

**ORDINANCE NO. 10-4602**

AN ORDINANCE AMENDING CHAPTER IV, PUBLIC UTILITIES, OF THE MUNICIPAL CODE FOR THE CITY OF CHERRYVALE, KANSAS.

WHEREAS, the Governing Body of the City of Cherryvale, Kansas desires to modify and replace Chapter IV, Public Utilities, in the Municipal Code of the City of Cherryvale, Kansas; and,

**NOW THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF CHERRYVALE, KANSAS:**

SECTION ONE: That Chapter IV, Public Utilities, of the Municipal Code for the City of Cherryvale, Kansas, is hereby changed and amended to read as follows:

**CHAPTER IV. PUBLIC UTILITIES**

- Article 1.      General Administration**
- Article 2.      Water Utility**
- Article 3.      Water Rates**
- Article 4.      Water Conservation**
- Article 5.      Sewer Utility**
- Article 6.      Sewer Discharge Criteria**
- Article 7.      Sewer Rates**
- Article 8.      Private Sewer Systems**

**ARTICLE 1. GENERAL ADMINISTRATION .**

**4-101. COMBINED ADMINISTRATION .** The municipal water system and the municipal sanitary sewer system shall be combined for administrative purposes. Said combined system shall be operated and financed as provided by law. The officer who shall have immediate charge of the combined system shall be the Director of Public Works.

**4-102. ADMINISTRATIVE DUTIES.** The Director of Public Works shall be responsible for the general management, care, control, installation, maintenance, records management, and supervision of the municipal water and sanitary sewer systems.

**4-103. APPLICATION.** Application for water and sewer service, or either, shall be made to the City Clerk by the owner or the occupant of the property to be served.

**4-104. SERVICE ACCOUNT INITIATION FEE.** A Service Account Initiation Fee in the sum of Forty Dollars (\$40.00) shall be paid to the City Clerk by each person, firm or corporation desiring a supply of water from the municipal water and municipal sewer system of the City. Said fee shall be paid at such time consumer requests water service

prior to the supply of water from the municipal water system. Upon receipt of said fee, a service account shall be established and the City Clerk shall notify the Director of Public Works or his assistants of the authorization to supply water to consumer's building, place or premises. The requirements of this subsection shall pertain to all consumers either within or outside the City limits and whether or not sewer service is required. The above fee shall not be transferable from one consumer's service account to another consumer's service account. The only exception may be granted by the City Administrator when service transfer is required due to the death of the service account holder.

**4-105. LANDLORD SERVICE CONNECTION.** A landlord desiring water service on a temporary basis, solely for the purpose of cleaning and repairing the rental property or checking the water system for leaks, may apply to the City Clerk for temporary water service. A landlord service connection shall not be made if the property is occupied. The landlord will pay a Ten Dollar (\$10.00) Landlord Account Initiation Fee to the City Clerk at the time of the application for water service. The account will be charged for usage in accordance with Section 4-301 and the current rate for 1,000 gallons of water consumed. Account billings and payments shall be made in accordance with Section 4-108 of this Code. The landlord service connection will be discontinued at the landlord's request, if the bill remains unpaid on the 21<sup>st</sup> of the month per Section 4-109, or if the City receives notification that said property becomes occupied. No trash or sewer service will be provided to the property.

**4-106. SPECIAL SERVICE CONNECTION.** A customer desiring water service for any reason other than above, with consumption of less than five hundred (500) gallons of water per month with no sewer usage or trash service, may request a Special Service Connection from the City Council which has a rate of ten (\$10.00) for 60 days of service. Usage over 500 gallons shall be charged in accordance with Section 4-301.

**4-107. TRANSFER FEE.** Each consumer shall pay to the City Clerk when requesting a transfer of water or sewer system service to another location as specified by the consumer, a Service Transfer Fee of Fifteen Dollars (\$15.00) for each such transfer. This provision shall apply to consumers both within and outside the city limits.

**4-108. PAYMENT.** Municipal water and sewer system billings shall be mailed on or before the 1<sup>st</sup> day of each month for the previous month's service. Such bill shall be due and payable at the office of City Clerk and must be paid in full by the 10<sup>th</sup> day of each month. Failure to make payment in full before the 11<sup>th</sup> day of the month shall result in the mailing of an account delinquency and service discontinuation notice. After said due date has passed a penalty of ten percent (10%) of the unpaid balance shall be added to the original amount of said bill. All checks for payment to the City for such services which are rejected or returned due to insufficient funds in consumer's checking account may be subject to a Thirty Dollar (\$30.00) Returned Check Fee, per the procedures outlined in Resolution No. 07-51. If said fee is not paid as provided, consumer's water service shall be discontinued as provided in Section 4-109.

**4-109. DISCONNECTION.** If said bill remains unpaid on the 21<sup>st</sup> day of the month, after said due date, water and sewer service may be discontinued and disconnected at the discretion of the city, provided that before any such service shall be discontinued for failure to pay said service charge, the user so defaulting in the payment of the service charge shall be given five (5) calendar days' notice of the account delinquency and service discontinuation notice.

**4-110. APPEAL.** If within said five (5) calendar days period, the user receiving such notice of intention to discontinue its water and sewer service, the user contests the intention to discontinue service, said user shall file with the City Administrator, a written notice stating that the user believes that there is a reasonable basis to dispute the assessment of said service charge. If the City Administrator finds the complaint of the aggrieved party is just, said Administrator may make such adjustment of said service charge as he/she deems equitable and just in premises. If the Administrator deems the complaint of the aggrieved party is without merit, then at the next regular meeting of the Governing Body after the receipt of said written notice, said aggrieved party may appear and present the grievance. If at said meeting the Governing Body finds that the complaint of the aggrieved party is just, said Governing Body may make such adjustment of said service charge as it deems equitable and just in the premises. If the Governing Body at said meeting deems the complaint of the aggrieved party is without merit, it may affirm the service charge of which said aggrieved party complained, and the finding of the Governing Body shall be final and binding upon all parties concerned.

**4-111. UNAUTHORIZED USE OF UTILITY SERVICES.** It shall be unlawful for any person, firm or corporation to reconnect a water or sewer service or system supply to any service line, or out of any building place or premises, or directly or indirectly cause the water or sewer supply to be reconnected after same has been disconnected by the Director of Public Works or his assistants, or by the direction of the City Administrator or his authorized agents or by order of the Governing Body of the City of Cherryvale. Any person violating this provision shall be guilty of a class C misdemeanor or to the furthest extent of applicable laws.

