

Chapter 23

**UTILITIES\***

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**ARTICLE I. IN GENERAL**

**Sec. 23-1. Location of underground facilities.**

In order to eliminate unnecessary breaking of pavements in the installation and repairing of sewers, water mains, gas mains, telephone conduits, and similar facilities, no sewer, water main, gas main, telephone conduit or other similar structure shall be laid under any pavement or in the space reserved for any pavement except at intersections or other points' where pavement is crossed. (Gen. Ords. 1959, §12.13)

**Sec. 23-2. Underground utility service lines.**

All electrical, telephone, cable television and other utility service lines from the utility distribution system to newly erected buildings shall be installed underground. (Ord. No. 8492, §2, 3-7-96)

**Secs. 23-3—23-31. Reserved.**

**\*Cross reference** - Excavations, §20-115 et seq.

**State law references** - Authority to establish utilities rates, RSMo. §77.490; municipally owned utilities, RSMo §91.010, et seq. Supp. No. 26.

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### ARTICLE II. ADMINISTRATION OF CITY UTILITIES

#### **Sec. 23-32. General supervisory authority of the council.**

The council shall have the management and control of the electric and waterworks systems of the city, and of the assessment of electric and water rates and the collection of revenue therefrom. The council shall enforce the performance of all contracts and work and have charge and custody of all books, property and assets belonging to or pertaining to such plant and systems. The council may make reasonable rules and regulations to require deposits or other securities of customers and to enforce collection of its bills, and may require the city attorney to bring suit thereon. (Gen. Ords. 1959, §23.01)

#### **Sec. 23-33. Street Lights.**

The council shall pay for the installation and maintenance of its street lights and the current therefor shall be furnished by the city-owned electric system. (Gen. Ords. 1959, §23.05)

#### **Sec. 23-34. Revenue from city utilities.**

All funds accruing to the city from the electric or the waterworks system shall be kept in the depository selected by the city as provided by law, this Code or other city ordinance, and shall be separately accounted for in manner and form provided by law. (Gen. Ords. 1959, §23.06)

#### **Sec. 23-35. Reserved.**

#### **Sec. 23-36. Single billing for city utilities and garbage collection authorized; application of payments.**

(a) The Director of Finance is authorized in his discretion to include all charges for electric service, water service, business licenses, inspections, garbage and rubbish collection, ambulance service, and other charges/fees due the City of Kirkwood chargeable to a single customer on a single bill, stating thereon for each of the separate services the current amount thereof and the total of such current amounts, and stating as a single sum the total of all delinquencies from all sources combined without itemization.

(b) In the event the Director of Finance shall use a single bill, as provided in subsection (a), and any customer shall pay less than the total amount shown due thereon, the city collector, for bookkeeping purposes, shall prorate the payment among the services for which the charges were made. Any delinquency in the payment by a customer for electric service, water service or garbage and rubbish collection service, ambulance service, and other charges/fees resulting from the proration of a less than full payment amount being received from the customer, shall be construed a failure to pay for the service and the Director of Finance, in such a case, is authorized to follow the procedures as provided by this Chapter for cutting off or terminating said service and causing a lien to be placed upon the real property so served for the failure to pay the charges for such service.

(Ord. No. 8564, §1, 11-21-96; Ord. No. 9400, §1, 5-20-04)

#### **Sec. 23-37. Designation of third party to receive any notice from city pertaining to change of service, etc.; form of notice; city not liable for failure to notify such person.**

(a) Any customer of the city utility department may designate a third person to receive copies of all notices from the city pertaining to overdue statements, a proposed cut off of services due to

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nonpayment, notice of intent to place lien upon real property, required access to department personnel for purposes of meter reading or servicing, and such other times as in the judgment of the utility department or city comptroller such notice is desirable.

(b) The city shall use its efforts to comply with such requests. However, in no event shall the city be liable for failure of such notice to be sent to such designated person. The designated person shall assume no liability with respect to any obligation of the customer nor shall such designation in any way relieve the obligations of the customer to the city appertaining to the purchase of electrical energy or water from the city.

(Ord. No. 7163, §1, 3-1-84; Ord. No. 8564, §2, 11-21-96)

### **Sec. 23-38. Payment Date Extension for Retirees and Senior Citizens.**

Customers who are permanently retired or are at least 62 years old may be eligible for a due date extension upon written request. (Ord. No. 8153, §1, 9-3-92)

### **Secs. 23-39—23-56. Reserved.**

(Ord. No. 9130, §1, 2-7-02)

## **ARTICLE III. CITY ELECTRIC SYSTEM**

### **DIVISION 1. GENERALLY**

#### **Sec. 23-57. Reserved.**

#### **Sec. 23-58. Application for service.**

No building or premises shall be connected with the electric system of the city until an application shall be made therefor on printed blanks to be furnished by the city comptroller giving the full name of the person desiring to use the electric current and the location of the property. (Gen. Ords. 1959, §24.01(a))

#### **Sec. 23-59. Application to contain discontinuance notice.**

All applications for electric service shall carry the following legend:

"Electric service may be discontinued if any bill is not paid in full for three (3) consecutive months, as provided for in Section 23-88 of the Kirkwood Code of Ordinances. The bill may also be specially assessed against the real property and become a lien thereon and placed on the tax roll. Further, if a bill for any month is not paid in full before the next monthly bill is sent out, interest will be charged on the unpaid balance and continue until the bill is paid in full." (Ord. No. 8564, §3, 11-21-96)

#### **Sec. 23-60. Deposit.**

Before electric service is provided, the commercial applicants and renters shall deposit with the Director of Finance such sum as will, in the judgment of the Director of Finance, cover the charge for the consumption of the electric current for ninety (90) days, but not less than sixty dollars (\$60.00). If a

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customer has a period of two (2) years of continuous timely payments the security deposit for a new account may be waived at the direction of the Director of Finance or designee. The Director of Finance may require consumers to increase their deposit at any time so as to bring it up to a sum equal to the charge for the consumption of electric current for the preceding one hundred and twenty (120) days, and if the consumer fails to make such additional deposit within ten (10) days after being notified to do so, the current shall be shut off. The sum so collected shall remain on deposit until electric services have been discontinued, or may be credited to the customer's account after a period of two (2) years of continuous timely payments, or may be extended for additional years. Interest on deposits held by the city as of March 31, 1978 shall commence to earn such interest April 1, 1978. Sums deposited on or after April 1, 1978, shall commence to earn interest from the first day of the month following such deposit. Upon withdrawal of deposit, interest shall be earned to the last day of the month preceding withdrawal. If any funds are on deposit when the service is discontinued, the city collector shall apply the deposit plus interest to any unpaid bills of the consumer and issue a warrant for the balance, if any, to the consumer. (Ord. 1959, §24.01(b); Ord. No. 6248, §1, 3-16-78; Ord. No. 7128, §1, 12-1-83; Ord. No. 8742, §1, 7-16-98)

### **Sec. 23-61. Delinquent bills to be paid.**

The commencement of electric service shall not occur to any premises until the applicant and/or owner of the premises pays all delinquent electric, water, sanitation, and/or any other amounts due and payable to the City of Kirkwood. (Gen. Ords. 1959, §24.01; Ord. No. 8792, §1, 2-18-99)

### **Sec. 23-62. Right of entry of city employees.**

The duly authorized officers or employees of the city shall have the right at all reasonable hours to freely enter the premises of any consumer for the purpose of examining, repairing or reading any meter used in connection with its electric system, or for any other purpose that may be deemed essential for the protection of the interests of the city in relation to its electric system. The refusal of the consumer to permit such entry shall entitle the city to discontinue the service. (Gen. Ords. 1959, §24.07)

### **Sec. 23-63. Meter required.**

No electric current shall be supplied to any consumer except through a meter, which meter shall be furnished and installed by the city and shall be under the exclusive control, jurisdiction and supervision of the city. (Gen. Ords. 1959, §24.08)

### **Sec. 23-64. Fee for testing meters.**

(1) The electric department of the City of Kirkwood shall conduct tests of electric meters upon requests and the following fees shall be charged:

- (a) Charge for testing meter shall be fifteen dollars (\$15.00) unless the meter registers in excess of one hundred and two (102) percent of the actual usage, then there shall be no charge for such test.

(Ord. No. 6281, §1, 5-18-78)

### **Sec. 23-65. Reserved.**

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### **Sec. 23-66. Unlawfully connecting and using electricity.**

No person shall, without the consent of the city, unlawfully and intentionally convert to his use or the use of another person, from any wire or conductor of the city, any portion of the electric current or electricity distributed by the city, or unlawfully and intentionally prevent such current, or any portion thereof, from passing through any meter provided for measuring the same, or unlawfully and intentionally prevent such meter from registering correctly the current passing through it, or aid in any manner the unlawful conversion to his use, or the use of another, or any portion of such electric current, or knowingly accept or receive the use and benefit of electric current which should pass through a meter but has been diverted therefrom or which has been prevented from being correctly registered by a meter provided therefor, or which has been diverted from the wires or conductors of the city. The presence at any time on or about the meter or meters, wires or conductors of any device whatsoever which affects the diversion of electric current without the same being measured or registered by the city, shall constitute prima facie evidence of knowledge on the part of the person, who as owner or lessee, or otherwise at the time has the use, custody or control of the room or building where such device exists, of the existence thereof and the effect thereof, and shall further constitute prima facie evidence of the intention on the part of such person to defraud, and in case a check meter installed by the city registers more current than is registered by the meter installed in the customer's premises, such condition shall constitute prima facie evidence that such unregistered current has been wrongfully diverted by such customer, and shall further constitute prima facie evidence of the intention on the part of such customer to defraud. (Gen. Ords. 1959, §24.11)

### **Sec. 23-67. Injuring electrical equipment.**

No person shall unlawfully and maliciously destroy, injure or otherwise tamper with any engine, generator, dynamo, machinery, meter, pipe, conduit, line or pole belonging to the city, or destroy, injure or otherwise tamper with any wires, cables, lamps or other apparatus placed upon poles belonging to or leased by the city. (Gen. Ords. 1959, §24.12)

### **Sec. 23-68. Disconnection for violation of rules; reconnection fee.**

(a) The city reserves the right to discontinue the supply of electric current to any consumer for a violation of any of the rules and regulations of the city relating to the electric system.

(b) The Director of Finance shall give notice in writing to the customer by United States mail, postage prepaid, to the billing address of such customer as shown on the application originally made for such electric service, or on any amendment to such application as to mailing address or if no such mailing address is set forth, to the address of the premises where the current was consumed, which notice shall set forth the violation of the rule or regulation or rules and regulations complained of, and if within five (5) days of the date of the notice, the violation has not ceased, the city clerk shall certify such fact to the superintendent of the electric department, or to the person acting in the capacity of the superintendent of the electric department if there is none, and the electric department shall forthwith discontinue the electric service to such consumer.

(c) A failure on the part of the consumer to actually receive the notice set forth in subsection (b), shall not be an excuse or justification for the failure to correct the violation nor shall it prevent the discontinuance of the electric service to such consumer.

(d) After electric service has been discontinued as provided in this section, it shall not be renewed until all bills for electric service due and owing to the city have been paid, the deposit for service

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required by this division has been made, and the actual cost of the discontinuance of the service not to exceed fifty dollars (\$50.00), has been paid; if the reconnection is made other than during normal working hours, the actual cost, without limit, shall be charged.

(Gen. Ords. 1959, §26.09; Ord. No. 4675, §3, 2-9-61; Ord. No. 5552, §1, 11-16-72; Ord. No. 6682, §1, 1-22-81; Ord. No. 6913, §1,8-5-82; Ord. No. 7122, §1(a), 11-17-83; Ord. No. 7656, §3, 5-7-87; Ord. 9430, §6, 10-7-04)

**Secs. 23-69—23-83. Reserved.**

### DIVISION 2. RATES, CHARGES AND BILLING

**Sec. 23-84. Rates established.**

Electric current disposed by the city shall be sold at the rates set forth below:

- (a) *Definitions.* As used in this section, the terms and symbols shall have the meanings indicated.
  - (1) *Class of customer.* Each customer shall be in a rate class according to the type of customer, quantity of current used, demand for current and type of service as set forth:
    - (i) *Residential class (Class R).* This class shall include customers utilizing current for usual residential purposes only including:
      - a. A single-family residential structure.
      - b. Separately metered units occupied for residential or sleeping purposes only in a multiple-unit structure.
      - c. Single metered multiple-occupancy buildings used for residential occupancy only subject to rate calculations set forth for such class.
    - (ii) *General service class.* This class shall include all nonresidential, secondary service customers including:
      - a. *Class GS-A.* Small general service customers are those whose demand is usually less than 100 kw in the summer.
      - b. *Class GS-B.* Large general service customers are those whose demand is 100 kw or greater in the summer.
    - (iii) *Primary service class (Class P).* This class shall include customers of service supplied at a standard three phase primary service voltage.

