

CODIFIED ORDINANCES OF CHESTER

PART NINE - STREETS, UTILITIES AND PUBLIC SERVICES CODE

CHAPTER ONE - Street and Sidewalk Areas

- Art. 905. Excavations.
- Art. 909. Street Service Fee.
- Art. 913. Storm Sewers.

CHAPTER THREE - Utilities

- Art. 921. Water and Sewer Regulations.
- Art. 925. Utility Rates.
- Art. 929. Water Wells.

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CHAPTER ONE - Street and Sidewalk Areas

Art. 905. Excavations.
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ARTICLE 905 Excavations

905.01	Permit required.	905.06	Manner of excavating.
905.02	Applications.	905.07	Sidewalks.
905.03	Fees.	905.08	Restoring surface.
905.04	Bond.	905.09	Supervision.
905.05	Deposit.	905.99	Penalty.

CROSS REFERENCES

Power to regulate - see W.Va. Code 8-12-5(2)
 Street obstructions - see TRAF. 311.01

905.01 PERMIT REQUIRED.

It shall be unlawful for any person, firm or corporation to tunnel under or to make any excavation in any street, alley, or other public place in the City without having obtained a permit as is herein required, or without complying with the provisions of this article or in violation of or variance from the terms of any such permit.
 (Ord. 255. Passed 5-16-78.)

905.02 APPLICATIONS.

Applications for such permits shall be made to the Clerk, and shall describe the location of the intended excavation or tunnel, the size thereof, the purpose therefore, and the person, firm, or corporation doing the actual excavating work and the name of the person, firm or corporation for whom or which the work is being done, and shall contain an agreement that the applicant will comply with all ordinances and laws relating to the work to be done.

(Ord. 255. Passed 5-16-78.)

905.03 FEES.

(a) Excavation in asphalt or Portland Cement concrete pavement or surface....
\$2.50 per sq. yd.

(b) Excavation in brick pavement or surface.....\$2.00 per sq. yd.

(c) Excavation in oil treated street surface.....\$1.50 per sq. yd.

(d) Excavation in untreated or unimproved street or surface....\$1.00 per sq. yd.
(Ord. 255. Passed 5-16-78.)

905.04 BOND.

No such permit shall be issued unless and until the applicant therefore has filed with the Clerk a bond in the sum of twenty thousand dollars (\$20,000) conditioned to indemnify the City for any loss, liability or damage that may result or accrue from or because of the making, existence or manner of guarding or constructing any such tunnel or excavation. Such bond shall have as surety a corporation licensed to do business in the State of West Virginia as a surety company.

(Ord. 255. Passed 5-16-78.)

905.05 DEPOSIT.

No such permit shall be issued unless and until the applicant therefore has deposited with the Clerk a cash deposit in the sum of ten dollars and fifty cents (\$10.50) per sq. yd., if no pavement is involved, and twenty-one dollars (\$21.00) per sq. yd. If the excavation is in a paved area, to insure the proper restoration of the ground and laying of the pavement if any. From this deposit shall be deducted the expense to the City of relaying the surface of the ground or pavement and of making the refill if this is done by the City or at its expense, and the balance shall be returned to the applicant without interest after the tunnel or excavation is completely refilled and the surface or pavement is restored.

(Ord. 255. Passed 5-16-78.)

905.06 MANNER OF EXCAVATING.

(a) It shall be unlawful to make any such excavation or tunnel in any way contrary to or at variance with the terms of the permit therefore. Proper bracing shall be maintained to prevent the collapse of adjoining ground; and in excavations the excavation shall not have anywhere below the surface any portion which extends beyond the opening at the surface.

(b) No injury shall be done to any pipes, cables or conduits in the making of such excavations or tunnels; and notice shall be given to the persons maintaining any such pipes, cables or conduits or to the City department or officer charged with the care thereof, which are or may be endangered or affected by the making of any such excavation or tunnel before such pipes, cables or conduits shall be disturbed.

(c) No unnecessary damage or injury shall be done to any tree or shrub or the roots thereof.
(Ord. 255. Passed 5-16-78.)

905.07 SIDEWALKS.

If any sidewalk is blocked by any such work a temporary sidewalk shall be constructed or provided which shall be safe for travel and convenient for users.
(Ord. 255. Passed 5-16-78.)