**4-112. RECONNECTION.** In the event water or sewer service shall be discontinued under the authority of this article, said water or sewer service shall not be restored until said delinquent account and a reconnection fee in the amount of twenty dollars (\$20.00) has been paid by the user whose water or sewer service has been discontinued. Reconnection of water or sewer service on weekends, official city holidays, and between the hours of 4:00 p.m. and 7:00 a.m. on weekdays, shall be subject to an additional fee of twenty-five dollars (\$25.00) for reconnection of services outside of normal business hours.

**4-113. COLLECTION OF DELINQUENT ACCOUNTS.** In the event any person shall neglect, fail, or refuse to pay following notice of a minimum of three (3) delinquent notices per Section 4-108, the bill may be turned over to outside collection, including the State of Kansas Set Off Program.

## **ARTICLE 2. WATER UTILITY.**

**4-201. FURNISH WATER TO CONSUMER.** Water will be supplied to each building, place or premises of consumer only after such owner of said premises or his authorized agent has complied with the requirements of this article, as deemed applicable by the City Administrator or his authorized agents. All plumbers, or other persons, are strictly prohibited from turning water from the municipal water system into any service line by the use of valves, meters or any equipment, which is the sole property of the City of Cherryvale without the permission of the City Administrator or his authorized agents.

**4-202. METER BASIS AND CONNECTION.** The municipal water system of the City shall be operated on a meter basis and the Director of Public Works shall install water meters on the premises of all patrons of the water system of the City, and all expenses incident thereto shall be borne by the City, unless otherwise specifically provided by this Section. Whenever a consumer desires a larger or different type water meter be installed at consumer's building, place or premises, other than the standard 5/8" water meter customarily installed, such consumer shall, in addition to the Service Account Initiation Fee specified in 4-104, pay to the City Clerk a sum equal to the difference between the cost of a standard 5/8" water meter and the cost of the water meter of the size and type desired, plus the actual expense of installing same.

**4-203. OWNERSHIP OF WATER METERS.** Water meters installed pursuant to Section 4-202 shall be at all times and remain the property of the City. It shall be unlawful for any person, firm or corporation in any manner whatsoever to handle tamper with, molest, damage, or interfere with any meter after the same shall be set in or installed on the building, place or promise of any consumer, except that each consumer shall be responsible for any accidental or willful damage to the water meter, set in or installed on the building, place or premises or its connections, meter box or cover, whether by his own acts or those of others not in the employ of the municipal water system. In the event of damage to such water meter, connections, meter box or cover, the consumer shall promptly notify the City Clerk or Public Works personnel and they shall arrange for the necessary repairs or replacements and charge the expense of same to such consumer.

**4-204. TESTING.** Meters shall be tested before being set and at any other time thereafter when they appear to be measuring incorrectly. If a test is requested by the customer and the meter is found to be accurate within three percent, the meter will be deemed correct and a charge of \$20 will be made to the customer.

**4-205. WATER MAIN ACCESS FEE.** No connection of a service line serving a property not previously served by the water system of the City shall be made as heretofore provided by ordinance, without the person, firm or corporation desiring to make such initial connection having first paid to the City Clerk an initial Water Main Access Fee. Fee for such service shall be as follows:

- (a) Within City: Two Hundred Fifty Dollars (\$250.00) for each individual service line so connected.
- (b) Outside City: Seven Hundred Fifty (\$750.00) for each individual water meter so connected.

No connection of a privately owned service line shall be made to a City owned water main or service line at or outside the City limits until the person, firm or corporation desiring to make such initial connection has accomplished the following requirements:

- (1) Presents a formal written request for connection stating therein how the water will be used;
- (2) State in the written request the names of all consumers that will make use of the water from the requested connection and service line;
- (3) State in the written request how and where the applicant intends to make connection with the City owned water main or service line, furnishing a list of materials and specifications of installation to be utilized in making said connection to the City owned water main or service line.
- (4) No connection pursuant to this section shall be made until after the Governing Body of Cherryvale has determined that there would be adequate water for all inhabitants within the City and those presently connected to the municipal water system, and that the requested connection will not affect service to such existing consumers.
- (5) All connections made under this section shall be made pursuant to contract, drafted by the City Attorney, between the City of Cherryvale and the consumer. All rights of the consumer to City water shall be determined by said written contract.
- (6) No consumer shall be permitted to connect users or consumers to a water connection granted by the City, except that said other user or consumer has previously complied with all requirements of this Section.

**4-206. CONTRACT WITH CONSUMERS: VIOLATIONS.** The rules, regulations and conditions contained in this article with reference to supplying water to patrons or consumers desiring water from the municipal water system and the rates and fees herein named shall all be considered a part of the contract with the person, firm or corporation now supplied or that may hereafter be supplied with water by and through the municipal water system, and such person, firm or corporation by taking water shall be considered and held to consent to be bound thereby. When any of the rules, regulations and conditions of this article are violated, or any other rules, regulations or conditions hereafter adopted by the City, the water shall be discontinued and the water meter removed or water service locked-out from the building, place or premises of such violation and shall not be returned to service except by order of the City Administrator or his authorized representative and on payment of expenses of discontinuing or returning service to said building, place or premises. Prior to any termination of water service, the consumer shall be entitled to prior notice and granted an opportunity to be heard concerning the proposed action, all pursuant to Section 4-110 of this Code.

**4-207. DISCONTINUANCE OF WATER SERVICE.**

(a) The City may discontinue or refuse water service to any customer, without notice or hearing for any of the following reasons:

- (1) When the customer so requests;
- (2) When it is determined by an employee of the City Public Works Department, Fire Department, Police Department, or Building Inspector that the continuance of water service constitutes a dangerous condition presenting a likely immediate threat to health or safety of persons or to property on or near the customer's premises.
- (3) When the customer refuses to grant employees of the City's Public Works Department access to equipment installed upon the premises of the customer for the purpose of inspection, meter reading, maintenance or replacement;
- (4) When the customer violates any rule, regulation or ordinance of the City pertaining to water service, which violation adversely affects the safety of the customer or other persons, or the integrity of the City's water service's delivery system; or
- (5) When the customer attempts, causes or permits unauthorized interference diversion, theft, tampering, damage or use of water service or the water service's delivery system situated or delivered on or about the customer's premises.