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- (iv) *Outdoor lighting class (Class OL).* This class shall include approved private street lighting and outdoor lighting area fixtures. Approved fixture styles include:
  - a. Incandescent lamps installed and approved prior to September 30, 1963.
  - b. Standard side-mounted mercury vapor hood with open bottom glassware.
  - c. Pole-mounted, directional, mercury vapor luminaire; limited to installation on existing wood pole accessible to electric department basket truck and provided that capacitors, sectionalizers, regulators, cable terminations or 34.5 kw switches are not mounted on such pole.
  - d. Post-top-mounted, enclosed, mercury vapor luminaire, including standard post; limited to installations taken under ten-year contracts only.
  
- (2) *Seasonal rate.* Winter and summer rates are as follows:
  - (i) *Winter.* The winter rate includes the months in which bills are rendered in October, November, December, January, February, March, April and May.
  - (ii) *Summer.* The summer rate includes the months in which bills are rendered in June, July, August and September.
  
- (3) *Symbols utilized.* As used within this section, the following symbols have the meanings set forth:
  - (i) kw: Kilowatt
  - (ii) kwh: Kilowatt hour
  - (iii) W: Winter season
  - (iv) S: Summer season
  - (v) X: kwh
  - (vi) Y: kw
  
- (b) *Rate schedules.* The following rates shall apply for the classes and seasons indicated. Such rates do not include any taxes of any kind and such taxes as may be imposed from time to time shall be added thereto:

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Class R (Residential)  
Bill Code E1

Each users charge shall be the total of the customer charge plus an energy charge:

Summer Rate (Applicable during four (4) monthly billing periods of June through September)

Customer Charge, per month.....	\$ 8.03
Energy Charge, per kwh.....	9.67¢

Winter Rate (Applicable during eight (8) monthly billing periods of October through May)

Customer Charge, per month.....	\$8.03
Energy Charge	
First 750, per kwh .....	6.87¢
Over 750 kwh, per kwh.....	4.61¢

- (1) *Budget Billing. A Budget Billing Payment Plan will be available to all residential customers. To maintain eligibility in the Plan the budget amount must be paid monthly unless other arrangements have been made with the City's Director of Finance. Customers may request discontinuance of the Plan at any time by contacting Customer Service. Monthly budget payments may be adjusted during the Plan year to compensate for changes in usage, climate, or rates.*

*The total monthly bill to each multiple occupancy residential building to which service is delivered and metered at one point shall be equal to the total number of dwelling units therein multiplied by the bill per dwelling unit, which bill per dwelling unit shall be calculated by applying the applicable residence rate to the average kilowatt-hour use per dwelling unit (equal to the total building use divided by the number of dwelling units, rounded to the nearest kilowatt hour.) Electrical use for common building services such as hall lights, elevators and laundry areas used exclusively by tenants may be metered and billed through the main building meter.*

Purchase Power Adjustment (Rider PPA). *A purchased power adjustment will be applicable to all metered kilowatt-hours (kwh) of energy. During the **summer** months a purchase power adjustment of **0.4225¢** shall be applied to all metered kilowatt-hours. During the **winter** months a purchase power adjustment of **1.13¢** shall be applied the **first 750** kilowatt-hours and a purchase power adjustment of **3.39¢** shall be applied to all metered kilowatt-hours **over 750**.*

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Class GS-A (Small General Service)  
Bill Code E3

Each users charge shall be the total of the customer charge plus an energy charge:

Summer Rate (Applicable during four (4) monthly billing periods of June through September)

Customer Charge	
Single-Phase, per month .....	\$9.33
Energy Charge, per kwh.....	9.20¢

Winter Rate (Applicable during eight (8) monthly billing periods of October through May)

Customer Charge	
Single-Phase Service, per month.....	\$ 9.33
Three-Phase Service, per month .....	18.56
Energy Charge	
Base Use, per kwh.....	6.86¢
Seasonal Use (1), per kwh.....	3.96¢

(1) The winter seasonal energy use shall be all kwh in excess of one thousand (1,000) kwh per month and in excess of the lesser of: (a) The kwh use during the preceding May billing period, or (b) October billing period, or (c) the maximum monthly kwh use during any preceeding summer month.

1. Rate Application. This rate is applicable to all secondary service supplied for general use which does not qualify for any other secondary rate.
2. Character of Service Supplied. City will specify and provide a standard single-and/or three-phase alternating current secondary service voltage.
3. Cumulation of Services. Service taken through each meter by the same customer on the same premises under this Service Classification will be cumulated for billing purposes. Additional service, if any, supplied through facilities installed on and after January 1, 1991, will not be cumulated or otherwise combined for billing purposes with any other service supplied to customer.
4. Customers Without Prior Billing Determinants. Customers on this rate who did not have sufficient use during preceding billing periods to establish their Base use for the winter billing season will be billed entirely on the Base rate unless electric heating supplies the customer's entire space heating requirements, in which case one-half (1/2) of all use in excess of one thousand (1,000) kwh will be billed on the Base rate and one-half (1/2) on the Seasonal energy rate.

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- 5. Budget Billing. A Budget Billing Payment Plan will be available to all small general service customers. To maintain eligibility in the Plan the budget amount must be paid monthly unless other arrangements have been made with the City's Credit and Utility Billing supervisor. Customers may request discontinuance of the Plan at any time by contacting Customer Service. Monthly budget payments may be adjusted during the Plan year to compensate for changes in usage, climate, or rates.

Purchase Power Adjustment (Rider PPA). A purchased power adjustment will be applicable to all metered kilowatt-hours (kwh) of energy. During the summer months a purchase power adjustment of 0.8925¢ shall be applied to all metered kilowatt-hours. During the winter months a purchase power adjustment of 1.14¢ shall be applied the first 750 kilowatt-hours and a purchase power adjustment of 4.04¢ shall be applied to all metered kilowatt-hours over 750.

GS-B (Large General Service)
Bill Code E4

Each users charge shall be the total of the customer charge plus the demand charges, plus the energy charge subject to the limitation indicated.

Summer Rate (Applicable during four (4) monthly billing periods of June through September)

Table with 2 columns: Description and Amount. Rows include Customer Charge (\$80.89), Energy charge (First 150 kwh per kw of Billing Demand at 8.89¢, Next 200 kwh per kw of Base Demand at 6.69¢, All over 350 kwh per kw of Base Demand at 4.50¢), and Demand Charge: Total Billing Demand, per kw (4.15¢).

Winter Rate (Applicable during eight (8) monthly billing periods of October through May)

Table with 2 columns: Description and Amount. Rows include Customer Charge (\$80.89), Base Energy Charge (First 150 kwh per kw of Base Demand at 5.60¢, Next 200 kwh per kw of Base Demand at 4.15¢, All over 350 kwh per kw of Base Demand at 3.26¢, Seasonal Energy Charge: Seasonal kwh, per kwh at 3.26¢), and Demand Charge: Total Billing Demand, per kw (\$1.54).

- 1. Rate Application. This rate is applicable to all secondary service to (1) any non-residential customer whose billing demand in any summer month exceeds one hundred (100) kw; or (2) at customer's request, to any other non-residential customer.

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2. *Character of Service Supplied.* City will specify and provide a standard single-and/or three-phase alternating current secondary service voltage.
3. *Demand:*
  - a. *Billing Demand.* The monthly billing demand shall be the maximum demand measured during the month but in no event less than one hundred (100) kw.
  - b. *Energy Billing Demand.* Customer's billing demand shall be used to apportion customer's kilowatt hours to the kwh per kw energy rate steps for metered demands of one hundred (100) kw or greater. Where metered demands are less than one hundred (100) kw, the metered demand shall be used as the billing demand for purposes of apportioning kilowatt hours only.
  - c. *Base Billing Demand.* The Base Billing Demand shall be the lesser of: (a) the customer's billing demand established during the preceding May billing period, or (b) October billing period; or (c) the maximum billing demand established during the preceding summer billing period, but in no event less than one hundred (100) kw.
  - d. *Seasonal Billing Demand.* The Seasonal Billing Demand shall be the customer's winter billing demand in excess of the customer's Base Billing Demand.
  - e. *Base and Seasonal Energy Apportioning.* The kilowatt hours for each winter billing period shall be apportioned to the Base and Seasonal Energy rate steps in the same proportion as customer's Base and Seasonal billing demands.
  - f. *Rate Limitation.* The sum of the Demand and Energy Charges shall be limited to the Rate Limitation times customer's metered kilowatt hours, but in no event shall be less than one hundred (100) kw times the Base Demand Charge plus the customer's metered kilowatt hours times the Energy Charge.
  - g. *Application of Rate Limitation to Customer with Seasonal Demand.* If a customer is billed any kw of seasonal demand in a winter billing period, the kwh's for that billing period shall be apportioned between base use and seasonal use in the same proportion as base demand and seasonal demand, and a separate rate limitation applied to base use and seasonal use.
  - h. *Demand Meters.* When normal use of an existing customer or the estimated use of a new customer exceeds twenty-five thousand (25,000) kwh per month, or City has reason to believe that customer's summer demand exceeds one hundred (100) kw regardless of his kwh use, City will install a demand meter and measure customer's demands.
4. *Cumulation of Services.* Service taken through each meter by the same customer on the same premises under this Service classification will be cumulated for billing purposes. Additional service, if any, supplied through facilities installed on and after January 1, 1991, will not be cumulated or otherwise combined for billing purposes with any other service supplied to customer.

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5. *Customers without Prior Summer Use. Customers on this rate who did not establish a demand during at least one (1) of the June, July, August or September billing periods shall be billed during the succeeding winter billing periods entirely on the base demand charge.*

Purchase Power Adjustment (Rider PPA). *A purchased power adjustment will be applicable to all metered kilowatt-hours (kwh) of energy. During the **summer** months a purchase power adjustment of **1.31¢** shall be applied to all metered kilowatt-hours **between 151 and 350** and a purchase power adjustment of **3.5¢** for all kilowatt-hours **over 350**. During the winter months a purchase power adjustment of **2.4¢** shall be applied to all metered kilowatt-hours **less than 151**, a purchase power adjustment of **3.85¢** shall be applied to all metered kilowatt-hours **between 151 and 350** and a purchase power adjustment of **4.74¢** for all kilowatt-hours **over 350 and for all seasonal** kilowatt-hours.*

*Class OL (Outdoor Lighting)  
City-Owned:*

CITY OWNED

<i>Type of Fixture</i>	<i>Lumens</i>	<i>Approved Type</i>	<i>Rate Per Month</i>
<i>Mercury Vapor</i>	<i>6,800</i>	<i>B</i>	<i>\$7.60</i>
<i>Mercury Vapor</i>	<i>6,800</i>	<i>D</i>	<i>\$15.91</i>
<i>Mercury Vapor</i>	<i>11,000</i>	<i>B</i>	<i>\$11.63</i>
<i>Mercury Vapor</i>	<i>20,000</i>	<i>C</i>	<i>\$15.75</i>
<i>Mercury Vapor</i>	<i>54,000</i>	<i>C</i>	<i>\$24.91</i>
<i>High Pressure Sodium</i>	<i>9,500</i>	<i>B</i>	<i>\$7.60</i>
<i>High Pressure Sodium</i>	<i>9,500</i>	<i>D</i>	<i>\$15.91</i>
<i>High Pressure Sodium</i>	<i>16,000</i>	<i>B</i>	<i>\$12.80</i>
<i>High Pressure Sodium</i>	<i>25,500</i>	<i>C</i>	<i>\$15.75</i>
<i>High Pressure Sodium</i>	<i>50,000</i>	<i>C</i>	<i>\$24.91</i>

<i>Metal Halide 35 Watt decorative</i>	<i>\$5.20</i>
<i>Metal Halide 70 Watt decorative</i>	<i>\$6.42</i>
<i>Metal Halide 100 Watt decorative</i>	<i>\$10.60</i>
<i>Metal Halide 175 Watt decorative</i>	<i>\$14.30</i>
<i>Metal Halide 250 Watt decorative</i>	<i>\$19.81</i>

*\*All decorative Metal Halide fixture prices include black fiberglass pole.*

<i>Metal Halide 250 Watt Shoe Box</i>	<i>\$18.71</i>
<i>Metal Halide 400 Watt Shoe Box</i>	<i>\$22.58</i>
<i>Metal Halide 1000 Watt Shoe Box</i>	<i>\$49.15</i>

*\*All Shoe Box fixtures include pole.*

<i>Metal Halide 250 Watt Flood</i>	<i>\$15.79</i>
<i>Metal Halide 400 Watt Flood</i>	<i>\$19.66</i>
<i>Metal Halide 1000 Watt Flood</i>	<i>\$46.23</i>

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	<i>Rate Per Month</i>
<i>Pole: 30 to 40 feet as required, per pole.....</i>	<i>\$7.68</i>
<i>Fiberglass Standard 30 feet, per pole .....</i>	<i>\$11.19</i>
<i>Ornamental Concrete, per pole.....</i>	<i>\$17.21</i>
<i>Wire: Standard, 2 cord, per span.....</i>	<i>\$2.38</i>
<i>Guy and Anchor, per set.....</i>	<i>\$2.07</i>
<i>Underground cable installed in and under dirt, per foot.....</i>	<i>7.06</i>
<i>All other underground cable installations, per foot.....</i>	<i>13.45¢</i>