905.08 RESTORING SURFACE.

(a) Any person, firm or corporation making any excavation or tunnel in or under any public street, alley or other public place in the City shall restore the surface to its original condition if there is no pavement there. Refills shall be properly tamped down, and any bracing in such tunnel or excavation shall be left in the ground.

(b) Any opening in a paved or improved portion of a street shall be repaired and the surface relaid by the applicant, in compliance with the ordinances of the City and under the supervision of the Commissioner of Streets and Public Improvements.
(Ord. 255. Passed 5-16-78.)

905.09 SUPERVISION.

The Commissioner of Streets and Public Improvements shall from time to time inspect or cause to be inspected, all excavations and tunnels being made in or under any public street, alley, or other public place in the City to see to the enforcement of the provisions of this article. Notice shall be given to him at least 24 - 48 hours before the work of refilling any such tunnel or excavation commences.
(Ord. 255. Passed 5-16-78.)

905.99 PENALTY.

Any person who shall dig or excavate in any public place within the City of Chester without first obtaining a permit and/or who fails to otherwise comply with any of the provisions of this article, including restoration as is herein provided, shall be guilty of a misdemeanor and upon conviction thereof shall be subject to a fine of not less than twenty-five dollars (\$25.00) nor more than five hundred dollars (\$500.00) and or subject to incarceration in the City or County jail up to thirty (30) days.
(Ord. 255. Passed 5-16-78.)

ARTICLE 909
Street Service Fee

EDITORS' NOTE: See Article 735

CROSS REFERENCES
Special charges for street cleaning etc. - see W.Va. Code 8-13-13

ARTICLE 913
Storm Sewers

913.01 Diameter.
913.02 Driveways.

913.03 Penalty.

CROSS REFERENCES
Power to regulate - see W.Va. Code 8-12-5(22)

913.01 DIAMETER.

All storm sewers under driveways which abut City property must be of a minimum diameter of twelve (12) inches.
(Ord. 264. Passed 9-15-80.)

913.02 DRIVEWAYS.

It shall be unlawful for any person or party to construct or maintain any driveway abutting City property not containing a storm sewer of a minimum diameter of twelve (12) inches under said driveway.
(Ord. 264. Passed 9-15-80.)

913.99 PENALTY.

Any person or party violating this article shall be guilty of a misdemeanor and upon conviction shall be fined not less than twenty-five dollars (\$25.00) nor more than two hundred dollars (\$200.00) for each violation thereof. Failure to correct a storm sewer will constitute a continuing violation of this article punishable as set forth herein for every twenty-four (24) hour period during which the violation continues.
(Ord. 264. Passed 9-15-80.)

CHAPTER THREE - Utilities

- Art. 921. Water and Sewer Regulations.
- Art. 925. Utility Rates.
- Art. 929. Water Wells.

ARTICLE 921 Water and Sewer Regulations

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| 921.01 Waterworks and sewerage systems combined.
921.02 Management, control and operation of the combined waterworks and sewerage system.
921.03 Meter tampering. | 921.04 Water tap required.
921.05 Use of the sewer system.
921.06 Rain and surface water not to be discharged into the sanitary sewer system. |
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CROSS REFERENCES

Power to regulate utility systems - see W.Va. Code 8-12-5(32)
 Authority to establish and maintain a sewage system - see W.Va. Code 16-13A

921.01 WATERWORKS AND SEWERAGE SYSTEMS COMBINED.

From and after the effective date of this article the Municipally owned and operated waterworks and sewerage systems of the City of Chester, West Virginia shall be included in a combined waterworks and sewerage system under and pursuant to the provisions of Article 13 of Chapter 8 of the West Virginia Code and so long as the City of Chester may have outstanding any water and sewer revenue bonds issued pursuant to the provisions of Article 13 of Chapter 8 of the West Virginia Code said combined waterworks and sewerage system shall be owned and operated by said City as a Municipal self-supporting and revenue producing enterprise or project. (Ord. 225. Passed 7-7-64.)

921.02 MANAGEMENT, CONTROL AND OPERATION OF THE COMBINED WATERWORKS AND SEWERAGE SYSTEM.

(a) Bond Established. From and after the effective date of this article, the management, control and operation of the combined waterworks and sewerage system of the City of Chester, West Virginia shall be carried on by a board to be known as the "Water-Sewerage Board of the City of Chester" created, appointed and functioning as hereinafter provided.