(b) The City may discontinue or refuse water service to any customer, following compliance with the notice and hearing requirements of Section 4-109 & 4-110 of this ordinance, for any of the following reasons:

- (1) Non-payment of water bills and charges as provided in Section 4-109 of this ordinance; or
- (2) When the customer misrepresents his or her identity or otherwise intentionally provides false information for the purpose of obtaining water service from the City.

**4-208. UNAUTHORIZED WATER CONNECTIONS.** It shall be unlawful for any person, firm or corporation, not having a license or permit from the city for the withdrawal of water from any of the hydrants, mains, laterals or service pipe, within or without the city, to withdraw or cause to be withdrawn or to use any water from such hydrants, mains, laterals or service pipe of the city.

**4-209. CROSS-CONNECTIONS PROHIBITED.** No person shall establish or permit to be established or maintain or permit to be maintained, any cross connection whereby a private, auxiliary, or emergency water supply other than the regular public water supply of the City may enter the supply and distributing system of the City, unless specifically approved by the Kansas Department of Health and Environment and the governing body.

**4-210. PROTECTIVE BACKFLOW DEVICES REQUIRED.** Approved devices to protect against backflow or backsiphonage shall be installed during new construction at all fixtures and equipment where backflow and/or backsiphonage may occur and where there is a hazard to the potable water supply in that polluted water or other contaminating materials may enter into the public water supply. Any situation in which a heavy withdrawal of water, such as a sudden break in the main or water being used from a fire hydrant, may cause a negative pressure to develop which could lead to backsiphonage of polluted water into the system shall be improper and must be protected by approved backflow preventive valves and systems as determined by the Director of Public Works.

**4-211. INSPECTION OF WATER SYSTEM CONNECTIONS.**

(a) It shall be the duty of all persons making connection with the municipal water system of the City to present their permit to the City Administrator or his authorized agents and allow the Director of Public Works ample opportunity to inspect such connections before any part thereof is covered.

(b) After a careful inspection has been completed, the Director Public Works shall forthwith endorse his approval or disapproval on such permit and the person to whom such permit was issued for such connection shall make a report of his work on the same, sign the same and submit it to the City Administrator or his authorized agent in five (5) days from the date of such inspection.

(c) Every person supplied with water through the municipal water system of the City shall permit the Director of Public Works, or his aides or assistants, at any and all reasonable times, to enter upon or into any building, place or premises or buildings for the purpose of examining the water meter, pipes, service lines or fixtures or for investigating the manner in which said water is used or consumed.

**4-212. PROTECTION FROM CONTAMINANTS.** Pursuant to the City's constitutional home rule authority and K.S.A. 65-163a, the City by its Director of Public Works may refuse to deliver water through pipes and mains to any premises where a condition exists which might lead to the contamination of the public water supply system and it may continue to refuse the delivery of water to the premises until that condition is remedied. In addition, the Director of Public Works may terminate water service to any property where the cross connections or backsiphonage condition creates, in the judgment of the Director of Public Works, an emergency danger of contamination to the public water supply.

**4-213. SERVICE LINE MAINTENANCE AND REPAIR.** All persons, firms or corporations supplied with water through the municipal water system shall keep their own service lines, valves and apparatus in good repair, and protect said service lines, valves and apparatus from freezing at water consumer's own risk and expense and shall prevent all unnecessary waste of water; and it is expressly stipulated by the City and the

consumer or any person, firm or corporation that no claim shall be made against the City by reason of breaking of the service lines or from any cause by reason of the City failing to supply water, or for any damage arising out of or from discontinuing water service to any building, place or premises for the purpose of repairing water mains or service lines, making connections or repairs, or for any other cause or purpose whatsoever; the right is hereby reserved by the City to discontinue water service or supply at any time.

#### **4-214. EXCAVATION.**

(a) **LICENSE; BOND.** Within the city limits of Cherryvale, Kansas, no person, other than authorized city employees, or employees of city franchisees, shall, dig or excavate any hole, ditch, trench or tunnel in or under any street, alley, sidewalk, park or other public property or public easement, through private property without first having secured an excavation license from the City Clerk. At the time the excavation license is applied for, the licensee shall deliver a good and sufficient surety bond in the amount of (\$5,000.00) in favor of the City of Cherryvale conditioned upon properly excavating and restoring the excavated area to its condition prior to the excavation. The cost of obtaining an excavation license shall be \$15.00. An excavation license shall be effective from January 1<sup>st</sup> to December 31<sup>st</sup> of the year the license is issued.

(b) **ONE CALL SYSTEM.** All excavation licensees shall perform the duties set forth in K.S.A. 66-1801 through K.S.A. 66-1814 and amendments thereto. Those duties include the requirement to place a telephone call to 1-800-DIG SAFE at least two days prior to the excavation except for emergency excavations. An emergency means any condition constituting a clear and present danger to life, health, or property, or a customer service outage.

(c) **ONE CALL TO CITY.** When an excavator makes the call to 1-800-DIG-SAFE, Dig Safe shall contact City Hall to report that excavation is planned so the City will have actual notice.

(d) **BARRICADES.** All excavators shall enclose all excavations with sufficient barricades and danger signs at all times and shall maintain sufficient warning lights or flares at nighttime. The excavation licensee shall take all necessary precautions to guard the public against all accidents from the beginning of the work to the completion of the same.

(e) **SAME; UNLAWFUL ACTS.** It shall be unlawful for any person, except those having authority from the City or any officer thereof to throw down, interfere with or remove any barriers, barricades, or lights placed in any street to guard and warn the traveling public of any construction work thereon or adjacent thereto.

(f) **RESTORATION; CUTTING CURBS; PAVEMENT.**

(1) No person shall cut any curb, gutter, pavement, blacktop, sidewalk or excavate any street, alley or other public grounds of the city for any

purpose without first obtaining a permit authorizing the same from the city clerk.

(2) Once the work for which the excavation was made has been completed the city shall restore the pavement, blacktop, sidewalk or other surfacing at the expense of the person from whom the excavation was made.

(3) In lieu of the city replacing pavement, it may elect to authorize utility companies or contractors to resurface streets or sidewalks with like materials, subject to approval of the street superintendent.