\*

- B: Standard side mounted, luminaire hood with open bottom glassware.*
- C: Pole mounted, directional, mercury vapor luminaire; limited to installation on existing wood pole accessible to Electric Department basket truck and provided that capacitors, sectionalizers, regulators, cable terminations or 34.5 kw switches are not mounted on such pole.*
- D: Post-top mounted, enclosed, luminaire, including standard post; limited to installations taken under 10 year contracts only.*

*Purchase Power Adjustment (Rider PPA). The kilowatt hours for lighting service provided under the terms of this rate shall be subject to the purchase power adjustment (Rider PPA). The kilowatt hour consumption of each lamp whole operating hours are determined by a photoelectric control, shall be determined from the manufacturer's rated wattage multiplied by the number of hours of operation for the month, in accordance with the following schedules:*

<i>Lamp Size</i>	<i>Rating</i>	<i>Billing Burning</i>	
<i>(Lumens)</i>	<i>(Watts)</i>	<i>Month</i>	<i>Hours</i>
<i><u>H. P. Sodium</u></i>			
<i>9,500</i>	<i>120</i>	<i>January</i>	<i>408</i>
<i>16,000</i>	<i>202</i>	<i>February</i>	<i>347</i>
<i>25,500</i>	<i>307</i>	<i>March</i>	<i>346</i>
<i>50,000</i>	<i>482</i>	<i>April</i>	<i>301</i>
		<i>May</i>	<i>279</i>
		<i>June</i>	<i>255</i>
		<i>July</i>	<i>272</i>
		<i>August</i>	<i>298</i>
<i><u>Mercury Vapor</u></i>			
<i>6,800</i>	<i>207</i>	<i>September</i>	<i>322</i>
<i>11,000</i>	<i>294</i>	<i>October</i>	<i>368</i>
<i>20,000</i>	<i>455</i>	<i>November</i>	<i>387</i>
<i>54,000</i>	<i>1080</i>	<i>December</i>	<i>417</i>

*Customer-Owned: Rates per fixture per month unmetered.*

Monthly Rate for Metered Service

<i>Customer Charge Per Meter</i>	<i>\$5.17 per month</i>
<i>Energy Charge</i>	<i>3.49¢ per kwh</i>

Rate Per Unit Per Month for Unmetered Service

<i>Customer Charge per account</i>	<i>\$5.17 per month</i>
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<i>HIGH PRESSURE SODIUM</i>	<i>ENERGY &amp; MAINTENANCE*</i>	<i>ENERGY ONLY</i>
<i>Lumens</i>		
9,500	\$2.78	\$1.35
16,000	\$3.85	\$2.29
25,500	\$4.84	\$3.45
50,000	\$6.98	\$5.41
 <i>MERCURY VAPOR</i>		
6,800	\$3.62	\$2.32
11,000	\$4.89	\$3.30
20,000	\$6.49	\$5.10
54,000	\$13.68	\$12.13

*\*Kirkwood will furnish energy, replace lamps and adjust or replace photo cell. Available to customers with three (3) or more lights.*

*Purchase Power Adjustment (Rider PPA).* *The kilowatt hours for lighting service provided under the terms of this rate shall be subject to the purchase power adjustment (Rider PPA). The kilowatt hour consumption of each lamp whole operating hours are determined by a photoelectric control, shall be determined from the manufacturer's rated wattage multiplied by the number of hours of operation for the month, in accordance with the following schedules:*

<u><i>Lamp Size</i></u> <u><i>(Lumens)</i></u>	<u><i>Rating</i></u> <u><i>(Watts)</i></u>	<u><i>Billing Month</i></u>	<u><i>Burning Hours</i></u>
<u><i>H. P. Sodium</i></u>			
9,500	120	January	408
16,000	202	February	347
25,500	307	March	346
50,000	482	April	301
		May	279
		June	255
		July	272
		August	298
<u><i>Mercury Vapor</i></u>			
6,800	207	September	322
11,000	294	October	368
20,000	455	November	387
54,000	1080	December	417

*Class P (Primary Service)  
Bill Code E2*

*Each users charge shall be the total of the customer charge, plus the demand charges, plus the energy charge.*

*Summer Rate (Applicable during four (4) monthly billing periods of June through September)*

*Customer charge - per month .....\$308.77*

UTILITIES

Energy charge - per kwh .....	2.90¢
Demand charge - per kw of Billing Demand.....	\$17.29
Reactive charge - per kvar .....	30¢

Winter Rate (Applicable during eight (8) monthly billing periods of October through May)

Customer charge - per month.....	\$308.77
Energy charge - per kwh .....	2.56¢
Demand charge - per kw of Billing Demand.....	\$7.85
Reactive charge - per kvar .....	30¢

1. Rate Application. This rate is applicable to primary service supplied by the City.
2. Character of Service Supplied. City will specify and supply a standard three-phase alternating current primary service voltage.
3. Cumulation of Services. Service taken through each meter by the same customer on the same premises under this Service Classification will be cumulated for billing purposes. Such additional service, if any, supplied through facilities installed on and after January 1, 1991, will not be cumulated or otherwise combined for billing purposes with any other service supplied to customer.
4. Demand Meters. City will install demand meters for the measurement of demands.
5. Demand: The billing demand in any month will be the highest 15 minute demand established during the month, but in no event less than one hundred (100) kw.

Purchase Power Adjustment (Rider PPA). A purchased power adjustment will be applicable to all metered kilowatt-hours (kwh) of energy. During the **summer** months a purchase power adjustment of **5.1¢** shall be applied to all metered kilowatt-hours. During the **winter** months a purchase power adjustment of **5.44¢** shall be applied to all metered kilowatt-hours.

METER ADJUSTMENT

MA

ADJUSTMENTS OF METER READINGS FOR METERING AT A VOLTAGE NOT PROVIDED FOR IN RATE SCHEDULES

Where service is metered at a voltage other than the voltage provided for under the applicable rate schedule, an adjustment in both the kilowatt hour and kilowatt meter readings for the total service will be made as follows:

- (1) Primary Delivery Metered at Secondary Voltage: Add sixty-eight one hundredths of one percent (0.0068) to the secondary meter readings.
- (2) Secondary Delivery Metered at Primary Voltage: Deduct sixty-eight one hundredths of one percent (0.0068) from the primary meter readings. Where city provides additional

## UTILITIES

*distribution facilities beyond its primary meter (limited to existing connections) said service shall be billed on City's Primary Service Rate and no adjustment shall apply.*

*City shall not be required to provide any distribution facilities beyond the metering point except when required for engineering or other valid reasons.*

(c) *Effective Dates.* The effective dates for the rates set forth above shall be as follows:

<i>Class R</i>	<i>Effective Date – October 2002 Billing Cycle</i>
<i>Class GS-A</i>	<i>Effective Date – October 2002 Billing Cycle</i>
<i>Class GS-B</i>	<i>Effective Date – October 2002 Billing Cycle</i>
<i>Class OL</i>	<i>Effective Date – October 2002 Billing Cycle</i>
<i>Class P</i>	<i>Effective Date – October 2002 Billing Cycle</i>
<i>Class MA</i>	<i>Effective Date – October 2002 Billing Cycle</i>

(d) *Services to be supplied:* The city shall furnish the service indicated to each of the specific rate classes as indicated:

1. R. Standard single-phase service voltage. Three phase residential secondary service may be added but readings shall be combined with single-phase service. No more than one single-phase and one three-phase meter will be accumulated for billing.
2. GS-A, B. Standard single- or three-phase secondary voltage. In the event consumption exceeds 25,000 kwh per month, or in the event the superintendent of utilities has reason to believe the customer's demand exceeds 250 kw, the city may require the installation of a demand meter.
3. P. Standard three-phase primary voltage with demand meter.
4. OL Supply, install and maintain approved fixtures and supply appropriate current for fixtures. The service rendered to this class shall in addition to all other applicable provisions of the city ordinances be subject to the following terms and conditions:

(i) *Standard equipment.* Customers shall select the type of lamp and lumen rating of the standard equipment offered by the electric department and shall specify the desired location of the fixture. The outdoor area lighting service provided a customer hereunder shall be supplied through fixtures attached to distribution poles of the electric department, if in the sole determination of the electric department such pole can be utilized. No more than one additional pole may be installed and utilized for the exclusive purpose of rendering service hereunder unless for the purpose of providing private street or private outdoor area lighting.

(ii) *Special equipment.* At the request of the customer and in the sole discretion of the electric department, the city may install nonstandard equipment. Before any such *installation* shall be made by the electric department, customers shall pay to the electric department, in advance, the estimated installed cost of special equipment and the

## UTILITIES

payment shall not be subject to refund. Rates for such special installation shall be determined by the city and set forth in the contract between the city and customer.

(iii) *Contract.* The customer shall enter into a contract on approved forms for the type of service *desired*. In the case when only lamps and fixtures are to be installed, the minimum term of such a contract shall be one year. If any additional facilities or special installation work is required, the minimum contract period shall be three (3) years. After the original contract term is completed, the contract shall continue in force and shall be subject to termination upon the giving of thirty (30) days' notice either by the electric department or the customer.

(iv) *Permits.* The customer shall furnish to the city without cost to the city or the electric department, and in such form as shall be suitable and approved by the city, all rights, *permits* and easements necessary to permit the installation and maintenance of the equipment on, over, under and across private property where and as needed by the electric department in providing service under this subsection.

(v) *City owns and maintains equipment.* All equipment installed by the electric department shall remain the property of the city, and may be removed by the electric *department* if service is discontinued. Such equipment as herein installed shall be maintained by the electric department during normal business hours.

(e) *Surcharge.* In addition to the above rates there will be imposed a seven and one-half (7 1/2) per cent surcharge in lieu of the license tax of seven and one-half (7 1/2) per cent of the gross receipts of persons selling or distributing electricity in the City of Kirkwood in accordance with section 23-208 of the Code of the City of Kirkwood.

(f) *Fee for service and installation of electric meters and transformers.* There shall be a service and installation fee on the installation of electric meters and transformers at commercial and industrial establishments. Such fee shall be determined by the superintendent of the electric department and shall be determined by the cost of such equipment to the city and the cost of labor to complete the installation. Such fee shall be due and payable within ten (10) days after billing by the city and shall be subject to the same conditions and penalties for delinquency as applies to charges for electrical energy. At all times and for all purposes such equipment shall be deemed the property of the electric department of the City of Kirkwood and the payment of such fees to the city shall not be deemed to be a purchase of such equipment from the city.

**Editor's note** --Ord. 6785,§1, enacted Aug. 6, 1981, amended the Code by adding §23-84(b). Inasmuch as the Code already contained a §23-84(b), the editor redesignated the provisions in §1 of Ord. No. 6785 as §23-84(f)

(g) Special regulations with regard to customers in Classes GS-A, GS-B and P.

(1) The city's rates applicable to industrial and commercial services are based on all such customers maintaining a power factor of not less than ninety (90) per cent lagging. In the event a *customer's* power factor is less than eight-five (85) per cent during periods of normal operation, the city shall have the right to require the customer to install, at his own expense, such corrective equipment as may be

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required to increase the customer's power factor to not less than eighty-five (85) per cent.

- (2) All of the customer's lighting equipment, motor-driven equipment, apparatus, and appliances shall have such characteristics or be equipped with corrective devices so as to enable the city to maintain a satisfactory standard of service. In the case of high motor starting current, violently fluctuating or intermittent loads, the city reserves and shall have the right to require the customer to install, at his own expense, apparatus to correct the objectionable conditions.
  - (3) When a separate or oversized substation or transformer must be installed specifically to eliminate the effect of the objectionable load characteristic from the distribution system which would otherwise have the capacity to supply a normal load of the same size, or where separate transformers and/or service are installed at customer's request to supply apparatus which is sensitive to voltage, the cost of such substation or transformer is considered as a corrective device under (2) above.
  - (4) When a customer fails to install the necessary facilities on its premises to correct the objectionable conditions of its load, or to prevent such objectionable conditions from interfering with the city's supply of satisfactory service to other customers, the city shall have the right to deny service to such customer until the objectionable condition shall have been corrected in a manner satisfactory to the city, provided that no service to any customer shall be discontinued unless such customer has been given ten (10) days' notice of such termination and the right to consult with an appropriate employee of the electric department during such ten-day period.
  - (5) Where corrective equipment may be and is installed by the city on its distribution system to correct any of the aforesaid objectionable conditions, the customer will be required to pay to the city, without refund, the installed cost of such corrective equipment plus three-tenths of one percent ( $\frac{3}{10}$  of 1%) per month of such costs for maintenance of said facilities. All such equipment shall remain the property of the city. In lieu of such payment, and subject to approval by the city, the customers may elect to pay the city a monthly charge equal to three-quarters ( $\frac{3}{4}$ ) percent of the installed cost of such corrective equipment, which monthly charge shall continue for a minimum period of ten (10) years. Such charges are not subject to refund.
- (h) Rider I rates:
- (1) Determination of monthly billing demand definitions. The monthly billing demand of any nonresidential customer who is taking secondary service shall, upon his request therefor, be determined as follows:
    - a. The billing demand in any month shall be the highest demand established during peak hours or fifty (50) percent of the highest demand during off-peak hours, which ever is highest during the month, but in no event less than one hundred (100) kw.