(b) Governing Body. The authority vested in the City by provisions of Articles 12 and 13, Chapter 8 of the Code of West Virginia is hereby vested in a Water - Sewerage Board composed of the Mayor of the City, three Councilmen and three Residents of the City who shall be neither City employees nor City office holders. Said Board shall be appointed by the Mayor with the advice and consent of the Council. The term of office shall be three years, excepting no City official shall serve beyond the term of office for which he was elected. Terms of all members shall be staggered so that insofar as possible, one-third of the Board shall retire each year. When a vacancy shall occur, it shall be filled for the unexpired portion of the former holder's term. The term and expiration date thereof for each member shall be specified in an appropriate resolution of the Common Council.

(c) Compensation. The members of the Water-Sewerage Board shall receive such compensation as may be established by the Common Council from time to time and shall be payable from the operating funds of the water and sewerage systems.

(d) General Powers. The water-Sewerage Board shall have and exercise all of the powers and authority conferred upon municipalities by the laws of the State of West Virginia now in effect or which shall hereinafter be enacted for the construction, operation, management, financing and maintenance of the municipally owned water and sewerage systems which without limitation thereon shall include the following:

- (1) Fix, regulate and change rates and charges for water and sewerage service supplied to all consumers, and adopt and prescribe reasonable rules and regulations which shall be observed and obeyed by all consumers in reference to the use and consumption of water taken from the City mains; the terms, charges and conditions upon which connections to the said water mains and sewers shall be permitted, and the place and manner of making the same; fix penalties by way of additional charges for failure to pay water or sewer rents promptly, and to this end may discontinue the supply of water to any consumer who fails to pay for either as required; require all users of water for temporary purposes to pay for the privilege in advance.
- (2) The powers of the Water-Sewerage Board to fix and charge rates for water and sewerage service contained in subsection (d)(1) shall be subject to such supervision, regulation and control by the Public Service Commission of the State of West Virginia as that body is now or shall hereafter be authorized by the laws of the State to exercise over municipal-owned public utilities or municipal officers operating the same.
- (3) The Board shall have power from time to time to repair, extend and amplify the water works or sewerage plant and system, and to make such additions to the pumping station, filtration plant, disposal plant, sewer and water mains and lines as may at any time and from time to time be deemed necessary for the proper operation of these systems.

- (4) The Board shall employ such supervisory, clerical and other personnel as in its discretion may be necessary for the proper operation of said systems and establish the salaries of each. The Board shall be further empowered to contract for the services of an engineer, legal counsel and other professional services as may in its discretion be advisable.
(Ord. 224. Passed 9-1-64.)

921.03 METER TAMPERING.

(a) No person shall tamper in any way with the City of Chester's Water and Sewer Department regulating or measuring equipment.

(b) Upon finding evidence of tampering with any regulating or measuring equipment of the City of Chester Water and Sewer Department, the Department is hereby authorized to discontinue service without any advance notice to the customer whose said equipment shows evidence of tampering. Any shutoff in accordance, herewith, shall strictly comply with the rules of the Public Service Commission of West Virginia in regard to utility discontinuance without notice.

- (c)
 - (1) The Water and Sewer Department is hereby authorized and empowered to charge the sum of one hundred dollars (\$100.00) before reconnecting the service to any customer whose meter has been disconnected in accordance with subsection (b) above.
 - (2) Anyone found violating subsection (a) hereof shall be guilty of a misdemeanor and shall, upon conviction, be fined two hundred dollars (\$200.00), plus court costs.
(Ord. 279. Passed 10-6-86.)

921.04 WATER TAP REQUIRED.

The owner or owners of any lot or parcel of land situate within the City limits of Chester, West Virginia, on which a water tap or a public sewer is now located or may hereafter be constructed and laid upon which lot or parcel of land any business or residence building is now located or may hereafter be erected, not connected with a water tap or a public sewer shall be required to connect a water tap or to connect any such building with such water tap or public sewer. Notice so to connect may be given by the City Clerk either to the owner, lessee or occupant of such building. Each day's failure to comply with such notice and connect with such water tap or sewer by such owner or owners, after ten days from the giving of such notice, shall be a misdemeanor and a separate and new offense under this section, and each such offense shall be punishable by a fine of not less than five dollars (\$5.00) nor more than twenty-five dollars (\$25.00). Jurisdiction to hear, try, determine and sentence for any violation of this section is hereby vested in the Municipal court thereof.
(Ord. 240. Passed 12-9-74.)