(4) All excavations shall be properly filled to ensure that no hazard exists.

(5) The Director of Public Works may require an excavator to return to the site of the excavation within six months of the excavation in order to fill settled areas. If an excavation licensee does not comply with work requested by the Director of Public Works demand shall be made upon the surety to pay for the cost of the needed repairs.

(g) **PENALTIES.** Any person who shall engage in excavating within the city without having first secured an excavation license as required in this ordinance shall be deemed guilty of a Class C misdemeanor. Any person who shall violate Section (e) of this ordinance shall also be deemed guilty of a Class C misdemeanor. Each and every day shall be deemed to be a separate violation.

**4-215. TAPPING; MAINS, DISTRIBUTING LINES.** No person, except the Director of Public Works or an authorized representative employed by the City, will be permitted under any circumstances to tap the mains or distributing pipes, or to insert stopcocks, or ferrules, and pipes must not in any case be tapped nearer than fifteen (15) inches of either end of the pipe, nor nearer than four (4) feet from any tap, except in making a cluster of taps for large pipes. All stopboxes on residence streets shall be one (1) foot inside the curblin and on business streets just inside of the curblin.

**4-216. CONNECTION; WATER SYSTEM; PLUMBER'S PERMIT; BOND.** Any plumber wishing to do business in connection with the municipal water system shall first make application to the Director of Public Works and such application shall be in writing, giving his name and the names of each of his firm, if any, and the place of doing business, asking to be permitted to do plumbing in connection with the water system, stating his willingness to be governed in all respects by the rules and regulations now or hereafter to be adopted by the City Council; any plumber wishing to do business in connection with the water system shall give a bond in favor of the city to be approved by the Council in the sum of five thousand dollars (\$5,000.00); Provided, that he will indemnify and keep harmless the city and the Director of Public Works from all liabilities for any accident or damages arising from neglect or any unskillfulness in doing the work, or any unfaithful or defective work done, and that he will also restore the streets, alleys, sidewalks and pavement over all pipes he may lay and fill all excavations made by him, so as to leave the street, sidewalk and pavement in as good condition as he found it, and to keep the same in good order to the satisfaction of the Director of Public Works for a period of thirty (30) days thereafter. All connections shall be made direct from the water

mains and no consumer at any one location shall be permitted more than one direct connection.

**4-217. FILLING DITCHES, ETC.** The builder of any connection with any main or lateral, shall do the backfilling in the streets and alleys in such manner as the Director of Public Works shall direct, and within forty-eight (48) hours after the opening of the ditch in any street or alley, such street or alley shall be put in as good condition as previous to such digging and to the satisfaction of the Director of Public Works. Every builder shall close any opening he may make in any public street or alley with sufficient barriers and maintain danger signals during the night and be held liable for damage to person or property resulting from negligence in maintaining such barriers and signals.

**4-218. UNLAWFUL TO UNCOVER PIPES.** It shall be unlawful for any person to excavate in any street, avenue, alley or lane, within two (2) feet of any water main or pipe when the ground is frozen, or dig up, or uncover any water pipes of the city so as to expose the same to frost, except the same may be done under the direction of the Director of Public Works.

### **ARTICLE 3. WATER RATES.**

#### **4-301. WATER SERVICE CHARGES.**

- (a) **WATER RATES.** Water rates are hereby \$8.00 for a base service charge and a unit charge of \$8.16 per 1,000 gallons of water consumed. The charge for bulk water shall not exceed the rate of \$10.00 per 1,000 gallons of water consumed.
- (b) **RURAL WATER RATES.** Rural water rates are hereby \$8.00 for a base service charge and a unit charge of \$10.46 per 1,000 gallons of water consumed.

#### **4-302. REVIEW.**

The City Administrator or his or her designee shall continue to perform a rate review on a yearly basis and present his or her findings to the Governing Body at the last Council Meeting in November.

#### **4-303. LEAK ADJUSTMENT**

Water utility customers with a minimum of six months of continuous, current service with the City of Cherryvale may receive one water consumption leak adjustment per year. The year will be counted from the date of the last water consumption leak adjustment received. Once a leak has been identified, the customer is expected to repair the leak in a timely manner.

- (1) The leak adjustment shall be calculated as follows:
  - (a) Calculate the average water consumption for the past 6 months, excluding the month with the leak.
  - (b) Calculate the amount of water consumption in excess of the average consumption to determine the amount of water that will be billed at the

adjusted rate. Use the amount of the meter reading for the period with leak and subtract the previous month's meter reading to determine the amount of water that ran through the meter during the affected month. Then subtract the average consumption from the affected month's consumption.

- (c) The amount of water consumption in excess of the average consumption will be charged per 1,000 gallons at the rate the City is charged per 1,000 gallons by Public Wholesale Water Supply District for water.

#### **4-304. RURAL LEAK ADJUSTMENT**

Rural water lines with a minimum of six months of continuous, current service with the City of Cherryvale may receive one water consumption leak adjustment per year. The year will be counted from the date of the last water consumption leak adjustment received. Once a leak has been identified, the customer is expected to repair the leak in a timely manner. Each service account on the line shall pay a \$10 administrative fee for the costs involved in performing the calculations.

- (1) The leak adjustment shall be calculated as follows:
  - (a) Calculate the average water consumption for the entire line for the past 6 months, excluding the month with the leak.
  - (b) Calculate the amount of water consumption in excess of the average consumption to determine the amount of water that will be billed at the adjusted rate. Use the amount of the meter reading for the period with leak and subtract the previous month's meter reading to determine the amount of water that ran through the meter during the affected month. Then subtract the average consumption from the affected month's consumption.
  - (c) The amount of water consumption in excess of the average consumption will be charged per 1,000 gallons at the rate the City is charged per 1,000 gallons by Public Wholesale Water Supply District for water.

### **ARTICLE 4. WATER CONSERVATION.**

#### **4-401. WATER DROUGHT/EMERGENCY.**

(a) Purpose. The purpose of this ordinance is to provide for the declaration of a water supply watch, warning or emergency and the implementation of voluntary and mandatory water conservation measures throughout the city in the event such a watch, warning or emergency is declared.

(b) Definitions:

- (1) "*Water*," as the term is used in this ordinance, shall mean water available to the City of Cherryvale for treatment by virtue of its water rights or any treated water introduced by the City into its water

distribution system, including water offered for sale at any coin-operated site.