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b. Peak hours and off-peak hours are defined as follows:

Peak hours: 10:00 a.m. to 10:00 p.m., Monday through Friday.

Off-peak hours: 10:00 p.m. of Monday through Thursday to 10:00 a.m. of the following day, and from 10:00 p.m. Friday to 10:00 a.m. Monday. The entire twenty-four (24) hours of the following days:

- New Year's Day
- Good Friday
- Memorial Day
- Independence Day
- Labor Day
- Thanksgiving Day
- Thanksgiving Friday
- Christmas Eve Day
- Christmas Day

All times stated above apply to the local effective time.

(2) Metering equipment cost borne by customer. The customer shall pay for all metering equipment necessary for the application of the provisions of this rider at the charges specified below:

Single meter (1-TM-80) ..... \$14.00 per month

(3) Effective period of rider. This rider, if requested by a customer, shall remain in effect for an initial period of three (3) years, and shall be terminable thereafter on three (3) days' notice.

(i) Rider II rates: NET METERING SERVICE

(1) Applicable Service Territory

Net metering is available in the distribution service territory of Kirkwood Electric at any point on the Utility's existing facilities that have adequate capacity and suitable voltage for delivery of service.

(2) Availability of Service

Net metering service is available to any customer that owns and operates a solar, wind, or biomass generating facility or hydrogen fuel cell with a capacity of not more than sixty (60) kilowatts that is located on the customer's premises, is interconnected and operates in parallel, with the Utility's existing transmission and distribution facilities, and is intended primarily to offset part or all of the customer's own electrical power requirements. Availability of this service is limited by a system total of sixty (60) kilowatts for the Kirkwood Electric distribution system. Once the total installed customer-generation (as defined by RSMo 386.887) on Kirkwood Electric's distribution system reaches sixty (60) kilowatts, no additional customer-generation will be allowed to connect to the

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system. This rider is offered in compliance with Consumer Clean Energy Act (386.887, RSMo Supp. 2002).

(3) Definitions

Net metering means measuring the difference between the electricity supplied by the Utility and the electricity generated by an eligible customer-generator and fed back to the electric grid over the applicable billing period.

(4) Monthly Billing

- 1. The electric service charge shall be computed in accordance with the monthly billing under the customer’s effective standard rate schedule. Under this net metering rider, only the kilowatthour (kWh) units of a customer-generator’s bill are affected.
- 2. If the electricity supplied by the Utility exceeds the electricity generated by the customer-generator during the applicable billing period , the customer-generator shall be billed for the net billable kWhs supplied by the Utility in accordance with the rates and charges under the Utility’s standard rate schedule applicable to the customer.
- 3. If the electricity generated by the customer-generator exceeds the electricity supplied by the Utility, the customer-generator shall be credited for the net value of the electric energy delivered to the Utility during the applicable billing period at the Utility’s avoided cost, with this credit appearing on the customer-generator’s bill no later that the following billing period.

*Kirkwood Electric’s Avoided Cost.....Energy cost, per kwh..... 1.75¢*

(5) Special Conditions

- 1. The customer-generator must have a signed Standard Interconnection Application/Agreement with the Utility.
- 2. The customer-generator is responsible for all costs associated with its generating facility and is also responsible for all costs related to any modifications to the facility that may be required by the Utility for purposes of safety and reliability.
- 3. A net metering facility shall meet all applicable safety and performance standards established by the National Electric Safety Code, the National Electric Code, the Institute of Electrical and Electronic Engineers, and Underwriters Laboratory.

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(j) Rider PPA - Purchase Power Adjustment Clause:

Rider PPA  
Purchase Power Adjustment Clause

Applicability

*This Rider is applicable to kilowatt-hours (kwh) of energy supplies to customers served by Kirkwood Electric Bill Codes E1, E2, E3, E4, including City-owned and Customer-owned Outdoor Lighting.*

*Costs passed through this Purchased Power Adjustment Clause (PPA) reflect differences between actual purchase power costs, estimated purchased power costs and Targeted Reserve Fund Levels.*

*For purposes of this PPA, the true-up year shall be from January 1 through the last day of December of the current year. The Accumulation Periods and Recovery Periods are set forth in the following table:*

<u>Accumulation Period (AP)</u>	<u>Filing Date</u>	<u>Recovery Period (RP)</u>
<i>February through May</i>	<i>By August 1</i>	<i>October through September</i>
<i>June through September</i>	<i>By December 1</i>	<i>February through January</i>
<i>October through January</i>	<i>By April 1</i>	<i>June through May</i>

*Accumulation Period (AP) means the historical calendar months during which the purchased power costs are determined.*

*Recovery Period(RP) means the billing months set forth in the above table during which the difference between the Actual Purchase Power Costs, the Estimated Purchased Power Costs, and the Targeted Reserve Fund Levels are applied to and recovered through the customer billings on a per kwh basis.*

*The Electric Department will make a purchased power adjustment filing (FPPA) to the City Council by each Filing Date. The new rates for which the filing is made will be applicable starting with the Recovery Period that begins following the Filing Date. All FPPA filings shall be accompanied by detailed work papers supporting the filing in an electronic format.*

FPPA Determination

*The difference between the Actual Power Supply Costs, the Estimated Purchased Power Costs, and the Targeted Reserve Fund Levels fro all kwh supplied to Kirkwood Electric customers during the respective Accumulation Periods shall be reflected as an FPPA credit or debit, stated as a separate line item on the customer’s bill and will be calculated according to the following formulas.*

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For the FPPA filing made by each Filing Date, the  $FPPA_C$  rate, applicable starting with the Recovery Period following the applicable Filing Date, to recover purchased power costs as defined below, during the recently-completed Accumulation Period, is calculated as:

$$FPPA_{(RP)} = ((CPP - ECPP) + (ARFL - TRFL)) / S_{RP}$$

The  $FPPA_C$  rate, which will be multiplied by the voltage level adjustment factors set forth below, applicable starting with the following Recovery Period, is calculated as

$$FPPA_C = FPPA_{(RP)} + FPPA_{(RP-1)} + FPPA_{(RP-2)}$$

where:

$FPPA_C$  = Purchased Power Adjustment rate applicable starting with the Recovery Period following the applicable Filing Date

$FPPA_{(RP)}$  = FPPA recovery Period rate component calculated to recover under/over collection during the Accumulated Period that ended prior to the applicable Filing Date.

$FPPA_{(RP-1)}$  = FPPA recovery Period rate component from prior  $FPPA_{(RP)}$  calculation, if any.

$FPPA_{(RP-2)}$  = FPPA recovery Period rate component from prior  $FPPA_{(RP)}$  calculation prior to  $FPPA_{(RP-1)}$ , if any.

$CPP$  = Cost of purchased power reflected in the wholesale purchased power billings.

$ECPP$  = Estimated Cost of purchased power reflected in the fiscal year budget.

$ARFL$  = Actual Reserve Fund Level reflected in the current fiscal year activity.

$TRFL$  = Targeted Reserve Fund Level reflected in the current fiscal year budget.

$S_{RP}$  = Applicable Recovery Period Estimated kwh, at the generation level, subject to the  $FPPA_{RP}$  to be billed.

To determine the FPPA rates applicable to the individual Service Classifications, the  $FPPA_C$  rate determined in accordance with the foregoing will be multiplied by the following voltage level adjustment factors:

Secondary Voltage Service	1.0888
Primary Voltage Service	1.0492

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*The FPPA rates applicable to the individual Service Classifications shall be rounded to the nearest 0.001 cents, to be charged on a cents/kwh basis for each applicable kwh billed.*

### TRUE-UP FPPA

*After the completion of each fiscal year, the Electric Department will make a true-up filing during the normal budget cycle with the City Council. Such a filing will be made every year until all purchased power costs accumulated during the effective period of the PPA have been recovered and trued-up.*

*The true-up adjustment shall be the difference between the revenues billed and the revenues authorized for collection during the fiscal year.*

(k) Rider KGVP - Kirkwood Green Voluntary Program:

### Rider KGVP

### Kirkwood Green Voluntary Program

#### Purpose

*The purpose of this Kirkwood Green Voluntary Program is to provide customers with the option to contribute to the further development of renewable energy purchased or developed by the Electric Department. Qualified renewable energy sources include solar, wind, hydroelectric, geothermal, landfill gas, biomass, biodiesel used to generate electricity, agricultural crops or waste, all animal and organic waste, wood chips, all energy crops, and other renewable resources deemed to be Green-e Certified by the Center for Resources Solution's Green-e standard. All Electric Department customers can voluntarily contribute 1.65¢ per kwh based on their monthly metered kwh usage.*

### MONTHLY CHARGES

*1.65¢ per kwh based on the customer's actual metered usage.*

(Gen. Ords. 1959, §2.402; Ord. No. 4617, §§1—3, 6-23-60; Ord. No. 4746, §1, 1-11-62; Ord. No. 4748, §1, 2-8-62; Ord. No. 4781, §§1, 2, 8-9-62; Ord. No. 4826, §2, 6-20-63; Ord. No. 4863, §§1, 2, 12-12-63; Ord. No. 4864, §1, 12-12-63; Ord. No. 4865, §1, 12-12-63; Ord. No. 4901, §1, 7-9-64; Ord. No. 4938, §1, 1-7-65; Ord. No. 5009, §1, 1-20-66; Ord. No. 5109, §1, 7-13-67; Ord. No. 5147, §1, 12-20-67; Ord. No. 5148, §1, 12-20-67; Ord. No. 5321, §§1—10, 3-12-70; Ord. No. 5458, §1, 1-22-72; Ord. No. 5576, §1, 3-8-73; Ord. No. 5693, §1, 5-2-74; Ord. No. 5733, §1, 7-11-74; Ord. No. 5911, §1, 1-22-76; Ord. No. 5978, §1, 6-17-76; Ord. No. 6071, §1, 1-13-77; Ord. No. 6244, §2, 2-16-78; Ord. No. 6264, §1, 3-23-78; Ord. No. 6283, §§1, 2, 5-18-78; Ord. No. 6300, §1, 7-20-78; Ord. No. 6383, §1, 2-15-79; Ord. No. 6398, §§1, 2, 3-15-79; Ord. No. 6466, §1, 9-20-79; Ord. No. 6467, §§1, 3, 9-20-79; Ord. No. 6468, §1, 9-20-79; Ord. No. 6493, §§1, 2, 10-22-79; Ord. No. 6494, §1, 10-22-79; Ord. No. 6608, §3, 6-19-80; Ord. No. 6743, §1, 5-21-81; Ord. No. 6744, §§1, 2, 5-21-81; Ord. No. 6758, §1, 7-2-81; Ord. No. 6792, §§1, 2, 9-3-81; Ord. No. 6784, §§1—3, 8-6-81; Ord. No. 6785, §1, 8-6-81; Ord. No. 6851, §1, 3-18-82; Ord. No. 6914, §§1, 2, 8-5-82; Ord. No. 6994, §§1, 2, 2-3-83; Ord. No. 7072, §§1, 2, 7-21-83; Ord. No. 7196, §1, 5-17-84; Ord. No. 7236, §§1, 2, 8-16-84; Ord. No. 7304, §§1, 2, 2-7-85; Ord. No. 7339, §§1, 2, 4-18-85; Ord. No. 7369, §1, 6-20-85; Ord. No. 7433, §1, 12-5-85; Ord. No. 7529, §§1, 2, 5-1-86; Ord. No. 7656, §§1, 2, 5, 6, 5-7-87; Ord. No. 7720, §1, 12-17-87; Ord. No. 7734, §§1, 2, 1-21-88; Ord. No. 7759, §1,

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5-5-88; Ord. No. 7829, §§1, 2, 11-7-88; Ord. No. 8024, §§1, 2, 1-3-91; Ord. No. 8450, §1, 9-21-95; Ord. No. 8920, §1, 6-1-00; Ord. No. 9192, §1, 9-5-02; Ord. No. 9326, §1, 8-21-03; Ord. No. 9336, §1, 9-18-03; Ord. No. 9429, §1, 9-16-04; Ord. No. 9682, §1, 7-19-07; Ord. No. 9831, §1, 2-19-09; Ord. No. 9932, §1, 6-17-10)

### **Sec. 23-85. Preparation, correction of bills.**

Bills for the use of electric current from the city electric lighting system shall be made out by the city collector from the records of the latest inspections of electric meters. The amounts charged to each customer shall conform to the rates established by this division. Electric meters will be reinspected for the correction of bills on request of the customer, if the bill is returned and the request is made not later than five (5) days after the bill becomes due. Failure to receive bills shall not entitle customer to any extension of time for reinspection. When the reinspection shows that an overcharge has been made on the original bill, the city comptroller shall thereupon refund the amount of the overcharge to the customer. (Gen. Ords. 1959, §24.03)

### **Sec. 23-86. Billing period.**

(a) Bills for the use of electric current shall in general be made up for the period of thirty (30) or thirty-one (31) days, except that bills for shorter periods may be rendered in those cases where the city collector deems it essential for the protection of the city, or where the use of electric current for a specified purpose is restricted to a definite period of time less than the regular period.

(b) It shall be the duty of the city comptroller to divide the city into as many districts and subdistricts as he may deem necessary. The boundaries of the districts and subdistricts may be changed at the discretion of the city collector.