921.05 USE OF THE SEWER SYSTEM.

- (a)
 - (1) The use of the sewer system of the City of Chester is hereby determined and declared to be essential for the protection and preservation of the public health, comfort, safety, economy and general welfare of the inhabitants of the said City and of the area served by said sewer system.

- (2) The owner, tenant or occupant of premises which abut on a street, alley or other public way containing a sewer service or which, in the judgment of the Sanitary Board of the City of Chester, is located within such a distance thereof that sewer service is reasonably available thereto and upon which premises a building or other inhabitable structure has been or shall be erected for residential, commercial or industrial use, shall be required to connect the said building or structure to the said sewer system or to such part of said system as may from time to time be extended or become reasonably available, and shall thereafter refrain from using and cease to use any other method in place of the sewer services which are now, or may hereafter become available; and all property owners now connected to the existing sewer system or who shall be connected to the City sewer system upon completion or who are served thereby, shall thereafter pay all of the charges, rates or fees, as herein or may hereafter be provided for. The use of the sewer services by all users shall be in accordance with the rules and regulations which shall be adopted from time to time by the Sanitary Board of the City of Chester, or by the Council of said City, and said rules and regulations may provide for reasonable charges, fees or deposits for making such connections.
 - (3) It shall be unlawful for any person, firm, corporation or association, including public bodies, as well as natural persons, to make an initial tap or connection with the said sewer system and use said system without first making written application for such tap, connection and service to the Sanitary Board and paying all costs, charges, fees and deposits incident thereto. Such application shall be made on forms prescribed and furnished by the Sanitary Board and shall constitute an agreement by the applicant with the said City to abide by all provisions of the rules and regulations promulgated by the Sanitary Board, by all provisions of this article and by all provision, of any subsequent ordinance concerning the use of said sewer system. The applicant shall grant or cause to be granted to the City all rights, easements, permits and privileges which are necessary for the rendering of the sewer service, and the duly authorized employees of the Sanitary Board or the City shall have access at all reasonable hours to the premises of the applicant for the purpose of installing or removing any of its property, examining pipes or fixtures, or for any purpose incidental to the rendering of sewer service.
- (b) (1) From and after the effective date of this article, it shall be unlawful for any person to discharge or to permit to be discharged into any sewer any roof or surface water, or the flow from any ground water collection system, or any matter determined by the regulations of the Sanitary Board of the City of Chester to be dangerous or harmful to, or the discharge of which into a sewer would adversely affect, the sewerage system or the functioning thereof, or the process of sewage treatment and disposal; or to permit to be discharged into any sewer any industrial or process waste which is not preliminarily treated in the manner from time to time prescribed by said regulations of the Sanitary Board in order to make such waste reasonably harmless to the sewerage system and to the processes of sewage treatment and disposal.

- (2) The owner of the property which shall be connected to such sewer system shall be continuously responsible for maintaining and keeping the sewer pipe leading to and from the plumbing system of his premises to the connecting sewer of the City clean and free from obstruction, and shall not cause, suffer or permit any article or thing to be introduced into said pipe which causes a stoppage thereof. In the event any such obstruction or stoppage occurs and the owner of the property fails to immediately remedy such obstruction or stoppage, the Sanitary Board shall have the right to enter upon said premises and make necessary repairs, the costs and expenses of which shall be included as a part of the charge against the said user and the said premises.

(c) There is hereby established a schedule of just and equitable rates or charges for the use of and service rendered or to be rendered upon completion of the proposed sewage system by the municipal sewage system of the City of Chester, West Virginia, which shall be paid by the owner of each and every lot, parcel or real estate or building connected with, served by, to be served by, or at present using such sewage system, as follows:

- (1) Sewer Service Rates: The rates and charges to be charged shall be based upon the quantity of water supplied to the respective premises at the rate of 110% of the amount billed for water consumption.
- (2) The charges for sewer service outside the corporate limits of the City of Chester where service can be rendered by gravity extensions shall be 120% of the above prescribed rates or charges.
- (3) The charges for sewer service outside the corporate limits of the City of Chester requiring the operation and maintenance of lift stations shall be 135% of the above prescribed rates or charges.
- (4) The charges for sewer service outside the corporate limits of the City of Chester shall not be made until after connection is made to the City sewer system.
- (5) The City of Chester shall be subject to the established rates or charges, which shall be due and payable from corporate funds and deemed part of the revenue of the sewer system and works.
- (6) In the event a building or premises discharging sewage, water or other liquid wastes into the municipal sanitary sewage system used water supplied on other than a metered basis from either a private or public water supply, the Sanitary Board may require the owner or occupant to cause a water meter or other measuring device to be installed.
- (7) In a situation where a building or premises used water in excess of 30,000 gallons per quarter and it can be shown that a substantial portion of the water used does not and cannot enter the sewage system, the Sanitary Board may require or permit the installation of additional meters or measuring devices in such a manner as to determine the quantity of water, sewage or liquid waste actually entering said sewage system or may establish formula for such determination and adjust the sewer service charge accordingly.
- (8) In the event the sewage, water or other liquid wastes being discharged into the sanitary sewers from any building or premises is determined by the said Sanitary Board to contain unduly high concentrations of any substance which add to the operating costs of the sewage system of the City, then the Sanitary Board may establish special rates or charges as to such class of building or premises, or the Sanitary Board may require the owner or other interested party to specially treat such sewage water or other liquid wastes before it is discharged into the municipal sanitary sewage system.

- (9) All charges provided by this article shall be billed and collected as hereinafter provided and the receipts therefrom paid over and delivered to the said Sanitary Board.
 - (10) All bills shall be rendered quarterly and shall be due when mailed to the last known address of the party owing same. Each bill shall be a debt due the City of Chester and the amount thereof and charges evidenced thereby, if not paid when due, shall constitute a lien upon the premises served by the municipal sewage system, and if the bill is not paid within thirty (30) days after the same is due, it shall be deemed delinquent and the amount thereof, together with a penalty of ten percent (10%), and a reasonable attorney's fee, shall be recovered by the Sanitary Board of the City of Chester in a civil action in the name of the City of Chester, and the lien procured in connection with any such action shall be foreclosed in due course against the lot, parcel of land or building charged with the amount due, in accordance with the laws relating thereto.
 - (11) No allowance or adjustment of any sewer charge shall be made for any leaks of any nature occurring on the users side of the water meter.
- (d)
- (1) The rates or charges aforesaid shall be billed to the owners of each and every lot, parcel or real estate or building connected with, served by, or to be served by said sewers, or using such sewage system, provided, that upon application by the tenant of any premises who is not the owner, filed with the Sanitary Board of said City and accompanied by appropriate security or indemnity in an amount and a kind approved by said Sanitary Board, such bills may be rendered to the tenant; provided further, that the rendering of a bill to a tenant who is not the owner of the premises shall not affect or impair the lien of the amount of such bill on such premises, nor shall such rendition affect or impair the right of the City to foreclose such lien in the event any such bill becomes delinquent as hereinbefore provided.
 - (2) Charges for sewer services shall be billed jointly with charges made for water services to the respective premises and payment of such charges for sewer services shall be required by each customer at the same time as the payment for water services. To the full extent permitted by law the City shall, under reasonable rules and regulations, shut off and discontinue the supply of the services and facilities of said sewer system and water services to any customer for delinquent payment for the services and facilities, and the City will not restore such services and facilities until such delinquent charges together with interest and reasonable penalties have been paid in full.
- (e) All pertinent provisions of Chapter 25 of the Acts of Legislature of West Virginia, Extraordinary Session of 1933, as Amended, shall be deemed to be part of this article to the same extent as if written fully herein. (Ord. 198. Passed 5-6-59.)

**921.06 RAIN AND SURFACE WATER NOT TO BE DISCHARGED INTO
THE SANITARY SEWER SYSTEM.**

(a) No person or party shall discharge or permit to be discharged into any sanitary sewer, any rain water either from a building or the premises upon which said building is situated by any means, including downspouts. A connection of any downspout or device which may permit the discharge of rain water or surface water into a sanitary sewer shall, in and of itself, be a violation of this article. Both the occupant of the premises and the owner thereof shall have joint liability for any violation of this article.