(2) "*Customer*," as the term is used in Ws ordinance, shall mean the customer of record using water for any purpose from the City's water distribution system and for which either a regular charge is made or, in the case of coin sales, a cash charge is made at the site of delivery.

(3) "*Waste of water*," as the term is used in this ordinance, includes, but is not limited to: (a) permitting water to escape down a gutter, ditch, or other surface drain; or (b) failure to repair a controllable leak of water due to defective plumbing.

(4) The following classes of uses of water are established:

Class 1:

Water used for outdoor watering, either public or private, for gardens, lawns, trees, shrubs, plants, parks, golf courses, playing fields, swimming pools or other recreational areas; or the washing of motor vehicles, boats, trailers, or the exterior of any building or structure.

Class 2:

Water used for any commercial or industrial, including agricultural, purposes: except water actually necessary to maintain the health and personal hygiene of bona fide employees while such employees are engaged in the performance of their duties at their place of employment.

Class 3:

Domestic usage, other than that which would be included in either classes 1 or 2.

Class 4:

Water necessary only to sustain human life and the lives of domestic pets and maintain standards of hygiene and sanitation.

(c) Declaration of Water Emergency. Whenever the governing body of the City finds that an emergency exists by reason of a shortage of water supply needed for essential uses, it shall be empowered to declare by resolution that a water supply emergency exists and that it will impose mandatory restrictions on water use during the period of the emergency. Such an emergency shall be deemed to continue until it is declared by resolution of the governing body to have ended. The resolutions declaring the

existence and end of a water supply emergency shall be effective upon their publication in the official city newspaper.

(d) **Mandatory Conservation Measures.** Upon the declaration of a water supply emergency, the Mayor (or the City Administrator) is also authorized to implement certain mandatory water conservation measures, including, but not limited to, the following:

(1) Suspension of new connections to the City's water distribution system,

except connections of fire hydrants and those made pursuant to

agreements entered into by the City prior to the effective date of the

declaration of the emergency;

(2) Restrictions on the uses of water in one or more classes of water use, wholly or in part;

(3) Restrictions on the sales of water at coin-operated facilities or sites;

(4) The imposition of water rationing based on any reasonable formula including, but not limited to, the percentage of normal use and per capita or per consumer restrictions; or

(5) Complete or partial bans on the waste of water; and

(6) Any combination of the foregoing measures.

(e) **Emergency Water Rates.** Upon the declaration of a water supply emergency as provided in subsection (c), the governing body of the City shall have the power to adopt emergency water rates by ordinance designed to conserve water supplies. Such emergency rates may provide for, but are not limited to:

(1) higher charges for increasing usage per unit of use (increasing block rates);

(2) uniform charges for water usage per unit of use (uniform unit rate); or

(3) extra charges in excess of a specified level of water use (excess demand surcharge).

(f) **Regulations.** During the effective period of any water supply emergency as provided for in subsection (c), the Mayor (or the City Administrator or Director of Public Works) is empowered to promulgate such regulations as may be necessary to carry out the provisions of this ordinance, any water supply emergency resolution, or emergency water rate ordinance. Such regulations shall be subject to the approval of the governing body at its next regular or special meeting.

(g) **Violations, Disconnections and Penalties.**

(1) If the Mayor, City Administrator, Director of Public Works, or other city official or officials charged with implementation and enforcement of this ordinance or a water supply emergency resolution learn of any violation of any water use restrictions imposed pursuant to subsection (d) of this Code, a written notice of the violation shall be affixed to the

property where the violation occurred and the customer of record and any other person known to the City who is responsible for the violation or its correction shall be provided with either actual or mailed notice. Said notice shall describe the violation and order that it be corrected, cured or abated immediately or within such specified time as the City determines is reasonable under the circumstances. If the order is not complied with, the City may terminate water service to the customer subject to the following procedures:

- (a) The City shall give the customer notice by mail or in person that water service will be discontinued within a specified time due to the violation and that the customer will have the opportunity to appeal the termination by requesting a hearing scheduled before the City governing body or a city official designated as a hearing officer by the governing body;
- (b) If such a hearing is requested by the customer charged with the violation, he or she shall be given a full opportunity to be heard before termination is ordered; and
- (c) The governing body or hearing officer shall make findings of fact and order whether service should continue or be terminated.

(2) A fee of \$50 shall be paid for the reconnection of any water service terminated pursuant to this Article. In the event of subsequent violations, the reconnection fee shall be \$200 for the second reconnection and \$300 for any additional reconnections.

(3) Violations of this Code shall be a municipal offense and may be prosecuted in Municipal Court. Any person so charged and found guilty in Municipal Court of violating the provisions of this Code shall be guilty of a municipal offense. Each day's violation shall constitute a separate offense. The penalty for an initial violation shall be a mandatory fine of \$100. In addition, such customer may be required by the Court to serve a definite term of confinement in the county jail which shall be fixed by the Court and which shall not exceed 30 days.

(h) Emergency Termination. Nothing in this Article shall limit the ability of any properly authorized city official from terminating the supply of water to any or all customers upon the determination of such city official that emergency termination of water service is required to protect the health and safety of the public.

(i) Severability. If any provision of this Article is declared unconstitutional, or the application thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the ordinance and its applicability to other persons and circumstances shall not be affected thereby.