(c) All bills for the use of electric current on premises within any district or subdistrict shall be made payable on any weekday of the calendar month designated by the city collector, except where applications are made for use of electric current on premises newly built or reconstructed, or where applications for use of electric current made because of a change in owners, tenants or occupants, or because of the occupancy of premises previously vacated, or for any use of electric current necessitating an application for such use on any other date than the one fixed for payment of bills in that district or subdistrict. All short term bills shall be issued so as to terminate on the same date as the full-term bills. (Gen. Ords. 1959, §24.04.)

### **Sec. 23-87. Consumer liable for charges until notice to discontinue service.**

The person who applies for and is granted electric service shall be liable for all current consumed until written notice is delivered to the city comptroller to discontinue the service. (Gen. Ords. 1959, §24.01)

### **Sec. 23-88. Interest charge, discontinuance of service and placement of lien upon the Property for nonpayment of charges.**

(a) Interest charge. In the event an electric service bill is not paid within twenty-one (21) days of the bill date, interest at the rate of one and one-half percent (1½%) will be charged on the unpaid balance as of the cash cut off date of the new bill, including the gross receipts tax amount, and continue to be charged each month thereafter until all overdue amounts are paid in full. A twenty five dollar (\$25.00) fee is charged to the customer on any check returned for insufficient funds.

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(b) Discontinuance of service and placement of lien:

- (1) In the event a customer has an unpaid balance on an electric service account for three (3) consecutive months, the electric service account is deemed to be delinquent. Once an electric service account is deemed delinquent, the city's credit and utility billing supervisor shall provide written notice to the most current billing address of the customer, containing the following:

“NOTICE OF INTENDED DISCONTINUANCE OF ELECTRIC SERVICE  
AND PLACEMENT OF LIEN UPON REAL PROPERTY”

“Your electric bills from the City of Kirkwood for the past three (3) months up to and including the bill of \_\_\_\_\_, 19\_\_ have not been paid in full. Therefore, pursuant to Section 23-88 of the Ordinances of the City of Kirkwood, your electric service will be discontinued if the balance is not paid in full or other arrangements are made with the city's credit and utility billing supervisor within six (6) calendar days from the date of this notice. In addition, a lien may be placed upon your real property in the amount of the unpaid balance.”

- (2) If the customer of electric service fails to pay the bill in full or make other arrangements with the Director of Finance within the aforementioned six-day notice period provided in this section, the city's electric department will forthwith discontinue the electric service to such customer and the bill may be specially assessed against the real property and become a lien thereon and placed on the tax roll.

Notwithstanding the other provisions of this section, the city will not discontinue electric service to residential properties during the months of November through March.

- (3) If a customer is notified of a delinquent electric service account, that customer, prior to the expiration of the six-day notice period provided in this section can request the city's installment payment plan to allow the customer to make partial payments over a specific period of time of the overdue amount. Along with these partial payments as determined by the Director of Finance, the customer must pay in full each succeeding monthly electric service bill.
- (4) The city's credit and utility billing supervisor may, in his/her discretion, consider account history and/or general credit history of the customer in determining whether to allow an installment plan and, if so, the parameters of that plan. The Director of Finance may also order the installation of a current limiting device for the customer. No current limiting device, however, shall be installed at any residential property with central electric heating during the months of November through March.

(c) At the time of the discontinuance of the electric service to a consumer as set forth in subsection (b), a final reading of the meter of such consumer shall be made, and that reading shall be certified to the Director of Finance. The Director of Finance shall determine the full amount due to the city for electric service consumed by the consumer up to the time of the discontinuance of the service, and shall apply any deposit on hand against said amount. If the deposit on hand shall exceed the total amount

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of the final bill for electric service, the balance thereof shall be transmitted to the consumer. If the deposit on hand shall be insufficient to pay the full amount of the final billing, the city collector shall render a final bill for the balance due to the consumer and also transmit the account to the city attorney for further action and collection. At the time of the transmission to the consumer of either a refund from an excess deposit or a final billing for additional amounts due over and above any deposit on hand, the city collector shall set forth all pertinent details as to the amount of electric current consumed, used to determine the final billing.

(d) The failure on the part of the consumer to receive the notice as set forth in subsection (a) shall be no reason or excuse or justification for the failure to pay the bill as required or to prevent the discontinuance of electric service.

(e) When any electric service of a consumer has been discontinued as provided in this section it shall not be resumed for such consumer at the same or any other address until all unpaid bills shall have been paid, and the actual cost of the discontinuance of the service, not exceeding fifty dollars (\$50.00) for reconnections during normal working hours, or the actual cost after normal working hours, shall also have been paid.

(Ord. No. 8564, §4, 11-21-96)

### **Sec. 23-89. City not liable for failure of electric current supply.**

Connection to the city electric supply and the use of such current is accepted by the user of such current upon the express understanding that the city shall not be liable for any damages or injuries by reason of termination of the supply of such electric current for any reason whatsoever. (Ord. No. 7113, §1, 10-20-83)

### **Sec. 23-90. Heat pump/water heater rebate policy.**

The purpose of this policy is to establish uniform standards and guidelines for a Heat Pump/Water Heater Rebate Program. This policy is designed to encourage new and existing Kirkwood Electric customers to install electric heat pumps and electric hot water heaters. The installation of such being a benefit to both the customer and Kirkwood Electric.

The following criteria govern the program:

1. The air conditioning portion of heat pumps must have a SEER rating of 9.5 or greater.
2. The air conditioning portion of heat pumps must have a minimum capacity of 1.5 tons.
3. Water heaters must be a minimum of twenty (20) gallons capacity.
4. All appliances must be permanently installed and operational to be eligible for a rebate.

Following the installation of any electric water heater or heat pump a City of Kirkwood representative will verify the installation and operation of the appliance(s). Within eight (8) weeks of verification, a

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check will be cut in the amount of \$300 for each qualifying heat pump and \$100 for each qualifying water heater and mailed to the owner.

(Ord. No. 8945, §1, 8-17-00)

### **Secs. 23-91—23-108. Reserved.**

(Ord. No. 9130, §1, 2-7-02)

## **ARTICLE IV. CITY WATER SYSTEM**

### **DIVISION 1. GENERALLY**

#### **Sec. 23-109. Office of superintendent of water system created; supervisory authority.**

There is hereby created the office of the superintendent of the water system, who shall have the supervisory authority over the city's water system under the direction of the director of public utilities. (Ord. No. 6111, §1, 4-14-77; Ord. No. 6172, §3, 8-4-77)

**Cross reference**—Director of public utilities, supervisory authority and accountability, §§23-32.1, 23-32.2.

#### **Sec. 23-110. Application for service.**

No water shall be furnished by the city water department to any premises until the person desiring to use the same has made application therefor on printed blanks to be furnished by the Director of Finance giving their full name and the location of the property. (Gen. Ords. 1959, §25.01(a); Ord. No. 9073, §1, 9-20-01)

#### **Sec. 23-111. Application to contain discontinuance and lien notice.**

All applications for water service shall carry the following legend:

Water service may be discontinued if any bill is not paid in full for three (3) consecutive months, as provided for in Section 23-145 of the Kirkwood Code of Ordinances. The bill may also be specially assessed against the real property and become a lien thereon and placed on the tax roll. Further, if a bill for any month is not paid in full before the next monthly bill is sent out, interest will be charged on the unpaid balance and continue until the bill is paid in full.

(Ord. No. 8564, §5, 11-21-96; Ord. No. 9073, §2, 9-20-01)

#### **Sec. 23-112. Deposit may be required for service.**

Before water service is provided, the applicant shall deposit with the Director of Finance such sum as will, in the judgment of the Director of Finance, cover the charge for the consumption of water for three (3) months, but not less than twenty dollars (\$20.00). If a customer has a period of two (2) years of continuous timely payments the security deposit for a new account may be waived at the discretion of the Director of Finance or designee. The sum so collected shall remain on deposit until water services have been disconnected, or may be credited to a customer's account after a period of two (2) years of continuous timely payments, or may be extended for additional years. In determining the amount of

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deposit to be returned to the consumer, interest at the rate of six (6) percent simple interest per annum shall be added thereto. Interest on deposits held by the city as of March 31, 1978, shall commence to earn such interest April 1, 1978. Sums deposited on or after April 1, 1978, shall commence to earn interest from the first day of the month following such deposit. Upon withdrawal of deposit, interest shall be earned to the last day of the month preceding withdrawal. If any funds are on deposit when the service is discontinued, the city shall apply the deposit plus interest on any unpaid bill of the consumer and refund the balance, if any, to the consumer. If the consumption for any quarter exceeds the deposit, the Director of Finance may notify the consumer to increase his deposit to any amount equal to the consumption of water for the quarter, and if the consumer fails to make such additional deposit within ten (10) days, the water shall be shut off. (Ord. 1959, §25.01(b); Ord. No. 6248, §2, 3-16-78; Ord. No. 7127, §1, 12-1-83; Ord. No. 8742, §2, 7-16-98; Ord. No. 9073, §2, 9-20-01)

### **Sec. 23-113. Delinquent bills to be paid.**

The commencement of water service shall not occur to any premises until the applicant and/or owner of the premises pays all delinquent electric, water, sanitation, and/or any other amounts due and payable to the City of Kirkwood. (Ord. No. 8564, §6, 11-21-96; Ord. No. 8792, §2, 2-18-99; Ord. No. 9073, §2, 9-20-01)

### **Sec. 23-114. Connections to water mains.**

No person shall make any attachment or connection with the city water mains without first having obtained a permit signed by the superintendent of the water department. No permit shall be issued except to a duly licensed plumber. All applications for permits shall be upon blank forms furnished by the Director of Finance and shall state the location of the premises and the full name of the owner of the property. All taps shall be made by the city, and the fee for the tap shall be as established by the superintendent of the water department and on file in his office. (Gen. Ords. 1959, §25.07; Ord. No. 9073, §2, 9-20-01)

### **Sec. 23-115. Two premises on the same tap prohibited.**

Two (2) distinct premises or dwellings shall not be supplied from the same tap on the city water main without the consent of the council, in which case a stopcock shall be located near the water main and also a separate stopcock controlling the water supply to each premises or house independently. However, in the event the distinct premises or dwellings constitute units within a condominium structure, wherein articles of condominium have been adopted providing for water service from a common tap, such units within a single structure may be served by a single tap. (Gen. Ords. 1969, §25.08; Ord. No. 6125, §1, 5-5-77)

### **Sec. 23-116. Repair of service pipes.**

Whenever any service pipe or attachment to same, leading from the city water main to any premises, is out of repair, the superintendent of the water department shall notify the owner or his agent or the occupant of the premises to repair the pipes, and if such repairs are not made within thirty-six (36) hours after receipt of such notice, the water shall be shut off. If in the judgment of the superintendent of the water department the interests of the city demand it, he may shut off the water at once without notice. (Gen. Ords. 1969, §25.10)

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### **Sec. 23-117. Maintenance of stopcocks.**

Whenever the stopcock or box controlling the city water supply to any premises is known to be broken, not in a serviceable condition, not adjusted to established grade, or presents a hazardous condition, the director of the water department may notify the owner or occupant of the premises to repair or replace such stopcock or box, and on the failure or refusal to do so, the repair or replacement may be performed by the water department at the owner's expense, or the water may be cut off.

#### **Sec. 23-117.1. Maintenance of meter boxes.**

Whenever the meter box, frame or cover is known to be broken, not in a serviceable condition, not adjusted to established grade, or presents a hazardous condition, the director of the water department may notify the owner or occupant of the premises to repair or replace such meter box, frame or cover, and on the failure or refusal to do so, the water may be cut off.

#### **Sec. 23-117.2. Maintenance of water meters, remote reading attachments.**

Water meters and remote reading attachments that are damaged or destroyed by conditions within the customer's control such as freezing, hot water damage, neglect, misuse or abuse shall be repaired or replaced at the customer's expense. Rates for repairs and replacement shall be established by the director of the water department. (Ord. No. 7940, §3, 2-1-90)

#### **Sec. 23-117.3. Accessibility to meters.**

Whenever a meter is known to be inaccessible for purposes of reading or maintenance, and the cause is within the customer's control, the director of the water department shall notify the owner or occupant of the premises to make the meter accessible, and on the failure or refusal to do so, the water shall be cut off. (Ord. No. 7940, §4, 2-1-90)

### **Sec. 23-118. Meters.**

Unless the city provides meters, each customer of water shall, at their own expense, before using any water supply through the city mains, have installed a meter of a type approved by the director of the water department. (Gen. Ords. 1959, §25.12; Ord. No. 4676, §3, 2-16-61; Ord. No. 7940, §5, 2-1-90)

#### **Sec. 23-118.1. Meter couplings.**

Meters shall be installed in service pipes by the use of meter couplings of a type approved by the director of the water department. Whenever a meter is found to have been installed without approved couplings, the director of the water department shall notify the owner or occupant of the premises to have installed such couplings, and on the failure or refusal to do so, the water shall be cut off. (Ord. No. 7940, §6, 2-1-90)

#### **Sec. 23-119. Stopping service for leaks.**

Whenever the shutting off of the water from any attachment cannot be accomplished or maintained in the ordinary manner, the director of the water department shall cause the tap to be withdrawn, or cut off the attachment from the main pipe, or correct the condition, and reconnection shall not be made without a written permit and payment of all costs by the consumer. (Gen. Ords. 1959, §25.14; Ord. No. 7940, §7, 2-1-90)

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### **Sec. 23-120. Right of the city to stop service; water supply emergency.**

(a) *Generally.* The city reserves the right to shut off the city water supply at any time in the mains for the purpose of repairing, cleaning, making connections with or extensions to same, or for the purpose of concentrating water in any part of the city in case of fire and of restricting the use of water in case of deficiency in the supply.