(b) Any existing connections with a sanitary sewer whereby rain water or other surface water may enter into the aforesaid City of Chester sanitary sewer system, shall be discontinued and disconnected within thirty (30) days following adoption of this article.

(c) Any person convicted for violating any section of this article shall be fined the sum of one hundred dollars (\$100.00) and costs.

(d) Each day following the initial conviction thereof in which a person or party violates this article shall constitute a separate offense for which a fine of one hundred dollars (\$100.00) per day may be imposed.
(Ord. 198-B. Passed 8-5-85.)

ARTICLE 925

Utility Rates

925.01 Water and sewer rates.

925.02 Water reconnection fee.

CROSS REFERENCES

Power to collect rates - see W.Va. Code 8-12-5(32); Art. 8-19

Review by Public Service Commission - see W.Va. Code 24-2-4(b)

925.01 WATER AND SEWER RATES.

(a) Effective the first day of June, 2011, the rates presently being charged for water furnished by the City by and through the Chester Municipal Water and Sewer Department shall be increased by three point six percent (3.6%) for residential customers and seven point two percent (7.2%) for commercial customers, and the rates presently being charged for sewer furnished by the City by and through the Chester Municipal Water and Sewer Department shall be increased by twenty-three point twenty-five percent (23.25%) for residential customers and seventeen point five zero percent (17.50%) as per the schedule of rates hereto attached as an exhibit and made a part of this article as though set forth thereunder. The \$3.50 Sewer Users Fee has been incorporated into the sewer rates.

(b) Within the entire territory served, the Chester Municipal Water and Sewer Department shall make water available for drilling purposes subject to the ability of the Department to provide such water without restricting or otherwise jeopardizing adequate water service to other customers. Individual contracts shall describe terms and conditions under which service may be provided.

(c) The Chester Municipal Water and Sewer Department hereby shall negotiate rates for the agreed level of service, providing that there shall be a minimum volumetric charge of eight dollars (\$8.00) per one thousand (1000) gallons.
(Ord. 337-D. Passed 10-15-12.)

925.02 WATER RECONNECTION FEE.

The water and sewerage service rates and charges shall be billed monthly and all bills for such services shall be dated the last day of the month and be payable within 20 days of their date. If any bill for water services is paid in full within 20 days of date, a discount equal to ten percent (10%) will be allowed thereto. If not paid as aforesaid within such 20 day period such charges shall be deemed delinquent. Billings for sewerage service and water delivered to the same premises shall be included in the same bill and collected in the aggregate. The Water-Sewerage Board of the City of Chester shall render the bills for the water and sewerage services as aforesaid and same shall be collected and accounted for in the manner as prescribed by law and the proceedings pursuant to which said Water and Sewer Revenue Bonds, Series 1964, of said City are to be issued. Pursuant to West Virginia Code 8-20-10, when and if any delinquent bill is not paid within thirty (30) days after rendition thereof the lien in the amount of such bill upon the real property served by the combined waterworks and sewerage system shall be enforced by the Municipality in a civil action to recover the money due for such services rendered plus court fees, costs and reasonable attorney's fee, provided that an owner of real property may not be held liable for delinquent rate for services of a tenant, nor shall any lien attach to real property for the reason of delinquent rates for services of a tenant of such real property, unless the owner has contracted directly with the Municipality to purchase such services. A designated agent of the City in charge of the operation of the combined waterworks and sewerage system shall cause the water service to the premises served to be discontinued or shut off, pursuant to West Virginia Code 8-20-11. An additional fee or charge of twenty-five dollars (\$25.00) shall be made and collected in advance before reinstating service when any such delinquent bill or bills are paid.
(Ord. 317. Passed 4-19-93.)

ARTICLE 929
Water Wells

929.01 Prohibited.

929.99 Penalty.

929.01 PROHIBITED.

The City of Chester hereby bans the drilling of all water wells within the City limits.
(Ord. 283. Passed 7-20-87.)

929.99 PENALTY.

Any persons found guilty of violating this article shall be guilty of a misdemeanor and shall be fined not less than twenty-five dollars (\$25.00), nor more than one hundred dollars (\$100.00) together with the costs of prosecution and in addition may be confined to jail for a period of not less than three days nor more than ten days.
(Ord. 283. Passed 7-20-87.)