#### **ARTICLE 5. SEWER UTILITY.**

**4-501. DEFINITIONS.** Unless the context specifically indicates otherwise, the meaning of terms used in this chapter shall be as follows:

- (a) "BOD" (denoting Biochemical Oxygen Demand) shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at 20' C, ex- pressed in milligrams per liter.
- (b) "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 (1.5 meters) outside the inner face of the building wall.
- (c) "Building Sewer" shall mean the extension from the building drain to the public sewer or other place of disposal.
- (d) "City" shall mean the City of Cherryvale, Montgomery County, Kansas.
- (e) "Combined Sewer" shall mean a sewer receiving both surface runoff and sewage.
- (f) "Garbage" shall mean solid wastes from the domestic and commercial preparation, cooking and dispensing of food, and from the handling, storage and sale of produce.
- (g) "Industrial Wastes" shall mean the liquid wastes from industrial manufacturing processes, trade, or business as distinct from sanitary sewage.
- (h) "Natural Outlet" shall mean any outlet into a watercourse, pond, ditch, lake or other body of surface or ground water.
- (i) "Person" shall mean any individual, firm, company, association, society, corporation, or group.
- (j) "Properly Shredded Garbage", shall mean the wastes from the preparation, cooking, and dispensing of food that have 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 (1.27 centimeters) in any dimension.
- (k) "Public Sewer" shall mean a sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.
- (l) "Sanitary Sewer" shall mean a sewer which carries sewage and to which storm, surface and groundwater are not intentionally admitted.
- (m) "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.
- (n) "Sewage Treatment Plant" shall mean any arrangement of devices and structures used for treating sewage.
- (o) "Sewage Works" shall mean all facilities for collecting, pumping, treating and disposing of sewage.
- (p) "Sewer" shall mean a pipe or conduit for carrying sewage.
- (q) "Shall" is mandatory; "may" is permissive.
- (r) "Sludge" 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-our (24) hour concentration or flows during normal operation.

(s) "Storm Drain" (sometimes termed "storm sewer") shall mean a sewer which carries storm and surface waters and drainage, but excludes sewage and industrial wastes, other than unpolluted cooling water.

(t) "Director" shall mean the Director of Public Works Department of the City of Cherryvale, or his authorized deputy, agent, or representative.

(u) "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.

(v) "Watercourse" shall mean a channel in which a flow of water occurs, either continuously or intermittently.

Cross References: K.S.A. 12-631n; K.S.A. 14-561; K.S.A. 12-3101, et seq.

**4-502. REQUIRED CONNECTION.** The owner of any house, building, or property 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 be located in the future, a sanitary sewer of the city, is hereby required to install, at the owner's expense, suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer system in accordance with the provisions of this article within ninety (90) days after date of official notice to do so, provided that said public sewer system is within one hundred (100) feet (30.5 meters) of the property line.

Cross References: K.S.A. 12-631

**4-503. UNLAWFUL WASTE DISPOSAL METHODS.**

(a) It is unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the city, or in any area under the jurisdiction of the city, any human or animal excrement, garbage, or other objectionable waste.

(b) It Is unlawful to discharge to any natural outlet within the city, or in any area under the jurisdiction of the city, any sewage or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this article.

(c) 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.

Cross References: K.S.A. 12-3105. K.S.A. 65-171a, et seq., K.S.A. 65-171g,

**4-504. CONNECTION PERMIT.** No unauthorized person shall uncover, make any connections with or opening into, use, alter or disturb any public sewer or appurtenance

thereof without first obtaining a written permit from the Director of Public Works or an authorized representative.

**4.505. APPLICATION.** The owner or an agent shall make the permit application on a form furnished by the city. The permit application shall be supplemented with any plans, specifications, or other information considered pertinent in the judgment of the Director of Public Works or an authorized representative. A permit and inspection fee shall be as follows:

- (a) Within City: Two Hundred Fifty Dollars (\$250.00) for each individual service connected.
- (b) Outside City: Seven Hundred Fifty Dollars (\$750.00) for each individual service connected.

**4-506. COSTS.** All costs and expense incident to the installation and connection 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.

**4-507. SEPARATE CONNECTION.** A separate and independent building sewer shall be provided for every building; except where one (1) 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, courtyard, or driveway, the building sewer from the front building may be extended to the rear building, and the whole considered as one (1) building sewer.

Cross References: K.S.A. 65-171d.

**4-508. EXISTING CONNECTION.** Existing building sewers may be used in connection with new buildings only when they are found, on examination and test by the Director of Public Works or an authorized representative, to meet all requirements of this article.

**4-509. CONSTRUCTION.** The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of pipe, jointing, testing and backfilling the trench, shall all conform to the requirements of the building and plumbing code or other applicable rules and regulations of the city. In the absence of code provisions or in application thereof, the materials and procedures set forth in appropriate specifications of the A.S.T.M. and W.P.C.F. Manual of Practice No. 9 shall apply.

**4-510. ELEVATION.** Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by

such building drain shall be lifted by an approved means and discharged to the building sewer.

**4-511. INSTALLATION.** The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the city, or the procedures set forth in appropriate specifications of the Q A.S.T.M. and the S.P.C.F. Manual of Practice No. 9. All such connections shall be made gas tight and water tight. Any deviation from the prescribed procedures and materials must be approved by the Director of Public Works or an authorized representative before installation.

Cross References: K.S.A. 65-171h.

**4-512. INSPECTION.** The applicant for the building sewer permit shall notify the Director of Public Works or an authorized representative when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the Director of Public Works or an authorized representative within forty-eight (48) hours of the receipt of notice.

Cross References: K.S.A. 65-170b.

**4-513. EXCAVATION.** All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, rights-of-way, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the City.

**4-514. PROHIBITED CONNECTIONS.** No person shall make or maintain a connection of roof downspouts, exterior or interior foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.

Cross References: K.S.A. 65-171d

## **ARTICLE 6. SEWER DISCHARGE CRITERIA**

**4-601. PROHIBITED DISCHARGE.** No person shall discharge or cause to be discharged to any sanitary sewer any of the following:

- (a) Any storm water, surface water, ground water, roof runoff, subsurface drainage, uncontaminated cooling water, or unpolluted industrial process waters.
- (b) Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas;
- (c) Any waters or wastes 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 sewage treatment facility;

(c) Any waters or wastes having a pH lower than 5.0 or higher than 10.0, or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage 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 property operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, un-ground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders;

Cross References: K.S.A. 12-3105; K.S.A. 65-171d; K.S.A. 65-171j.

**4-602. REGULATED DISCHARGE.** The discharge of the following substances, materials, waters, or wastes may be regulated, restricted, or prohibited if it appears likely in the opinion of the Director of Public Works that such wastes can harm either the sewers, sewage treatment process or equipment, have an adverse effect on the receiving stream, or can otherwise endanger life, limb, public property, or constitute a nuisance. In forming his opinion as to the acceptability of these wastes, the Director of Public Works will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant, and other pertinent factors.

(a) Any liquid or vapor having a temperature higher than 150, F (65, C).

(b) Any water or waste containing fats, wax, grease, or oils, whether emulsified or not, in excess of one hundred (100) mg/l or containing substances which may solidify or become viscous at temperatures between 32, and 150°F (0' and 65°C).