(b) *Procedure during water supply emergency; water alert levels.* In the event of declaration of a water supply emergency, the following shall occur:

- (1) Available and reasonable means shall be used to inform consumers affected by the emergency that one of the following restrictions shall apply:

Level I. Nonessential use of water shall be prohibited and limited regulated outdoor watering shall apply; or

Level II. Outdoor water usage shall be prohibited.

- (2) The chief of police or his designee, upon witnessing a violation of either a level I or level II water alert, shall issue a written warning to the consumer. This warning shall inform the consumer that continued nonessential or outdoor usage of water shall cause the consumer to be subject to a fine and disconnection as provided for in section 1-8 of the Code of Ordinances.

(Gen. Ords. 1959, §25.15; Ord. No. 7812, §2, 10-20-88)

**Editor's note**—Ordinance No. 7812, §2, adopted Oct. 20, 1988, amended §23-120 by adding a subsection thereto, included herein as §23-120(b). Section 1 of the ordinance was omitted, but provides that the city council may, by resolution, declare a water supply emergency. Section 4 of the ordinance did not specifically amend the Code, but provides as follows:

"Section 4. Any person who violates any section of this ordinance shall be subject to penalties, after written notice, as set forth below:

\$25.00 for the first offense.

Service shall be shut off for the second offense and shall be restored only after the payment of a reconnect fee as provided for in section 23-126."

### **Sec. 23-120.1. Water alert levels defined.**

*Level I water alert.* Only the use of water for the following: personal hygiene, cooking, dishwashing, clothes washing, and consumption by persons and animals, and outdoor watering subject to the following regulation:

Homes with a street address ending with an even number may use water for outdoor purposes on even numbered dates.

Homes with a street address ending with an odd number may use water for outdoor purposes on odd-numbered dates.

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*Level II water alert.* Only the use of water for the following: personal hygiene, cooking, dishwashing, clothes washing, and consumption by persons and animals shall be allowed.

(Ord. No. 7812, §3, 10-20-88)

**Editor's note**—Ordinance No. 7812, §3, adopted Oct. 20, 1988, added a new §23-127. For purposes of classification and ease of reference, the editor has redesignated the new provision as §23-120.1.

### **Sec. 23-121. City not liable for failure of water supply.**

Connections with the city water mains and the use of water is permitted upon the express understanding that the city shall not be liable for any damages or injuries by reason of the breaking or failure of any service pipe or cock, meter, water main, pipeline, hydrant or any appurtenance to the water system, or for shutting off the water for any purpose, or for a diminished, partial or total failure of the water supply, piping or appurtenances. (Gen. Ords. 1959, §25.16; Ord. No. 7940, §8, 2-1-90)

### **Sec. 23-122. Reserved.**

#### **Sec. 23-122.1. Use of water through fire hydrants.**

Use of water through fire hydrants shall be allowed only with the express permission of the director of the water department and only for specific purposes. Permit rules, regulations and fees shall be established by the director of the water department. (Ord. No. 7940, §10, 2-1-90)

### **Sec. 23-123. Right of entry of city employees.**

The city shall have the right, through its duly authorized officers or agents, to freely enter at all reasonable hours any premises when it may be necessary to ascertain the reading of meters, the location or condition of a water pipe or other fixture attached to the city water system, or to shut off or let in water from or to any pipe or other attachment, or for any other purpose that may be deemed essential for the protection of the interests of the city in the water system. Further, the city must be given access to inside water meters at least once each calendar year or the customer must have installed a remote reader at the customer's expense. If the water meter for any given customer is estimated for twelve (12) consecutive months because of no access to the inside meter, the customer shall be notified that within ninety (90) days an actual water meter reading must be taken by the city or a remote reader installed at the customer's expense. If neither occurs within the ninety-day notice period provided in this section, the customer shall be notified that water service will be discontinued within six (6) days from the date of the notice unless an actual reading is taken or a remote reader is installed. (Gen. Ords. 1959, §25.18; Ord. No. 7905, §5, 8-17-89; Ord. No. 8587, §1, 2-20-97; Ord. No. 9073, §2, 9-20-01)

### **Sec. 23-124. Minimum diameter of water mains.**

No water main shall be laid that is less than six (6) inches in diameter. (Gen. Ords. 1959, §25.19; Ord. No. 7940, §11, 2-1-90)

### **Sec. 23-125. Manner of installing water mains, service pipes and appurtenances, generally.**

All water mains, service pipes, meters and appurtenances to the water system shall be laid by methods prescribed by the director of the water department. The type of materials used for water mains,

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service pipes, meters and appurtenances to the water system shall be prescribed by the director of the water department. (Gen. Ords. 1959, §25.20; Ord. No. 7940, §12, 2-1-90)

### **Sec. 23-126. Shutting off water for violation of rules; reconnection fee.**

(a) The city reserves the right to shut off the supply of water to any consumer at any location for a violation of any of the rules and regulations of the city relating to the water system.

(b) The Director of Finance shall give notice in writing to the customer by United States mail, postage prepaid, to the billing address of such customer, as shown on the application originally made for water service or on any amendment to such application as to mailing address or if no such mailing address is set forth, to the address of the premises where the water was consumed, which notice shall set forth the violation of the rule or regulation or rules and regulations complained of, and if within five (5) days of the date of said notice such violation has not ceased, the Director of Finance shall certify such fact to the superintendent of the water department, or to the person acting in the capacity of the superintendent of the water department if there be none, and the water department shall forthwith discontinue and shut off the water service to such customer.

(c) A failure on the part of the customer to actually receive the notice as set forth in subsection (b) shall not be an excuse, reason or justification for the failure to correct the violation or violations nor shall it prevent the discontinuance and shutting off of the water service to such customer.

(d) After water service has been discontinued and shut off as provided in this section, it shall not be renewed or resumed until all bills from water service due and owing to the city have been paid, the deposit for service required by this division has been made, and the actual cost of the discontinuance and shutting off the service, not to exceed fifty dollars (\$50.00), for the reconnections during normal working hours, shall have been paid.

(Gen. Ords. 1959, §25.13; Ord. No. 4676, §5, 2-16-61; Ord. No. 5552, §1, 11-16-72; Ord. No. 7905, §6, 8-17-89; Ord. No. 9073, 9-20-01; Ord. No. 9259, §1, 6-19-03; Ord. No. 9430, §6, 10-7-04 )

### **Sec. 23-127. Prevention of backflow.**

(a) *Customer's responsibilities regarding unprotected cross-connections.* No customer shall cause or allow the construction or maintenance of, or use or allow the use of an unprotected cross-connection.

(b) *Class I backflow hazards.* Those facilities classified as actual or potential Class I backflow hazards by the Missouri Department of Natural Resources, the building commissioner or the director of the water department shall be equipped with an air gap separation or reduced pressure principle backflow prevention assembly. The following facilities are classified as Class I backflow hazards:

- (1) Aircraft and missile manufacturing plants.
- (2) Plants manufacturing vehicles, and construction and agricultural equipment.
- (3) Potable water dispensing stations.

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- (4) Beverage bottling plants, dairies, and breweries.
- (5) Canneries, packing houses, and reduction plants.
- (6) Car washes.
- (7) Chemical, biological and radiological laboratories, including those in educational and research institutions.
- (8) Hospitals, clinics, medical buildings, autopsy facilities, morgues, mortuaries, and other medical facilities.
- (9) Metal or plastic manufacturing, fabrications, cleaning, plating or processing facilities.
- (10) Plants manufacturing paper and paper products.
- (11) Plants manufacturing, refining, compounding or processing fertilizer, film, herbicides, natural or synthetic rubber, pesticides, petroleum or petroleum products, pharmaceuticals, radiological materials or any chemical which would be a contaminant to the public water system.
- (12) Commercial facilities that use herbicides, pesticides, fertilizers or any chemical which would be a contaminant to the public water system.
- (13) Plants processing, blending or refining animal, vegetable or mineral oils.
- (14) Commercial laundries and dye works.
- (15) Sewage, stormwater and industrial waste treatment plants and pumping stations.
- (16) Waterfront facilities including piers, docks, marinas and shipyards.
- (17) Industrial facilities which recycle water.
- (18) Restricted or classified facilities or other facilities closed to the supplier of water or the Missouri Department of Natural Resources.
- (19) Fire sprinkler systems using any chemical additives.
- (20) Auxiliary water systems.
- (21) Irrigation systems.
- (22) Portable tanks for transporting water taken from a public water system.
- (23) Facilities which have pumped or repressurized cooling or heating systems that are served by a public water system, including all boiler systems.

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(c) *Class II backflow hazards.* Those facilities classified as actual or potential Class II backflow hazards shall be equipped with a double-check valve assembly. The following facilities are classified as Class II backflow hazards:

- (1) Tanks to store water from the public water system for firefighting only.
- (2) Fire sprinkler systems not using chemical additives.
- (3) Cross-connections that could permit introduction of contaminants into the public or customer water system and thereby create a nuisance, be aesthetically objectionable or cause minor damage to the public water system or its appurtenances.

(d) Authority of the director of the water department or the department of natural resources to designate backflow hazards. Facilities not designated a backflow hazard by ordinance may be designated a backflow hazard by the director of the water department or the department of natural resources.

(e) Standards of construction and installation.

- (1) The discharge pipe of an air gap shall terminate a minimum of two (2) pipe diameters of the discharge pipe above the flood level rim of the receiving vessel; in no case shall the distance be less than one (1) inch.
- (2) Only those models of backflow prevention devices which are on the approved list maintained by the department of natural resources are acceptable.
- (3) Standards of installation of backflow prevention devices shall be established by the Missouri Department of Natural Resources, the building commissioner, and the director of the water department.
- (4) Reduced pressure principle devices shall be installed with no plug or additional piping affixed to the pressure differential relief valve port. The relief valve port shall be a minimum of twelve (12) inches above the floor level, and shall be positioned to allow leakage to be easily noticed.
- (5) Whenever possible, backflow prevention assemblies shall be installed in the customer's water service pipe immediately inside the wall where the pipe enters the building.
- (6) Bypass piping around a backflow prevention assembly, if installed, shall be equipped with an identical assembly.
- (7) Standards of installation shall be at least as stringent as the department of natural resources regulation 10 CSR 60-11.010.
- (8) The customer shall have each assembly inspected and tested by a certified backflow prevention assembly tester at the time of construction or installation and each year thereafter, no later than thirty (30) days past the anniversary of the original inspection test date.

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- (9) Inspection and tests shall comply with requirements of department of natural resources regulation 10 CSR 60-11.010.
- (10) Backflow prevention assembly testers shall be certified through a department of natural resource approved program and be listed with the department.
- (11) Testers shall report to the supplier of water and the customer the results of inspections or tests conducted in compliance with state regulation 10 CSR 60-11.010. Reports of tests shall contain the signature of the certified tester, attesting to the compliance of the assembly with established operational requirements. Reports shall be submitted within thirty (30) days after performing the inspection or test together with a \$10 fee which shall cover the processing of such reports.

(f) *Violation; penalty.* A violation of any part of this section shall cause the customer's water supply to be disconnected by the water department.

(Ord. No. 7940, §13, 2-1-90; Ord. No. 8789, §1, 2-4-99)

**Secs. 23-128—23-141. Reserved.**

DIVISION 2. RATES, CHARGES AND BILLING

**Sec. 23-142. Water rates.**

(a) Except as provided herein, water furnished to all customers by the City shall be metered. Charges for such water shall be as follows:

MINIMUM CUSTOMER CHARGE

<u>METER SIZE</u>	<u>MINIMUM MONTHLY CHARGE</u>	<u>MINIMUM QUARTERLY CHARGE</u>	<u>PRORATED CHARGE</u>
5/8"	\$8.40	\$12.31	\$9.38
3/4"	9.38	15.25	10.85
1"	11.36	21.15	13.78
1-1/2"	16.25	35.84	21.14
2"	22.12	53.47	29.95
3"	37.81	100.55	53.50
4"	55.45	153.48	79.96
6"	104.47	300.53	153.47
8"	163.29	476.99	241.70
10"	241.72	712.25	359.34
12"	320.14	947.53	476.97

*Water charge:* In addition to the minimum customer charge, for all water used as registered by the meter the charge is \$2.2919 per 100 cubic feet.

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(b) Customers with unmetered fire protection will be billed at the following rates based upon the size of tap in the Water Department's main.

