, and a late fee shall be added to each account on day ten of each succeeding calendar month that the account remains delinquent according to the following schedule:

(A) One cart residential: \$3.87;

(B) Two cart residential: \$5.07;

(C) Commercial: \$5.67;

(D) Tax exempt: one cart -\$3.60, two carts -\$4.11;

(E) One cart residential (outside village limits): \$4.30; and

(F) Two cart residential (outside village limits): \$5.50.

(Ord. 337, passed 8-19-1999; Ord. 352, passed 8-21-2001; Ord. 382, passed 10-18-2005; Ord. 409, passed 9-30-2008)

▪ **51.05 SUSPENSION OF SERVICE.**

The Village Council hereby provides that if any account is not paid by day 20 of the calendar month next succeeding the calendar month in which such account was billed, written notice shall be given to the occupant to whom the bill was sent stating that such account shall be deleted and service suspended if the amount due (including all accrued late fees) is not paid within ten days.

(Ord. 337, passed 8-19-1999)

▪ **51.06 NOTICE AND SERVICE OF BILLS.**

The Village Council hereby provides that all bills and all notices hereunder shall be mailed to the last address given to the village by the occupant of the unit whose account is delinquent by U.S. Mail, first class postage prepaid, and that when so mailed shall be presumed to have been delivered within three days of the date of such mailing.

(Ord. 337, passed 8-19-1999)

▪ **51.07 DELINQUENT BALANCE.**

The Village Council hereby provides that service shall be suspended to the account of any unit with a balance which remains delinquent 14 days following the date of the mailing of the notice provided for in ' 51.05.

(Ord. 337, passed 8-19-1999)

▪ **51.08 ADMINISTRATIVE FEE.**

The Village Council hereby provides that an administrative fee of \$10 must be paid before service which has been disconnected will be restored and the deleted account for which reopened.

(Ord. 337, passed 8-19-1999)

▪ **51.09 PRIOR ACTIONS.**

The Village Council hereby ratify and confirm all prior actions of the Secretary/Administrator or any other employee of the village in sending bills and notices, and deleting accounts and suspending service to the occupant of any unit within the village.

(Ord. 337, passed 8-19-1999)

▪ **51.10 RIGHTS MAINTAINED.**

Nothing contained in this chapter shall cause any rights heretofore vested to be altered, affected, or impaired in any way and all such rights may be hereafter enforced as if this chapter had not been adopted.

(Ord. 337, passed 8-19-1999)

▪ **51.11 CONFLICTING STATUTES.**

Jones Creek - Public Works

This chapter is cumulative of, and in addition to, all other ordinances and resolutions of the village on the same subject and all such other ordinances and resolutions are hereby expressly saved from repeal; but where this chapter conflicts or overlaps with any other ordinance or resolution of the village, whichever imposes the more stringent regulations or penalties, as the case may be, shall prevail.
(Ord. 337, passed 8-19-1999)