(c) Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of three-fourths (3/4) horsepower (0.76 hp metric) or greater shall be subject to the review and approval of the Director of Public Works.

(d) Any water or wastes containing strong acid iron pickling wastes, or concentrated plating solutions whether neutralized or not.

(e) Any waters or wastes containing iron, chromium, copper, zinc, and similar objectionable or toxic substances; or wastes exerting an excessive chlorine requirement, to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the

Director of Public Works, or an authorized representative for such materials, or pretreatment requirements established by state, federal, or other public agencies of jurisdiction for such discharge.

(f) Any water or wastes containing phenols or other taste- or odor- producing substances, in such concentrations exceeding limits which may be established by the Director of Public Works or an authorized representative for such materials as necessary, after treatment of the composite sewage, to meet the requirements of state, federal, or other public agencies of jurisdiction for such discharge.

(g) Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Director of Public Works or an authorized representative in compliance with applicable state or federal regulations.

(h) Materials which exert or cause:

(1) Unusual concentrations of inert suspended solids (such as, but not limited to, Fullers earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride or sodium sulfate).

(2) Excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions).

(3) Unusual BOD, chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.

(i) Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to, such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

(j) Any waters or wastes having (1) a 5-day BOD greater than 300 parts per million by weight, or (2) containing more than 350 parts per million by weight of suspended solids, or (3) having an average daily flow greater than 2 percent of the average sewage flow of the city, shall be subject to the review of the superintendent. Where necessary in the opinion of the superintendent, the owner shall provide, at his expense, such preliminary treatment as may be necessary to (1) reduce the biochemical oxygen demand to 300 parts per million by weight, or (2) reduce the suspended solids to 350 parts per million by weight, or (3) control the quantities and rates of discharge of such waters or wastes. Plans, specifications, and any other pertinent information relating to proposed preliminary treatment facilities shall be submitted for the approval of the Director of Public Works, and no construction of such facilities shall be commenced until said approvals are obtained in writing.

Cross References: K.S.A. 12-3105; K.S.A. 65-171d; K.S.A. 65-171j.

**4-603. PERMITTED ACTIONS.** If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in Section 4-602, and which in the judgment of the Director of Public Works may have a deleterious effect upon the sewage works, processes, equipment, or receiving waters, or which otherwise create a hazard to life to constitute a public nuisance, the Director of Public Works or an authorized representative may:

- (1) Reject the wastes;
- (2) Require pretreatment to an acceptable condition for discharge to the public sewer system;
- (3) Require control over the quantities and rates of discharge; and/or
- (4) Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of this article.

If the Director of Public Works or an authorized representative permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the Director of Public Works or an authorized representative, and subject to the requirements of all applicable codes, ordinances and laws.

Cross References: K.S.A. 12-3105; K.S.A. 65-171d; K.S.A. 65-171j.

**4-604. INTERCEPTORS.** Grease, oil, and sand interceptors shall be provided when, in the opinion of the Director of Public Works or an authorized representative, such are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand, or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the Director of Public Works, and shall be located as to be readily and easily accessible for cleaning and inspection.

**4-605. MAINTENANCE OF FACILITIES.** Where preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense.

**4-606. ACCESS.** When required by the Director of Public Works, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such manhole, when required, shall be accessibly and safely located, and shall be constructed in accordance with plans approved by the Director of Public Works. The manhole shall

be installed by the owner at his expense and shall be maintained by him so as to be safe and accessible at all times.

Cross References: K.S.A. 12-3105. K.S.A. 65-170b.

**4-607. TESTING.** All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this article shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater," published by the American Public Health Association, and shall be determined at the control manhole provided, or upon suitable samples taken at said control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb, and property. The particular analyses involved will determine whether a 24-hour composite of all outfalls of a premises is appropriate or whether a grab sample or samples should be taken. Normally, but not always, BOD and suspended solids analyses are obtained from 24-hour composites of all outfalls whereas pH's are determined from periodic grab samples.

Cross References: K.S.A. 12-3105; K.S.A. 65-170b.

**4-608. RIGHT OF ENTRY.** The Director of Public Works or an authorized representative of the city bearing proper credentials and identification shall be permitted to enter all private properties and or duly negotiated easements, for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, maintenance, and testing in accordance with the provisions of this article.

**4-609. LIABILITY.** While performing the necessary work on private properties referred to in this section, the Director of Public Works or an authorized representative of the city shall observe all safety rules applicable to the premises established by the company and the company shall be held harmless for injury or death to the city employees and the city shall indemnify the company against loss or damage to its property by city employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions as required by this article.

Cross References: K.S.A. 65-170b.

**4-610. STORM WATER.** Storm water and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers, or to a natural outlet approved by the Director of Public Works or authorized representative. Such flows are also subject to state and federal regulations.

**4-611. TAMPERING WITH 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 part of the sewer system. Any person violating this provision shall be guilty of a class B misdemeanor.

**4-612. VIOLATIONS; NOTICE TO CORRECT; PENALTY; CIVIL LIABILITY.**

(a) Any person found to be violating any provision of this article except Section 4-612 shall be served by the city with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. Notice shall comply with Sections 2-104 and 2-105 of the Municipal Code. The offender shall, within the period of time stated in such notice, permanently cease all violations.

(b) Any person who shall continue any violation beyond the time limit provided for in this section shall be guilty of a class B misdemeanor. Each 24-hour period in which any such violation shall continue shall be deemed a separate offense.

(c) Any person violating any of the provisions of this article shall become liable to the City for any expense, loss, or damage occasioned the city by reason of such violation.

Cross References: K.S.A. 65-170d, K.S.A. 65-171f.

**4-613. SAVINGS CLAUSE.** The invalidity of any section, clause, or provision of this article shall not affect the validity of any other part of this article, which can be given effect without such invalid part or parts.

**ARTICLE 7. SEWER RATES**

**4-701. RATE BASIS.** The monthly rates required and which shall be charged and collected by the City of Cherryvale for sewer service furnished or available by the City's sanitary sewer system shall be based upon the quantity of water used and shall be measured by the water meter or meters installed on the premises served, or for which services are available, unless suitable wastewater measuring and recording equipment is furnished and maintained by the person receiving service. The method of determining use will be as follows:

(a) The sewer rate shall be based on the customer's average monthly water usage during October, November, and December of each year. The basis so established shall be used in rendering sewer service bills beginning the first billing date following the establishment of the basis, payable March 1 and thereafter, and shall be used for one year. A new basis shall be established each year from usage during the months as above provided.