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<u>TAP SIZE</u>	<u>ANNUAL RATE</u>
2" or less	\$27.95
4"	111.58
6"	251.05
8"	446.36
10"	697.47
12"	1004.45

(2) Charges under this section (b) shall be paid monthly in advance. Rates in existing annual contracts at the time of the effective date of the rate change prescribed herein shall not be changed until such contract's annual term expires.

(c) Charges for public fire hydrant service shall be a monthly charge, billed quarterly or monthly in advance, consistent with the billing period for regular water service, and shall be determined as follows:

$$\text{Monthly charge:} = \frac{(N \times R) + U}{A \times 12}$$

Where:

N = Number of public fire hydrants at date of determination

R = Annual service charge of \$251.05 per fire hydrant

U = Unamortized investment in fire hydrants ordered removed, relocated, or discontinued plus cost of removal less salvage in the most recent 12-month period ending December 31.

A = Number of active customers at date of determination.

Billing for this service shall be in addition to charges for regular water service. Customers terminating service within a billing period shall not be entitled to a refund of any part of a previously paid fire hydrant charge.

(d) Charges for large quantity users shall be as follows:

(1) Meter Charge - The charge for each month shall be based on the meter size or multiple meter sizes if more than one meter is installed as follows:

<u>Meter Size</u>	<u>Monthly Charge</u>
5/8"	\$7.89
3/4"	8.82
1"	10.66
1-1/2"	15.27
2"	20.79
3"	35.51
4"	52.08
6"	98.12
8"	153.36
10"	227.02
12"	300.66

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- (2) Water Charge - In addition to the meter charge, for all water used as registered by the meter, the charge is \$1.0632 per 100 cubic feet.
- (3) The Director of the Water Department and the Finance Director must determine who qualifies for this Section (d) rate, which user must use not less than 60,000 cubic feet per month.
- (4) Charges pursuant to this section (d) shall be billed monthly.
- (5) In addition to the meter charge, a monthly user charge for any month shall be equal to the water charge rate, times the greater of 1) sixty percent (60%) of the maximum usage during any of the months of June, July, August or September in the twelve (12) month period preceding the month for which the charge is made or 2) 60,000 cubic feet or 3) actual usage as registered by the meter.

(e) In addition to the above rates, there will be imposed a seven and one half percent (7½%) of the gross receipts of persons selling or distributing water in the City of Kirkwood in accordance with Section 23-212 of the Code of the City of Kirkwood.

(f) The foregoing rates do not include any franchise, license, occupation, sales, or any other charges or taxes that might be imposed by any other provision of the Code of Ordinances.

- (1) **Budget Billing:** A Budget Billing Payment Plan will be available to all residential customers. To maintain eligibility in the Plan the budget amount must be paid monthly unless other arrangements have been made with the City's Director of Finance. Customers may request discontinuance of the Plan at any time by contacting Customer Service. Monthly budget payments may be adjusted during the Plan year to compensate for changes in usage, climate, or rates.

(Ord. No. 8461, §1, 11-2-95; Ord. No. 8586, §1, 2-20-97; Ord. No. 8684, §1, 2-5-98; Ord. No. 9044, §1, 6-21-01; Ord. No. 9073, §2, 9-20-01; Ord. No. 9147, §1, 3-21-02; Ord. No. 9536 §1, 09-15-05; Ord. No. 9739, §1, 1-17-08; Ord. No. 9822, §1, 1-20-09)

### **Sec. 23-143. Preparation, correction of bills.**

Bills for the use of water from the city water department shall be made out by the Director of Finance from the records of the latest inspections of water meters. The amounts charged to each customer shall conform to the rates established by this division. Water meters will be reinspected for the correction of bills on request of the customer; however, the bill shall be returned and the request shall be made not later than five (5) days after the bill becomes due. Failure to receive bills shall not entitle customer to any extension of time for reinspection. When the reinspection shows that an overcharge has been made on the original bill, the Director of Finance shall certify the amount of the overcharge and he shall thereupon refund the amount of the overcharge to the customer. If the city is unable to record an actual reading of water service provided for any given service period, the quantity for billing will be estimated based on prior usage. Estimated bills will be identified as such. (Gen. Ords. 1959, §25.03; Ord. No. 7905, §7, 8-17-89; Ord. No. 9073, §2, 9-20-01)

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### **Sec. 23-144. Billing period.**

(a) Bills for the use of water shall in general be made up for the period of thirty (30) or thirty-one (31) days, except that bills for shorter periods may be rendered in those cases where the Director of Finance deems it essential for the protection of the city, or where the use of water for a specified purpose is restricted to a definite period of time less than the regular period.

(b) It shall be the duty of the Director of Finance to divide the city into as many districts and subdistricts as he may deem necessary. The boundaries of the districts and subdistricts may be changed at the discretion of the Director of Finance.

(c) All bills for the use of water on premises within any district or subdistrict shall be made payable on any weekday of the calendar month designated by the Director of Finance.

(Ord. No. 9073, §2, 9-20-01)

### **Sec. 23-145. Interest charge and discontinuance of service for nonpayment.**

(a) *Interest charge.* In the event a water service bill is not paid in full within twenty-one (21) days from the bill date, interest at the rate of one and one-half (1 ½) percent will be charged on the unpaid balance as of the cash cut off date of the new bill, including the gross receipts tax amount and continue to be charged each month thereafter until all overdue amounts are paid in full. A fifteen dollar (\$15.00) fee is charged to the customer on any check returned for insufficient funds.

(b) *Discontinuance of service and placement of lien:*

(1) In the event a customer has an unpaid balance on a water service account for three (3) months before the next bill is sent out to that customer, the water service account is deemed delinquent. Once a water service account is deemed delinquent, the Director of Finance shall provide written notice to the most current billing address of the customer, containing the following:

“NOTICE OF INTENDED DISCONTINUANCE OF WATER SERVICE  
AND PLACEMENT OF LIEN UPON REAL PROPERTY”

“Your water service bill for the past three (3) months up to and including the bill of \_\_\_\_\_, 20\_\_ has not been paid in full. Therefore, pursuant to Section 23-145 of the Ordinances of the City of Kirkwood, your water service will be discontinued if this bill is not paid in full or other arrangements are made with the Director of Finance within six (6) calendar days from the date of this notice. In addition, a lien may be placed upon your real property in the amount of the unpaid balance.”

(2) If a customer of water service fails to pay the bill in full or make other arrangements with the Director of Finance within the aforementioned six (6) day notice period provided in this section, the city’s water department will forthwith discontinue water service to that customer and the bill may

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be specially assessed against the real property and become a lien thereon placed on the tax roll.

- (3) If a customer is notified of a delinquent water service account, that customer prior to the expiration of the six-day notice period provided in this section, can request the Director of Finance, to consider an installment payment plan to allow the customer to make partial payments, over a specific period of time, of the overdue account. Along with these partial payments as determined by the Director of Finance, the customer must pay in full each succeeding quarterly water service bill.
- (4) The Director of Finance may, in his/her discretion, consider account history and/or general credit history of the customer in determining whether to allow an installment (payment) plan and, if so, the parameters of that plan.

(c) At the time of the discontinuance and turn off of the water service to a consumer as set forth in subsection (b), a final reading of the meter of such consumer shall be made, and that reading shall be certified by the Director of Finance. The Director of Finance shall determine the full amount due to the city for water consumed by the consumer up to the time of the discontinuance of the service, and shall apply any deposit on hand against the amount. If the deposit on hand shall exceed the total amount of the final bill for water service, the balance thereof shall be transmitted to the consumer. If the deposit on hand shall be insufficient to pay the full amount of the total billing, the Director of Finance shall render a final bill for the balance due to the consumer and also transfer the account to the city attorney, designated collection firm for further action and collection and/or the county to be added to the property as a lien. At the time of the transmission to the consumer of either a refund from an excess deposit or a final billing for an additional amount due over and above any deposit on hand, the Director of Finance shall set forth all pertinent details as to the amount of water consumed used to determine the final billing.

(d) The failure on the part of the consumer to receive the notice as set forth in subsection (a) shall be no reason, excuse or justification for the failure to pay the bill as required or to prevent the discontinuance and turn off of water service as hereinbefore set forth.

(e) When any water service of a consumer has been discontinued as provided in this section it shall not be resumed for such consumer at the same or any other address until all unpaid bills shall have been paid and the actual cost of the discontinuance and turnoff of the service, not exceeding thirty dollars (\$30.00), for reconnections during normal working hours, or the actual cost after normal working hours, shall have been paid.

(Ord. No. 8564, §7, 11-21-96; Ord. No. 8588, §1, 2-20-97; Ord. No. 9073, §2, 9-20-01)

### **Secs. 23-146. Adjustments.**

The Director of the Water Department shall be authorized to adjust water bills in the event of abnormally high water bills caused by unexplainable or other reasons. Adjustments of this nature shall be made at the discretion of the Director of the Water Department based upon a written policy adopted by the Department. Said policy shall be placed on file with the City Clerk. (Ord. No. 8712, §1, 4-2-98)

### **Secs. 23-147—23-165. Reserved.**

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### ARTICLE V. PRIVATE UTILITIES

#### DIVISION 1. GENERALLY

**Secs. 23-166—23-185. Reserved.**

#### DIVISION 2. INSTALLATION OF FACILITIES

**Sec. 23-186. Permit required to erect utility poles.**

(a) No person shall erect, or cause to be erected, any pole in any street, alley or public place of the city for the purpose of carrying on a telegraph or telephone business or supplying electric power without first having obtained a permit therefor.

(b) Any person desiring a permit required by subsection (a) shall file with the council an application, accompanied with a plat upon a suitable scale showing the route of their proposed line, the name of the street to be occupied, or if an alley the number of the block, and the location of each pole.

(c) Upon the filing of such application and plat, if such person is duly authorized to do business in the city and if the erection of the poles or the placing of the wires, tubes or cables will not interfere with the right of the public or be contrary to the provisions of this Code or other ordinances of the city, the council shall grant a permit for the erection of such poles, which permit shall be issued by the city collector and signed by the mayor.

(Gen. Ords. 1959, §27.01)

**Sec. 23-187. Relocation of utility poles.**

All permits granted and any permission given to any person to erect or maintain any wires or poles shall be subject to the right of the mayor and council at any time to order any alteration in the location of the poles or the height at which the wires shall be run. When any such alteration is ordered, the permittee shall within five (5) days thereafter commence the alterations and complete the same as soon as practicable thereafter. (Gen. Ords. 1959, §27.02)

**Sec. 23-188. Restoration of pavement upon locating pole.**

Whenever any street, sidewalk, curb or gutter is disturbed or injured in the erection of any pole, it shall be the duty of the owner of such pole on the completion of the work, to immediately restore, replace and repair such street, sidewalk, curb or gutter. (Gen. Ords. 1959, §27.03)

**Sec. 23-189. Utilizing utility Poles of other companies.**

No person shall place wires, tubes, cables or fixtures on the utility poles of any other person without the permission of the council to do so. (Gen. Ords. 1959, §27.04)

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### **Sec. 23-190. Nonconforming facilities deemed an encroachment.**

All wires, tubes, cables, poles or other fixtures constructed, erected or maintained contrary to and in violation of the provisions of this Code or other ordinances of the city or of any permit, shall be deemed an obstruction to and encroachment on the public streets. (Gen. Ords. 1959, §27.05)

### **Sec. 23-191. Facilities subject to the control of the council.**

All wires, tubes, cables and poles used for any utilities purposes shall be constructed, erected and maintained in such manner and under such regulations as the council may by ordinance direct. Nothing contained in this Code shall be construed as releasing any person from any obligation assumed, or duty or obligation imposed, under the provisions of any other ordinances of the city. The city reserves the right to alter, amend or repeal any sections of this chapter at any time. (Gen. Ords. 1959, §27.06)

### **Sec. 23-192. Underground utility service lines.**

All electrical, telephone, cable television and other utility service lines from the utility distribution system to newly erected buildings shall be installed underground. (Ord. No. 8492, §2, 3-7-96)

### **Secs. 23-193—23-206. Reserved.**

## DIVISION 3. TAXATION

### **Sec. 23-207. Gas companies.**

(a) Each person engaged in the business of distributing and selling gas in the city shall pay to the city a license or occupational tax of seven and one-half (7½) percent of the gross receipts derived by such person from such business within the city exclusive of any gross receipts derived by such person from any distribution or sale of gas to the City of Kirkwood, Missouri.

(b) "Gross receipts" as used in this section shall be defined as the aggregate amount of all sales and charges during any period, less any discounts, credits, refunds, uncollectible accounts actually charged off during the period, and sales tax.

(c) Each person engaged in such business shall file with the city comptroller on or before the 29th day of February 1972, a sworn statement showing the gross receipts derived from the transaction of such business in the City of Kirkwood from July 1, 1971, to January 31, 1972, and at the same time pay to the city comptroller the tax required by section 23-207(a). On or before the last day of each month subsequent to February 29, 1972, a further sworn statement shall be filed with the city comptroller showing the gross receipts derived from the transaction of such business in the City of Kirkwood during the preceding month, and at the same time pay to the city comptroller a license tax as provided by section 23-207(a).

(d) Any person subject to this section who has been granted a franchise or permit by the city for the operation of his business and under the terms of which is making any payments to the city shall receive credit upon the amounts due under this section for such payments.