(b) The basis for those customers without an established service during the months of October, November, and December from which to calculate the average monthly water usage shall be charged the base sewer rate and the rate for 1,000 gallons of usage. Such basis shall be used until the customer's own basis is established from the next three months of usage.

**4-702. SEWER RATES.** Rates for all classes of users shall be as follows:

(a) SEWER RATES. Sewer rates are hereby changed to \$7.95 for a base service charge and a unit charge of \$3.48 per 1,000 gallons of water consumed based on an average of the October, November, and December water consumption.

(b) RURAL SEWER RATES. The rates for properties located outside of the Cherryvale city limits shall be \$11.93 for a base service fee and a unit charge of \$5.22 per 1,000 gallons of water consumed, based on an average of the October, November, and December water consumption.

**4-703. REVIEW.** The City Administrator or his or her designee shall continue to perform a rate review on a yearly basis and present his or her findings to the Governing Body at the last Council Meeting in November.

**4-704. BILLING.**

(a) All water meters shall be read and bills for both water and sewer service shall be rendered monthly as such services accrue. The office of the City Clerk shall calculate the amount of each bill for water service for the preceding period and shall add thereto the amount of such customer's bills for sewer service computed as hereinbefore specified and shall render to each customer a single bill for such water and sewage service.

(b) For persons liable for payment of a sewer service charge who obtained any water from any source other than the City's water system, such persons shall furnish and maintain suitable wastewater measuring and recording equipment for calculations of the monthly sewage service charge computed as aforesaid.

(c) As used herein, the term "monthly" shall mean a preceding period of approximately one month beginning and ending as near the same day of the month as is practicable for the water meters of the City to be read. In reading said meters and in calculating the water bills and sewer service charges, aforesaid, the monthly period shall extend from the time such meter was read for the preceding month to the date the same is read for a current month.

**4-705. RATE ADJUSTMENT.**

(a) Where it can be established that a customer has experienced a water leak during the period used to calculate the customer's average monthly sewer rate, the customer's sewer charge may be adjusted by using the average water consumption for the past 3 months, excluding the month with the leak.

(b) Where it can be established that a commercial or industrial customer has significantly altered their water usage since the establishment of their monthly sewer charge, the customer may request an adjustment. This adjustment may be calculated by using the average water consumption for the past 6 months. The adjusted sewer charge will be effective until a new basis is established per Section 4-701 (a).

**4-706. UNUSUAL SEWER SYSTEM BURDENS, RATES.** Any business establishment, industry or other user discharging an unusual amount of waste or fluid into the City's sewer system which places an unusual burden upon said system or its sewage treatment works of facilities, shall be charged such reasonable and proper amount as may be fixed from time to time by the governing body of the City, taking into account such unusual burden.

**4-707. OWNERS, LANDOWNERS, LIABILITY.** Owners and occupants of leased premises served by the water and sewer utilities furnished by the city are jointly liable for payment of the cost of any utilities furnished by the City to such premises, whether such water and/or sewer service is furnished upon the application and request of the owner or the lessee of the premises. The owner of any leased premises, or the owner's agent if leasing is through an agent, shall be notified of the delinquency of the occupant of the leased premises in the same manner as notice is provided to customers pursuant to Section 4-109 & 4-110 of this chapter and at the same time of notice to the lessee-customer.

**4-708. SAVINGS CLAUSE.** The invalidity of any section, clause, sentence or provision of this ordinance shall not affect the validity of any other part of this article which can be given effect without such invalid part or parts.

## **ARTICLE 8. PRIVATE SEWER SYSTEMS**

**4-801. PRIVATE SYSTEMS.** Where a public sanitary sewer is not available under the provisions of Section 4-502, the building sewer shall be connected to a private sewage disposal system complying with the provisions of this article.

Cross References: K.S.A. 65-171h,

**4-802. PERMIT.** Before commencing with the construction of a private sewage disposal system, the owner shall first obtain authorization from the Montgomery County Department of Environmental Health & Zoning. Following this approval, the owner shall obtain a written permit signed by the City of Cherryvale Director of Public Works. The application for such 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 Director or an authorized representative. A permit and inspection fee of Fifty Dollars (\$50.00) shall be paid to the City Clerk at the time the application is filed.

**4-803. INSTALLATION AND INSPECTION.** A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the Montgomery County Department of Environmental Health and Zoning and the Director of Public Works, who shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for the permit shall notify the Director when the work is ready for final inspection, and before any underground portions are covered. The inspection shall be made within forty-eight (48) hours of the receipt of notice by the Director or authorized representative.

**4-804. REQUIREMENTS.** The type, capacities, location, and layout of a private sewage disposal system shall comply with all recommendations of the Kansas Department of Health and Environment. 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 fourteen thousand five hundred twenty (14,520) square feet (1306.8 square meters). No septic tank or cesspool shall be permitted to discharge to any natural outlet.

Cross References: K.S.A. 65-171h, minimum standards.

**4-805. SUBSEQUENT CONNECTION.** At such time as a public sewer becomes available to a property served by a private sewage disposal system, the City shall require the user to make a direct connection to the public sewer in compliance with this article, the building sewer shall be connected to said public sewer within ninety (90) days and the private sewage disposal system shall be cleaned of sludge and filled with clean bank-run gravel, locally available chat, or soil.

Cross References: K.S.A. 12-631, mandatory sewer connection.

**4-806. OPERATION.** The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the City.

SECTION TWO: All previous versions of Chapter IV of the Municipal Code, all previous ordinances dealing with Chapter IV, not included in the ordinance, and all other ordinances in conflict herewith are hereby repealed.

SECTION THREE: That this ordinance shall be in force and effect upon its approval by the governing body of the City of Cherryvale and publication in the official city newspaper.

PASSED AND APPROVED by the Governing Body of the City of Cherryvale, Kansas  
this 20<sup>th</sup> day of December, 2010.

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John M. Wright, Mayor  
City of Cherryvale

ATTEST:

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Karen Seifert, Deputy City Clerk  
City of Cherryvale

(SEAL)