(Gen. Ords. 1959, §42.01; Ord. No. 5188, §1, 6-13-68; Ord. No. 5459, §1, 1-20-72; Ord. No. 6470, §1, 9-20-79; Ord. No. 6760, §1, 7-2-81; Ord. No. 8892, §1, 1-20-00)

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### **Sec. 23-208. Electric power companies.**

(a) Each person engaged in the business of distributing and selling electricity in the city shall pay to the city a license or occupational tax of seven and one-half (7½) percent of the gross receipts derived by such person from such business within the city exclusive of any gross receipts derived by such person from any distribution or sale of electricity to the City of Kirkwood, Missouri.

(b) "Gross receipts" as used in this section shall be defined as the aggregate amount of all sales and charges during any period, less any discounts, credits, refunds, uncollectible accounts actually charged off during the period, and sales tax.

(c) Each person engaged in such business shall file with the city comptroller on or before July 31, 1972, a sworn statement showing the gross receipts derived from the transaction of such business in the City of Kirkwood from July 1, 1971, to June 30, 1972, and at the same time pay to the city comptroller the license tax as provided by section 23-208(a), less the amount of the advance payment made in July, 1971, based upon the estimated sales for the same period. In the event the advance payment is greater than the actual tax due, the City of Kirkwood will refund such difference on or before the last day of each month after July 31, 1972, a further sworn statement shall be filed with the city comptroller showing the gross receipts derived from the transaction of such business during the preceding month, and at the same time pay to the city comptroller a license tax as required by section 23-208(a).

(d) At the close of each fiscal year, each person subject to this section shall, in addition to the estimate required for the then current fiscal year, make an adjusted return for the preceding fiscal year or fraction thereof, showing the actual aggregate amount of all such gross receipts made during such preceding fiscal year or fraction thereof and the amount previously paid. If the adjusted return shows that the estimated tax was too large, such person paying the same shall be entitled to a refund, or to a credit on the estimated tax for the then current fiscal year; but if such return shows that the license tax was underpaid, such person shall pay the additional tax due forthwith.

(e) It shall not be necessary to include in the statement or to calculate the tax upon any receipts derived from any such service furnished to the city.

(f) Any person subject to this section who has been granted a franchise or permit by the city for the operation of such business and under the terms of which is making any payments to the city shall receive credit upon the amounts due under this section for such payments.

(Gen. Ords. 1959, §42.02; Ord. No. 5188, §2, 6-13-68; Ord. No. 5459., §2, 1-20-72; Ord. No. 6471, §1, 9-20-79; Ord. No. 6761, §1, 7-2-81; Ord. No. 8892, §1, 1-20-00)

### **Sec. 23-209. Telephone Companies.**

(a) Each person engaged in the business of furnishing telephone service within the city shall pay to the city a license or occupational tax of seven and one-half (7½) percent of the gross receipts derived by such person from the furnishing of the service within the city exclusive of any gross receipts derived by such person from the furnishing of service to the City of Kirkwood, Missouri.

(b) Each person engaged in such business shall file with the city comptroller on or before the 29<sup>th</sup> day of February, 1972, a sworn statement showing the gross receipts derived from the transaction of such business in the City of Kirkwood from July 1, 1971, to January 31, 1972, and at the same time pay

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to the city comptroller the tax required by section 23-209(a). On or before the last day of each month subsequent to February 29, 1972, a further sworn statement shall be filed with the city comptroller showing the gross receipts derived from the transaction of such business in the City of Kirkwood during the preceding month, and at the same time pay to the city comptroller a license tax as provided by section 23-209(a).

(c) The payments required by this section shall be in lieu of all other excises, charges, exactions, rentals, impositions or other license or occupational taxes heretofore imposed upon any person, engaged in such business but does not exempt such person from city real or personal property or ad valorem taxes.

(Gen. Ords. 1959, §42.03; Ord. No. 5188, §3, 6-13-68; Ord. No. 5459, §3, 1-20-72; Ord. No. 6472, §1, 9-20-79; Ord. No. 6762, §1, 7-2-81; Ord. No. 8892, §1, 1-20-00; (Ord. No. 9595, §1, 5-4-06-**Nullified by Missouri Supreme Court Decision-August 8, 2006**)

### **Sec. 23-210. Payments not in lieu of property taxes.**

Nothing contained in this division shall exempt any person to which this chapter is applicable from the payment to the city of the tax which the city levies upon the real or personal property belongings to any such person. (Gen. Ords. 1959, §42.05)

### **Sec. 23-211. Examination of company books.**

The city collector or his deputies or such other city officer as the council may designate shall be and are hereby authorized to investigate the correctness and accuracy of the statements required by this division and for that purpose shall have access at all reasonable times to the books, documents, papers and records of any person making such statement in order to ascertain the accuracy thereof. (Gen. Ords. 1959, §42.06)

### **Sec. 23-212. Water companies.**

(a) Each person engaged in the business of distributing and selling water in the city shall pay to the city a license or occupational tax of seven and one-half (7½) percent of the gross receipts derived by such person from such business within the city exclusive of any gross receipts derived by such person from any distribution or sale of water to the City of Kirkwood, Missouri.

(b) Each person engaged in a business subject to this section shall file with the city collector on or before the fifteenth day of July of each year, a sworn statement showing the gross receipts derived from the transaction of such business in the city during the preceding twelve (12) month period of the first day of July to the last day of June, and at the same time shall pay to the city collector the tax imposed by subsection (a).

(c) Any person who has been granted a franchise or permit by the city for the operation of a business subject to this section and under the terms of which is making any payments to the city, shall receive credit upon the amounts due under this section for such payments.

(d) It shall not be necessary to include in the statement required by subsection (b), or to calculate the tax upon any receipts derived from service furnished to the city.

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(Gen. Ords. 1959, §42.07; Ord. No. 5271, §1, 6-12-69; Ord. No. 6473, §1, 9-20-79; Ord. No. 6763, §1, 7-2-81; Ord. No. 8892, §1, 1-20-00)

### **Sec. 23-213—23-220. Reserved.**

#### DIVISION 4. ELECTRICAL COGENERATION FACILITIES OPERATING IN PARALLEL WITH CITY SYSTEM\*

### **Sec. 23-221. From whom applications will be received.**

Applications will be received from those customers who are within the service area of the Kirkwood Electric Department, (hereafter, "department") and adjacent to its electrical lines and who agree to design, construct, own, operate and maintain in accordance with prudent utility practice and the standards established by this division, a cogeneration facility and who desire to sell surplus electrical energy or desire to purchase electrical energy as a supplement to that energy produced by a cogeneration facility (hereinafter described as a "qualifying facility," or "customer"). (Ord. No. 6739, § 1, 5-7-81)

### **Sec. 23-222. Purchase of surplus energy by city from qualifying facility.**

The department shall purchase the surplus electrical energy of a qualifying facility at electrical rates as outlined as a part of this division, which are represented to be the costs that are avoided by the department by its power otherwise purchased and generated for the department. (Ord. No. 6739, §2, 5-7-81)

### **Sec. 23-223. Rates for electrical power purchased by city.**

For electrical power received, the city shall pay a qualifying facility the rates then in effect and charged to the City of Kirkwood by Union Electric for the purchase of electrical energy which is the normal net cost of electric power to the City of Kirkwood, and will be increased or decreased, based upon the increased or decreased cost to the City of Kirkwood. (Ord. No. 6739, §12, 5-7-81)

### **Sec. 23-224. Sale of supplemental energy to qualifying facility.**

The department shall sell the supplemental energy to a qualifying facility as it is within the capability of such department and at the regular established rates established by such department. (Ord. No. 6739, §3, 5-7-81)

### **Sec. 23-225. Prerequisites for connection of qualifying facility.**

A qualifying facility, before being connected to the department's system shall meet the following provisions and requirements:

- (a) Provide an expected service date to the department.
- (b) Provide a complete description of the proposed generating facility, including its location, source of fuel, nameplate data of principal components and drawings and exhibits that

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\*Editor's note—Ord. No. 6739, adopted May 7, 1981, did not specifically amend the Code; therefore, codification of §§1—12 as Div. 4, §§23-221—23-232, has been at the editor's discretion.

## UTILITIES

describe the size, character and continuity of service and the location of the generating facility.

- (c) Provide the character of service of the generating facility including the proposed electrical current, frequency (hertz), voltage, number of phases, size of all electrical wire to be used in the generating facility installation.
- (d) Provide the equipment and facilities to meet the requirements for metering and protective controls as described in this division.
- (e) Provide certification of compliance with all other legal requirements of the generating facility installation and the emissions therefrom.

(Ord. No. 6739, §4, 5-7-81)

### **Sec. 23-226. Installation of facilities suitable to city.**

The qualifying facility shall furnish, install, operate and maintain facilities such as relays, switches, synchronizing equipment, control and protective devices designated by the department as suitable for parallel operation with the municipal system. Such facilities shall be accessible at all times to authorized department personnel. (Ord. No. 6739, §5, 5-7-81)

### **Sec. 23-227. City's right of inspection.**

The department shall have the right to inspect the qualifying facility's electric generating facilities, to conduct such operating tests as are necessary to ascertain that the protective devices function properly; to review any data collected from such facilities at all reasonable times, and to independently monitor the aforesaid system. (Ord. No. 6739, §6, 5-7-81)

### **Sec. 23-228. City's right to curtail service.**

The department reserves the right to curtail services without liability to the qualifying facility, for necessary maintenance, to effectuate repairs on its systems, equipment or facilities or for protection of persons or property or to make such other arrangements as may be required to enable the department to restore service. The department shall endeavor to give the qualifying facility such notice as is reasonably practical in the circumstances. (Ord. No. 6739, §7, 5-7-81)

### **Sec. 23-229. Interference of private facility with city system.**

The qualifying facility shall agree to install and maintain in a thoroughly safe and efficient manner, and in accordance with good electrical practice and all applicable lawful regulations, all of its lines, wiring, apparatus, machinery and appliances connected to the department's system. If at any time any part of the qualifying facility's lines, wiring, apparatus, machinery or appliances shall be in a condition which interferes with the department's service to its other customers, the department may discontinue service to the qualifying facility until such interfering parts shall be put back in safe and proper operating condition, or shall have been replaced or disconnected. Unless emergency or the risk of an emergency is imminent, the department shall give reasonable notice of its intention to discontinue purchases from or service to the qualifying facility on account of any such claimed interference and where practical suitable time for repair or replacement of any such claimed interfering facility. Suspension shall

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not relieve the qualifying facility of his, her or its other obligations hereunder. (Ord. No. 6739, §8, 5-7-81)

### **Sec. 23-230. City to install and maintain meters.**

The department shall install, own, maintain and test the meters and associated equipment (hereinafter called "meters") which in the department's judgment are needed to determine the amounts and time of delivery of power and energy. However, in the event this agreement is terminated, the qualifying facility will pay the department promptly upon receipt of statement, the cost, including all applicable overheads of retiring the meters and the undepreciated portion of the actual cost of installing the meters. (Ord. No. 6739, §10, 5-7-81)

### **Sec. 23-231. Liability in situations caused by uncontrollable forces.**

Neither the department nor the qualifying facility shall be considered to be in default in respect to any obligation hereunder, other than the obligation of a party to make payments of amount due another party under this division, if failure of performance shall be due to uncontrollable forces; the term "uncontrollable forces" meaning any cause beyond the control of the party affected, including, but not limited to, failure of facilities, flood, earthquake, storm, fire, lightning, epidemic, war, riot, civil disturbance, sabotage, inability to obtain rights-of-way, permits, licenses and authorizations from any local, state or federal agency or person for any of the facilities or equipment required to provide service hereunder, and restraint by court or public authority, which by exercise of due foresight such party could not reasonably have been expected to avoid, and which by the exercise of due diligence it is unable to overcome. A party shall not, however, be relieved of liability for failure of performance if such failure is due to removable or remediable causes which it fails to remove or remedy with reasonable dispatch. (Ord. No. 6739, §9, 5-7-81)

### **Sec. 23-232. Qualifying facility to indemnify, reimburse city.**

The qualifying facility shall (a) indemnify the City of Kirkwood, its agents and employees against loss, damage, expense and all liability resulting from injury or death of any person or persons including but not limited to Kirkwood employees or customers, or damage to property, including but not limited to property of the city or customer, resulting from, arising out of or in any way connected with the installation, inspection, maintenance, testing and use of the generator and, on the city's request, defend any suit asserting a claim covered by this indemnity and (b) reimburse the City of Kirkwood for all loss, expenses, including reasonable attorney's fees, incurred in consequence with any claim, demands or cause of action which may be made or brought against the City of Kirkwood arising out of or in any way connected with the use of the equipment. The obligation of the qualifying facility under this section, accrued or not, then known or unknown, shall be continuing as to any act, occurrence, or omission occurring prior to or following the termination of this division.

The department's approval of the customer's use of the equipment shall not be construed as confirming or endorsing the design or effectiveness of the equipment or the qualifying facility's plan for use of the equipment for actual reducing demand or energy usage, or as any warranty of the safety, durability or reliability of the equipment. (Ord. No. 6739, §11, 5-7-81)